APPENDIX A

Nicholas deB. Katzenbach
Old Orchard Road, Armonk, New York 10504

December 15, 1975

Dear Senator Morgan,

This letter is in response to your request for me to submit for the record documentation on several points which came up during my testimony on December 3, 1975. (See page 2133 of the transcript.)

With respect to my testimony that the Klan took credit for the murders of the three civil rights workers, Chaney, Schwerner, and Goodman, this fact was reflected in Bureau memoranda at the time. One of many memoranda received by the Department in the summer of 1965 concerning the investigation of the murders specifically reported that at a meeting of Hinds County Klaverns on June 26, 1964, Billy Buckles, the Grand Giant, referred to the disappearance of the three civil rights workers and stated, "now they know what we will do, we have shown them what we will do, and we will do it again if necessary."

With respect to whether all (or substantially all) of the members of certain Klaverns of the Klan participated in or endorsed unlawful acts, I call your attention to the following:

- The opinion of Judge Wisdom in United States v. Original Knights of the Ku Klux Klan, 250 F. Supp. 330 (E.D. La. 1965). (Attachment A)

- Statement of Mr. Hoover before the National Commission on the Causes and Prevention of Violence, September 18, 1968, especially pages 8 - 9. (Attachment B)

NOTE: The request for documentation referred to above as appearing at transcript page 2133 can be found in this volume at page 244.
The materials referred to above as attachments A, B, C, and D can be found in this volume as attachments 1, 2, 3, and 4 at pages 843, 870, 883, and 888 respectively.

- An "Imperial Executive Order" issued by Imperial Wizard Sam Bowers (who was later convicted and sentenced for criminal acts of violence) to "all officers and members" (emphasis added) instructing them on methods "for effective combat against the enemy." This was reprinted on pages 5 - 9 of Attack on Terror by Don Whitehead. (Attachment C)

- A paper written by John Doar and Dorothy Landsberg entitled, "The Performance of the FBI in Investigating Violations of Federal Laws Protecting the Right to Vote -- 1960-1967". (Attachment D)

As I am sure you appreciate, my own access to relevant documentation concerning the connection of certain Klans or Klaverns with unlawful activities is limited, but I feel sure the Committee staff could get volumes of similar information from Bureau files.

I have reviewed my testimony concerning the methods used by the Bureau to disrupt Klan acts of violence (especially pages 2099 - 2100) and am satisfied that it is accurate as reported. I believe that you misunderstood that testimony when you stated that you believed that I had testified that "anything (I) could do to disrupt the Klan was justifiable." (Page 2130) However, in responding to your question, I did not mean to imply that I thought that you had mischaracterized my testimony purposely, and to the extent my response could be so read, I apologize.

Sincerely,

Nicholas deB Katzenbach

The Hon. Robert Morgan
Room 4104
Dirksen Senate Office Building
First Street and Constitution Avenue
Washington, DC 20510

cc: Senator Frank Church, Chairman
Select Committee on Intelligence Activities

NOTE: The request of documentation referred to above as appearing at transcript page 2133 can be found in this volume at page 244.
The materials referred to above as attachments A, B, C, and D can be found in this volume as attachments 1, 2, 3, and 4 at pages 838, 865, 878, and 883 respectively.

2. Stanton Construction Company is the principal debtor and its rights will be adjudicated in the within proceedings so that it is an indispensable party plaintiff.

3. Rockwood Equipment Leasing Company is allegedly the assignor of the claims for rental of equipment to Westinghouse as assignee, and its rights will be adjudicated in the within proceedings so that it is an indispensable party plaintiff.

The wherefore clause in the motion seeks a dismissal of the complaint or, in the alternative, to compel plaintiff, Westinghouse, to delete the Borough of Nanty-Glo and Lower Yoder Municipal Authority as named plaintiffs and join Rockwood and Stanton as parties plaintiff.

No affidavits were submitted.

[1] In our opinion, Westinghouse is the real party in interest and therefore the names of the municipalities should be stricken from the caption of the case. Rules 17(a) and 21, Fed.R.Civ.P.

[2] Further, in our opinion, Stanton Construction Company is not an indispensable party plaintiff. An examination of the bonds attached to the complaint discloses that they are contracts of suretyship. We are not aware of any authority nor has the defendant brought any to our attention in which it has been held, or even contended, that the principal as a matter of law is an indispensable party plaintiff in an action against the surety.

[3] Finally, in our opinion, Rockwood Equipment Leasing Company, the assignor of the leases to Westinghouse is not an indispensable party plaintiff. An assignor is generally neither a real party in interest nor an indispensable party. 2 Barron and Holtzoff, Federal Practice and Procedure, § 482, pp. 14-19; § 512, pp. 102-104; § 513.2, p. 111; 3 Moore, Federal Practice, ¶ 17.09, p. 1339; Wright, Federal Courts, pp. 257-258 (1963).

An appropriate order will be entered.

UNITED STATES of America, by Nicholas deB. KATZENBACH, Attorney General of the United States, Plaintiff,

v.

ORIGINAL KNIGHTS OF the KU KLUX KLAN, an unincorporated Association, et al., Defendants.

Civ. A. No. 15793.

United States District Court
E. D. Louisiana,
New Orleans Division.
Dec. 1, 1965.

Action by United States against klan for injunction to protect Negro citizens seeking to assert their civil rights. The three-judge District Court, Wisdom, Circuit Judge, held that evidence established that klan relied on systematic economic coercion, intimidation, and physical violence in attempting to frustrate national policy expressed in civil rights legislation and that such conduct must be enjoined.

Order accordingly.

1. **Injunction ⇐114(3)**

Private organizations and private persons are not beyond reach of civil rights act authorizing Attorney General to sue for injunction. Civil Rights Act of 1957, § 131 and (a) as amended 42 U.S.C.A. § 1971 and (a) and §§ 1983, 1985 (3); 18 U.S.C.A. §§ 241, 242.

2. **Injunction ⇐127**

Evidence as to klan activities was admissible, in suit by United States against a klan for injunction to protect Negro citizens seeking to assert their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a-5, 2000e, 2000e-6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

3. **Injunction ⇐128**

Evidence established that klan and individual klansmen had adopted pattern and practice of intimidating, threaten-

ing, and coercing Negro citizens for purpose of interfering with their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

4. Injunction ⇨128

Evidence established that to attain its ends, klan exploited forces of hate, prejudice, and ignorance, relied on systematic economic coercion, varieties of intimidation and physical violence in attempting to frustrate national policy expressed in civil rights legislation. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

5. Insurrection and Sedition ⇨1

Legal tolerance of secret societies must cease at point where their members assume supra-governmental powers and take law in their own hands.

6. Courts ⇨262.3(8)

Where it appeared that defendant klan, klan members, and klan's dummy front association had interfered with Negro citizens' rights derived from or protected by Constitution and recognized in various civil rights statutes, defendants would be enjoined from interfering with court orders and with civil rights of Negro citizens. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

7. Courts ⇨262.3(8)

Federal district court had jurisdiction of action by United States against a klan for injunction to protect Negro citizens seeking to assert their civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

8. Courts ⇨262.3(8)

In its sovereign capacity, the nation had proper interest in preserving integrity of its judicial system, in preventing interference with court orders, and in making meaningful both nationally created and nationally guaranteed civil rights. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

9. Injunction ⇨128

Evidence established that defendant association was not a bona fide independent organization but was the defendant klan thinly disguised under respectable title. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

10. Injunction ⇨128

Evidence established that defendant klan had appeared in action by United States for injunction to protect Negro citizens seeking to assert their civil rights contrary to contention that the klan did not exist, had ceased to exist, or had made no appearance in cause. U.S.C.A.Const. Amend. 14; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

11. Constitutional Law ⇨311

Inasmuch as defendant admitted that klan's methods were lawless, admissibili-

ty of list of officers and members of klan in action for injunction to protect Negro citizens in asserting their civil rights was not precluded on basis that rights of members of an association to pursue lawful interest privately and to associate freely with others are protected by the 14th Amendment. U.S.C.A.Const. Amend. 14; Civil Rights Act of 1957, § 131 and (a) as amended 42 U.S.C.A. § 1971 and (a) and §§ 1983, 1985(3); 18 U.S.C.A. §§ 241, 242.

12. Injunction ⇐128

Evidence established that defendants had intimidated, harassed, and otherwise interfered with Negroes exercising their civil rights, persons encouraging Negroes to assert their rights, public officials, police officers, and other persons seeking to accord Negroes their rights and that acts were part of pattern and practice of defendants to maintain total segregation of races in parish. U.S.C.A.Const. Amends. 14, 15; Civil Rights Act of 1957, § 131 as amended and Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.; 28 U.S.C.A. § 1345.

13. Courts ⇐262 4(11)

Acts otherwise lawful may become unlawful and be enjoined under Civil Rights Act of 1957 if purpose and effect of acts is to interfere with right to vote. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971.

14. Civil Rights ⇐1
Elections ⇐319

Civil Rights Act of 1957 applies to private persons and applies to interfering with right to register and protects Negro citizens against coercion, intimidation and violence. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971.

15. Civil Rights ⇐3, 4

Provisions of 1964 Civil Rights Act relating to places of accommodation, equal employment opportunities, and public facilities reach any person and any action that interferes with enjoyment of civil rights secured by the Act. Civil Rights Act of 1964, §§ 203, 206(a), 301, 701 et seq., 707, 42 U.S.C.A. §§ 2000a–2, 2000a–5(a), 2000b, 2000e et seq., 2000e–6.

16. Injunction ⇐127

Defendants' interference with rights of Negroes to use public facilities was relevant to cause of action of United States against klan and its members for injunction protecting Negro citizens seeking to assert their rights, where that interference was part of pattern and practice of total resistance to Negroes' exercise of civil rights. Civil Rights Act of 1964, §§ 203. 206(a), 301, 701 et seq., 707, 42 U.S.C.A. §§ 2000a–2, 2000a–5(a), 2000b, 2000e et seq., 2000e–6.

17. Equity ⇐55

The Nation has a responsibility to supply a meaningful remedy for right it creates or guarantees.

18. Elections ⇐9

Statute that is necessary and proper legislation to carry out power of Congress to regulate elections for federal office may also be appropriate legislation to enforce provisions of 15th, 14th, and 13th Amendments. U.S.C.A.Const. Amends. 13, 14, 15.

19. Elections ⇐4

Congress has authority to legislate concerning any and all elections affecting federal officers, whether general, special or primary, as long as they are an integral part of procedure of choice or primary effectively controls their choice. U.S.C.A.Const. art. 1, § 4.

20. Constitutional Law ⇐50

Under Constitution, Congress had choice of means to execute its powers. U.S.C.A.Const. art. 1, § 8, cl. 18.

21. Elections ⇐4

Under constitutional provision granting Congress authority to regulate manner of holding federal elections, Congress was authorized to enact statutes regulating registration of voters for such elections. U.S.C.A.Const. art. 1, § 4.

22. Elections ⇐4

Statute protecting against private interference before voting stage is necessary and proper legislation under constitution whenever it is reasonably related to protection of integrity of federal electoral process. U.S.C.A.Const. art. 1, § 4.

23. Elections ⇐11

Right to vote in federal election is privilege of national citizenship derived from constitution. U.S.C.A.Const. art. 1, § 4.

24. Elections ⇐4

Congress can by law protect act of voting, place where it is done, and man who votes, from personal violence or intimidation and election itself from corruption or fraud, even though state and federal officers are elected in the same election. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971, U.S.C.A. Const. art 1, § 4.

25. Elections ⇐4

Section of Fifteenth Amendment to effect that right of citizens to vote shall not be denied or abridged by United States or by any state on account of race, color or previous condition of servitude clearly establishes constitutional basis for Congress to protect right of all citizens to vote in state elections free from discrimination on account of race. U.S.C.A.Const. Amend. 15, § 1.

26. Elections ⇐3

Protection of purity of federal political process may be extended against interference with any activity having a rational relationship with the federal political process. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; U.S.C.A.Const. art. 1, § 4.

27. Elections ⇐4

Congressional power over voting, though limited to federal elections, extends to voter registration activities, including registration rallies, voter education classes and other activities intended to encourage registration. Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; U.S.C.A.Const. art. 1, § 4.

28. Elections ⇐317

Federal corrupt practice laws operate on campaigning stage rather than voting stage and apply to private persons having no part in election machinery. U.S.C.A.Const. art. 2, § 1.

29. United States ⇐25

States' power over manner of appointing presidential electors is similar to states' reserved power to establish voting qualifications. U.S.C.A.Const. art. 2, § 1.

30. Elections ⇐4

Congress has implied power to protect integrity of processes of popular election of presidential electors once that mode of selection has been chosen by the state. U.S.C.A.Const. art. 2, § 1.

31. Courts ⇐262.3(8)

Acts of defendant klan and defendant member of klan of economic coercion, intimidation and violence directed at Negro citizens in parish for purpose of deterring their registering to vote struck at integrity of federal political process and were therefore enjoinable. U.S.C.A. Const. art. 2, § 1; Civil Rights Act of 1957, § 131 as amended 42 U.S.C.A. § 1971; Voting Rights Act of 1965, § 1 et seq., 42 U.S.C.A. § 1973 et seq.

32. Elections ⇐98

Right to vote in federal elections, a privilege of national citizenship secured by United States Constitution, includes right to register to vote. U.S.C.A.Const. art. 2, § 1.

33. Elections ⇐98

Right to register to vote includes right to be free from public or private interference of activities rationally related to registering and to encouraging others to register. U.S.C.A.Const. art. 2, § 1.

34. Injunction ⇐114(3)

Public accommodations provisions of Civil Rights Act of 1964 may be enforced by injunctive relief against private persons seeking to frustrate statutory objective of statute. Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a-5, 2000e, 2000e-6.

35. Evidence ⇨265(2)

Defendants who admitted that they beat and threatened Negro pickets to prevent them from enjoying right of equal employment opportunity must be enjoined from such conduct. Civil Rights Act of 1964, §§ 201, 206, 701, 707, 42 U.S.C.A. §§ 1971, 2000a, 2000a–5, 2000e, 2000e–6.

Before WISDOM, Circuit Judge, and CHRISTENBERRY and AINSWORTH, District Judges.

WISDOM, Circuit Judge:

This is an action by the Nation against a klan.*

The United States of America asks for an injunction to protect Negro citizens in Washington Parish, Louisiana, seeking to assert their civil rights. The defendants are the "Original Knights of the Ku Klux Klan", an unincorporated association, the "Anti-Communist Christian Association," a Louisiana corporation, and certain individual klansmen, most of whom come from in and around Bogalusa, Louisiana.[1]

[1] The defendants admit most of the allegations of the complaint. Their legal position is that a private organization and private persons are beyond the reach of the civil rights acts authorizing the Attorney General to sue for an injunction. There is no merit to this contention.

[2] Seeking refuge in silence and secrecy, the defendants object to the admission of any evidence as to klan activities. We hold, however, that what the klan is and what the klan does bear significantly on the material issues and on the appropriate relief.

[3] In deciding to grant the injunction prayed for, we rest our conclusions on the finding of fact that, within the meaning of the Civil Rights Acts of 1957 and 1964, the defendants have adopted a pattern and practice of intimidating, threatening, and coercing Negro citizens in Washington Parish for the purpose of interfering with the civil rights of the Negro citizens. The compulsion within the klan to engage in this unlawful conduct is inherent in the nature of the klan. This is its ineradicable evil.

[4] We find that to attain its ends, the klan exploits the forces of hate, prejudice, and ignorance. We find that the klan relies on systematic economic coercion, varieties of intimidation, and physical violence in attempting to frustrate the national policy expressed in civil rights legislation. We find that the klansmen, whether cloaked and hooded as members of the Original Knights of the Ku Klux Klan, or skulking in anonymity as members of a sham organization, "The Anti-Communist Christian Association", or brazenly resorting to violence on the open streets of Bogalusa, are a "fearful conspiracy against society * * * [holding] men silent by the terror of [their acts] and [their] power for evil".[2]

As early as 1868 General Nathan Bedford Forrest, the first and only Grand Wizard of the original Invisible Empire, dismayed by mounting, uncontrollable violence laid to the klan, ordered the klan to disband and directed klansmen to burn their robes and hoods.[3] General Forrest was a Confederate cavalry hero, a man without fear and, certainly to most Southerners, a man beyond reproach. He an-

* Although this order is cast in the form of an opinion, it represents the Court's findings of fact and conclusions of law.

1. Counsel for the individual defendants take the position that the defendant klan does not exist. The proof shows that the klan continues to exist and to function as a klan in the benign name of the "Anti-Communist Christian Association". See Section II, A of this opinion.

2. Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States (Wash. 1872), p. 28 (Majority Report.)

3. Testimony of General Forrest before the Joint Select Committee. Note 2, p. 6–14, 449–51.

nounced that he would dissociate himself from all klansmen and cooperate with public officials and the courts in enforcing law and order. But the founders of the Invisible Empire had sown dragon's teeth.

The evil that led General Forrest to disband the original Ku Klux Klan was its perversion of purposes by undisciplined klans led by irresponsible leaders.[4] The evil we find in the Original Knights of the Ku Klux Klan is an absolute evil inherent in any secret order holding itself above the law: "the natural tendency of all such organizations * * * to violence and crime." [5] As history teaches, and as the defendants' admissions and the proof demonstrate in this case, violence and crime follow as the night the day when masked men conspire against society itself. Wrapped in myths and misbeliefs which they think relieve them of the obligations of ordinary citizens, klansmen pledge their first allegiance to their Konstitution and give their first loyalty to a cross in flames.

None of the defendant klansmen is a leader in his community. As a group, they do not appear to be representative of a cross-section of the community. Instead they appear to be ignorant bullies, callous of the harm they know they are doing and lacking in sufficient understanding to comprehend the chasm between their own twisted Konstitution and the noble charter of liberties under law that is the American Constitution.

[5, 6] Legal tolerance of secret societies must cease at the point where their members assume supra-governmental powers and take the law in their own hands. We shall not allow the misguided defendants to interfere with the rights of Negro citizens derived from or protected by the Constitution of the United States and now expressly recognized by Congress in various civil rights statutes. We enjoin the Original Knights of the Ku Klux Klan, its dummy front, the Anti-Communist Christian Association, and the individual defendants from interfering with orders of this Court and from interfering with the civil rights of Negro citizens in Washington Parish. Specifically, these rights include:

(1) the right to the equal use and enjoyment of public facilities, guaranteed by the Fourteenth Amendment;

(2) the right to the equal use and enjoyment of public accommodations, guaranteed by the Civil Rights Act, 42 U.S.C. § 2000a;

(3) the right to register to vote and to vote in all elections guaranteed by the Fifteenth Amendment, by 42 U.S.C. § 1971, and by the Voting Rights Act of 1965; and

(4) the right to equal employment opportunities, guaranteed by the Civil Rights Act, 42 U.S.C. § 2000e.

I.

[7, 8] The United States sues under authority of 42 U.S.C. § 1971; 42 U.S.C. §§ 2000a-5 and 2000e-6. Under those sections and under 28 U.S.C. § 1345, this Court has jurisdiction of the action. We resolve any doubt as to the reach of these sections in favor of the Government's standing to sue in a case of this kind. In its sovereign capacity the Nation has a

4. In January 1869 General Forrest issued an order to disband which began "Whereas, the order of the Ku Klux Klan is in some localities being perverted from its original honorable and patriotic purposes * * *" Davis, Authentic History: Ku Klux Klan, 125-28, (N.Y. 1928); Carter, The Angry Scar, 216 (N.Y.1959).

5. "There is no doubt about the fact that great outrages were committed by bands of disguised men during those years of lawlessness and oppression. The natural tendency of all such organizations is to violence and crime; hence it was that General Forrest and other men of influence in the state, by the influence of their moral power, induced them to disband." Report of the Joint Select Committee, Note 2, p. 463 (Minority Report.)

proper interest in preserving the integrity of its judicial system, in preventing klan interference with court orders, and in making meaningful both nationally created and nationally guaranteed civil rights.[6]

II.

We turn now to detailed findings of fact.

A. *Background.* The invisible realm of the Original Knights of the Ku Klux Klan coincides with the Sixth Congressional District of Louisiana. This district is composed of the "Florida" parishes, the area east of the Mississippi River and north of Lake Pontchartrain claimed by Spain until 1810.[7] The events giving rise to this action took place in Washington Parish and centered in Bogalusa, the largest municipality in the Parish. Bogalusa is on the Pearl River at a point where the river forms the boundary between Louisiana and Mississippi. It has a population of about 14,000 white persons and 7,500 Negroes.

The Grand Dragon of the Original Knights of the Ku Klux Klan and President of the Anti-Communist Christian Association is Charles Christmas of Amite in Tangipahoa Parish. Saxon Farmer, who seems to have an uncanny capacity for being present whenever there is racial trouble in Bogalusa, is the second in command of both organizations, Grand Titan of the Klan and Vice-President of the Anti-Communist Christian Association. In February 1955 he was elected to both offices simultaneously. He is also the Exalted Cyclops of one of the Bogalusa Klaverns (local units). In 1960 this Court entered an order in the case of United States v. McElveen et als. (C.A.No. 9146) against Saxon Farmer and others enjoining them from interfering with the rights of Negro citizens to vote.[8] That order restored to voter registration rolls of Washington Parish the names of 1,377 Negro citizens Farmer and others, then active in the Citizens Council, had unlawfully purged from the rolls.

[9] The evidence clearly establishes that the Anti-Communist Christian Association is not a bona fide, independent organization but is the defendant klan thinly disguised under a respectable title. At an earlier time, the klan's dummy organization was called the Bogalusa Gun Club. The defendants' efforts to appear respectable by association may also be reflected in the location of the klan's principal office in the Disabled American Veterans Hall.

[10] The officers, members, internal structure, and method of paying dues of the ACCA and the klan are identical. The corporate structure of the ACCA includes nothing but a charter. The governing rules and by-laws of the ACCA are the Klan Konstitution. The secret oath for admission and resignation in both organizations is the klan oath. Nothing is required of klan members to become members of the ACCA, except identifying to the secretary of the klan unit their assigned secret klan number. Klan members are then furnished a small green card with the name Anti-Communist Christian Association printed thereon. This Court finds that the defendant

6. In United States v. Raines, 1959, 362 U.S. 17, 27, 80 S.Ct. 519, 526, 4 L.Ed. 2d 524 upholding the constitutionality of the Civil Rights Act of 1957 in a suit on behalf of private persons against public officials, the Court said: "It is urged that it is beyond the power of Congress to authorize the United States to bring this action in support of private constitutional rights. But there is the highest public interest in the due observance of all the constitutional guarantees, including those that bear the most directly on private rights, and we think it perfectly competent for Congress to authorize the United States to be the guardian of that public interest in a suit for injunctive relief."

7. The parishes of Washington, Tangipahoa, St. Tammany, St. Helena, Livingston, Ascension, East Feliciana, West Feliciana, East Baton Rouge, West Baton Rouge, Pointe Coupee, and Iberville.

8. Aff'd. sub. nom. United States v. Thomas, 1962, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed.2d 535.

klan has appeared in this cause. The pretense that the klan does not exist, has ceased to exist, or has made no appearance in this cause is a sham.

Until recently Washington Parish was segregated from cradle to coffin. After Congress adopted the 1964 Civil Rights Act, however, the Negroes in Bogalusa began a broad scale campaign to gain recognition of their rights. Working through the Bogalusa Voters League, they conducted voter registration clinics, held mass meetings to call attention to their grievances, picketed places of public accommodations to protest racially discriminatory policies, and petitioned the Mayor of Bogalusa to accord equal rights in voting, public facilities, employment, and education.

The klan has been the center of unlawful activity in Washington Parish designed to interfere with the efforts of Negro citizens to gain equal rights under the law. Its objective has been to preserve total racial segregation in Bogalusa.

B. *Defendants' Admissions.* An unusual feature of this litigation is the defendants' damning admissions. The defendants *admit* that the klan's objective is to prevent Washington Parish Negroes from exercising the civil rights Congress recognized by statute. In their pleadings, the defendants concede that they further their objective by—

(a) assaulting, threatening, and harassing Negroes who seek to exercise any of their civil rights, and assaulting, threatening and harassing persons who urge that negroes should exercise or be accorded those rights;

(b) committing, threatening to commit, and urging others to commit cats of economic retaliation against Negroes who seek to exercise these rights, and against any persons who urge that Negroes should exercise or be accorded these rights, or who permit open, free and public discussion on the issue;

(c) threatening and intimidating public officials and businessmen who accord or seek to accord Negroes their rights without regard to race or color.

The reason for the admissions was evident at the trial and is evident in the defendants' brief. The United States subpoenaed over a hundred witnesses and, no doubt, was prepared to prove every allegation in the complaint. Because of the defendants' admissions, the disputed issues were few and only a few witnesses were called. As a result, the klan avoided an airing of its activities that necessarily would have occurred had a large number of witnesses testified. Not content with the success of this maneuver, the defendants objected to the introduction of "any evidence pertaining to the activities of the Ku Klux Klan" on the grounds that (a) the klan had ceased to exist and (b) "delv[ing] into these unrelated matters" was solely "to expose" the Ku Klux Klan, an invasion of the "privacy and individual freedoms of all these defendants".

As indicated earlier, however, the nature of the klan's activities bears directly on the existence of a pattern and practice of unlawful conduct and also on the sort of decree that should be issued.

The Government subpoenaed membership lists and records of the klan. The defendants failed to produce these records and at the hearing explained that all of the records of the klan had been destroyed as a matter of klan policy after suit was filed. The Court ordered Christmas, Farmer, and John Magee, the treasurer, to compile from memory lists of officers and members. Counsel for the defendants objected to the admissibility of the lists for the reasons that: (1) there were no lists and records in the custody of the defendants; (2) the requirement was an invasion of the rights of privacy and association. The defendants did not rely on the Fifth Amendment privilege against self-incrimination; they relied on NAACP v. State of Alabama, 1958, 357 U.S. 449, 78

S.Ct. 1163, 2 L.Ed.2d 1488. The Court overruled the objections.

[11] NAACP v. State of Alabama does not support the defendants' position. In that case Justice Harlan, speaking for a unanimous Court, held that the rights of the members of the NAACP to pursue their lawful interests privately and to associate freely with others were protected by the 14th Amendment. Accordingly, the NAACP was relieved of the necessity of turning over its membership list to the State of Alabama. In reaching that decision the Court distinguished People of State of New York ex rel. Bryant v. Zimmerman, 1928, 278 U.S. 63, 49 S.Ct. 61, 73 L.Ed. 184, a case involving a New York Chapter of the Ku Klux Klan. A New York statute required any unincorporated association which demanded an oath as a condition to membership to file with state officials copies of its "constitution, by-laws * * * a roster of its membership and a list of its officers". In Zimmerman the Court found that the statutory classification was reasonable, because of the "manifest tendency on the part of one class to make the secrecy surrounding its purposes and membership a cloak for acts and conduct inimical to personal rights and public welfare. * * * 'It is a matter of common knowledge that this organization [the klan] functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people' ". The Supreme Court reaffirmed this distinction in NAACP v. State of Alabama. Justice Harlan pointed out:

> "[In Zimmerman] the Court took care to emphasize the nature of the organization which New York sought to regulate. The decision was based on the particular character of the Klan's activities, involving acts of unlawful intimidation and violence * * * of which the Court itself took judicial notice."

Here the defendants admit that the klan's methods are lawless. Albertson v. Subversives Activities Board, Nov. 15, 1965, 86 S.Ct. 194 pretermits the question at issue in Zimmerman and NAACP v. State of Alabama.

C. *Out of Their Own Mouths.* (1) The Konstitution of the Original Ku Klux Klan embodies "the Supreme Law of the Realm". Article I states that one of the objects of the organization is to "protect and defend the Constitution of the United States"; but another object is to "maintain forever Segregation of the races and the Divinely directed and historically proven supremacy of the White Race". The preamble reaffirms "the principles for which our forefathers mutually pledged and freely sacrificed their lives, their fortunes, and their sacred honor two centuries ago"; but Article II limits the membership to "mature, Native-born, White, Gentile Men * * * who profess and practice the Christian Faith but who are not members of the Roman Catholic Church".

(2) Printed with the Konstitution is a Proclamation stating that it must be "STRICTLY ADHERED TO." The Proclamation states that "ALL REALM work is carried on by a chain of command", establishes the organization along military lines, defines the duties of the various officers and committees, and describes "The Way of the Klavern".

"All Klaverns will have at least five armed guards with flashlights posted during regular meetings." However, "No one will be allowed to carry a gun inside the Klavern during regular meetings except the Knight Hawk (Keeper of the Klavern)."

A Klokan's (Klavern Investigator's) duty is "to investigate all questionable matters pertaining to the Klavern.". "Any Klansman who is known to violate our rules, especially those that give information to any aliens [non-members] shall be expelled immediately, then is to be watched *and visited by the Wrecking Crew if necessary*". (Emphasis added.) Moreover, each klan unit "will set up at least *one team of six men to be used for wrecking crew.* These men should be appointed by the Klokan in secrecy". As judges charged with the duty of

drawing inferences from the demeanor of witnesses, we observed that a former klansman exhibited uneasiness for fear of klan reprisals, when questioned as to the function of the klan "wrecking crew". The defendants' testimony relating to the purpose and functions of the wrecking crew was evasive. There is no doubt however that the wrecking crew performed disciplinary functions and that the discipline could be severe.

(3) The Oath of Allegiance requires faithful obedience to the "Klan's Konstitution and Laws", regulations, "rulings and instructions of the Grand Dragon". "PROVIDENCE ALONE PREVENTING". Klansmen must swear "forever" to "keep sacredly secret . . . all . . . matters and knowledge of the . . . [one asterisk is Klanese for 'Klan'; four asterisks mean "Original Knights of the Ku Klux Klan] . . . [and] never divulge same nor even cause same to be divulged to any person in the whole world". As if this were not enough, the Oath also requires klansmen to swear that they "solemnly vow and most positively swear" never "to yield to bribe, threats, passion, punishment, persecution, persuasion, nor any intiements (sic) whatever . . . for the purpose of obtaining . . . a secret or secret information of the XXXX." Section IV on "XXXX ISHNESS" goes a little further. In this section of the oath the klansmen must swear to "keep secret to [himself] a secret of a man committed to him in the sacred bond of * manship. *The crime of violating this oath, treason against the United States of America, rape, and malicious murder alone excepted.*" (Emphasis added.) In pure klanese, the klansman pledges his "life, property, vote, and sacred honor" to uphold "unto death" the Constitution and "*constitutional* laws". (Emphasis added.) But he ends by swearing that he will "zealously shield and preserve * * * free segregated public schools, white SUPREMACY."

(4) The "Boycott Rules" give a good idea of the Klan's coercive tactics. For example:

"The Boycott Committee (one member from each local unit appointed by the Exalted Cyclops) shall have exclusive investigative authority and it shall not act at any time with less than three members present. * * (1) No person or subject upon whom a boycott shall have been placed shall be patronized by any member. * * * Boycotts shall be imposed upon subjects who are found to be violating the Southern traditions. * * * Boycotts shall be placed upon all members of the Committee who publicly served with Bascom Talley in his efforts to promote the Brooks Hays meeting. Boycotts shall be placed upon any merchant using Negro employees to serve or wait upon persons of the white race. (Service Stations using Negroes to pump gas are excluded.)

Boycotts shall be placed against a subject who serves Negroes and whites on an integrated basis.

Boycotts shall be placed upon a subject who allows Negroes to use White rest rooms. * * *

No member shall be punished for violation of the rules by a member of his family under twelve (12) years of age.

Any member who shall after a hearing have been found guilty of personally patronizing a subject listed on the boycott list shall be *wrecked by the wrecking crew* who shall be appointed by the Committee. (Emphasis added.) * * *

Second offense--If a member is found guilty of personally violating the boycott list he shall be wrecked and banished from the Klan."

It is not surprising that the attorneys for the United States had difficulty extracting from klansmen answers to questions.[9]

9. On two occasions, the Court found it necessary to warn the witnesses of the penalty for perjury. The Court recessed the hearing to allow time for the wit-

(5) In keeping with its false front and as bait for the devout, the Klan purports to perform its dirty work in the name of Jesus Christ. The first object stated in the "Objects and Purposes" clause of the Konstitution of this anti-Roman Catholic, anti-Semitic, hate-breeding organization is to "foster and promote the tenets of Christianity". The Proclamation requires the Kludd (Klavern Chaplain) to "open and close each meeting of the Klavern with prayer". Setting some kind of a record for sanctimonious cant, the Proclamation directs the Kludd to "study and be prepared to explain the 12th chapter of ROMANS at any time, as *this is the religious foundation of the Invisible Empire*". (Emphasis added)

Saint Paul, Apostle to the Gentiles, wrote his Epistle to the Romans in Corinth, midway between Rome and Jerusalem. Addressing himself to Jews and Gentiles, he preached the brotherhood of man: "Glory, honour, and peace, to every man that worketh good, to the Jew first, and also to the Gentile: For there is no respect of persons with God." [10] In the Twelfth Chapter of Romans, Paul makes a beautiful and moving plea for tolerance, for brotherly love, for returning good for evil:

> 9 Let love be without dissimulation. Abhor that which is evil; cleave to that which is good.
>
> 10 Be kindly affectioned one to another with brotherly love; in honour preferring one another; * * *
>
> 14 Bless them which persecute you: bless, and curse not. * * *
>
> 17 Recompense to no man evil for evil. Provide things honest in the sight of all men.
>
> 18 If it be possible, as much as lieth in you, live peaceably with all men.
>
> 19 Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is mine; I will repay, saith the Lord.
>
> 20 Therefore if thine enemy hunger, feed him; if he thirst, give him drink; for in so doing thou shalt heap coals of fire on his head.
>
> 21 Be not overcome of evil, but overcome evil with good."

These words must fall on stony ground in the Klaverns of a Klan.

D. *Specific Findings of Klan Intimidition and Violence.* We select the following examples of the defendants' acts of intimidation and violence.

(1) January 7, 1965, former Congressman Brooks Hays of Arkansas, at the invitation of religious, business, and civic leaders of Bogalusa, was scheduled to speak in Bogalusa at St. Matthews Episcopal Church Parish House on the subject of community relations. The meeting was to be open to both Negroes and whites and it was planned that seating would be on a racially non-segregated basis. After learning of the proposed appearance of Mr. Hays and the arrangements for an unsegregated meeting, the Klan and its members protested to the Mayor and the members of the Commission Council and, by means of threats of civil disorder and economic retaliation against local businessmen who supported the meeting, caused the withdrawal of the invitation to Mr. Hays to speak December 18, 1964, before the Hays invitation was withdrawn, the Mayor of Bogalusa and Police Commissioner Arnold Spiers, in an effort to head off possible civil disorder, appeared at a Klan meeting at the Disabled Veterans Hall. The show of force at this meeting by over 150 hooded Klansmen unquestionably intimidated public officials in Bogalusa and, later, hindered effective police action against Klan violence. On the stand, Mayor Cutrer admitted that *he*

nesses to refresh their recollection, and to find, if possible, any membership lists. On one occasion, a witness pleaded the 5th Amendment when, in a colloquy with the Court, it was apparent that he was afraid of klan reprisal for testifying as to klan records; he withdrew his plea of privilege and testified.

10. Romans, Chap. II, v. 10–11.

was "frightened when he looked into 150 pairs of eyes".

(2) Since at least January 28, 1965, the defendants, including Saxon Farmer, Russell Magee, Dewey Smith, Randle C. Pounds, Billy Alford, Charles McClendon, James Burke, and other members of the defendant Klan, have made a practice of going to places where they anticipated that Negroes would attempt to exercise civil rights, in order to harass, threaten, and intimidate the Negroes and other persons. For this purpose, members of the defendant Klan have gone to Franklinton, Louisiana, when Negro citizens of Washington Parish were expected to apply to register as voters, have gone to restaurants in Bogalusa when Negroes were seeking or were expected to seek service, and have gone to locations in downtown Bogalusa and near the Bogalusa Labor Temple when Negroes were attempting or were expected to demonstrate publicly in support of equal rights for Negroes.

(3) William Yates and Stephen Miller, two CORE workers, came to Bogalusa in January 1965. The Grand Dragon and Grand Titan of the Klan, defendants Charles Christmas and Saxon Farmer, appeared at the Mayor's office to ask the Mayor to send William Yates and Stephen Miller out of Bogalusa. Mayor Cutrer indicated that he could do nothing. The next day, February 3, 1965, three Klansmen, James Hollingsworth, Jr., James Hollingsworth, Sr., and Delos Williams, with two other persons, Doyle Tynes and Ira Dunaway, attempted to insure Yates' and Miller's departure. This group followed Yates and Miller and assaulted Yates.

(4) February 15, 1965, defendant Virgil Corkern, Klansman, and approximately 30 other white persons attacked by Negro citizens and damaged the car in which they were riding. This occurred because the Negroes had sought service at a gasoline station in Bogalusa. On that same day, Corkern and other persons gathered at Landry's Fine Foods, a restaurant in Bogalusa, to observe Negroes seeking service at the restaurant. Corkern and one other entered the restaurant brandishing clubs, ordered the Negroes to leave and threatened to kill Sam Barnes, a member of the Bogalusa Voters League, who had come to the restaurant with six Negro women.

(5) March 29, 1965, defendants Hardie Adrian Goings, Jr., Klansman, and Franklin Harris, Klansman, shortly after meetings had been held at the Bogalusa Labor Temple, threw an ignited tear gas canister at a group of Negroes standing near the Labor Temple. Goings, Jr. then tried to disguise his car by repainting it and removing the air scoop from the top to prevent detection of this crime. Goings or other Klansmen used this same car in May of 1964 to burn a cross at the home of Lou Major, editor of the Bogalusa newspaper.

(6) April 7, 1965, defendants Lattimore McNeese and E. J. (Jack) Dixon, Klansman, threatened Negro citizens during the course of a meeting at the Labor Temple by brandishing and exhibiting a gun at Negroes standing outside the Labor Temple.

(7) April 9, 1965, defendants Billy Alford, Klansman, Randle C. Pounds, Klansman, Lattimore McNeese, Charles McClendon, and James Burke, Klansman, with other persons, went to the downtown area of Bogalusa where Negro citizens were participating in a march to the Bogalusa City Hall to protest denial of equal rights. Pounds, McClendon, and Burke, in a group, moved out to attack the marchers. Pounds assaulted the leader of the march, James Farmer, with a blackjack; McClendon and Burke were temporarily deterred from the threatened assault, but immediately thereafter assaulted a newsman and an FBI agent. Alford assaulted one of the Negroes participating in the march.

(8) May 19, 1965, Virgil Corkern, Klansman, two sons of Virgil Corkern, and other white persons went to Cassidy Park, a public recreation area maintained by the City of Bogalusa, for the purpose of interfering with the enjoyment of the park by Negroes and white CORE workers who were present at the park

and using the facilities for the first time on a non-segregated basis. The Corkern group entered the park and dispersed the Negro citizens with clubs, belts, and other weapons.

(9) Negro members of the Bogalusa Voters League, unable to exercise their civil rights and also unable to obtain from police officials adequate protection from the Klan, filed suit June 25, 1965, in the case of Hicks v. Knight Civ.Ac. No. 15,727 in this Court. The complaint asks for an injunction requiring officers of the City of Bogalusa to open the public parks and to operate such parks without racial discrimination, and also requiring law enforcement officers of the City, Parish, and State to protect the Negro plaintiffs and other Negroes from physical assaults, beatings, harassment, and intimidation at the hands of white citizens. July 10, 1965, this Court issued an injunction in Hicks v. Knight enjoining certain city and parish law enforcement officers from failing to use all reasonable means to protect the Negro plaintiffs and others similarly situated from physical assaults and beatings and from harassment and intimidation preventing or discouraging the exercise of their rights to picket, assemble peaceably, and advocate equal civil rights for Negroes. The preliminary injunction is still in full force and effect. Even after this Court issued its order July 10, 1965, the defendant Klansmen continued to interfere with Negro citizens exercising civil rights and interfered with performance of the duties of law enforcement officials under the injunction in Hicks v. Knight.

(10) July 11, 1965, during a Negro march in downtown Bogalusa, defendants Randle Pounds, Klansman, H. A. Goings, Jr., Klansman, Franklin Harris, Klansman, and Milton E. Parker were present. Harris and Goings passed out 25-30 2 x 2 clubs to youths and Pounds stationed the youths along the march route. Parker was arrested by a City policeman along the route of march for disturbing the peace.

(11) Included in the exhibits are a number of handbills bearing the caption, "Published by the Original Ku Klux Klan of Louisiana". These are crude, scurrilous attacks on certain Bogalusa citizens who advocated a moderate approach to desegregation. For example, in one handbill an Episcopal minister is accused of lying for having said that he had received calls threatening to bomb his church; the minister's son is said to be an alcoholic, to have faced a morals charge in court, and to have been committed to a mental institution. The handbill adds:

> "The Ku Klux Klan is now in the process of checking on Reverend ————'s [naming him] moral standards. If he is cleared you will be so informed. If he is not cleared, you will be informed of any and all misdeeds or moral violation of his in the past."

In the same handbill the Klan announced that it was "boycotting businesses which cater to integration such as Mobile Gas Stations, etc." Mobile Gas Station is a business competitor of the defendant, Grand Titan Saxon Farmer.

All of the handbills attempt to intimidate public officials, the Governor of Louisiana, the Congressman from the Sixth District, the Mayor of Bogalusa, and federal judges (by name). Sometimes the attempted intimidation is by threat of violence, sometimes by character assassination. We quote, for example:

> (a) "On numerous occasions we have been asked by local officials to refrain from any acts of violence upon this outside *scum* that has invaded our city. Being a christian organization, we have honored these requests each time. How much longer can we continue??? Contrary to what the liberal element would have you think, this memorandum is not the work of racist and hate mongers or trouble makers, as Governor 'Big John' McKeithen calls us. We are God fearing white, southerners who believe in constitutional government and the preservation of our American heritage.

"If your governor would have done the right thing to start with, he would have refused to protect these local and outside agitators and did just what one great southern governor did. He refused to protect this outside element, (CORE, NAACP, SNICK, ETC.), at the expense of his state. He chose, instead, to let LBJ and Katzenbach protect them. Only after the city of Bogalusa had spent $96,000, did he (*Big John McKeithen*), make any effort to ease the situation in this city."

(b) "As the people tried to preserve our Southern way of life, the Mayor and Council were slowly selling the people out at every turn. The Mayor has repeatedly GIVEN in. James Farmer did not have the support of the local Negroes. Mayor Cutrer is not giving the city of Bogalusa to the negro citizens of Bogalusa. No. He is giving the city to James Farmer and a handful of Negro Teenagers. NO PRESSURE was put on James Farmer and Dick Gregory to keep them out of Bogalusa. Not by the Mayor, the State Representative, the State Senator, or Congressman Morrison. This was not so when the WHITE CONSERVATIVES wanted to stage a Rally. Pressure was exerted from all levels, even the invited guest speakers were 'leaned on'.

"The Governor, the Congressman, Jimmy Morrison, or his com-rats, Suksty Rayborn, and Buster Sheridan. John McKeithen asked for our vote and promised to serve the PEOPLE. We now ask, Big John, isn't this TRUE? What is happening under your administration?

"Here is the list of elected officials who COULD & AND SHOULD have helped the People of Bogalusa. All these should be tarred and feathered.

MAYOR JESSIE CUTRER
REPRESENTATIVE SHERIDAN
SENATOR SIXTY RAYBORN
SHERIFF DORMAN CROWE
CONGRESSMAN JIMMY MORRISON
GOVERNOR JOHN McKEITHEN
SENATOR RUSSELL LONG

"Now, the QUESTION. Why have these men, elected by the WHITE people turned their back on us *in our time of need*?

"Is Communism so close? Who bought them? Who bought their HONOR and FOR HOW MUCH?"

(c) "The Ku Klux Klan is strongly organized in Bogalusa and throughout Washington and St. Tammany Parishes. Being a secret organization, we have KLAN members in every conceivable business in this area. We will know the names of all who are invited to the Brooks Hayes meeting and we will know who did and did not attend this meeting. Accordingly, we take this means to urge all of you to refrain from attending this meeting. Those who do attend this meeting will be tagged as *intergrationists* and will be dealt with accordingly by the Knights of the KU KLUX KLAN."

[12] E. *Summary of the Facts.* We find that the defendants have admitted and the proof has shown that they intimidated, harassed, and otherwise interfered with (1) Negroes exercising their civil rights, (2) persons encouraging Negroes to assert their rights, and (3) public officials, police officers, and other persons seeking to accord Negroes their rights. These acts are part of a pattern and practice of the defendants to maintain total segregation of the races in Washington Parish. The pattern creates an effect extending beyond the effect of any particular act or practice. A Negro who is clubbed in a public park may fear to order coffee in a segregated sandwich shop or he may decide that it is the better part of valor not to exercise voting

rights. The owner of the sandwich shop who receives threatening calls for having served Negro patrons may conclude that taking care of his family comes ahead of hiring Negro employees. The intimidation or violence may be effective not only as to the particular individual against whom it is directed but also as to others who may be less courageous than the Negroes brave enough to parade in Bogalusa or register to vote in Franklinton. The acts of terror and intimidation admitted or proved in this case, acts characteristic of a masked, secret conspiracy, can be halted only by a broad order enjoining the defendants from unlawfully interfering with the exercise of civil rights by Negro citizens.

III.

The defendants contend that the complaint fails to state a claim upon which relief can be granted. They start with the doctrine that the 14th and 15th Amendments apply only to state action or action under color of state law. A. This moves them to conclude as a matter of statutory construction, that Congress did not purport to enforce civil rights against private persons. Moreover, so they argue, the 1957 Act applies to interference with "voting" not to interference with "registering". B. And, they say, if civil rights acts do authorize enforcement against private persons (not owners or managers of a place of public accommodation) the statutes are unconstitutional.

A.

(1) *The Civil Rights Act of 1957.* In the field of civil rights the problem of enforcement is more difficult than the problem of legislative definition. The choice of remedy determines whether an act of Congress simply declares a right or carries machinery for meaningful performance of the statutory promise. In the past, an obvious hiatus has been the lack of effective sanctions against private persons interfering with a citizen's exercise of a civil right. This lack may be explained by a number of reasons. (a) Congress has been reluctant to assert affirmatively by legislation its responsibility to protect the privileges and immunities of citizens of the United States, for fear of imperiling the balanced relationship between the states and the Nation.[11] (b) Courts have narrowly construed criminal sanctions available in Sections 241 and 242 of Title 18.[12] (c) Congress and the courts have been severely limited by the doctrine of state action, in spite of the trend toward an expansive view of what is state action.[13] (d) Congress has been wary of using an equitable remedy in civil rights legislation. The Constitution guarantees an accused in a criminal case the right to in-

11. See United States v. Cruikshank, 1875, 92 U.S. 542, 23 L.Ed. 588; Slaughter-House Cases, 1873, 16 Wall. 36, 21 L.Ed. 394.

12. In 1894 Congress repealed most of the provisions dealing with federal supervision of elections. Two general provisions for criminal sanctions were left standing: 42 U.S.C. § 241 (originally Section 6 of the Civil Rights Act of 1870, later Section 5508 of the Revised Statutes) providing criminal sanctions against conspiracies to deprive any citizen of any right secured by the Constitution and laws of the United States; and 42 U.S.C. § 242 (originally Section 2 of the Civil Rights Act of 1866, later Section 5510 of the Revised Statutes (1873), as amended in 1909, 35 Stat. 1092 by adding the word "wilfully") providing criminal sanctions against the deprivation of constitutional rights, privileges, and immunities under color of state law. See United States v. Williams, 1951, 341 U.S. 70, 71 S.Ct. 581, 95 L.Ed. 758 restricting Section 241 to those cases in which the right allegedly violated is an incident to national citizenship. See also Screws v. United States, 1945, 325 U.S. 91, 65 S.Ct. 1031, 89 L.Ed. 1495 construing Section 242 as requiring specific intent to deprive a person of the right made specific by the Constitution or laws of the United States. Sections 241 and 242 are now before the Supreme Court again. United States v. Price, Nos. 59, 60, October Term, 1965; United States v. Quest, No. 65, October Term, 1965.

13. See Civil Rights Cases, 1883, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835; United States v. Reese, 1876, 92 U.S. 214, 23 L.Ed. 563.

dictment by a grand jury and trial by a jury of the vicinage. Enforcement of civil rights through the use of an injunction and the contempt power of the courts would by-pass the jury system.[14] However, in communities hostile to civil rights and resentful against "outside", that is, federal interference, injunctive relief may be the most effective method of enforcing civil rights.

Congress considered the pros and cons of these and many other issues when the Administration submitted an omnibus civil rights bill in 1956.[15] The focal issues—the contempt power, the jury system, and the relationship of the States with the Nation—produced one of the great debates in American parliamentary hitsory. By the time the bill was cut down to a voting rights law, as the Civil Rights Act of 1957, 71 Stat. 634, Congress and the country thorougly understood the significance of the legislation.[16] Congress had opened the door, then near-

14. Hence the compromise affecting jury trials in the 1957 Act: criminal contempt cases arising under the act may be tried by district courts without juries, except where a person convicted is fined more than $300 or imprisoned for more than 6 months. 71 Stat. 638 (1957), 42 U.S.C. § 1995.

15. President Truman's Committee on Civil Rights submitted equally broad recommendations. See Report, To Secure These Rights, 151–161 (1947).

16. In a hearing before the House Judiciary Committee on the Civil Rights Bill, Attorney General Herbert Brownell explicitly explained the purposes and scope of the proposed amendments to Section 1971 of Title 42:

"The most obvious one of these defects in the law is that it does not protect the voters in Federal elections from unlawful interference with their voting rights by private persons—in other words, 1971 applies only to those who act 'under color of law' which means public officials, and the *activities of private persons and organizations designed to disenfranchise voters* in Federal or State elections on account of race or color are not covered by the present provisions of 1971. And so we say that the statute fails to afford the voters full protection from discrimination which was contemplated by the Constitution, especially the 14th and 15th amendments.

"Also this section 1971 is defective in another respect, because it fails to lodge in the Department of Justice and the Attorney General any authority to invoke civil remedies for the enforcement of voting rights. And it is particularly lacking in any provision which would authorize the Attorney General to apply to the courts for preventive relief against the violation of these voting rights.

"And we think that this is also a major defect. The ultimate goal of the Constitution and the Congress is the safeguarding of the free exercise of the voting right, acknowledging of course, the legitimate power of the State to prescribe necessary and fair voting qualifications. And we believe that civil proceedings by the Attorney General to stop any illegal interference and denial of the right to vote would be far more effective in achieving this goal than the private suits for damages which are presently authorized by the statute, and far more effective than the criminal proceedings which are authorized under other laws which, of course, can never be used until after the harm has been actually done.

"No preventive measures can be brought under the criminal statutes. So I think —and I believe you will agree with me—that Congress should now recognize that in order to properly execute the Constitution and its amendments, and in order to perfect the intended application of the statute, section 1971 of title 42, United States Code, should be amended in three respects:

"First, by the addition of a section which will prevent anyone, whether acting under color of law or not, from *threatening, intimidating or coercing* an individual in his right to vote in *any election*, general, special, or primary, *concerning candidates for Federal office.*

"And second, to authorize the Attorney General to bring civil proceedings on behalf of the United States or any aggrieved person for preventive or other civil relief in any case covered by the statute.

"And third, an express provision that all *State administrative and judicial remedies* need not be first exhausted before resort to the Federal courts." [Hearings before Subcommittee No. 5 of the Committee on the Judiciary, 85th Cong., 1st Sess., p. 570 (1957)]

ly shut, to national responsibility for protecting civil rights—created or guaranteed by the Nation—by injunction proceedings against private persons.

Part III of the Administration's bill, as originally proposed, would have authorized the Attorney General to file suit against any person who deprived or was about to deprive any citizen of any civil right. The compromise that became the Civil Rights Act of 1957 limits civil actions to protection of voting rights in special, general, or primary elections where federal officers are elected.

Before the 1957 Act, Section 1971 (now 1971(a)) was enforced either by an action for damages under 42 U.S.C. § 1983 and § 1985(3) or by a criminal action under 18 U.S.C. §§ 241, 242. The 1957 Act adds four subsections to Section 1971, including: [17]

"(b) *No person, whether acting under color of law or otherwise,* shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

"(c) Whenever *any person* has engaged or there are reasonable grounds to believe that *any person* is about to engage in *any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b)*, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person." (Emphasis added.)

The House Report on the Act—there was no Senate Report—clearly states the purpose of the amendments to 1971:

"[T]his section adds new matter. The provision is a further declaration of the right to vote for Federal offices. It states clearly that *it is unlawful for a private individual* as well as one acting under color of law to interfere or attempt to interfere with the right to vote at any general, special or primary election concerning Federal offices. This amendment, however, does not provide for a remedy. However, the succeeding subsection of the amendment, which is designated subsection (c), does provide a remedy in the form of a civil action instituted on the part of the Attorney General." House Report No. 291, to accompany H.R.6127, U.S.Code Cong. and Adm. News 1966, 1977 (1957) (Emphasis added)

Although Congress narrowed the subject matter of the statute to voting rights, there is nothing narrow about the scope of the Act as to interference with voting rights. The statute is not limited

17. Section 1971(a) derived from the Civil Rights Act of 1870, defined voting rights as follows:

"(a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding".

to physical acts or to direct interference with the act of voting but applies to—

> "any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) * * *."

The statute applies to "any person" who shall—

> "intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce for the purpose of interfering with the right of such person to vote."

There is no doubt that this language applies to private individuals. And there is very little doubt that the Act protects the right to regiser and to engage in activities encouraging citizens to register. As discussed more fully elsewhere, registration is an integral, indispensable part of the voting process.[18] It is also a stage that is vulnerable to abuse by the registrar or to unlawful conduct by private persons. Ever since the Supreme Court outlawed the "white" primary, it has been apparent that the main battleground in the war over Negro suffrage would be the registration office.[19] See, for example, the description of the activities of the Citizens Councils and parish registrars in United States v. State of Louisiana, E.D.La.1963, 225 F.Supp. 353, 378–380. Congress was well aware that a major mischief to be combatted in the 1957 Act was economic coercion and threats of intimidation by private persons that would deny or interfere with the Negro's access to registration.[20]

More often than not, the economic coercion and intimidation by private persons are triggered by an educational campaign to encourage registration. United States v. Beaty, 6 Cir. 1961, 288 F.2d 653 is a case in point. The case arose in Haywood County, Tennessee, a county in which no Negroes were registered to vote. In the spring of 1959, a newly formed Civic and Welfare League, apparently similar to the Bogalusa Voters League, initiated a campaign in Haywood and in Fayette Counties to encourage Negroes to register. This led to the institution of a "white" primary in Fayette; later prohibited by a consent decree in April 1960. In the face of a renewed registration drive, white businessmen in both counties retaliated by circulating a "blacklist" containing the names of the Negroes who registered and white citizens who assisted them. The businessmen induced local merchants to boycott anyone whose name appeared on the list, by denying credit and the right to buy necessities through the usual business relations. White landowners evicted sharecroppers and tenant farmers who had registered or whose names appeared on the blacklist. The Attorney General sued the businessmen and landowners, under Section 1971, for immediate injunctive relief.[21] The district judge

18. See Section III, B, (1), (b) of opinion.

19. See Key, Southern Politics 555 (1949); Civil Rights Commission Report 133–38 (1961).

20. In a note, Beatty, Private Economic Coercion and the Civil Rights Act of 1957, 71 Yale L.Jour. 536, 543 (1962), the author points out:

> "The Circuit Court's construction of the 1957 act to apply to *economic* coercion in general and to economic coercion involving contract and property rights in particular seems correct. In requesting legislation to protect voting rights, President Eisenhower noted: 'It is disturbing that in some localities allegations persist that Negro citizens are being deprived of their right to vote and are likewise being subjected to unwarranted economic *pressures*.' Senator Douglas, a sponsor of the bill, asserted that the legislation was directed at denials of voting rights *'by economic pressure' as well as by other means*. And Representative Celler, a House sponsor, indicated that if 'the milk dealer, the coal dealer, the butcher, the baker and the candlestick maker * * * agree * * * to boycott' persons who try to vote, the agreement would violate the proposed law."

21. The Attorney General brought a similar suit to enjoin "intimidation, threat, and coercion" in Fayette County. United States v. Atkinson, et als, Civ.Ac. 4121, 6 R.Rel.L.Rep. 200 (1962). See Mendelson, Discrimination (Pren.Hall 1962) 21. And see United States v. Ellis, W.D.S.C. 1942, 43 F.Supp. 321, 324.

granted a restraining order enjoining the businessmen from "interfering through intimidation and/or coercion", but refused to enjoin the landowners on the ground that the Civil Rights Act did not vest the court with authority "to adjudge contracts and property rights". 6 Race Rel.L.Rep. 200. The Sixth Circuit affirmed the judgment as to the businessmen and extended the injunction to the landlords.[22]

In East Carroll Parish, Louisiana, cotton growers refused to gin cotton for Negro farmers who had attempted to register to vote. The Attorney General again sued under the 1957 Act, asking for preventive relief, against owners, operators, and managers of cotton gin businesses and certain other businesses "refusing to gin * * * refusing to sell goods or services, and to conduct ordinary business transactions with, any person for the purpose of discouraging or dissuading such person from attempting to vote and * * * engaging in any attempted threats, intimidations, or coercion of any nature, whether economic or otherwise". Judge Dawkins entered an order, agreed to by the parties, staying proceedings for one year pending full compliance by the defendants with the terms of the proposed restraining order. United States v. Deal, W.D.La.1961, 6 Race Rel.L.Rep. 474.

[13] The parallel between the defendants' intimidation by economic coercion in *Beaty* and in *Deal*, and the defendants' boycott and other activities in this case is too patent to be spelled out. *Beaty* and *Deal* also illustrate a principle of enormous importance in the enforcement of civil rights: acts otherwise lawful may become unlawful and be enjoined under Section 1971, if the purpose and effect of the acts is to interfere with the right to vote.

In United States v. Board of Education of Greene County, Mississippi, 1964, 332 F.2d 40, the Fifth Circuit affirmed the holding below that the government failed to prove that the alleged intimidation was for the purpose of interfering with the right to vote. But, as Judge Tuttle explained in United States v. Bruce (decided Nov. 16, 1965, 353 F.2d 474), the Court in the *Greene County* case assumed:

> "Whereas a school board might, under the circumstances present in that case, have legally failed to renew a teacher's contract for any reason or for no reason at all, if it in fact declined to renew the [teacher's] certificate as a means of coercing or intimidating the teacher as to her right to vote, such conduct would be prohibited under the Act."

In United States v. Bruce twenty-eight white persons in Wilcox County, Alabama, notified Lonnie Brown, a Negro insurance collector, to stay off land owned or controlled by them. As a result Brown could not reach many of his policyholders. Brown had been active in urging his Negro neighbors and friends to register to vote in Wilcox County, a county where no Negroes were registered. The Court held that the trial court erred in dismissing the complaint:

> "The background allegations make a strong case upon which the trial court could infer the correctness of the conclusionary allegations that these defendants did in fact 'intimidate and coerce' the Negro citizens of Wilcox County, through the person of Lonnie Brown, for the purpose of interfering with their right to vote."[23]

22. The Sixth Circuit said:
"If sharecropper-tenants in possession of real estate under contract are threatened, intimidated or coerced by their landlords for the purpose of interfering with their rights of franchise, certainly the fact that the coercion relates to land or contracts would furnish no excuse or defense to the landowners for violating the law." 288 F.2d 653, 656.

23. Judge Tuttle added:
"Thus although the defendants here may have had an almost unrestricted right to invoke the Alabama trespass law to keep all persons from entering upon their property after warning, in

[14] We hold that the Civil Rights Act of 1957 applies to private persons, including the defendants impleaded in this case. We hold that the Act applies to interfering with the right to register as well as interfering with the right to vote; that the Act protects Negro citizens against the coercion, intimidation, and violence the defendants admitted or were proved to have committed in this case.

(2) *The Civil Rights Act of 1964.* The '64 Act creates new categories of civil rights and extends the authority of the Attorney General to protect such rights by a civil suit for injunctive relief against any person, public or private.

[15] For purposes of this proceeding, the most pertinent provisions are those relating to (a) places of public accommodation, (b) equal employment opportunities, and (c) public facilities. As clearly as words can say, these provisions reach any person and any action that interferes with the enjoyment of civil rights secured by the Act. Thus, 42 U.S.C. § 2000a–2 of Title II, is not limited to prohibiting discrimination or segregation by the owner or manager of a place of public accommodation. The section provides:

> "No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 2000a or 2000a–1 of this title, or (b) *intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering* with any right or privilege secured by section 2000a or 2000a–1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a–1 of this title."

And to enforce the law, Section 2000a–5 (a) allows the Attorney General to sue "any person or group of persons":

> "Whenever the Attorney General has reasonable cause to believe that *any person or group of persons* is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action * * * requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described." [Emphasis supplied.]

Section 2000e–6 of Title VII, relating to equal employment opportunities, tracks the language of Section 2000a–5(a).

[16] This suit is not one to desegregate public facilities under Title VII of the Act. However, Section 2000–b is relevant, since it demonstrates again the broad Congressional objective of authorizing the Attorney General to sue as defendants "such additional parties as are or become necessary to the grant of effective relief". The defendants' interference with the right of Negroes to use public facilities in Bogalusa is relevant to the cause of action, for that interference was part of a pattern and practice of total resistance to the Negroes' exercise of civil rights.

(3) In sum, in the Civil Rights Acts of 1957 and 1964, Congress recognized that when a Negro is clubbed or coerced for having attempted to register or for having entered a "white" restaurant, the ac-

> the exercise of a desire to exercise exclusive ownership and proprietary interest in their property, they could not legally invoke the right of excluding Lonnie Brown, who had previously been given free access to the property, *as a threat or means of coercion for the purpose of interfering with his right or the right of others whom he represented in exercising their right to register and vote.*"

tion most likely to produce effective relief is not necessarily for the Negro to complain to the local police or to sue for damages or to make charges under 18 U.S.C. §§ 241, 242. The most effective relief for him and for all others affected by the intimidation may be an injunction by the Nation against the private persons responsible for interfering with his civil rights.

[17] Effectiveness of remedy is not the only reason for the Congressional grant of authority to the Attorney General of the United States. The Nation has a responsibility to supply a meaningful remedy for a right it creates or guarantees. As Justice Story wrote, in sustaining the constitutionality of the Fugitive Slave Act of 1793:

> "If, indeed, the constitution guarantees the right, and if it requires the delivery [of the fugitive slave] upon the claim of the owner * * *, the natural inference certainly is, that the national government is clothed with the appropriate authority and functions to enforce it. The fundamental principle, applicable to all cases of this sort, would seem to be, that when the end is required, the means are given. * *" Prigg v. Com. of Pennsylvania, 1842, 41 U.S. (16 Pet.) 539, 614, 10 L.Ed. 1060.

It is one thing when acts are mere invasions of private rights; "it is quite a different matter when congress undertakes to protect the citizen in the exercise of rights conferred by the constitution of the United States, essential to the healthy organization of the government itself". Ex parte Yarbrough, 1884, 110 U.S. 651, 666, 4 S.Ct. 152, 159, 28 L.Ed. 274. We turn now to the defendants' constitutional arguments.

B.

The defendants' constitutional arguments rest on a misunderstanding of the constitutional sources for the Civil Rights Acts of 1957 and 1964.[24]

[18] (1) *The Civil Rights Act of 1957: Protection of Right to Vote From Unlawful Interference.* (a) In upholding the constitutionality of the voting provisions of the 1957 Act, we need not consider the Civil War Amendments.[25] Section 1971(b), here enforced under 1971(c), is limited to prohibiting interference with the right to vote in elections for federal office. Article I, Section 4 of the Constitution is an express grant of authority to Congress to regulate federal elections:

> "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

[19] As the House Committee pointed out in its report on the law, United States v. Classic, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368, "establishes the authority in Congress to legislate concerning any and all elections affecting Federal officers, whether general, spe-

24. The Supreme Court has affirmed the constitutionality of various provisions of the 1957 Act on other grounds than those at issue here. United States v. Thomas, 1960, 362 U.S. 58, 80 S.Ct. 612, 4 L.Ed. 2d 535; United States v. Raines, 1960, 362 U.S. 17, 80 S.Ct. 519, 4 L.Ed.2d 524; Hannah v. Larche, 1960, 363 U.S. 420, 80 S.Ct. 1502, 4 L.Ed.2d 1307.

25. Although a statute that is "necessary and proper" legislation to carry out the power of Congress to regulate elections for federal office may also be "appropriate legislation" to "enforce" the provisions of the 15th, 14th, and 13th amendments. The predecessor of Section 1971 (a) withstood attack on constitutional grounds. In re Engle, C.C.D.Md.1877, 8 Fed.Cas. p. 746, No. 4,488. It was held to be a valid exercise of congressional power under the 15th Amendment. Chapman v. King, 5 Cir. 1946, 154 F.2d 460, cert. denied, 327 U.S. 800, 66 S.Ct. 905, 90 L.Ed. 1025; Kellogg v. Warmouth, C.C.D.La.1872, 14 Fed.Cas. p. 257, No. 7,667.

The Voting Rights Act of 1965 rests, in part, on Section 2 of the 15th Amendment.

cial, or primary, as long as they are 'an integral part of the procedure of choice or where in fact the primary effectively controls their choice.'" U.S.Code Cong. and Adm.News, 85 Cong.1957, p. 1977. The Supreme Court said, in *Classic:*

> "While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, [citations omitted] this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.'"

[20] (b) Under the "sweeping clause", Article I, Section 8, Clause 18, Congress may enact all laws "necessary and proper" to carry out any of its powers, including, of course, its power to regulate federal elections. This provision leaves to Congress the choice of the means to execute its powers. "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are constitutional". M'Culloch v. Maryland, 1819, 4 Wheat. 316, 421, 4 L.Ed. 579.

"There is little regarding an election that is not included in the terms, time, place, and manner of holding it". United States v. Munford, 1833, C.C.E.D.Va., 16 F. 223. The Supreme Court has said:

> "It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, *registration*, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved." Smiley v. Holm, 1932, 285 U.S. 355, 366, 52 S.Ct. 397, 399, 76 L.Ed. 795.

[21] Two facts make it appropriate for Congress to reach registration as part of the "manner of holding elections". First, registering is a prerequisite to voting. Second, registration is a process for certifying a citizen as a qualified voter in both federal and state elections. A law protecting the right to vote could hardly be appropriate unless it protected the right to register.[26] In *Classic* language, registering is a "necessary step" and "integral" in voting in "elections". In *Classic* "interference with the effective choice of the voters" in a Louisiana Democratic primary was interference "at the only stage of the election procedure when their choice is of significance". Here, in terms of a meaningful right to vote, interference with Negro citizens' registering is interference at the most critical stage of the election procedure. It is true of course that the framers of the Constitution did not know about the registration process; but neither did they have in mind the selection of sena-

26. "An abundance of judicial dicta and holdings in analogous situations make clear that the federal power to regulate elections extends equally to the registration process. Any matter affecting the character or choice of the federal electorate is so integrally related to the election ultimately held as to come within the 'holding' of the election under article I, section 4." Van Alstyne, Anti-literacy Test Legislation, 61 Mich.L.Rev. 805, 815 (1963).

tors and representatives by the direct primary. In United States v. State of Louisiana, E.D.La.1963, 225 F.Supp. 353, 359, aff'd. on other grounds, 1965, 380 U.S. 145, 85 S.Ct. 817, 13 L.Ed.2d 709 this Court said:

> "Congressional authority [under Article I, § 4] extends to registration, a phase of the electoral process unknown to the Founding Fathers but today a critical, inseparable part of the electoral process which must necessarily concern the United States, since registration to vote covers voting in federal as well as in state elections."

In United States v. Manning, W.D.La. 1963, 215 F.Supp. 272, one of the constitutional attacks on the Civil Rights Act of 1960 was directed at the provision for federal registrars. In the opinion upholding the act, the Court considered it important that—

> "For purposes of accomplishing the constitutional objective the electoral process is indivisible. The act of casting a ballot in a voting booth cannot be cut away from the rest of the process. It is the last step in a process that starts with registration. Similarly, registration is an indivisible part of elections. * * * There is no separate registration for federal elections. Any interference with the qualified voter's right to register is therefore interference with a federal election." 215 F. Supp. at 283.

[22] (c) *Classic* relied on three important cases that construe the nature and extent of the power of Congress to regulate federal elections: Ex parte Siebold, 1880, 100 U.S. 371, 25 L.Ed. 717; Ex parte Yarbrough, The Ku Klux Klan cases, 1884, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; and Burroughs v. United States, 1934, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484, 485. These cases point to the principle that a congressional statute protecting against private interference before the voting stage is necessary and proper legislation under Article I, Section 4, whenever it is reasonably related to "protection of the integrity" of the federal electoral process. *Classic*, 313 U.S. at 316, 61 S.Ct. at 1038.

Ex parte Siebold involved a conviction of state election officers for ballot-stuffing in a federal election. The Court had before it the Enforcement Act from which Section 1971 was derived. The statute contained a number of extensive voting and registration regulations, including a provision for the appointment of federal election supervisors. These supervisors were authorized "to cause such names to be registered as they may think proper to be so marked". In sustaining the validity of the legislation under Article I, Section 4, the Court commented:

> "It is the duty of the States to elect representatives to Congress. *The due and fair election of these representatives is of vital importance to the United States.* The government of the United States is no less concerned in the transaction than the State government is. *It certainly is not bound to stand by as a passive spectator, when duties are violated and outrageous frauds are committed.* It is directly interested in the faithful performance, by the officers of election, of their respective duties. Those duties are owed as well to the United States as to the State." 100 U.S. 388.

[23, 24] In *Yarbrough* the Court had before it the question whether Congress could protect civil rights against private interference, specifically klan aggression in the form of intimidation of voters. Yarbrough and eight other members of a Georgia klan were indicted for conspiring to intimidate a Negro in the exercise of his right to vote for a congressional representative. It was shown that they used physical violence and that they went in disguise upon the public highways. They were convicted under the section of the Enforcement Act of 1870, Revised Statutes Section 5508, that was the predecessor of 18 U.S.C. § 241; and also under Section 5520. These are the criminal law

counterpart to 42 U.S.C. § 1971. The Act forbade two or more persons to "conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States" or to "go in disguise on the highway, or on the premises of another, with intent to prevent or hinder [such citizen in] his free exercise or enjoyment" of any such right; or to "conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote" from voting for presidential electors or members of Congress. Justice Miller, in a powerful opinion for the Court, sustained the conviction and held the statute valid. The opinion made it clear that the right to vote in federal elections is a privilege of national citizenship derived from the Constitution. Congress therefore "can, by law, protect the act of voting, the place where it is done, and the man who votes from personal violence or intimidation, and the election itself from corruption or fraud." Nor does it matter that state and federal offices are elected in the same election. The congressional powers are not "annulled because an election for state officers is held at the same time and place". 110 U.S. at 662, 4 S.Ct. at 157.

[25–27] The heart of the *Yarbrough* decision is the Court's emphasis on the transcendent interest of the federal government.[27] The violence and intimidation to which the Negro was subjected were important because they alloyed the purity of the federal political process. The federal government "must have the power to protect the elections on which its existence depends from violence and corruption". 110 U.S. at 658, 4 S.Ct. at 155. *This* implied power arises out of governmental necessity. The Court said:

> "The power in either case arises out of the circumstance that the function in which the party is engaged or the right which he is about to exercise is dependent on the laws of the United States.
>
> "In both cases it is the duty of that government to see that he may exercise this right freely, and to protect him from violence while so doing, or on account of so doing. This duty does not arise solely from the interest of the party concerned, but from the necessity of the government itself that its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its members of congress and its president are elected shall be the *free* votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice."

Since it is the purity of the federal political process that must be protected, the protection may be extended against interference with any activity having a rational relationship with the federal political process. Thus, the "rationale of Yarbrough indicates congressional power over voting, though limited to federal elections, extends to voter registration activities", including registration rallies, voter education classes, and other

27. Our silence with respect to the 15th Amendment carries no implied comment as to the scope of that amendment. We found it unnecessary to consider the 15th Amendment because of the Nation's manifest interest in the integrity of federal elections and the Supreme Court's approval of a constitutional basis for that interest. On its face, however, Section 1 of the Fifteenth Amendment clearly establishes a constitutional basis for Congress to protect the unabridged right of all citizens to vote in state elections free from discrimination on account of race. Given that basis, a congressional statute protecting citizens from state or private interference with the right to participate in any part of the voting process (registration, primary, pre-primary, etc.) would seem to be as "appropriate" for protection of voters in state elections, under Section 2 of the 15th Amendment, as it is "necessary and proper" for protection of voters in federal elections.

activities intended to encourage registration.[28]

[28] *Burroughs* is one of a number of cases dealing with corrupt election practices which go far beyond the act of voting in an election. The Federal corrupt practice laws operate on the campaigning stage rather than the voting stage and apply to private persons having no part in the election machinery. In *Burroughs* the contention was made that under Article II, Section 1 the states control the manner of appointing presidential electors; Congress is limited to prescribing the time of choosing electors and the day on which they cast their votes. In upholding the validity of the Federal Corrupt Practices Act of 1925, the Court, relying on *Yarbrough*, said:

> "While presidential electors are not officers or agents of the federal government * * *, they exercise federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The president is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption." 290 U.S. at 545, 54 S.Ct. at 290.

[29, 30] The states' power over the manner of appointing presidential electors is similar to the states' reserved power to establish voting qualifications. Notwithstanding this unquestioned power in the states, "*Burroughs* holds that 'Congress' has the implied power to protect the integrity of the processes of popular election of presidential electors once that mode of selection has been chosen by the state." There is an obvious parallel between corruption of the federal electoral process by the use of money and corruption of the same process by acts of violence and intimidation that prevent voters from getting on the registration rolls or, indeed, from ever reaching the registration office.

Classic involved federal indictments against state election commissioners for falsely counting ballots in a Democratic party primary. The Court held that under Article I, Section 4 and the necessary and proper clause, Congress had the implied power to regulate party primaries. The "interference [was] with the effective choice of the voters at the only stage of the election procedure when their choice is of significance * * *. The primary in Louisiana is an integral part of the procedure for the popular choice of Congressmen". The right to choose is a right "secured by the Constitution". 313 U.S. at 314, 61 S.Ct. at 1037. Moreover, "since the constitutional command is without restriction or limitation, the right unlike those guaranteed by the Fourteenth and Fifteenth Amendments, *is secured against the action of individuals as well as of states.*" Ib. at 315, 61 S.Ct. at 1038 Mr. Justice Stone, for the Court, spelled out the rationale:

> "The right to participate in the choice of representatives for Congress * * * is protected just as is the right to vote at the election, where the primary is by law made an integral part of the election machinery * * *. Unless the constitutional protection of the integrity of 'elections' extends to pri-

28. Comment, Federal Civil Action Against Private Individuals for Crimes Involving Civil Rights, 74 Yale L.Jour. 1462, 1470 (1965). And see Maggs and Wallace, Congress and Literacy Tests, 27 Duke L. & Cont. Prob. 510, 517–521 (1962).

mary elections, Congress is left powerless to effect the constitutional purpose * * *." 313 U.S. at 318, 319, 61 S.Ct. at 1039.

The innumerable cases in this Circuit involving civil rights speak eloquently against the use of economic coercion, intimidation, and violence to inhibit Negroes from applying for registration. This interference with nationally guaranteed rights, whether by public officials or private persons corrupts the purity of the political process on which the existence and health of the National Government depend. No one has expressed this better than Judge Rives in United States v. Wood, 5 Cir. 1961, 295 F.2d 772, cert. denied 369 U.S. 850, 82 S.Ct. 933, 8 L.Ed.2d 9 (1962).[29] In *Wood* the interference was in the form of groundless prosecution of a Negro organizer who had set up a registration school in Walthall County, Mississippi, where no Negroes had ever registered. He was not even qualified to vote in the county where the intimidatory acts occurred; he was a resident of another county. In reversing the district judge's refusal to stay the state prosecution, the Fifth Circuit noted that the alleged coercion was of the kind the 1957 Act was intended to reach. Judge Rives, for the Court, said:

> "The foundation of our form of government is the consent of the governed. Whenever any person interferes with the right of any other person to vote or to vote as he may choose, he acts like a political termite to destroy a part of that foundation. A single termite or many termites may pass unnoticed, but each damages the foundation, and if that process is allowed to continue the whole structure may crumble and fall even before the occupants become aware of their peril. Eradication of political termites, or at least checking their activities, is necessary to prevent irreparable damage to our Government."

[31-33] *We hold that the defendants' acts of economic coercion, intimidation, and violence directed at Negro citizens in Washington Parish for the purpose of deterring their registering to vote strike at the integrity of the federal political process. The right to vote in federal elections, a privilege of national citizenship secured by the United States Constitution, includes the right to register to vote. The right to register to vote includes the right to be free from public or private interference with activities rationally related to registering and to encouraging others to register.*

(2) *The Civil Rights Act of 1964: Public Accommodation.* The Supreme Court has upheld the constitutionality of Title II as it applies to motels and restaurants. Heart of Atlanta Motel v. United States, 1964, 379 U.S. 241, 85 S.Ct. 348, 13 L.Ed.2d 258; Katzenbach v. McClung, 1964, 379 U.S. 294, 85 S.Ct. 377, 13 L.Ed. 2d 290.

[34] The defendants are left, therefore, only with the contention that the Act, for reasons not articulated, should not reach private persons.

The defendants are really arguing against the judgment of Congress in selecting injunctive relief against private persons as one method of enforcing congressional policy. Once it is conceded that Congress has the power, under the commerce clause, to forbid discrimination

29. In that case Hardy, a Negro resident of Tennessee, a member of the "Student Non-Violent Coordinating Committee", was in Walthall County, Mississippi for the purpose of organizing Negroes of that county to register and vote. Hardy engaged in an argument with the registrar. The registrar ordered him to leave the office. As he got to the door, the registrar struck him on the back of the head with a revolver. Hardy was arrested and charged with a breach of the peace. The Court hurdled (1) the fact that Hardy was not eligible to register and therefore *his* right to vote was not interfered with; (2) the appeal was from a denial of a request for a temporary restraining order, generally an unappealable order under 28 U.S.C. §§ 1291, 1292; (3) the prosecution was a state criminal court proceeding, protected by the doctrine of comity and Section 2283 severely restricting federal injunctions of state proceedings.

in public places, there is little doubt that injunctive relief against any person seeking to frustrate the statutory objective is appropriate.

In this Circuit, relying on In re Debs, 1895, 158 U.S. 564, 15 S.Ct. 900, 39 L.Ed. 1092, the courts have held that when private persons burden commerce to the detriment of the national interest, the Nation may enjoin such persons even without enabling legislation. On two occasions courts have issued injunctions against klans and klansmen engaged in intimidation and violence burdening commerce. United States v. U. S. Klans, M.D.Ala.1961, 194 F.Supp. 897; Plummer v. Brock, M.D.Fla.1964, 9 R.Rel.L. Rep. 1399. See also United States v. City of Jackson, 5 Cir. 1963, 318 F.2d 1.

(3) *The Civil Rights Act of 1964: Equal Employment Opportunities.* Title VII, like Title II, *is based upon the commerce clause.* The term "industry affecting commerce" used in Title VII parallels the definition of "industry affecting commerce" in the *LMRDA* (29 U.S.C. § 402(c)). This in turn incorporates the definition of "affecting commerce" in the NLRA (29 U.S.C. § 152 (7)). The National Labor Relations Act represents an exercise of congressional regulatory power to "the fullest jurisdictional breadth constitutionally permissible under the Commerce Clause," NLRB v. Reliance Fuel Oil Corp., 1963, 371 U.S. 224, 226, 83 S.Ct. 312, 313, 9 L.Ed.2d 279; Polish National Alliance of United States v. NLRB, 1944, 322 U.S. 643, 647, 64 S.Ct. 1196, 88 L.Ed. 1509, a conclusion equally applicable to Title VII.

The sweeping regulations in the NLRA and LMRDA covering the terms, conditions, and policies of hiring and bargaining do not differ in any essential respect from this legislation prohibiting discrimination in hiring practices and on the job assignments. The employer-employee relationship has, of course, direct effect upon the production of industries which are in commerce and upon the practical utilization of the labor force and the power of Congress to regulate these activities cannot be doubted. NLRB v. Jones & Laughlin Steel Corp., 1936, 301 U.S. 1, 57 S.Ct. 615, 81 L.Ed. 893; NLRB v. Fainblatt, 1939, 306 U.S. 601, 606, 307 U.S. 609, 59 S.Ct. 668, 83 L.Ed. 1014; Mabee v. White Plains Publishing Co., 1946, 327 U.S. 178, 66 S.Ct. 511, 90 L.Ed. 607.

[35] Defendants admit that they beat and threatened Negro pickets to prevent them from enjoying the right of equal employment opportunity. The effect of course is to prevent Negroes from gaining free access to potential employers. Such acts not only deter Negroes but intimidate employers who might otherwise wish to comply with the law but fear retaliation and economic loss. This is precisely what the klan's Boycott Rules are designed to do.

The United States has alleged, the defendants have admitted, and the proof has shown that the defendants have intimidated, harassed, and in other ways interfered with the civil rights of Negroes secured by the Constitution. The admission and proof show a pattern and practice of interference.

Protection against the acts of terror and intimidation committed by the Original Knights of the Ku Klux Klan and the individual defendants can be halted only by a broad injunctive decree along the lines of the order suggested by the United States. The Court will promptly issue an appropriate order.[30]

30. The Court finds that on the admissions and on the evidence adduced at the hearing, a preliminary injunction should not issue against Charles Ray Williams, Louis Applewhite, and Willis Blackwell. The Court does not enter a judgment of dismissal as to these defendants, because the United States expressly reserved the right to introduce additional evidence at the hearing for permanent relief, as to these and other defendants. At the time of the hearing, Blackwell had not been correctly served. We find that James Ellis, Sidney August Warner, and Albert Applewhite are members of the klan—ACCA or were members until recently, and therefore should be enjoined. The defendants' request for dismissal of the action as to these named defendants and their request for attorneys fees are denied.

ATTACHMENT 2

FEDERAL BUREAU OF INVESTIGATION

SUBJECT: STATEMENT OF J. EDGAR HOOVER
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
BEFORE NATIONAL COMMISSION ON THE
CAUSES AND PREVENTION OF VIOLENCE

DATE: September 18, 1968

INCREASE IN VIOLENCE

Violence is a reality in America today. In the light of events in recent years, it has become the most serious domestic problem confronting the United States.

Crimes of Violence

Every indicator available to the FBI, from its investigative responsibilities in both the criminal and security fields, emphasizes that violence is a rapidly growing malady. This is clearly shown in the statistics compiled by the FBI in its Uniform Crime Reporting program. Of an estimated 3 and 3/4 million serious crimes reported to law enforcement agencies in 1967, 484,900 were violent crimes in the classifications of murder, forcible rape, robbery, and aggravated assault. This represented a substantial increase over the 421,000 such crimes reported in 1966.

The violent crime rate in the United States for 1967 reached 250 victims per 100,000 population. This is more than double the 1940 rate, 88 per cent higher than the 1950 rate, and 57 per cent above the 1960 rate.

Over-all, crime in the United States rose 21 per cent during the first six months of 1968 over the corresponding period in 1967. The violent crimes of murder, forcible rape, robbery, and aggravated assault increased 21 per cent as a group. Armed robberies increased 34 per cent and aggravated assaults with firearms 28 per cent in the first six months of 1968 as compared to the same period of 1967.

These statistics represent an epidemic of crime and violence, which has affected virtually every segment of American society. The mugger, the rapist, the hoodlum stalk our streets in frightening numbers. Fear of venturing outside the home at night has become a fact of urban life.

Guns are far and away the most common weapon used in murders and nonnegligent homicides. Of the 12,090 murders reported in the United States in 1967, over 7,600 were committed with firearms. They were also used in over 73,000 armed robberies and over 52,000 aggravated assaults. It is significant in these times, when we know too well the tragic stories of senseless sniper killings and the shooting of innocent people by crazed gunmen, that murder by firearms has increased 47 per cent since 1964. Armed robberies and aggravated assaults with firearms have increased 58 and 76 per cent, respectively, since 1964.

66-077 O - 76 - 56

The Crime Clocks, as contained in the FBI's Uniform Crime Reports for 1967, show that last year these offenses occurred at these time rates:

Serious Crimes: 7 each minute
Violent Crimes: One each minute
Murder: One every 43 minutes
Forcible Rape: One every 19 minutes
Aggravated Assault: One every 2 minutes
Robbery: One every 2½ minutes
Burglary: One every 20 seconds
Larceny: One every 30 seconds
Auto Theft: One every 48 seconds

Violence against Law Enforcement Officers

The violence of the criminal, often cold-blooded and calculated, is especially felt by law enforcement officers. In 1967, 76 officers were killed in the United States while performing their official duties. This raised the total of these deaths to 411 for the eight-year period beginning in 1960. In 96 per cent of these murders firearms were used.

A study of the criminal histories of the 539 offenders involved in these police murders since 1960 reveals that 77 per cent had been arrested on some prior criminal charge before they took an officer's life. In fact, 54 per cent of those offenders with prior criminal arrests had been previously taken into custody for such violent crimes as murder, rape, robbery, and assault with intent to kill.

Of the offenders previously convicted, two thirds had been granted leniency in the form of parole or probation. Three of every ten of the offenders were on parole or probation when they murdered an officer.

Physical assaults against officers are also increasing. A heavy toll of injuries among police officers has resulted from enforcement action taken in connection with riots and civil disobedience. Nationally, the rate of assaults on law enforcement officers in 1967 was up 11 per cent, and assaults per 100 officers increased to 13.5 per cent from 12.2 per cent in 1966.

Youthful Criminality

A particularly tragic facet of the crime and violence problem in this country is the increasing involvement of young people. A disproportionate share of national crime is committed by persons under 18 years of age. In 1967, for example, 49 per cent of those arrested for serious crimes were in this age bracket; and arrests of persons under 18 increased a startling 69 per cent from 1960 to 1967, while the number of persons in the age group 10 through 17 increased just 22 per cent.

The majority of juvenile crimes are against property (62 per cent of all persons arrested for car theft in 1967, for example, were under 18 years of age). However, youthful violence has been steadily rising. Arrests of individuals in this age group for violent crimes showed the following percentage increases in 1967 over 1960: murder, 56 per cent; forcible rape, 38 per cent; robbery, 96 per cent; and aggravated assault, 121 per cent.

Violence is particularly prevalent today among young people in large metropolitan areas. Vicious juvenile gangs terrorize the slum sections which spawn them, using weapons easily made or come by to commit crimes of violence which all too frequently leave their victims killed or maimed. This youthful criminality too often establishes a career in crime.

Organized Crime

Although violence is an integral part of the operations of organized crime--whose major syndicate is known as La Cosa Nostra--it is a coldly calculated tactic to maintain the group's dominance over its own members and over the members of the society in which it operates rather than terror for terror's sake. The peculiar evil of this type of "corporate" violence is not the individual sadism and brutality of the "enforcers" and "strong-arm men," but the monopolistic position it enables racket leaders to gain and hold in their legitimate, as well as their illicit, activities.

Force and threats of force are employed to eliminate rivals, collect on gambling and loan-sharking debts, frighten potential witnesses, enforce internal discipline, and gain possession of various business chattels. In the greater Chicago area alone, there have been more than 1,000 gangland slayings since 1919, only 17 of which have been solved; in the greater Boston area, there have been more than 50 during the past four years, only 11 of which have been solved.

Careers in Crime

The FBI's Careers in Crime program, a study of criminal careers, made possible by the cooperative exchange of criminal fingerprint data among law enforcement agencies, has produced the following profile of 12,026 perpetrators of violent crimes who were arrested in 1966 and 1967. For the murderers, of whom there were 922, the average criminal career was 11 years and 7 arrests. For the felonious assault offenders, of whom there were 4,538, the average career was 10 years and 8 arrests. For the rapists, of whom there were 925, the average career was 8 years and 7 arrests; and for the robbers, of whom there were 5,641, the average career was 9 years with 8 arrests.

Seven per cent of the murderers had previously been charged with homicide during their criminal careers and 18 per cent of the rapists were repeaters of this violation. With respect to the felonious assault offenders, 30 per cent had previous arrests for serious assaults and 37 per cent of the robbers had repeated that crime. This is of key interest, because it shows a tendency toward the commission of violent crimes by repeaters.

Cost of Crime and Violence

The enormous cost in money and ruined lives which the statistics of American crime represent touches almost every citizen in some manner. The cost in dollars and cents is staggering--estimated at over $27 billion a year. The damage inflicted by the riots in our cities in recent years has added materially to this figure. The rioting here in Washington, D. C., following the murder of Martin Luther King on April 4, 1968, caused damage estimated at $24 million. Losses sustained during the April rioting in Baltimore amounted to $14 million.

The cost to society of the fear and anguish resulting from violence cannot be assessed monetarily. There is no way to determine accurately the damage to the Nation or to individual lives resulting from the harrowing experiences of criminal attacks which maim or mutilate, nor the price of personal grief and suffering for families of those struck down by killers. The corrosion of fear which violence brings saps our strength as a Nation and weakens the social fabric of our communities.

ORGANIZATIONS ADVOCATING VIOLENCE

There are in the United States today a number of subversive and extremist organizations which advocate force and violence. They strive in every possible way to disrupt law and order and to inculcate hatred and bigotry that breed violence.

Communist Party, USA

Prominent among these is the Communist Party, USA (CPUSA). Communist statements for public consumption to the contrary, material furnished for study within the CPUSA clearly reveals that the use of force and violence is--as it has always been--the primary technique for the communist seizure of power.

Communists are in the forefront of civil rights, antiwar, and student demonstrations, many of which ultimately become disorderly and erupt into violence. As an example, Bettina Aptheker Kurzweil, 24-year-old member of the CPUSA's National Committee, was a leading organizer of "free speech" demonstrations on the campus of the University of California at Berkeley in the Fall of 1964. These protests, culminating in the arrest of more than 800 demonstrators during a massive campus sit-in on December 3, 1964, were the forerunner of the current campus upheaval.

In a press conference on July 4, 1968, the opening day of the CPUSA's special national convention, Gus Hall, the Party's General Secretary, stated that there were communists on most of the major college campuses in the country and that they had been involved in the student protests.

Mike Zagarell, CPUSA youth leader, claimed that the Party had played a leading role in student rebellions and antidraft demonstrations across the country during the past year. For example, he claimed that 60 of the 300 marshals used during "Stop the Draft Week" demonstrations in New York City during December, 1967, were CPUSA members.

These statements are amply supported by the evidence of such communist participation in student unrest and antidraft protest demonstrations which FBI investigations have disclosed. The Students for a Democratic Society, for example, has played a key role in many of these demonstrations and some of its members, as well as some of its national leaders, have publicly admitted that they are communists. In addition, members of the CPUSA-controlled W. E. B. DuBois Clubs of America and other communist splinter youth groups, such as the Young Socialist Alliance, the Youth Against War and Fascism, and the Progressive Labor Party, have been very active in these demonstrations.

Communists labor ceaselessly to exploit the racial situation and to incite racial strife and violence in this country. They have been active in exploiting propagandawise the riots of recent years. One main communist goal is to alienate Negroes from established authority.

It has long been communist policy to charge and protest "police brutality" wherever possible--particularly in racial situations--in a calculated effort to discredit law enforcement and to accentuate racial issues. The cumulative effect of this continuing smear campaign proves that it has been immensely successful. This campaign popularized the cry of "police brutality" to the point where it has, unfortunately, been accepted by many noncommunists, especially militants among minority groups and students. The net effect of the charge of "police brutality" is to provoke and encourage mob action and violence by developing contempt for constituted authority.

Other Communist Organizations

Other communist organizations in this country dedicated to the use of force and violence include the Trotskyite Socialist Workers Party and the pro-Red Chinese Progressive Labor Party (PLP). The activities of William Epton, Negro vice president of the PLP, in connection with the 1964 Harlem riot resulted in his arrest by New York authorities. He was subsequently found guilty of conspiracy to riot, advocacy of criminal anarchy, and conspiracy to advocate criminal anarchy.

Students for a Democratic Society

The emergence of the so-called "new left" movement in this country in recent years has attracted much public attention because of its flagrant resort to civil disobedience. The new left is composed of radicals, anarchists, pacifists, crusaders, socialists, communists, idealists, and malcontents. It is predominantly a campus-oriented movement. A large proportion of the new leftists was reared in affluent homes.

This movement, which is best typified by its primary component, the Students for a Democratic Society (SDS), has an almost passionate desire to destroy the traditional values of our democratic society and the existing social order. The SDS has been described by Gus Hall, General Secretary of the CPUSA, as part of the "responsible left" which the Communist Party has "going for us."

In recent months, student disturbances have exploded on college and university campuses throughout the United States, initiated by student activists, many of whom are affiliated with the SDS or campus-based black extremist groups. The riotous activity at Columbia University was spearheaded by Mark Rudd, Chairman of the SDS Chapter at this university. In an open letter to President Kirk, which appeared in the public press in May, 1968, Rudd stated, "Your power is directly threatened, since we will have to destroy that power before we take over."

The SDS held a national convention at Michigan State University in June, 1968. At this convention, methods to disrupt selective service facilities and law enforcement were discussed in a "sabotage and explosives" workshop. Suggestions included: flushing bombs in toilets to destroy plumbing; using sharp, tripod-shaped metal instruments to halt vehicles; firing Molotov cocktails from shot guns; jamming radio equipment; and dropping "thermite bombs" down manholes to destroy communications systems.

The protest activity of the new left and the SDS, under the guise of legitimate expression of dissent, has created an insurrectionary climate which has conditioned a number of young Americans--especially college students--to resort to civil disobedience and violence. Because activists of the new left are committed to the use of direct action and violence to achieve their objectives, the new left movement is becoming more and more anarchistic, militant, and violent. As an example, a June, 1968, issue of "The Rat," a new left underground newspaper published in New York City, carried an article and diagram describing the manufacture of a homemade bomb out of ammonium nitrate and a length of pipe. This particular article concluded by noting that a subsequent issue would contain plans for making thermite bombs.

White Hate Organizations

In addition to communist and new left groups, there are a number of organizations which are basically terrorist and hoodlum by nature. These groups are chiefly of a hate or "anti" variety--anti-Negro, anti-white, anti-Semitic, or anti-minority. Their common denominator is a distrust for law and order and a belief in force and violence.

White hate groups include more than a dozen Klan organizations, lineal descendants of the Ku Klux Klan which was founded over a century ago. The Klan has a tradition of and a penchant for violence. Over the years, murder, arson, bombings, and beatings of Negroes have been perpetrated in many areas by Klansmen.

The National States Rights Party is a white hate group which is composed of former members of Klan organizations, as well as notorious anti-Semites. It, too, has consistently and pointedly advocated a policy of violence.

The National Socialist White People's Party, formerly known as the American Nazi Party, is another organization that espouses a line of hatred against Negroes and Jews.

The Minutemen is a group of "superpatriots" who ostensibly are preparing and training to engage in guerrilla warfare in the United States following a communist take-over, which they believe is inevitable. Its members have an obsession for weapons of all kinds.

Black Nationalist Organizations

The whole problem of violence in American society has been intensified by the recent growth of black extremist organizations. These organizations contain many vicious, hate-filled individuals whose objective is anarchy; whose symbol is the Molotov cocktail; whose slogan of defiance is "burn, baby, burn"; whose manifesto is Frantz Fanon's "The Wretched of the Earth"; and whose preachers of the gospel of hate include Stokely Carmichael, H. Rap Brown, and Robert Franklin Williams.

The Nation of Islam, the largest of these Negro hate organizations, is in both the extremist and the non-extremist camp. It has achieved a respectability of sorts because it has shrewdly used the shield of religion and has insisted that its members avoid racial disorders and live moderately. Nevertheless, its meetings are replete with condemnations of the white race and vague references to the physical retribution that will be meted out to oppressors.

The Student Nonviolent Coordinating Committee (SNCC), whose militant top leaders have included Stokely Carmichael and H. Rap Brown, is one of the most publicized of the black extremist groups. Carmichael, who was recently expelled from SNCC, has stated that black power signifies "bringing this country to its knees" and "using any force necessary" to attain objectives. He has also urged the blacks in this country to "prepare for a bloody revolution."

The impact of extremist spokesmen on the black community and their ability to incite the youth, in particular, cannot be underestimated. These spokesmen are extremely vocal and dedicated to the destruction of the United States. They have a large audience because of the widespread dissemination given to their inflammatory statements by the news media.

Consider the following statements. Carmichael said in Algiers in September, 1967, "Revolution is the only solution for the American Negroes." In August, 1968, he asserted that the black revolution is entering "the period of armed struggle" just before there is guerrilla warfare. Last summer in Cambridge, Maryland, H. Rap Brown reportedly said, "It's time for Cambridge to explode--black folks built America, if America don't come around, we're going to burn it." Earlier this year, Brown wrote, "We must move from resistance to aggression, from revolt to revolution.... May the deaths of '68 signal the beginning of the end of this country."

Take the violence in Cleveland, Ohio, in late July, 1968. There, members of the militant black nationalist group, New Libya, exchanged gunfire with police resulting in the deaths of three officers and eight civilians.

Representatives from several Negro universities and colleges attended a black student conference sponsored by the SNCC and held in mid-April, 1968, in a southern state. Reportedly, the majority of the men and women at this conference were armed with pistols.

Among the items discussed at a "defense workshop" at this conference were the following: preparation of maps showing the locations of the homes of mayors, chiefs of police, and similar authorities so they can be eliminated by Mau Mau-type tactics; distribution of forces in several sections of a city to prevent law enforcement agencies from concentrating in one area; location of snipers along travel routes of National Guard units and police forces; use of Vietnam War veterans to train black people in demolition, use of booby traps, location of vulnerable spots on armored vehicles, and guerrilla warfare; and use of black college students to instruct black people in adjacent communities in the care and use of firearms, preparation of Molotov cocktails, and reloading of spent cartridges.

The Revolutionary Action Movement (RAM) is a militant, black extremist, pro-Chinese communist organization dedicated to the overthrow of the United States Government by force and violence. RAM has organized rifle clubs in order to engage in firearms practice and to obtain arms and ammunition. On June 15, 1968, two RAM members were convicted in New York City of conspiring to murder Roy Wilkins and Whitney Young, Jr., two moderate Negro civil rights leaders.

The Black Panther Party is an organization which advocates the use of guerrilla tactics and guns to end the oppression of the black race and the drafting of Negroes to fight in Vietnam. On May 2, 1967, 24 members of this group invaded the California State Assembly at Sacramento while it was in session. The invaders were armed with rifles, shotguns, and pistols and claimed they were there to protest a gun registration law. On two occasions during October, 1967, and April, 1968, members of this group engaged in gun battles with the police resulting in the murder of one policeman, as well as the death of one group member and the wounding of another.

Within the past year, there have been sufficient contacts between militant black nationalists and representatives of unfriendly or hostile countries to indicate a degree of foreign involvement, participation, and influence in the activities of black extremists in the United States. These foreign contacts serve to increase the potential for violence by giving inspiration, encouragement, and support to the revolutionary aims, doctrines, and activities of black extremists in this country.

Stockpiling of Arms by Black Nationalists

Reports of the stockpiling of firearms and other weapons by black nationalist groups are of great concern to the FBI and law enforcement. Such stockpiling is, of course, a distinct possibility in view of the ease with which firearms can be obtained in this country and in the light of the inflammatory urgings of such agitators as Stokely Carmichael, H. Rap Brown, and James Forman, Director of International Relations for the Student Nonviolent Coordinating Committee.

At a meeting of black nationalists in Los Angeles in February, 1968, for instance, Forman told the audience that every Negro should be armed for the eventual revolution of the black people. Brown quoted from Mao Tse-tung that "Political power grows out of the barrel of a gun." He added that Negroes should acquire guns because America only understands force. Carmichael exclaimed that all blacks must unite militarily.

FBI investigations of black extremists have uncovered innumerable allegations that these individuals have obtained firearms and are encouraging residents of ghetto areas to procure weapons. The incidents I previously mentioned in California and Ohio are graphic examples that this is being done. Black extremists have also distributed newspapers and leaflets describing methods of making firebombs for use in riots. The "Inner City Voice," a newspaper in Detroit, with a claimed circulation of 10,000 aimed at the ghetto reader, has published such information.

CAUSES OF AND REMEDIES FOR VIOLENCE

The crime and violence that flourish in America cannot be attributed to a single cause. The causes are many and interrelated, for they are rooted in a number of conditions and influences in contemporary life.

Just as there is no one cause, there is no single remedy. Crime and violence cannot be prevented or reduced by concentrating on one or two phases of the problem to the exclusion of the others. A coordinated and many-sided effort is required if effective results are to be achieved.

Social and Economic

There are a number of vital social and economic factors--such as poverty, inequality of employment opportunities, inferior housing, inadequate education, discrimination, and breakdown of the family--which breed lawlessness and violence. I shall not dwell on them. It is sufficient to say that we must find ways to eliminate the conditions which are causing us so much grief and concern.

ATTACHMENT 3

Excerpts from an "Imperial Executive Order" issued by Imperial Wizard Sam Bowers quoted in "Attack on Terror: The FBI Against the Ku Klux Klan in Mississippi," by Don Whitehead, Funk and Wagnalls, New York, pages 5-9.

"To: All officers and members. Subject: Forthcoming enemy attack and countermeasures to be used in meeting same.

"It is absolutely necessary that each and every member of this organization stand fast and remain calm at this time, while he is working deliberately to prepare himself and his unit for effective combat against the enemy.

"The military and political situation as regards the enemy has now reached the crisis stage. Our best students of enemy strategy and technique are in almost complete agreement that the events which will occur in Mississippi this summer may well determine the fate of Christian civilization for centuries to come.

"This organization is the physical spear upon which the enemy will either impale himself and perish, or sweep

aside, then to proceed almost unhindered in his evil work of destroying civilization. The manner in which we conduct ourselves and use our strength this summer will determine which of these fates our nation will follow. . . ."

"This summer, within a very few days, the enemy will launch his final push for victory here in Mississippi. This offensive will consist of two basic salients, which have been designed to envelop and destroy our small forces in a pincer movement of agitation, force by Federal troops, and communist propaganda. The two basic salients are as follows, listed in one-two order as they will be used.

"One. Massive street demonstrations and agitation by blacks in many areas at once, designed to provoke white militants into counterdemonstrations and open, pitched street battles, resulting in civil chaos and anarchy to provide an 'excuse' for:

"Two. A decree from the communist authorities in charge of the national government, which will declare the State of Mississippi to be in a state of open revolt, with a complete breakdown of law and order; and declaring martial law, followed by a massive occupation of the state by Federal troops, with all known patriotic whites placed under military arrest. If this martial law is imposed, our homes and our lives and our arms will pass under the complete control of the enemy, and he will have won his victory. We will, of course, resist to the very end, but our chance of victory will undoubtedly end with the imposition of martial law in Mississippi by the communist masters in Washington. . . .

"When the first waves of blacks hit our streets this summer, we must avoid open daylight conflict with them, if at all possible, as private citizens, or as members of this organization. We should join with and support local police

and duly constituted law enforcement agencies with volunteer, legally deputized men from our own ranks. We must absolutely avoid the appearance of a mob going into the streets to fight the blacks. Our first contact with the troops of the enemy in the streets should be as legally-deputized law enforcement officers. It must also be understood at this point that there are many different local police situations. Where we find corrupt and cowardly mayors and police, obviously, our members can not submit to their control, but we should still try to work with them at arm's length in every reasonable way possible to avoid being labeled as outlaws.

"In all cases, however, there must be a secondary group of our members, standing back away from the main area of conflict, armed and ready to move on very short notice, who are not under the control of anyone but our own Christian officers. This secondary group must not be used except in clear cases where local law-enforcement and our own deputized, auxiliary first groups are at the point of being over-whelmed by the blacks. Only if it appears reasonably certain that control of the streets is being lost by the established forces of law can the secondary group be committed. Once committed, this secondary group must move swiftly and vigorously to attack the local headquarters of the enemy, destroy and disrupt his leadership and communications (both local and Washington) and any news communication equipment or agents in the area. The action of this secondary group must be very swift and very forceful with no holds barred. The attack on the enemy headquarters will relieve the pressure on the first group in the streets and as soon as this has been done, the second group must prepare to withdraw out of the area. They will be replaced by another secondary group standing at ready. It must be understood that the secondary group is an extremely swift and extremely violent hit and run group. They should rarely be in action for over one-half hour, and under no circumstances for over one hour. Within two hours of

their commitment they should be many miles from the scene of action. . . ."

"We must always remember that while law enforcement officials have a job to do, we, as Christians, have a responsibility and have taken an oath to preserve Christian civilization. May Almighty God grant that their job and our oath never come into conflict; but should they ever, it must be clearly understood that we can never yield our principles to anyone, regardless of his position. Respect for Christian ideals can not yield to respect for persons nor statutes and procedure which have been twisted by man away from its original Divine origin. . . .

"When the black waves hit our communities, we must remain calm and think in terms of our individual enemies rather than our mass enemy. We must roll with the mass punch which they will deliver in the streets during the day, and we must counterattack the individual leaders at night. In our night work any harrassment [*sic*] which we direct against the mass of the enemy should be of a minor nature and should be primarily against his equipment (transportation and communications), rather than the persons of the mass enemy. Any personal attacks on the enemy should be carefully planned to include *only* the leaders and prime white collaborators of the enemy forces. These attacks against these selected individual targets should, of course, be as severe as circumstances and conditions will permit. No severe attacks should be directed against the general mass of the enemy because of the danger of hurting some actually innocent person. The leaders, of course, are not innocent, and they should be our prime targets, but the innocent must be protected. . . .

"We must use all of the time which is left to us in these next few days preparing to meet this attack. Weapons and ammunition must be accumulated and stored. Squads

must drill. Propaganda equipment must be set up ready to roll. Counterattack maps, plans and information must be studied and learned. Radios and communications must be established. And a solemn, determined spirit of Christian reverence must be stimulated in all members."

66-077 O - 76 - 57

ATTACHMENT 4

The Performance of the FBI
in Investigating Violations of Federal Laws
Protecting the Right to Vote -- 1960-1967

John Doar - Dorothy Landsberg

Much has been written about whether the Federal Bureau of Investigation is an investigative agency or a police force. The FBI was never a national police force, and surely did not act as such in civil rights matters. Its role was that of an investigative agency, acting for the Justice Department, required by law to serve the Civil Rights Division, which was in turn charged with the responsibility of enforcing Federal laws with respect to civil rights.

In July of 1960, the Civil Rights Division was to enforce the Civil Rights Acts of 1957 and 1960 -- a twin responsibility to go after (A) public officials who practiced racial discrimination in registration or voting, and

(B) anyone, public official or private citizen, who interfered with registration or voting by threats, intimidation, or coercion by any means.[1/]

In addition, there were two Reconstruction criminal laws in force, 18 USC 241 and 242, the first directed against private persons or public officials conspiring to deprive citizens of any rights or privileges secured by the Constitution or the laws of the United States, and the second directed against public officials and prohibiting deprivation of the same rights. The scope of both of these criminal laws had been severely limited by judicial decision, (the Williams and Screws cases). Until the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the decisions in the Price and Guest cases,[2/] protection of a citizen's civil rights through enforcement of these criminal statutes presented difficult legal obstacles.

The performance of the FBI in serving the Civil Rights Division of the Justice Department is the subject of this paper. The first section deals with voter discrimination and the second with voter intimidation. We have chosen to treat the cases involving intimidation or interference (the b cases) together with the criminal matters. Although the remedies provided were no more than civil remedies, Section (b) represented the only effective tool available against essentially criminal activity by private individuals.

We are aware of the popular notion that strained relations between the FBI and the Civil Rights Division have existed for years, and that, as a general rule, most agents considered civil rights enforcement an odious task. We have heard

it said that most Division attorneys felt the Bureau did a superficial job in interrogations and investigations on civil rights cases. There is little solid, written documentation one way or the other,[3] which may be frustrating, but is not surprising.

Those of us who worked in the Civil Rights Division during the period 1957 to 1967 remember the difficulties of law enforcement over those ten years, and the complexities of the problems we encountered. Events moved so fast, the work load was so heavy, and the demands on everyone's time were so great that no one had the opportunity to sit back and make a thorough appraisal of the FBI's performance, nor even to reflect carefully on the lessons learned from our experience.

Director Hoover, appearing before Congressman Rooney's Appropriations Subcommittee in 1965, testified that investigation of racial discrimination in voting had involved the gathering of numerous interviews, the making of nearly a million photographic copies of voting records, and had frequently made unusual demands on FBI manpower. He pointed out that investigative work by the FBI had served as the basis for seventy suits filed by the Justice Department.[4]

Our purpose now is to see if anything can be learned from those years to help establish criteria for determining FBI investigative responsibilities, and for measuring FBI investigative performance in the enforcement of federal civil rights laws.

Several things should be kept in mind. The paper is generally limited in time to the period John Doar was in the Civil Rights Division. (July 16, 1960 to December 31, 1967) It is written from the perspective of the Civil Rights Division -- without examination of internal FBI files, or of files in the Attorney General's office -and finally, the paper is based on personal recollection (no interviews have been undertaken) in conjunction with a review of files accumulated by John Doar during his years as a trial lawyer in the Department. The documentation is in no sense complete. Nevertheless, we are confident that a reliable measure can be made of the FBI's policies, procedures, and performance, in meeting its investigative responsibilities in the enforcement of federal laws protecting the right to vote.

Registration and Voting

The Civil Rights Act of 1957 created the Civil Rights Division and provided for injunctive action against public officials practicing racial discrimination in connection with voting.

When I entered the Division in July, 1960, three voter discrimination cases had been filed (Terrell County, Georgia, 9/58; Macon County, Alabama, 2/59 and Washington Parish, Louisiana, 6/59), and two of them tried. The Civil Rights Act of 1960 had just given the Division an important new tool -- authority to inspect and photograph voter registration records.

Once this statute was passed, the FBI was asked to inspect and photograph records in 16 counties.[5/] In most counties the registrars and local officials refused to cooperate. However, several counties' records were photographed. In due course, they arrived via the FBI into the offices of the Civil Rights Division. In September, 1960, for example, a dolly was wheeled into my office loaded with photostatic copies of all of the voter registration records in Leflore County, Mississippi. These records were bound in volumes and covered a space of 3 by 5 by 4 feet high.

The records had not been analyzed. All the Division had asked the FBI to do was to inspect and photograph those records, and that is what it did.

It was not surprising that the Civil Rights Division hadn't asked for an analysis. None of us knew enough about registration records, nor about the details of registration in Louisiana, Mississippi or Alabama, to direct one. No registry offices had been inspected, and we were not familiar with the many forms and books involved, nor the procedures or practices of the registrars. As far as we can tell, no one thought to ask the Bureau to master the art of records analysis. At that time we didn't suspect the romance hidden in the records.

The Bureau's photographic work was complete, utilizing the best type of photographic equipment, and the copies were superb, although the paper was on the shiny side, making it difficult to examine closely if there were 1,000 applications to examine and there were tens of thousands.

Several summer students worked in the Justice Department that summer. They were put to the task of looking at the records. Leflore's records proved to be hard to analyze. The job was too much for the summer students. We later figured out the reason. A few Negroes had been permitted to register; the registrar had not given hard sections of the Mississippi Constitution to Negroes to interpret and easy sections to whites; she had just helped the whites, and that was not as easy to detect from the records alone.

Most of our manpower was engaged in Haywood and Fayette Counties, Tennessee, working on economic intimidation cases. Aside from the

preparation, trial and post-trial work in the Terrell County, Georgia registration discrimination cases (where a little records analysis was done) nothing was accomplished until after the change of Administration in January 20, 1961.

On March 19, 1961, Assistant Attorney General Burke Marshall, several other attorneys from the Civil Rights Division and I, met with Attorney General Robert F. Kennedy and Courtney Evans of the FBI, to discuss problems of voting in the South.

At that meeting, the Attorney General instructed the Civil Rights Division to use the FBI for extensive investigation of voting cases. Evans was told to be prepared for a large number of voter investigation requests.

At this meeting there was no discussion about the importance of record analysis. No one at that time appreciated this. In Victor Navasky's recent book "Kennedy Justice" he describes the meeting, but assumes that we knew then what we learned later, after several years of hard work; that is, that "Each case depended on painstaking investigation -- analysis of voting rolls, compilation of demographic statistics, comparison of handwritings, careful interviews with registrars, and with a statistically significant sample of black and white failed registrants, successful registrants and others".

A gigantic enforcement assignment faced us in five states[6] and Attorney General Kennedy wanted to get something accomplished.

Within the next three months, the Civil Rights Division requested,

and the FBI completed, voting investigations in 34 Southern counties. Each request was based on a statement by the Division that certain named Negroes had tried to register and had been refused or rejected. We asked the Bureau to get full details./7.

All but 8 of the investigations were to be handled on an expedited basis. The average time between the date of the request and the date of the first report was 15 days. Sometimes the Bureau's work was very fast. For example, in Dallas County, Alabama, the Bureau interviewed about 90 Negroes; 13 days elapsed between the date of request and the date of the receipt of the report.

The investigations in all involved interviews with 736 Negroes and 80 white persons of which 694 Negroes and 72 whites cooperated. Most of the investigations contained an expansion clause. That is, the person interviewed was asked to furnish names of others similarly situated. In some cases we put an upper limit on the number of interviews. A singular characteristic of 34 FBI reports was that we got exactly the information we asked for -- no more, no less. In conducting the interrogation, the FBI agents did not use their knowledge of the registration process, although most of them were registered voters in the states where they were conducting interviews. The specificity of the request itself, and the characteristic FBI practice of confining interviews to items requested, caused two disadvantages. First, it was impossible to predict, and therefore to specify in a request, all the types of practices which Negroes might be subjected to in a given county. In such cases the Bureau's investigation would fail to bring out those practices.

Second, often the request contained items which related (as the interviews subsequently revealed) to practice which did not exist in the given county. Yet, by following the specified request, every person interviewed was asked about those practices which a few interviews would reveal did not exist. For example, in Dallas County, Alabama, a request for one item related to whether or not the interviewee was required to have a voucher when he applied for registration. After a dozen or so interviews with persons who tried to register at different times, it became obvious that the voucher rule was not used in Dallas County. The same was true as to the Constitutional reading and writing test. Yet, because our request included it, every interview (about 90) was asked about it. In fairness, many teams of agents were assigned to complete an expedited investigation, so a great number of interviews could be built up under the Bureau procedure before the interviews were analyzed. It suggests, however, that the only supervision of the work of the agents within the Bureau was to see if they carried out the specific assignments which we gave them in our request.

Briefly, FBI field offices were supervised by the Civil Rights Section of the Bureau, a part of the Bureau's General Investigative Division headed by Assistant Director Al Rosen and located at the seat of government. This section was created in 1939, at the same time a section for civil rights was established in the Justice Department's Criminal Division. In 1961, there were about 12 supervisors in the Bureau's Civil Rights Section led

by Clem McGowan. These men had the responsibility for supervising civil rights investigations. Requests from the Division were funneled through this office to the field offices and reports from the field containing results of the investigations were reviewed by it before submission to the Civil Rights Division.

The reports were not uniformly first class. Dallas County was excellent. Yazoo County, Mississippi was not so good. In that county the interviewing agent did not press for names, dates and facts on intimidation and made no attempt to interview one Negro who apparently was a messenger from the whites to those Negroes instructed to take their names off the rolls.

At the end of June, 1961, a summary of these investigative reports was made.

On July 11, Assistant Attorney General Burke Marshall wrote Mr. Hoover[8] and sent him this summary, saying:

> "I want to thank you for this work. We are trying to be as efficient and effective as possible without unduly burdening the manpower of the FBI. If you have any suggestions as to how the work can be improved, or how we can make your job easier, I would appreciate hearing from you."

To our knowledge, no suggestions were ever received.

At about the same time, Judge Frank Johnson determined to test the mettle of the Justice Department under Robert F. Kennedy. Early in February, 1961, he set the Macon County, Alabama case for trial for February 20th.

The registration records at the Macon County court house in Tuskegee had been photographed on a December registration day in 1960. Although countless Negroes had come that day to register, all they found was a sign on the door which read:

"Registration Office Closed invasion by Department of Injustice".

The case had been originally filed in February 1959. The Justice Department had received complaints from Tuskegee Negroes long before that, but the Civil Rights Division had refused to investigate their complaints.[9]/

Then in December 1958, the Civil Rights Commission put the Tuskegee Negroes on national television and the Justice Department sued. The pleadings were drafted right off the televised testimony. Thereafter, there was much legal maneuvering, brought about by the resignation of the registrars, which was ultimately eliminated by the 1960 Civil Rights Act. Throughout this entire period no substantial FBI investigations had been conducted. Whether the Bureau had been asked to conduct one, I don't know.

When Judge Johnson called, we found that we had no proof to present at the trial. We had the information that the Civil Rights Commission had developed; the unverified information furnished by William P. Mitchell of Tuskegee, Alabama, and the unanalyzed registration records. This was not the kind of proof that the Department of Justice needed to go to trial on the first

voting discrimination case in the Middle District of Alabama.

Instead of using the Bureau to shape up the proof, we went into the field ourselves. On February 12, another lawyer and I arrived in Tuskegee. We had with us a set of registration records which had been photographed by the Bureau in December. They were not organized or analyzed. William Mitchell, who was in charge of the Tuskegee Registration Voting League, gave us a voluntary staff of Tuskegee women to help organize and analyze the records. We started the next morning to interview Negroes -- professors, school teachers, professionals. Each had tried to register repeatedly over the years. Each had been rejected every time. The rejected applications included their literacy tests, which were beautifully written. Three volunteers and another lawyer sat in an outer office organizing and analyzing the records. The records themselves revealed that scores of barely literate whites had been registered on their first application. We had come upon a gold mine!

Using these records as a source of names of potential white witnesses, we began to use the FBI. We sent them out to interview the whites.

Between the 12th of February and the trial date, four or five young Civil Rights attorneys worked around the clock on the case questioning witnesses in the day time and analyzing records and FBI reports at night.

There was romance in the records. For example, a record

analyzed established that 40 some whites were registered on March 17, 1958 yet only 5 Negroes were permitted to apply on June 6, 1960 despite long lines of Negroes waiting. And the FBI reports revealed for the first time the tip of the iceberg. There was, regardless of literacy, or intelligence, universal white suffrage in Macon County. 10/

At the trial, Robert Owen, one of the Civil Rights Division's young attorneys, proved that highly qualified, educated Negroes had repeatedly applied unsuccessfully to register; and that each time they wrote long sections of the Constitution. Illiterate white persons, (whose names we got from the records and who had been interrogated by the FBI) who did not even understand what the word "registration" meant, testified that the registrar came to their homes and registered them.

On March 17, 1960, Judge Johnson ordered the registration of 64 Negroes, required the registrar to file detailed monthly progress reports and fixed the standard to be followed in future registration of Negroes in Macon County as that standard which the registrars had applied to the least qualified white voter in the County. (This was the legislative standard adopted four years later when Congress passed the Voting Rights Act of 1965.)

Later Judge Ben Cameron of the 5th Circuit said that a kind providence had spared Mr. Justice Jackson from the spectacle of the invasion of the bright young men from the North -- these groups of highly trained representatives of the central Government brought from its seat of power in Washington, backing their ponderous cameras up to the county

court houses in the rural section of the South, photographing the records of the sovereign states and hauling elected officials into court to answer variegated charges.

Judge Cameron had reason to be apprehensive. We could convince anybody with the records and with unsuspecting white voters as our witnesses. But the work assignment to do this was enormous.

For the next three years, the Civil Rights Division, small as it was, refined these investigation tools. By analyzing countless records in scores of counties in Mississippi, Alabama and Louisiana, the Division uncovered every scheme practised by the resourceful Southern registrars who had spent five generations keeping Negro citizens from the vote.

In time, the Division was able to categorize these schemes in shorthand fashion as "selection", "assistance", or "grading" discrimination. As a result, the young men and women who came to work in the Division, though inexperienced as analysists of documents, were able, with diligence, to analyze superbly. They were shown in advance what to look for, in what were very complicated registration forms. In the process, however, top graduates of the prestigious law schools looked elsewhere for employment or found themselves graduated into the view box, rather than into the appelate courtroom.

One of the problems of developing proof from the records was that, in many cases, there was no race identification in the records themselves. In

order to resolve this gap in the proof, we used the Bureau. Here the Bureau was exceptionally diligent and effective, taking, on many occasions, up to 2,000 names and determining the race of each of them, so that their registration records could be used in court.[11]/

But in some cases the registrar would not surrender the records, and some federal judges would not make them do so.

Without the records, the Division had to find a way to get the names of the white persons to be interviewed by the Bureau. In Forrest County, Mississippi, Civil Rights Division attorneys went to a Catholic priest, a Jewish rabbi, and a Protestant minister for names of college students who might, away from home base, give honest recollections of their registration experience. This required a great deal of sifting. Often we would give the Bureau 200-300 names of young men and women just past the age of 21 to be interviewed.[12]/ The Bureau never objected to the numerical number of interviews requested. In most cases, when the FBI report came in, it would come back containing at least several interviews with persons who proved to be excellent government witnesses.

The Bureau had no difficulty in getting a white person to talk to them.[12a]/ The Bureau was a professional law enforcement agency, free of politics and other improper influences.

However, sometimes the interviews would be uneven and it appeared

to us that little supervision of the individual agents' work was being done in Washington. Therefore, we devised a guarantee of good performance in conducting the interviews.

We became very careful in drafting FBI memos requesting interviews with white witnesses. The Choctow County, Alabama, April 1962 FBI request went on in the most minute detail for 174 pages, explaining, anticipating, cautioning, and coaching the Bureau agents./ 13. It epitomizes the guaranteed performance technique irreverently referred to within the Civil Rights Division as the "box memo".

The Bureau did an excellent job on the Choctaw County investigation in spite of the public attempts of the probate judge in that county to stop whites from giving any information to the agents. The Bureau interviewed 64 whites and obtained statements from each. Twenty-four persons gave signed statements, and 45 -- all whom were so requested -- furnished handwriting samples.

If the Division had not been occupied with other duties as well, it might have focused earlier than the winter of 1963-64 on the fact that the FBI was not being fully utilized in its interrogation assignments, and that its agents were utilized in an almost demeaning fashion in inspecting and photographing voter registration records./[14]

In late 1963 the Division prepared detailed requests to the FBI to make a complete analysis of voter registration records in three counties in the South -- Scott County, Mississippi; Bibb County, Alabama; and East Baton Rouge Parish, Louisiana. In East Baton Rouge, the FBI was also asked to prepare copies of the registration records for use as exhibits.

These requests reflect the sophisticated techniques in analyzing records which had been developed by Division attorneys, and set out in great detail exactly what the agents were to do, attaching examples of charts, statistical analyses and control cards which had been prepared by the Division in other voting discrimination cases./[15]

Instead of sending these requests over formally, Mr. Marshall, in January 1964, sent them over informally to Al Rosen who was in charge of the General Investigations Division for the Bureau. An informal request never becomes part of an FBI file. Thus, there

was, from the standpoint of the Bureau, no effort to embarrass the Bureau. Mr. Marshall asked Mr. Rosen to look them over and see if the Bureau would have any difficulty handling them. At that time, the Bureau had about 6,000 special agents and about 8,000 clerks and technical assistants. Soon thereafter, Mr. Rosen came to see the Assistant Attorney General Marshall and said that they were not able to do this. The manpower requirements of the Bureau were such, he said, that it had no one available to take on this task.

Mr. Marshall, perhaps aware of the other struggles the Department was having with the Bureau on other types of investigations, decided not to press the point. He withdrew the investigative request and instructed the Civil Rights Division to continue their records analysis on their own./[16.] There were 53 lawyers in the Civil Rights Division at that time, and another 55 clerical employees.

The Division had no difficulty in accepting Mr. Marshall's decision. If the Bureau were forced to accept the assignment it would have been a terrible risk to use the Bureau.

We were litigators, insisting that the proof be there when we entered the courtroom, stubborn and competitive enough to prove our cases ourselves. We were not "gee whiz" lawyers.

The Division was not prepared to take the terrible risk of losing a single case because of lack of proof. We faced tough judges. We wanted the proof to be so overwhelming so as to lock up the trial judge; if necessary to

persuade the Appelate Court to reverse; and to convince the whole country as well.

Mr. Marshall's decision ratified a treaty which the Division had already worked out with the Bureau. The Bureau would not have to analyze the records, but it would conduct all the interviews we requested, do it thoroughly, and if, in our judgment, necessary, on an expedited basis. For its part, the Division would analyze the records and would operate in parallel as an investigative agency in voting matters across the South./[18]

So it continued. The Division analyzed the records, the Bureau conducted as many oral interviews as required; the Division's careful requests insured excellent performance; the Civil Rights Division lawyers continued to act as investigators as well as lawyers in the field.

The result of four years of work was a tremendous accumulation of proof of racial discrimination of voting throughout the states of Alabama, Mississippi and Louisiana. In cases like Montgomery, Dallas and Perry Counties, Alabama; Forest, Tallhatchie and Panola Counties, Mississippi; Bienville, East Carroll and Ouchita Parishes, Louisiana, the Division presented overwhelming proof of discrimination./[18a]

In the great statewide case of U.S. v. Louisiana and U.S. v. Mississippi, the Division proved racial discrimination statewide. In U.S. v. Mississippi, among other elements of its proof, the Division itemized hundreds upon hundreds of

specific incidents of racial discrimination in voting occuring in Mississippi after March 24, 1954.

Finally, after the Selma Bridge incident, the country faced up to the need for stronger federal legislation. In July 1965, the Congress passed sweeping and radical legislation that removed, if necessary, registration for voting from the hands of local officials./[19.]

The Voting Rights Act of 1965 enacted on August 6, 1965 made a dramatic change in the methods available to the Justice Department to protect the right to vote./[20.] It suspended the use of literacy tests and devices as qualifications for voting in Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia and 26 counties in North Carolina. It provided for the assignment of federal examiners to list voters in counties so designated by the Attorney General, and for poll watchers to observe voting and the counting of ballots. These responsibilities could have been given to the FBI, but the bill proposed by the Administration and the final Act provided that the examiners and the observers were to be appointed by the Civil Service Commission. When Attorney General Nicholas deB. Katzenbach testified on March 19, 1965 before Chairman Emanuel Celler's Judiciary Subcommittee #5, he was asked why the Civil Service Commission was selected?

"It was selected because the Civil Service Commission is a bi-partison body and because there are employees of the Civil Service Commission in virtually every county of the country. It was hoped that if it became necessary to appoint federal examiners, that the Civil Service Commission could, in a

neutral non-political way, use employees of the Commission in those counties, or if necessary, appoint someone else. I think it was the reputation of the Civil Service Commission for its bi-partisan, fair, non-political activities that led to its choice as the appointing body."

The Voting Rights Act of 1965 produced a significant increase in black registration and resulted in substantial voluntary compliance by local officials. By June 30, 1966, local officials had registered more than a quarter of a million new Negro voters in Alabama, Georgia, Louisiana, Mississippi, and South Carolina. By June 30, 1966, 44 counties had been designated for the appointment of examiners, and more than 115,000 blacks had been listed by examiners.

The FBI had no major new responsibilities under this Act. They did agree to collect registration statistics (on a weekly basis) from local officials in the five Deep South states, and FBI offices continued to be opened on election day to receive complaints. But at the polling place, it was the Civil Service Commission, not the FBI, who, if needed, was present and protected the right to vote.

Voter Intimidation

Intimidation was one of the weapons used in the South to keep Negroes from voting. For years a partial control of racial violence in the Deep South was effected by conscious maintenance of the caste system on the part of state and local officials, who misused laws, and corrupted their authority.

As the Department of Justice began to crowd the county registrars, the inevitable consequence was an increase in the level of violence. This was especially true in Mississippi.

Control of intimidation was not an easy assignment for the Civil Rights Division, nor for the FBI. There were several problems.

First, the 18 USC 241 - 242 criminal jurisdictional basis from Reconstruction days was not solid. It never became solid against private persons. It was not until the passage of the Voting Rights Act that Congress extended the criminal law far enough to reach private lawlessness in the South, and then only in the matter of voting. (Of course, the Justice Department had an ample jurisdictional base in Section 1971 (b) but the Bureau never liked civil investigation.)

Second, the Bureau was required to prove the purpose of the person or persons who committed the act of intimidation. That is, that his purpose was to

deprive someone of due process of law or some other 14th Amendment right. This made the investigation assignment much more difficult than a straightforward criminal investigation.[21]/

Third, the territory was large, still a frontier and the Bureau was badly undermanned.

Nevertheless, the responsibility was there, and the Department undertook to perform its responsibility.

During the 50's and 60's Deep South Negroes who wanted to vote were unquestionably afraid.[22]/ They felt that any effort toward that end would be met by economic retaliation from the white community, and if retaliation were not successful, by overt violence. To overcome this fear, Negro organizations sent field workers into Mississippi to encourage registration, and to lend support to those Negroes already willing to register. These workers met adament resistence, not to say hostility, in the white community. Local officials, true to their commitment, used state criminal process to retaliate against Negro registration workers. In some counites, there was violence.

The following incidents are a few of the types of intimidation that occurred in Mississippi during the early 60's.

In Jefferson Davis County, where we brought a voter discrimination suit, a local school board decided not to rehire six school teachers whose names had been published in the local newspaper as government witnesses. We were not able to prevent thse firings.

In Greene County, Mississippi, a teacher had not been rehired after furnishing an affidavit relating her experiences attempting to register. All of our efforts to prevail upon the school board to rehire the teacher failed. A suit was brought in the Southern District which resulted in an unfavorable decision; the case was appealed and subsequently lost in the Fifth Circuit. In two other counties, Tallahatchee and Forrest, school bus drivers involved in litigation of a registration suit were not rehired.

Since relatively few Negroes were trying to register in Mississippi, where their economic life was controlled exclusively by local white persons, the bulk of the intimidation in Mississippi centered against the registration workers themselves.

Again, the principal technique was misuse of state criminal process or state authority against registration workers, for the purposes, and with the effect of intimidating unregistered Negroes. In the fall of 1961, a Negro registration worker named John Hardy accompanied two Negroes to the court house in Tylertown, Mississippi. He was ordered out of the registrar's office and, while leaving, was hit on the back of the head with a gun by the registrar. An hour later, he was arrested, confined and charged with breach of the peace.

In Sunflower County, Mississippi, five Negroes were arrested and convicted for distributing literature without a permit. In Greenwood,

Mississippi, eight registration workers were arrested while protesting the lack of proper police protection to city officials.

In addition, in Sunflower, Leflore, Amite, Rankin and Walthall Counties, Mississippi, there were extremely serious incidents of violence against Negro voters registration workers.

In examining the work of the FBI in cases of this sort, we begin[23] with the Bureau's investigation of economic intimidation against Blacks who registered to vote, or tried to register to vote, in Haywood County, Tennessee.[23a]

In the summer of 1959 the Haywood County Civic and Welfare League was formed to encourage black registration, and for the first time in many years, blacks in that county began to apply for registration. At first, no Blacks at all were allowed to register; they complained to the Justice Department, and the Bureau was asked to interview the unsuccessful applicants. In addition to describing their fruitless registration attempts, these Blacks told the FBI agents about economic coercion against members of the Civic and Welfare League. The allegations were specific[24] some were reported by several Blacks to the FBI, apparently independently of each other, and if true, were in violation of federal law. The Bureau did not pursue these possible violations but limited its investigation to interviews of the unsuccessful applicants.[25]

After the FBI reports were received by the Civil Rights Division, the

Bureau was requested on March 31, 1960, to conduct additional investigations. The request in part, noted, that "the information contained in the reports (of 12/24/59 and 2/9/60) indicates the various Negroes in Haywood County have been subjected to economic coercion and otherwise intimidated because of their attempts to register and because of their membership in the Haywood County Civic and Welfare League. Please interview the victims named. . . for details of their experiences. Also please interview the subjects named for their version of these incidents." The FBI was also asked to interview a certain named black "for any information he had concerning a petition circulated among landowners and merchants in Haywood County." "In addition to the above requested investigation, please pursue and develop any pertinent leads provided by any persons interviewed."

On April 6 the Director sent a memo questioning aspects of the 3/31 request. Regarding the requested interviews with alleged victims of economic intimidation, the Bureau stated that "a review of the statement. . . fails to reveal any allegation that the named victims were being subjected to coercion and intimidation because of their attempts to register. The allegations are made, of course, that they were subjected to coercion and intimidation because of their membership in the Haywood County Civic and Welfare League. This is being brought to your attention for your further consideration, and no investigation will be conducted concerning this phase in the absence of a further

request from you." Regarding the petition and the list reportedly circulated, the Bureau stated that "your advice is requested as to whether such activity would come within the purview of the Civil Rights Act of 1957 or whether it constitutes a violation of any criminal statute within the jurisdiction of this Bureau."

The Civil Rights Division responded, by memo dated April 12, that the statement of one of the charter members taken by the FBI leaves little doubt that a major, if not principal, objective of the League is to secure voting rights for Blacks. "There is substantial basis, therefore, for assuming that the alleged acts of intimidation. . . related wholly, or in significant part, to the *victims' efforts to register to vote in Haywood County. Please, therefore, proceed* with the investigation."

26.

On April 20, the FBI sent an interim report/ in response to the 3/31 request. The original black complainant was interviewed by agents about current registration attempts, and this report deals primarily with the (a) aspect of the case. The last paragraph of the Bureau's report stated:

"During this interview Boyd volunteered that Negroes of Haywood County, who are members of the Haywood County Civic and Welfare League, continue to be subjected to various forms of economic pressure in the county. He said that it is understood by him that in many instances where the Negroes operate stores, soft drink stands and similar businesses, that they cannot purchase

soft drinks or other supplies for resale except with considerable difficulty. He said the members of this League were not able, at the present time, to secure credit, particularly from the banks in Brownsville, under the same conditions as they had formerly been able to secure such credit." End of interview; end of report.

In the next three months, several additional requests were sent to the FBI by the Civil Rights Division, some dealing with the (a) aspect and some with the (b) violations. On May 18, the Civil Rights Division sent a request asking for an immediate investigation into reported discrimination in connection with the current registration in Haywood County. The next day, one of the supervisors in the Civil Rights Section in Washington headquarters called a department attorney and stated that it would be very difficult at this late date for the Bureau to make the requested investigation and that, in any event, it would not be desirable to have Bureau agents on the scene at the registration place as observers while registration was in progress. The agent calling indicated that another blow up could occur like the one in Webster Parish, Louisiana, in April, 1958.

On June 15, Mr. Rosen of the FBI called AAG Tyler and said that in light of the publicized altercation which took place the day before in Brownsville between the Deputy Sheriff and a representative of the Civil Rights Commission, the FBI was reluctant to conduct any investigation in Haywood County for the next week or so. Mr. Tyler suggested that the FBI would not be prejudiced in pursuing all

lines of investigation other than interviewing the registrar immediately./ 27.

Another request to the FBI regarding Haywood County was sent out on June 13, this one specifically requesting a full invesigation. A FBI report from Memphis dated June 17th, was transmitted to the Civil Rights Division on June 23. The Division then sent out another request, on July 1, referring to the June 17 report, and asking the Bureau to pursue the leads furnished by the persons the FBI had interviewed. For instance, one black referred, in his statement to the FBI, to white landlords who wrote down names of Negroes who were waiting in line at the Courthouse. "He should be asked to supply the names of other Negroes who observed the landlords and those persons should be interviewed to ascertain the names of the white persons engaged in this activity. The white persons should be fully interviewed." Another black, in his statement to FBI agents, reported he was read "some kind of paper" by a law enforcement officer. In the 7/1 request the FBI was asked to obtain a copy of this "paper" and a copy of the "papers" he was told to sign at the Brownsville courthouse.

On July 13, another request was sent to the FBI, referring to its 7/5/60 Memphis report. The Bureau was asked to get registration statistics for the recent registration period. The last paragraph of this request is especially interesting.

"We note from the referenced report in the above case, as well as from the report. . . in the Fayette County case, reference to the current investigations as

'limited' investigations. In accordance with our previous requests, the investigation in Haywood and Fayette Counties are to be full investigations and all logical leads are to be pursued with reference to whether or not discrimination has occurred in the registration process in those two counties and whether or not Negroes who have registered or tried to register there have been subjected to intimidation."

The FBI produced voluminous reports in July and early August, and numerous agents conducted interviews. But the investigation was superficial. There is no other way to describe it. At least as early as March, 1960 there were allegations that lists were being circulated throughout Haywood County of blacks who had either lined up to register, or had registered.[28] These lists were of crucial importance in demonstrating a connection between economic intimidation and the registration activity of the Blacks, and this connection was essential to prove a violation of federal law. Two FBI agents were given two lists (which had been circulated in the county) by a sympathetic white, Mrs. Sara Lemons, on July 22, 1960. The agents returned one list to her and kept the second one in the Bureau files; they were content in their report to the Civil Rights Division to merely note the existence of the lists. The Civil Rights Division had to specifically request the Bureau to make copies of the list they had gotten, to re-contact Mrs. Lemons and get the other list and to furnish copies of any other "lists you have in your possession." Also the Bureau was told "if you have knowledge of any other lists in existence in the possession of persons interviewed, please re-contact these individuals

for the purpose of obtaining photostatic copies of the list and if possible, the lists themselves for safekeeping."/[29.]

During this same period, Attorney General William Rogers was pushing the Division. In late June he wrote, "I am anxious to move as quickly as possible in bringing a civil rights case against those who have retaliated against Negroes who have attempted to vote. Mention this again to Tyler."

So in August and September we poured through the FBI reports and developed what we could into the first 1971 (b) case. It was filed on September 13th, charging 29 defendants, including two banks, with violating the Civil Rights Act of 1957 (42 U.S.C. 1971 (b)) by using economic reprisals and threats against Negroes who registered or tried to register.

On October 23rd, Nick Flannery and I left Washington for Haywood County to take the depositions of the defendants.

Haywood County, Tennessee almost borders the Mississippi Delta. It is a county of red clay, oak trees, eroded land, cotton fields and country stores. The majority of its citizens were Negro.

We made our headquarters at Brownsville and took the depositions at the post office. All of the defendants took the Fifth Amendment.

We met a Negro school teacher named Currie Boyd and his mother and we soon learned that the economic squeeze was much worse than had been reflected in the Bureau reports.

We were asked to go to several rural churches for meetings to talk with the Negro people. I will never forget those meetings. They were held at night in Negro churches along rural back roads. We would come into the church, which would be dimly lighted, and go to the front. I would tell those poor, honest, weary rural tenant farmers that we were from the Department of Justice and were there to help them.

Out of curiosity, and without expecting what the answer would be, I asked "how many of you have received notices to get off the land?" Instantaneously the hands of almost everyone in the church went up. Upon inquiry, we learned that some of the families had lived at one place in the county all their lives and either they or some member of their family had tried to register to vote.

We obtained written affidavits from over fifty sharecroppers who had been evicted from the land. We obtained all but one or two of twenty-eight letters from their land owners dated between May 12, 1960 and September 28, 1960. Each contained a notice of eviction. Twenty-four of these letters were dated within the 22-day period between June 18th and July 9th, 1960. The letters were from 14 different land owners. Each letter gave notice to a Negro tenant, that beginning with the following year, he no longer would have the land to rent on shares. Most of the letters requested the sharecropper to move at the end of the crop year.

On the basis of our investigation, an amended complaint adding 36 defendants, including another bank and a wholesale food distributor, was filed on November 18th. On December 1, a virtually identical action was brought against 10 additional defendants and the two cases were consolidated. In December the Government moved to prevent a large scale eviction of tenant farmers, scheduled for January 1, 1961.

A hearing was held just before Christmas at the federal court house in Memphis. Our first witness was a marvelous 78-year-old white Southern landowner named Katherine Rawlins Davis. When I first saw her in October, she had already been interviewed by the Bureau two or three times. Nevertheless, she still had,and was willing to turn over to me, a document -- a copy of the charter of the Haywood County Civic and Welfare League -- which one of the defendants had brought to her in March or early April. At that time he told her some of her hands had gone to Brownsville to register. Later, she testified, another defendant came to see her with the proposal that any tenant or employee who was a member of the league, be dismissed. Mrs. Davis testified she refused to dismiss her workers -- at least one of whom, was a member of the league -- and was placed on the non-cooperative list. She also related how an attorney named Gray, another of the defendants, had spoken at a meeting of whites and said that the best thing to do with the Negro sharecroppers was to wait until later on, and then tell them they would have to move for other reasons. Little, if any,

of this testimony had been developed during the FBI investigations.

The Court of Appeals, and later the District Court, issued an injunction against the mass evictions. This case was eventually decided by a consent decree enjoining more than 50 of the defendants. Many tenants stayed on, credit channels were reopened and a school bus driver was rehired.

Another example of the Bureau's early performance occurred in Southwest Mississippi during the summer and fall of 1961. The Student Nonviolent Coordinating Committee, lead by Robert Moses, had gone to Southwest Mississippi to teach the rural Mississippi Negro about voting.

The group of civil rights workers headed by Moses began operating voter registration schools in Amite, Walthall and Pike Counties -- three rural counties in the southwest corner of Mississippi -- counties that retained the character of the 17th Century.

In a six week period, between August 15th and September 25th, five incidents took place involving these civil rights workers. On August 15, 1961, in Amite County, Mississippi, Robert Moses was arrested by a Mississippi highway patrolman (accompanied by a Liberty town marshall) after Moses had accompanied three Negroes to the Amite County courthouse in Liberty to register. On August 29, 1961 Robert Moses was beaten on the street in Liberty as he accompanied two Negroes to the courthouse to register. On September 5, 1961 Travis Britt was assaulted on the rear steps of the Liberty courthouse while he and Robert Moses waited

for four Negroes attempting to register inside.

On September 7, 1961 John Hardy was assaulted by Registrar Wood in Tylertown in Walthall County as he accompanied two Negroes to register. And on September 25, 1961 Herbert Lee was killed by a local white man at a cotton gin in Liberty.

The Bureau was asked to investigate these five incidents under 1971 (b).

At the time, there was no FBI field office in the state of Mississippi. The six/ 30. resident agencies in Northern Mississippi reported to the Memphis, Tennessee field office; the seven/ 30. resident agencies in Southern Mississippi to the New Orleans, Louisiana field office. Most of these offices were one or two-man operations; some of the resident agents worked in their home towns.

In the first investigation involving the arrest of Moses, the Bureau interviewed the three blacks whom Moses had accompanied to the registrar's office. All three stated that there was a patrolman in the registrar's office when they were filling out the registration forms. The FBI agents failed to have the three blacks identify the patrolman in the registrar's office as the same patrolman who later stopped them. This would have been important in demonstrating the connection with voter registration. It was clear from Moses' and the patrolman's statements that it was the same man, but thorough investigations would surely have gotten all of the witnesses to pin it down, if the witnesses could do so. A key role had been played by the County Attorney in the charging and conviction of Moses

for interference with an officer in the course of his duties. The FBI did not interview County Attorney Piggot,[31] although they did interview Town Marshall Bates, whom they were not specifically requested to interview.

Our attorneys later acquired additonal information from Bob Moses which confirmed the importance of Piggot's role. According to Moses, the patrolman and Piggot first prepared an affidavit charging Moses with interfering with an arrest, but this was discarded after the patrolman told the attorney no arrest had been made. The attorney then started thumbing through a book to find something to charge Moses with. He read something, but they agreed it was no good. Finally, the attorney found an entry about attempting to impede an officer doing his duties. Moses was then charged, tried and convicted of impeding, or attempting to impede, an officer in the course of his duties. The discussion between the patrolman and Piggot and the preparation and destruction of the first affidavit would be very important in showing purpose. The FBI interviews with Robert Moses did not cover this.

The second FBI investigation dealt with the beating of Moses on the street in Liberty. The Bureau interviewed Moses, as requested, but failed to note that Moses had three cuts which required a total of nine stitches, or even that Moses had been to a doctor. Furthermore, it was Bureau policy to take photographs of victims' wounds. This was not done. In early September, I interviewed Moses in McComb, Mississippi and learned the extent of his wounds.[32]

The third FBI investigation dealt with the assault of Britt. Britt and Moses were threatened by a white bald-headed man, about 5'6" or 5'7", who worked across the hall from the registrar's office. The original telephonic request and the confirming memorandum both described this man. In their statements to FBI agents, Moses and Britt mentioned the white man who threatened them and came out of his office directly across from the registrar's office. It would have been easy for the FBI to identify this man, and yet they waited two more weeks, until the Civil Rights Division made a specific request, mentioning the possible name of the man, before they identified him.

The FBI investigation in the assault on John Hardy was reasonably satisfactory. The contention with voter registration was clear, and the conduct of the officials, blatant. Hardy was assaulted by the registrar in the registrar's office, and then arrested.

The Division did not leave the investigation to the Bureau. When the civil rights organizations protested this assault by the Walthall registrar to the Department of Justice and demanded protection for registration workers, we immediately sent two young lawyers -- Bud Sather and Gerald Stern -- to that county. When they returned in four or five days, they not only had enough facts to cause the Department to sue immediately to enjoin the state criminal prosecution of John Hardy, but they reported widespread terror and intimidation of Negroes throughout Walthall, Pike and Amite Counties, Mississippi. In a

matter of days, these young attorneys recognized that the Mississippi Bureau was undermanned and that the size of the job in Southwest Mississippi demanded a far larger federal investigative effort.

The final incident which the Bureau investigated in Southwest Mississippi in 1961 was the killing of Herbert Lee on September 25, 1961 by a State Legislator named Hurst. Lee had been driving Moses around rural Mississippi in connection with his voter activity. An FBI investigation was requested the day of Lee's death, by telephone. A confirming request was sent September 26th and another on September 26th[33] when additional information became available to the Department. A third request was sent on October 19th.

The Bureau was asked to obtain a copy of the transcript of the coroner's jury proceedings, or to interview the presiding officer for a resume. Mr. McGowan of the Civil Rights desk phoned and objected to this request. The next day a memo appeared on my desk from the Bureau stating that "upon discussion with Mr. Doar, he advised that no effort should be made to interview the presiding officer, the county attorney or the jury members." Later, the Bureau did interview the Justice of the Peace, who was presiding officer. He revealed that he had taken notes at the inquest, but the FBI did not ask to see them, even though this was exactly what the Division wanted.

A crucial fact was whether Herbert Lee had a tire iron at the time he was shot; how the tire iron got under his body, and when it was discovered. In the third request (10/19) the FBI was asked to "Please reinterview 'Buddy Anderson'.

Other than the subject, he is the only witness to suggest that Lee raised his arm just before he was shot. Obtain full details." The Bureau did reinterview Anderson. In this second interview, Anderson said he did not actually see the iron bar prior to the time it was removed from under Lee's body. This is repeated four times in the page and a quarter interview, but at no time did the FBI ask him who removed the iron from under the body.

The October 19th request also stated that "Sheriff Caston claimed to have found the tire iron under Lee's body, after the coroner's inquest. Town Marshall Bates told Lewis Allen, before the inquest, they had found the tire iron under Lee's body./[34] Lyman Jones says . . . that someone, whose name he does not know -- not Caston -- moved the body and picked up a tire iron when the inquest started. Please re-interview Bates, Caston, Allen and Jones to obtain full details." Thorough investigators would not have merely reported such differences, without doing some reinterviewing on their own.

We had information that Lewis Allen, an Amite County Negro operator of a logging truck had been pressured by the white law enforcers to testify as he did about the tire iron.

With respect to the gun wound in Lee's head, the second request (September 26th) to the FBI stated that "our present understanding of the assault is that Hurst struck Lee at or above the left eye with some portion of the gun.

Simultaneously, the gun fired and the bullet entered at Lee's left temple. Please examine Lee's body and photograph the wounds before burial. If possible, it should be determined on the basis of the examination and photographs whether the blow and shot occurred as described. Perhaps the angle of the bullet's entry, and the nature and location of powder burns will confirm or refute the witnesses ' descriptions." The Bureau did not report information from such an examination, if, indeed, any examination ever took place. Neither did the agents interview the doctor who had examined the body. In the third request (October 19th) the Bureau was asked to "interview Dr. Delaney of Liberty, Mississippi who arrived at the scene with Sheriff Caston and immediately examined the body. Obtain full details of his examination including the angle the bullet entered Lee's head, the extent, if any, of burns on Lee's head around the wound caused by the discharge of the weapon. . ." and "from your own examination of Lee's body, please furnish us, if possible, information as to the angle the shot entered the head, and the distance from which it was fired."

Neither we nor the Bureau were able to satisfactorily establish a federal criminal violation in the Herbert Lee case. We tried to develop a broad 1971 (b) complaint similar to the Haywood County case but we did not file it. It was not just the problem of proof of purpose; it was also the matter of effective relief for the Negro citizens who had to continue to live in the southwest corner of Mississippi. Several years later our failure was made all the worse

when Lewis Allen was killed in the night time by unknown assailants after being called from his house in rural Amite County.

During 1961 to 1963 the Bureau investigated many intimidation cases. The fact that it had conducted an investigation did some good but it made few, if any, cases and its performance --for the Bureau -- was far from adequate. This was due, in part, to the limited size and scale of the Bureau's operation in Mississippi; part due to the attitude of some of the Mississippi agents, and part was certainly due to the fact that the Bureau's civil rights section at the seat of government did not understand the problem of intimidation in Mississippi, nor the inefficiency and corrosion of some -- but not all -- of the Misssissippi resident agents.

During the same period in other rural areas of the South, the Division provided very limited control of intimidation through its own investigations and by filing 1971 (b) suits. We worked hard in such counties as Terrell County, Georgia, Holmes and Rankin Counties in Mississippi, Dallas and Wilcox Counites in Alabama, but it was not the kind of federal law enforcement effort required to clean out such widespread unlawful activity.

In late 1963 the black and white Northern students began to increase the pressure. Around the November elections in 1963 there were a remarkable number of violent instances when some Yale students went down to Natchez to work on that election.

By the spring of 1964, racial violence in Mississippi was assuming

alarming proportions. FBI letterhead memos began to describe these incidents. In Pike County, between April 1st and June 30th, three black homes and a barbershop were firebombed; three reporters and two local blacks were beaten. In Adams County a black church was vandalized; two civil rights workers were pursued and shot at; four blacks were whipped; another was seriously wounded by shotgun fire; and a local black man was killed. In Madison County the Freedom House in Canton was shot at twice and bombed; a black house and a black church used by civil rights workers were bombed; and a civil rights worker was assaulted. Throughout the state seven other black churches were damaged or destroyed; eight black homes or stores were bombed or shot into; numerous blacks and civil rights workers were harassed or threatened. On June 21, three civil rights workers, Schwerner, Chaney and Goodman disappeared after being held for six house in the Neshoba County jail.

Several Klan groups with headquarters in other states had been active in Mississippi. On February 15, 1964 a new Klan composed entirely of Mississippians, the White Knights of the Ku Klux Klan, was organized. The stated goal of the White Knights was to protect and promote white supremacy and segregation of the races, with violence if necessary. The new Klan group grew quickly. Four state meetings were held between February and June, 1964 with from 100 to 300 persons attending each meeting. Klaverns, or local chapters, were organized in at least 29 counties in Mississippi by June. On April 24, crosses were burned

in 61 locations across the state. Klan literature was openly distributed, and sometimes left at the scene of a racial incident. Several of the whippings of blacks noted above were administered by men in hoods. A group with similar aims, Americans for the Preservation of the White Race, was organized in Southwest Mississippi in June 1963. These matters were reported to us by the Bureau.

We believe the first FBI letterhead dealing with the White Knights was dated February 21, 1964, six days after the organization was formed. We believe the first FBI letterhead dealing with the Americans for the Preservation of the White Race was dated April 2, 1964, some months after the group was organized. Throughout the Spring of 1964, approximately 40 memoranda were sent to the Department of Justice by the FBI. Most of these were short letterhead memos describing state meetings, cross burnings, distribution of Klan literature and the activities of local chapters, especially the Laurel Klavern. About 10 memos contained the results of preliminary investigations of Klan-type incidents requested by the Division, such as beatings and damage to black homes and stores. On June 2, the Bureau submitted a summary report on the White Knights and the Americans for the Preservation of the White Race.

Civil Rights Division attorneys began to sense a build-up of Klan-type incidents in the Spring of 1964. On May 19, a report was furnished Mr. Marshall summarizing Klan-type incidents and police activity against Negroes in Mississippi

since January, 1964. On June 2-4, Mr. Marshall, Walter Sheridan and I went to Southwest Mississippi and interviewed a number of people about the increased vilence. On June 5th, the Attorney General assigned a unit of nine lawyers from the Criminal Division (under Walter Sheridan's direction), to investigate terrorist activity in Southwest Mississippi. These attorneys were experienced in organized crime work, and their assignments were: 1) to verify reported acts of terrorism; 2) to determine if these acts were the work of Klan groups; 3) to determine the extent of Klan membership and its organization; 4) to determine what weapons the Klan groups had and 5) to determine the extent of Klan infiltration of law enforcement.

During that first week in June, Attorney General Kennedy sent a memorandum to the President explaining the law enforcement problem in Mississippi and suggesting that the Bureau should consider how to deal with it.[35]/

Attorneys from Sheridan's unit began to move into the field about June 11th, and soon thereafter an office was opened in Jackson.

About the middle of June, two lawyers from Sheridan's unit contacted Clarence Prospere, the respident agent in Natchez. They reported that Prospere was very uncooperative. He stated that in many matters the FBI considered the Justice Department attorneys "outsiders". He advised that no report would be sent to Sheridan's unit unless he was specifically instructed to do so from the New Orleans field office. He would not agree to telephone

if violence broke out, unless, again, he was specifically instructed from New Orleans. He would give no background information on the area and on the identity of known extremists."[36]/

On June 15, 1964, Assistant Attorney General Marshall sent a lengthy request to the FBI, attaching a list of FBI memos on the White Knights, the Americans for the Preservation of the White Race, and on Klan-type incidents. The FBI was requested to check its files and to furnish the Civil Rights Division with additional information. The request also listed a number of Klan-type incidents, which had not been previously reported on by the FBI, and asked the FBI for any information it had on these terrorist activities.

In addition, the Justice Department alerted the press in an extralegal attempt to maximize local and federal preventative law enforcement.[36a]/

About June 16, 1964, interference files for each county in Mississippi and Louisiana were established in the Civil Rights Division. Information from FBI letterheads and reports, regarding any interferences with civil rights activities was placed in each county file, in order to spotlight the trouble areas and determine if there was any pattern to the interference activity. A report on Klan groups and terrorist activity in Mississippi was prepared. Notebooks on Klan membership, organization and vigilante activity were set up for Mississippi and Louisiana. Beginning June 19, the Civil Rights Division had at least four of its experienced Mississippi lawyers traveling in the state.

On Tuesday evening, June 16, three blacks were beaten following a meeting at the Mt. Zion Church in the Longdale community of Neshoba County, and that night the church was burned. Two days later, FBI agents in Jackson and Meridian learned of the assault and burning and reported the case to the FBI in New Orleans. The FBI agents were instructed by the New Orleans office to open an investigation to determine if any Federal laws had been violated. On June 19, two agents drove to Longdale to interview the blacks who had been attacked.

On Sunday, June 21, three civil rights workers, Michael Schwerner, James Chaney and Andrew Goodman, drove from Meridian to Longdale to find out about the assault and burning. Schwerner and Chaney had been meeting with the leaders of Mt. Zion church in May and June to see if they could use it as a COFO center during the summer. They talked to the blacks in Longdale, were stopped by Deputy Sheriff Price for speeding, confined in jail in Philadelphia and held until about 10:30 P.M. when they were released. COFO workers in Meridian were worried when the three didn't return and began to call local, state and federal officials./[37.] The "missing persons"report reached the FBI at 10:03 P.M. Sunday evening; around 2 o'clock the next morning, I asked the FBI to notify the Mississippi Highway Patrol and Neshoba County officers of the disappearance and give them a description of their station wagon and to report back to me all the information it could develop. Some time after noon, Director

Hoover ordered the FBI office in Meridian to make a search. Resident Agent John Proctor got the names of five blacks who Schwerner said he was going to see, and Proctor and another agent went to Longdale and then to Philadelphia, Neshoba County. At 6:20 P.M., Monday, A.G. Kennedy instructed the FBI to treat the disappearance as a kidnapping.

On Tuesday, June 23, five agents and an inspector arrived in Meridian from New Orleans; and agents from other offices were sent in. Inspector Joseph Sullivan arrived to direct the search. Sullivan is a 6'2" square-jawed Irishman who joined the Bureau in 1941. He was brought into the Inspection Division in Washington in 1963 and has a well deserved reputation as a top troubleshooter for the Bureau. That day the burned out stationwagon was located by some Indians. Late the next night, Wednesday, June 24, Assistant Director Al Rosen was also sent to the scene.

On Tuesday, June 23rd, the President announced that he was sending Mr. Allen Dulles to Mississippi to confer with state officials, civic and business leaders, and black leaders about the law enforcement situation in Mississippi. After conferring with Attorney General Kennedy, Director Hoover and other Justice officials on Wednesday morning, Mr. Dulles flew to Jackson. That afternoon he met with Governor Johnson and General Birdsong, acknowledged the infiltration of local police in many counties by the Klan.

Mr. Dulles met with Jackson civic business leaders that evening; with white and black religious leaders, with black leaders and civil rights workers, and with civic leaders from other parts of the state, on Thursday. Mr. Dulles flew to Washington Thursday evening.

Following additional conferences with Department of Justice officials, he met with the President on Friday morning. He recommended that a substantial increase be made in the number of FBI agents in Mississippi. While it is reported that Mr. Hoover initially advised the President that[38] either marshals or soldiers should be sent to Mississippi to deal with the situation, (see Joseph Kraft's February 1965 article in Commentary), he finally agreed, no doubt because men whom he trusted within the Bureau, such as Joe Sullivan, had told him Mississippi was badly undermanned, and that Washington was out of touch with the resident agents in Mississippi, and that the agents there were too close to local Mississippi officials.

Mr. Hoover did, on that day, decide to open an FBI field office in Jackson.[39] I have no doubt that Mr. Dulles' recommendation was the proximate cause in changing the Bureau's operation in the South.

On July 10, Director Hoover flew to Mississippi. He announced that the number of FBI agents in Mississippi had been increased to 153 men. Obviously, a large part of those 153 agents were working on the Neshoba case.

Mr. Hoover met with Governor Johnson while he was in Jackson.

The Director gave the Governor a list of Klan members in Mississippi, including several law enforcement officials. Two of the Klansmen were State Highway Patrolmen. The Governor said they would be dismissed immediately

Roy Moore was appointed the Special Agent in Charge (SAC) of the new Jackson office.

Sheridan's unit interviewed numerous blacks and sympathetic whites, including churchmen in Southwest Mississippi. They contacted federal personnel in Southwest Mississippi and Northeast Louisiana. (For example, all Department of Agriculture personnel were alerted to report any information about suspected terrorists or terrorism to Sheridan's group.) After it was learned that the Klan was using shortwave radios, arrangements were made with the FCC to send two men to Mississippi to monitor citizens' band and amateur radio licenses. Contact was established with Defense Department intelligence agents in Mississippi and Louisiana. By early August the Bureau's force had increased to such an extent that Sheridan's operation was withdrawn.

All of these events -- the buildup of violence in Mississippi, the resurgence of the Klan, the disappearance of Schwerner, Chaney and Goodman, the competition from Sheridan's unit, Mr. Dulles' trip to Mississippi, the additional manpower of the new Jackson office, and Mr. Hoover's personal visit -- combined to produce a magnificent change in the Bureau's performance in Mississippi.

The agents who were brought into the state to investigate the Neshoba

case were appalled by the breakdown in local law enforcement and the rise in terrorist activity. They were ashamed of the Bureau's prior performance, and, I suspect, reported their dismay to Mr. Hoover. With leadership from Joe Sullivan, Roy Moore and others, the FBI in Mississippi really performed. Roy Moore undertook a speechmaking campaign across the state to alert the public to the rise of terrorist activity, and remind it of the necessity of enforcing the law. An aggressive campaign was undertaken against the Klan with the following objectives: (1) to solve the Neshoba case; (2) to identify Klan members and officers; (3) to identify Klansmen who were law enforcement officials, state and local, and (4) to obtain as much information as possible about Klan activities and plans.

This means adopted against the Klan included aggressive interviewing of known or suspected Klansmen, and infiltration of the Klan with paid informants. Throughout the long hot summer, FBI agents moved through Neshoba County, methodically interviewing and reinterviewing Klansmen and others in an effort to solve the Neshoba case. New York Times, dated December 6, 1964 reported the FBI interviewed more than 1,000 Mississippi residents including 480 KKK members in the Schwerner, Chaney and Goodman investigation.

On July 17, 1964, Mr. Hoover sent Attorney General Kennedy a memo enclosing a list of Mississippi State Highway Patrol officers, sheriffs and deputy sheriffs who were known or suspected Klansmen and a list of known Klansmen in the state, which had been furnished by Bureau informants. He noted that

"intensive active investigation is being conducted concerning all Klan groups in order to develop pertinent information concerning the identity of membership and officers, aims and purposes and possible involvement in violence in connection with racial situation in Mississippi."

Known or suspected Klansmen across the state were identified, re-interviewed and closely watched.

Informants played an important role in the FBI's solution of the Neshoba case. The bodies of the three young men were found buried in a dam on August 2, 1964 through information furnished by an informant. At the October 1967 federal conspiracy trial of the 18 Klansmen charged in connection with the death of Schwerner, Chaney and Goodman, two paid FBI informants testified. Sgt. Miller (a Meridian policeman) had joined the Klan in April 1964 and was recruited as an FBI informant in September. At the trial he testified that he had received $3,400 from the FBI for salary and travel expenses. Rev. Delman Dennis had also joined the Klan in the Spring of 1964, and in November, he began serving as an FBI informant. He testified at the trial that he had been paid $15,000 by the FBI. Miller, Dennis and other informatns were very important in identifying Klan members, activities and plans.

In my closing statement at the federal trial, I said to the jury. . .

> "... much has been and will be said about the extraordinary methods used in discovering the guilty. Should it have been otherwise? Was this a case to be forgotten? Was this not a case for the maximum effort of the FBI? Could the Federal Government have succeeded in any ... way other than rewards, payment for information tending to expose the band of murderous conspirators, the midnight killers, to bring them to the bar of justice ...?
>
> "There could be no justification for the Federal Government not having tried to solve this crime. The FBI did try. A thousand eyes explored every corner of Neshoba County.
>
> "All of you probably have an initial resentment against paid informers. But before you finally decide - examine these men. They are native sons of Mississippi. They are men of conviction, both about state's rights and about law enforcement.
>
> "These men were not criminals. They played no part in this or any other criminal conspiracy. And for the FBI, there was no other way to establish the contact they had to make before they could solve this case."

Similar methods - aggressive interviewing, obtaining two signed confessions and one oral admission of participation, and the use of informants - were used by the FBI to solve the Dahmer firebombing. Vernon Dahmer, a black farmer in Forrest County, Mississippi, a leader in the NAACP, and active in voter registration activity, was killed the night of January 9, 1966 when his house was firebombed. Roy Moore and a group of agents were on the scene quickly setting up an FBI field post in a motel in nearby Hattiesburg. Significant physical evidence was found at the scene including a revolver, a gas-filled jug, shell casing and tire tracks. An abandoned car turned up a few miles away. According to Whitehead,

within 72 hours of Dahmar's death the FBI had compiled a list of suspects, who were Klansmen. One of the Klansmen (who had been involved in planning the attack) gave the FBI a signed statement. Others who participated made oral admissions. On March 28, 1966, fourteen Klansmen were arrested on federal 241 charges growing out of the firebombing.

When an investigative agency is functioning effectively, it is hard, by specific examples, to communicate all the law enforcement work it is doing. With this in mind, other examples of superior investigative performance are the following:

On June 25, 1964 in Itta Bena, (west of Greenwood) Mississippi, three civil rights workers were distributing leaflets announcing a voter registration meeting to be held that evening at the Hopewell Baptist Church. Three local white men threatened the workers and assaulted one of them. The next day the whites were arrested by the FBI for violation of 18 USC 241.

On July 16, 1964, Silas McGee of Greenwood, black, was beaten when he tried to attend the Leflore Theatre in Greenwood. Three local white men were arrested by the FBI on July 23 under Section 241. The three were indicted by a federal grand jury on January 6, 1965.

In Pike and Adams Counties, in the fall of 1965 and in Bogalusa, Louisiana in the summer of 1965, the FBI performed a tremendous job in helping to curtail terrorist activity. This was in the Southwest Mississippi territory where the law

enforcement problems were the worst.

Violence in Pike County increased in the summer and early fall of 1964. During July, two churches were completely burned; fire damaged another; and an attempt was made to burn a fourth one. Bombs were thrown at a house owned by a black as well as at the COFO house; shots were fired into the house of a black; a COFO worker was assaulted in McComb. During August, the building where NAACP meetings were held and a Negro home were bombed; a church was burned; and a local white was whipped. In the first three weeks of September, seven Negro homes were bombed; one church was bombed and three COFO workers were asaulted in the streets of McComb. Terrorist activity included the destruction of the Society Hill Baptist Church and severe damage to the Quinn house the night of September 20th. The church had been used for voter registration classes and Mrs. Quinn's cafe was a meeting place for COFO workers. In February 1965, Sheriff Warner of Pike County testified before the Civil Rights Commission that Mississippi Highway Patrolmen and FBI agents aided in their investigation. "And about twenty or thirty FBI agents were working at all times, along with myself and my deputies and the McComb Police Department".

McComb Police Chief George Grey testified that "Well, we more or less turned the investigation part of it over to the FBI and highway patrol and Sheriff's Department. They came into McComb and set up offices there and

they had special men that know how to do it probably a lot better than my men did."

When Sheriff Warren went to investigate the Quinn bombing on September 20, he was accompanied by FBI Agent Frank Ford. Blacks in the vicinity were rioting when they arrived at the scene and according to Sheriff Warren, "Mr. Ford talked to the Negroes, tried to quiet them down. He was cursed and his flashlight knocked out of his hand by a rock." On September 30, eleven local white men were arrested by FBI and state patrolmen, and ten of these men were indicted in October by a local grand jury for three of the bombings of Negro homes, including the Quinn house. At their trial on October 24, six of the men pleaded guilty to illegal use of explosives and all of them nolo contendere to charges of conspiracy.

In late October and early November, there were five more acts of violence against blacks. In Pike County, one was assaulted; two were shot at; and a store was vandalized. Six white men were arrested in November; five plead guilty and were sentenced to one year, with no suspended sentences.

It is clear that the FBI was the law enforcement behind these arrests.

Events in Bogalusa, Louisiana add to the picture. Bogalusa was a tough, depressed lumber and paper mill town of 22,000 people in Northeast Louisiana just below Walthall County, Mississippi. Thirty-five percent of its

population was Negro.

In April 1965, several civil rights organizations selected Bogalusa as the target for an intensive civil rights campaign to secure rights to public accommodations provided by the 1964 Civil Rights Act as well as to urge additional economic opportunities for Negroes.

This campaign led to picketing, marches, counter marches, police failure and violence.

On June 2nd, the first two Negro law enforcement officers to serve Washington Parish were ambushed while on a police car patrol northwest of Bogalusa. O'Neal Moore, a Negro deputy sheriff was killed, and another Negro deputy was wounded.

Later that night, Ernest McElveen, a white resident of Bogalusa was arrested in Tylertown, Walthall County, Mississippi and charged with murder.

Although federal jurisdiction was very questionable, the FBI immediately entered the case. At the time, Inspector Sullivan, Roy Moore and their agents, had been working hard in the area between Natchez and the Louisiana border on Klan investigations. Natchez and its environs had been an intimidation trouble spot for years.

Inspector Sullivan set up a field office in the Choctaw Motel in Bogalusa and staffed it with about twenty agents.

The demonstrations and incidents continued and conditions grew worse.

During the middle of July, I was sent to Bogalusa. An injunction had just been issued by the Federal Court in New Orleans requiring local police authorities in Bogalusa to protect civil rights demonstrators.

On July 16 and 17, pickets who appeared at the Pine Tree Plaza Shopping Center in Bogalusa were harassed and physically attacked by white bystanders. I was there on the 17th and saw it all. So did Joe Sullivan. I will never forget Inspector Sullivan moving in, dressing down the local police authorities for their failure to do their duty, and in effect, keeping the peace at the shopping center that day.

Within a matter of days, (July 19, 1965) working with the FBI, we filed an action for civil contempt against the local authorities alleging violation of the injunction.

On the same day we filed a civil suit similar to the 1971 (b) type in Federal District Court in New Orleans against the Original Knights of the Ku Klux Klan, the Anti-Communist Christian Association, and 38 individuals in and around Bogalusa, Louisiana, including top leaders of the Original Knights of the Ku Klux Klan. We sought injunctive relief to prevent the defendants from interfering with persons seeking to exercise constitutional rights.

The factual information necessary to support the suit was furnished to the Division by the FBI. The complaint was prepared in Washington by Robert Owen working from scores of FBI letterhead reports which the Division had

received from the FBI resident agents in Bogalusa and McComb over a period of many months. The complaint was refined with direct information furnished to me by Inspector Sullivan in the field.

Inspector Sullivan and his agents worked closely with us in selecting the defendants and in developing the proof required to prove the illegal actions of 37 different individuals.

On that occasion the Bureau showed it appreciated the value of a broad civil injunctive suit as one means of controlling intimidation -- especially where local law enforcement had broken down.

In preparation for the hearing of the contempt case, we had, with the help of the Bureau, collected lots of film strips of the Bogalusa demonstrations. Division Attorneys Robert Owen, Kenneth McIntyre and John Rosenberg, put together a film strip on what happened at the Plaza Shopping Center. As narrator of the film, and as the person who identified those responsible for the failure of the local police, our witness was an FBI agent. His testimony made our case. The defendant public officials were held in contempt.

Although the Bureau worked steadily into September, we were never able to get a criminal jurisdictional handle on the O'Neal Moore case. By that time we had received 25 volume-size FBI reports averaging in excess of 100 pages each. The information contained in the reports, however, was used by us to prove our civil case in Federal Court.

Again the FBI was of great help to Owen and McIntyre at the trial. We needed a witness to authenticate a copy of the rules of the Klan and a membership list. The Bureau persuaded the local county prosecutor to talk to Owen and then to appear as a Government witness. Through his testimony, we authenticated the documents.

On December 1, 1965 a three judge Federal Court issued its opinion. Fittingly, the Court began its opinion:

"This is an action by the Nation against a Klan. . ."

The Court stated that the defendant had adopted a pattern and practice of intimidating, threatening and coercing Negro citizens in Washington Parish for the purpose of interfering with the civil rights of Negro citizens. The Court found that the Klan exploits the forces of hate, prejudice, and ignorance and relies upon systematic economic coercion, varieties of intimidation and physical violence to frustrate the national policy expressed in the civil rights legislation. The Anti Communist Christian Association was found to be only a disguise for the Klan.

The Court concluded by saying that protection agains the arts of terror and intimidation committed by the Original Knights of the Ku Klux Klan and the individual defendants could be halted only by broad injunctive decree and it issued that injunction.

During 1966 and 1967 other evidence of the Bureau's work came to

light in the successful prosecution in Federal Court in the Liuzzo and Penn cases and in the Dahmer case in the State Court of Mississippi in and for Forrest County.

In these cases, the Bureau, under the direction of the Division (no doubt impressed by the caliber and leadership of Robert Owen) performed its investigative assignments.

While some of these cases did not directly relate to voting, their successful prosecution undoubtedly led to a climate in the South which went a long way toward fully guaranteeing the right of all of our citizens to register and vote.

Conclusion

The challenge for America in 1960 was the destruction of the caste system itself. At the outset, few men had fully perceived this fact.

In the past, when a revolutionary goal was sought, revolution was necessary to achieve it. A few citizens, operating independently, undertook to eliminate the caste system within the framework of the law.

The laws of 1957 and 1960 protecting the right to vote were not aimed at the caste system -- but rather at what the majority understood at the time to be necessary -- that is, the protection of the right of certain extraordinary, intelligent Negro citizens who, under any standard, were entitled to vote. Some time during 1960 and 1961 -- it didn't happen all at once, nor did it happen to each member of the Division at the same time -- the Civil Rights Division seized these statutes as their weapon against the caste system.

It fell to the FBI, by virtue of its responsibilities as the investigative arm of the Department of Justice, to become unwitting soldiers of the Civil Rights Division. What a situation for the Bureau! It must be remembered that at the time no one was with the Division. Neither Congress, Federal Judges, United States Attorneys, the Department of Agriculture and HEW, nor indeed, the American people themselves had yet signed on, and yet the FBI had been involuntarily enlisted.

The Bureau was ill-prepared for its predicament. Is it any wonder it delivered such a lackluster performance? FBI field offices in the South were neglected and under-manned. There were no Bureau manuals on the detection of discriminatory selection of voters. Voter discrimination itself had not yet been clearly or specifically defined. The Bureau supervisors established in high posts at the seat of government, knew only the myths published by the disciples of the solid south, themselves established at the seat of government. Beyond that, the FBI's strength and virtue may have been eroded by its suspicion of the Department of Justice.

Thus, the Bureau found itself locked in a situation it did not -- could not -- understand. It knew little about the realities of life in the South. (Neither did almost anyone else.) The fact that the Bureau represented the federal government, with all its bureaucratic power, should not blind us to the very real difficulties it faced operating in the complex legal network of the caste system. These states were largely still a part of the American frontier, riddled with bewildering rural patterns of secrecy and silence, almost designed to make the work of any investigative agency difficult, if not impossible. That the FBI needed guidance, that it moved haltingly, that it faltered on many occasion between 1960 and 1964 should come

as no surprise. That it made a limited contribution in the voting cases as the professional, uncommitted, neutral, investigator, is to its credit.

In 1964, when a deep-seated change came upon America, a change brought about by many individuals, groups and forces, the Bureau changed as well.

From that time on, under the leadership of agents like Inspectors Joe Sullivan, John Proctor , and Roy Moore, the Bureau demonstrated in some of the toughest law enforcement assignments imaginable, exactly how and why it had earned its reputation for thoroughness, persistence, and toughmindedness in responsible law enforcement.

Perhaps, in retrospect, there were ways to have made the Bureau do better. But, in evaluating the FBI's performance in protecting the right to vote, let us be sure we do not transfer our impatience with America itself, onto the FBI, simply because of its visibility -- or our prejudices -- or because we feel more comfortable criticizing a bureaucracy than criticizing ourselves.

FOOTNOTES to Attachment 4

(1) 42 USC 1971 (a); 42 USC 1971 (b).

(2) In the Price and Guest opinions, the Supreme Court reversed dismissals by the District Court of indictments arising out of the killings of the three civil rights workers in Neshoba County, Mississippi and of Lt. Col. Penn in Georgia. The Guest opinion is quite technical. There are four separate opinions with six Justices concurring in part and dissenting in part for different reasons. But, in effect, these decisions gave a broad construction to Section 241. The court held that "Section 241 must be read as it is written" and that its "language include rights or privileges protected by the 14th Amendment". In the Guest case the Court found that the indictment stated a crime within the reach of 241 in alleging a conspiracy to interfere with the right on an individual to travel in interstate commerce. In the Price case the crime alleged by the indictment was "that the State, without the asemblance of due process of law, as required by the 14th Amendment, used its sovereign power and office to release the victims from jail so that they were not charged and tried as required by law, but instead could be intercepted and killed". The Supreme Court unanimously upheld the constitutional validity of the indictment. In Price the Court also held that private persons charged with acting with local police officials were acting "under color of law".

66-077 O - 76 - 61

(3) Harry Allen and Benaro Overstreet, in their very pro-FBI book The FBI in Our Open Society (1969), devoted much attention to the Bureau's performance in civil rights. Near the end of their book, they state that "to turn from a report like that of John Doar (in the Attorney General's 1965 Annual Report) to almost any one of the columns and articles which brand as deplorable the FBI's record in the civil rights field is to realize how little can be learned from the latter about the specifics of federal law. We have not found even one such piece that has based its charges on well-authenticated discrepancies between the FBI's assignment, as defined by law and departmental policy, and its performance."

(4) Each year between 1961 and 1967 Director Hoover testified before Congressman Rooney's subcommittee. In 1961, besides noting the training programs in civil rights conducted for FBI personnel for local officals and discussing the communist exploitation of the sit-ins, the Director devoted four brief paragraphs to civil rights matters. He noted there were 1,398 alleged civil rights violations during fiscal 1960 and mentioned a number of bombings, attempted bombings and bombing threats. He commented briefly on the Civil Rights Act of 1960 and the Attorney General's authority to

bring suit "when there is a pattern of events denying the right to vote because of race or color." Mr. Hoover did not describe the FBI's role in investigating these denials.

In 1962 the Director devoted three and a half pages to civil rights, setting out in some detail the procedures the Bureau follows in investigating police brutality and other complaints and also the Bureau's jurisdiction. This testimony appears to be in response to the Civil Rights Commission's 1961 Justice report which was somewhat critical of the FBI's performance. Mr. Hoover testified that 'some sources have inferred that we might be reluctant to investigate personnel of other law enforcement agencies. This assumption is completely unfounded." Mr. Hoover also asserts there was no delay in furnishing complaints directly to the Civil Rights Division, another area where the Commission found fault with the FBI's record. Mr. Hoover made no specific mention of FBI investigations of denials of the right to vote.

In 1963, the Director devotes less than a page to civil rights in his testimony, with no discussion of voting investigations. He does mention the FBI's solving of two church burnings near Albany, Georgia in the fall of 1962.

Mr. Hoover's 1964 testimony contains five pages dealing with civil rights matters including mention of several civil rights prosecutions such as the Medgar Evers case, an Indiana police brutality case, and one of the same church burning in Georgia in 1962. "Extensive work has also been carried on under the Civil Rights Act of 1960 regarding discrimination in voting matters. For example, in Bullock County, Alabama, we made

an investigation into voter registration procedures at the instruction of the Department of Justice. On September 13, 1961 a federal court order was issued to regulate registration procedures and eliminate discrimination. As a result, more than 1,000 Negroes have registered thus far.

In his 1965 testimony, nine pages of which deal with civil rights, Mr. Hoover also noted, for the first time, the intelligence activities against the Klan. "Indicative of our work in this area is the fact that we are currently investigating 14 Klan-type organizations having a membership of approximately 9,000 individuals." Mr. Hoover then went to name the major Klan groups, their leaders and estimated membership.

In 1966, the Director discussed in great detail the Bureau's successes in the big criminal cases - Penn, Neshoba and Luizzo and the FBI's response to such crises situations as Selma and Bogalusa.

(5) Shortly after the Civil Rights Act of 1960 went into effect, record demands were made for 15 counties in four states -- McCormick, Hampton and Clarendon Counties, South Carolina; Webster, Fayette and Early Counties, Georgia; Wilcox, Sumter and Montgomery Counties, Alabama; East Feliciana, Ouachita and East Carroll Parishes, Louisiana; and Boliva, Leflore, and Forrest Counties, Mississippi.

(6) In 1960 the Department of Justice believed that there was massive wide-spread racial discrimination in voting in five Deep South States (Alabama, Georgia, Louisiana, Mississippi and South Carolina) and in some counties in Florida, North Carolina and Tennessee. The Best registration statistics available for 1960 indicated that 14% of the 500,000 voting age Negroes (and 63% of the Whites) were registered to vote in Alabama; 30% of the 500,000 Negroes (and 77% of the Whites) were registered in Louisiana and 6% of 400,000 Negroes (and at least 50% of the Whites) in Mississippi were registered. We Believed there were 27 counties with substantial Black populations where no Blacks were registered. These counties were called cipher counties and were located as follows: 2 in Alabama; 6 in Georgia; 4 in Louisiana,; 14 in Mississippi and 1 in South Carolina. These five states had 98 (out of 419) counties with less than 5% of the Blacks registered.

Our conclusion after 4 years of hard work was that we had underestimated the size of the problem.

(7) A typical FBI request might read as follows:

Director
Federal Bureau of Investigation 4-6-61

John Doar
Acting Assistant Attorney General
Civil Rights Division 72-41-20

Discrimination in Registration and Voting
Jefferson Davis County, Mississippi

Listed below are the names of Negroes in Jefferson Davis County who have attempted to register to vote. Some have been successful. We do not have the addresses of some of them, but Mr. John C. Burnes, a farmer who lives approximately 6 miles north of Prentiss, will be able to help you locate the

the individuals. His house can be reached by going 5 miles north of Prentice on Highway 13 and turning west on a dirt road and following the dirt road for about a mile. The Burnes farm is on the south side of the road. Please interview these persons:

- John C. Burnes
- Jenora M. Holloway, Mt. Carnel Voting District Prentiss, Mississippi
- Caston Holloway, Prestiss, Mississippi
- Mabel W. Armstrong, Prentiss, Mississippi
- John H. Lewis, Prentiss, Mississippi
- John Harris Williams, Prentiss, Miss.
- Waddell Gray, Carson, Miss.
- J.H. Armstrong, 5 miles east of Prentiss. Miss.
- Lewis Warren Pasterling, Prentiss, Miss.
- Juanita Pasterling, Prentiss, Miss.
- Johnny Hartzog
- Jim Hartzog
- John F. Barnes
- Scott Barnes
- Johnny Goodlaw
- Mather Nerron
- Larkin Sims
- Irvin Lucas
- Cable Terroll
- Martin Sullivan

- Nallie Ward

- James Ward

- Seaulab Rose

- Rudolph Ward - Mt. Zion Community

- James Ward - Mt. Zion Community

- Fred White - Mt. Zion Community

- Bailey Jones - Mt. Zion Community

- Charlie Thompson, Route 2, Box 80 Prentiss, Miss.

- Daniel Sims Ross, Route 2, Box 137, Prentiss, Miss.

- Fred Ross, Route 2, Box 296, Prentiss, Miss.

- Sanc Phillips, Route 3, Box 122, Mt. Olive, Miss.

-Dadley Lewis Hawthorne, Route 2, Box 11, Prentiss, Miss.

- Dorothez Howthorne, Route 2, Bos 11, Prentiss, Miss.

- Willie P. White, Route 2, Box 111, Prentiss, Miss.

- Roscoe Otis - lives near Willie P. White

- C.L. Powell - Carson, Mississippi (also obtain information on Mr. Powell's son's attempts to register and his present location.)

Certain of these people were previously interviewed in March, 1958. Re-interview is requested to bring the matter up to date and to obtain the specific information requested.

In addition to obtaining the usual background information including education, business or farming experiences, property ownership, military record, arrest record, obtain the following specific information:

a. Each time he attempted to register

1. Date or dates

2. Where he attempted to register

3. What other Negroes were with him when he attempted to register.

4. Name or person or persons to whom he applied for registration. (Circuit clerk or deputy)

5. Full details of conversation with clerk.

6. Full details of any conversation with other white persons or officials when he attempted to register, such as the Sheriff or Deputy Sheriff.

7. What was required of him when he attempted to register, such as filling out the application forms, copying and interpreting a provision of the Constitution. Ascertain whether any part of the qualifying examination was oral. If he was required to copy and interpret a provision of the Constitution, ascertain what provision or what it was about and its length.

8. Whether he passed or failed. Include here any details of the conversation with the registrar.

9. Whether he received any assistance in filling out the form from the registrar and whether or not he requested such assistance.

10. Whether or not he has paid his poll tax regularly, if so, obtain all original poll tax receipts in his possession.

11. Whether any white person in the County has talked to him about registering, if so, who, when, and full details of the conversation.

Obtain from each person interviewed the names of other Negroes who have also attempted to register to vote. Interview each of these persons for full details.

Obtain from each person interviewed the names of any Negroes who have been reluctant to attempt to register because of a conversation with a white person in the community.

Interview Carl Meyers, white, who lives in Voting District 5 near Prentiss, Mississippi, and who is a registered voter for full details as to what transpired when he registered to vote, including the date, what assistance he was given either by the circuit clerk or by other persons when he attempted to register, and the length of time it took him to register. Obtain full information as to interviewee's educational background and whether interviewee can read and write.

Interview Garland Lane, a registered white voter in the County as to what transpired when he registered to vote, including the time it took him to register, and what assistance he received in completing the qualifying examination. Obtain full information as to interviewee's educational background and whether interviewee can read and write.

Kindly conduct this investigation on an expedited basis.

(8) A copy of the Mississippi summary follows on the next three pages.

(9) As an example of pre 1960 machinations, consider the following:

On May 1, 1958 Henry Putzel, Chief of the Voting and Elections section wrote the Assistant Attorney General for Civil Rights.

"At least until a final decision is made as to our course with respect to the situation in Tuskegee, I feel it is desirable to confine investigations of Mr. Gomilian's complaint to persons outside existing or previous boundaries of Tuskegee, therefore, at least for the time being, we are asking that the present or former residents of Tuskegee not be included among those to be interviewed by the FBI."

47

M I S S I S S I P P I

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED AND MADE		INTERVIEWS EXPANDED	RESPONSI STATEMEN
Carroll	5/19/61	6/5/61	Yes	12 N.	10 N.	9 N.	19 N.
Claiborne	4/3/61	4/21/61	Yes	19 N.	19 N.	21 N.	38 N.
Clarke	4/3/61	4/24/61	Yes	6 N.	6 N.	4 N.	10 N.
Copiah	4/27/61	5/10/61	Yes	7 N.	7 N.	1 N.	5 N.
Forrest	4/3/61	4/21/61	No	42 N.	40 N.	33 N.	70 N.
Grenada	5/19/61	6/2/61	Yes	8 N.	8 N.	0	8 N.
Holmes	4/28/61	5/10/61	Yes	4 N.	4 N.	0	4 N.
Jefferson Davis	4/3/61	4/24/61	Yes	36 N. 2 W.	35 N. 2 W.	24 N.	59 N.

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED AND MADE		INTERVIEWS EXPANDED	RESPONSIVE STATEMENTS
Lauderdale	6/21/61	Pending	No	12 N.	Pending	Pending	Pending
LeFlore	4/28/61	5/15/61	Yes	11 N. 8 Unknown	12 N.	4 N.	16 N.
Lowndes	6/20/61	Pending	No	4 N.	Pending	Pending	Pending
Madison	4/4/61	4/21/61	Yes	6 N. 1 W.	6 N.	63 N. 1 W.	67 N. 1 W.
Marshall	4/26/61	5/11/61	Yes	12 N.	12 N.	13 N.	20 N.
Panola	4/26/61	5/11/61	Yes	9 N.	9 N.	4 N.	12 N.
Pike	5/19/61	6/2/61	Yes	7 N.	7 N.	12 N.	18 N.

M I S S I S S I P P I

COUNTY	DATE REQUESTED	DATE RECEIVED	EXPEDITED BASIS	INTERVIEWS SPECIFICALLY REQUESTED AND MADE		INTERVIEWS EXPANDED	RESPONSIVE STATEMENTS
Simpson	5/1/61	5/10/61	Yes	19 N.	18 N.	9 N.	23 N.
Sunflower	4/3/61	4/24/61	Yes	7 N.	6 N.	12 N.	16 N.
Tallahatchie	5/1/61	5/11/61	Yes	9 N.	9 N.	6 N.	12 N.
Tunica	5/25/61	6/5/61	Yes	5 N.	5 N.	3 N.	7 N.
Walthall	4/3/61	4/24/61	Yes	10 N. 1 W.	10 N. 1 W.	3 N.	14 N.
Yazoo	5/25/61	6/13/61	No	35 N.	28 N.	4 N. 1 W.	31 N. 1 W.

Putzel continued that on July 9, 1957, Dr. Gomilian, a black Tuskegee leader, had conferred with Mr. Barett and Mr. Hubbard -- two lawyers in Civil Rights -- and since that time, no FBI investigation had been made, though the FBI had been following developments. Putzel said there would likely be a furor created by any extensive investigation in Macon County. He anticipated that State Senator Samuel Englehardt, Executive Secretary of the Alabama Association of Citizens' Councils, and the person mainly responsible for the gerrymandering of Tuskegee, and for steps toward abolition of Macon County, would be very vocal in opposition to any extensive FBI investigation.

On March 19, 1958 the Director of the FBI sent a memorandum to the Attorney General:

"In light of the recent developments in Webster Parish, Louisiana, which arose while this Bureau was conducting an investigation of the alleged denial of the right to register [local district attorney alleged that FBI agents intimidated the registrar and threatened to subpoena the agents before a local grand jury], I want to bring to your attention the following information with respect to similar cases which might arise in the State of Mississippi."

Mr. Hoover noted that a campaign had been announced by black leaders to increase black voters in Mississippi, and letters had been sent to local officials in 31 counties in the State. Mr. Mitchell of the Washington NAACP had furnished to Governor Coleman of Mississippi and to the Justice Department a list of instances in which blacks in 30 counties had been denied the right to register solely because of their race. To date the FBI has received "three requests from the Civil Rights Division requesting investigation in three different counties in the State of Mississippi based upon information originally received by the Civil Rights Division."

"In view of the feeling of the officials and people in the states involved as indicated in the Webster Parish situation and in light of the announced plans of various groups to redouble efforts to increase registration immediately, it would appear any inquiries desired should be based upon substantial merit."

(10) In U.S. v Macon County, there were 75 exhibits "Introduced Primarily for the Purpose of Establishing That A Double Standard was Used." Following are samples:

Exhibit Number

1. Five applications of Marie Williams, July 5, 1957, July 10, 1958, September 1, and September 15, and November 10, 1958.

Education - 3 1/2 years of college.

The first application contains minor errors. The second application contains a minor error in question 1 and the error, discussed below, which she repeated in her next two applications. The third and fourth applications are perfect except that in answer to the question "when did you become a bonafide resident of Macon County", she answered, "November 1948". On the 5th application, she answered, "November 15, 1948" and it is otherwise perfect.

Writing test - Article II (5 times)

Race of Applicant		Action by Board
NEGRO	1st Application	REJECTED
	2nd Application	REJECTED
	3rd Application	REJECTED
	4th Application	REJECTED
	5th Application	REJECTED

4. Five applications of Carrie E. White. May 19, June 16, July 7, August 15, and October 6, 1958.

Education - 11th grade.

The first four applications contain minor errors. The fifth application is perfect.

Writing test - Articles V, III, II, II, and II, respectively.

Race of Applicant		Action by Board
NEGRO	1st Application	REJECTED
	2nd Application	REJECTED
	3rd Application	REJECTED
	4th Application	REJECTED
	5th Application	ACCEPTED

31. Forty-eight applications of persons applying in October and November 1957.

Education -	7th grade	1
	8th grade	3
	9th grade	2
	10th grade	4
	11th grade	2
	High School	21
	1 year college	4
	2 years college	2
	3 years college	1
	College Degree	4
	Public School	1
	College	1
	Business College	2

Writing test - None

Race of Applicants	Action by Board
ALL WHITE	ALL ACCEPTED

42. Application of David Haywood, July 4, 1960.

Education - 3rd grade

The application was filled out by him with assistance from the registrar.

Writing test - Part of Article II

Race of Applicant	Action by Board
WHITE	ACCEPTED

There were 74 exhibits "Introduced Primarily for the Purpose of Establishing the Slowdown Procedures." Following are samples:

Exhibit Number

11. 1960 appearance sheet for courthouse registration, Beat 1. The following numbers of persons, mostly Negroes, appeared and signed up to apply for registration on the dates shown:

June 20, 1960	45
July 18, 1960	17
August 15, 1960	20
October 17, 1960	28
December 19, 1960	290

55. Two appearance sheets and four applications dated June 6, 1960, for Beat 2 (Little Texas).

Applications show that 3 white persons and 1 Negro were registered on that date.

Backlog of 15 persons, mostly Negroes.

60. Appearance sheet for Beat 6 (Hardway).

List dated October 3, 1960, has names of 21 persons.

One white person was registered and 3 Negroes applied and were rejected. Backlog of 17 Negroes.

57. Appearance sheet for Beat 9-2 (West End).

List has names of 5 white persons who applied and were registered on July 6, 1960. No backlog.

40. Appearance sheet for Beat 9-3 (Notasulga).

List has names of 8 white persons who applied for registration on July 7 and 8, 1960. No backlog.

(11) For example, in the Lynn case involving discrimination in Forrest County, Mississippi, the FBI was asked to identify the race of 387 applicants for voter registration. At least 3 other race identification requests were also sent. The information was to be established through someone's personal knowledge (such as postmasters) or through public records (such as poll tax receipts). The Bureau did a speedy, accurate job in determining the race of these applicants. This was just one of our 70 cases.

(12) On 2/18/65, Mr. Marshall testified at the Commission on Civil Rights hearings in Jackson: "Two attorneys were in Hattiesburg for almost three weeks sifting through newspapers, graduation yearbooks, city directories and other documents in order to identify and locate white persons who were placed on the rolls by the Mississippi registrars. Thereafter, other attorneys again with the help of clerical help analyzed application forms, control cards and other records during a 16-week period. Interviewing of prospective witnesses took four attorneys well over two weeks and as many as five attorneys at a time were engaged for a period of over one month in preparing proposed finding of fact and conclusions of law." The interviewing was of Negro witnesses.

(12a) However, the Division attorneys were very effective in interviewing potential black witnesses and almost all of this work was done by Civil Rights Division lawyers.

(13) What follows is a resume of the April, 1962 Choctaw County, Alabama investigation.

"The purpose of this investigation is to establish the standards, requirements and procedures which have been applied to white applicants for registration to vote in Choctaw County, Alabama since January 1960. This information sought generally related to what aid and assistance was offered

white applicants in completing their application forms, how did the white applicants learn when and where to register, where and with whom did they apply for registration, under what circumstances did they obtain their supporting witness, when and how were they notified of their registration, and whether or not they have voted since their registration.

***

This investigation is based upon an analysis of application forms submitted by white applicants. Attachment A lists prospective interviewee and it is requested that sixty responsive statements be obtained whenever possible. The interviewees should be selected from the first 65 persons listed in Attachment A and if additional interviews are needed to obtain the requisite number of responsive statements they should be taken from the Supplemental List to Attachment A in the order in which the interviewees are listed. The first 65 interviewees are grouped chronologically according to the date of their application. Where practical, the same agent should interview the persons listed as having applied for registration on the same day.

Attachment A sets forth the name and address of each interviewee and the FBI photo identification number of his application. These names are followed by comments which are based on our records analysis and are included to enable the interviewing agents to obtain specific information. The handwriting and answers on some of the applications have been compared to those found on applications filed by other applicants. The results are indicated by the comments. If it is deemed necessary in order to verify information given by interviewees, additional interviews may be made of the persons listed in the comments or whose names arise from information given by the interviewees.

In these cases the persons should be interviewed for all the information requested of the interviewees herein. Many of the comments request that hand-writing samples be obtained from the interviewees. The statements which the interviewees should write are set forth in the comments.

***

Each interview should cover the details of the procedures and requirements that these white applicants experienced. The following should be included in the information obtained.

1. Obtain background information...

2. How did the interviewee find out when and where he could apply for registration to vote. Obtain specific details as to who he talked to; where interviewee talked to this person; when interviewee talked to him and the details as to their conversation.

3. Did the interviewee have to fill out an application form. If so, from whom and where did he get the application form.

   ***

4. Did the interviewee have to sign the application form. (Note that on practically all of the applications there are check marks by signatures in the Oath and Supplemental Oath in page 3 of the form.)

   ***

5. If the interviewee did not personally fill out an application form, did he furnish any information to another person to enable the form to be completed? If another person filled out the form, obtain the specific details as to where they were and the procedures followed,

particularly whether a registrar was present or had knowledge of the procedure followed. If a registrar was present determine the proximity of the registrar to the interviewee at this time and whether any conversation were had with the registrar while the interviewee's from was being completed.

6. What conversation took place between the interviewee and the person who gave him the application, or the registrar if one was present.

   a. Was the interviewee asked any oral questions about who he was, where he worked, how long he had lived in the State or County, or whether he had ever been convicted of any crimes?

   ***

7. Who else was present when the interviewee filled out his form?

   ***

8. Prior to exhibiting the interviewee his application form, determine whether he was told that he would be required to have a supporting witness to identify the interviewee and fill out part of page 4 of the application form. If so, who told this to the interviewee.

   a. Did the interviewee ask someone to vouch for him? If so, who was this person and how long has the interviewee known him. Did this person vouch in the presence of the interviewee, and if so, what procedures were followed. (Who was present, where were they, and whether registrar witnessed the voucher's signature.)

   b. If the interviewee did not ask anyone

to vouch for him, does he know if any other person, for example, a registrar, asked someone to fill out the supporting witness portion of his form. If so, did the registrar or another person tell the interviewee who would vouch for him, did that person vouch for him in his presence, who was the voucher, and how long has the interviewee known him?

c. If the interviewee does not know who vouched for him, determine if he knows the person who signed as the supporting witness on page 4 of the form and how long he has known this person.

9. Where did the interviewee sit when his application form was filled out?

***

10. What parts of the form did the interviewee have difficulty understanding?

a. When the interviewee is shown his application if he has difficulties remembering whether he needed any help with understanding portions of the application, parts of the form should be reviewed with him to refresh his memory. For example, he may be asked what the words "bona fide" mean in question 5 or what "priority" and secular" mean in question 20a, and what he thinks question 19, referring to "aid and confort to enemies" asks and why he answered it as he did...

(14) The Bolivar County, Mississippi records deman is an example of another time consuming assignment. On August 11, 1960 the Justice Department made a formal demand, persuant to the 1960 Act, for the registration records in Bolivar County, Mississippi. The registrar refused, and the Department filed suit. On November 15, 1962, after proceedings which lasted just under two years, Judge Clayton issued an order

allowing the inspection of records relating to persons accepted for registration. However, he excluded rejected applications and limited the inspection of records received prior to the date of the demand letter. The Department immediately appealed. On December 6, 1963, the Court of Appeals modified Judge Clayton's order to allow the inspection of rejected applications and records obtained after the date of the demand. In January, 1964, Judge Clayton then issued an order granting the inspection and photographing of the records. The defendant registrar then petitioned the Supreme Court for a writ of certiorari and Judge Clayton stayed his order during the pendency of the petition. Certiorari was denied May 18, 1964. The records were inspected and photographed on June 24, 1964, almost four years after the demand letter was first filed.

(15) Scott County, Mississippi was a sparsely populated county with less than 12,000 people of voting age and an estimated 5,400 whites and 16 Negroes registered in 8/63. The FBI was requested to obtain information from the registration records in five areas: (1) ascertain race identification for all currently registered voters and rejected applicants; (2) obtain accurate registration statistics by date; (3) analysis reflecting the incidence of each section of the Constitution given to applicants to interpret; (4) analysis of application forms to determine what assistance was given applicants as applicants as demonstrated by standard or patterned answers and different ink or handwriting; and (5) standards used by the Registrar in grading the forms.

Bibb County, Alabama had less than 8,000 persons of voting age and in 6/62 an estimated 100% of the Whites and 10% of the Negroes were registered. The FBI was asked to analyze the records and obtain registration statistics and information on errors and omissions appearing on the accepted application form.

East Baton Rouge Parish, Louisiana, has about 124,000 persons of voting age; about 65,000 whites and 10,000 Negroes were registered in 3/63. The FBI had photographed only 10% of the accepted applications forms and all the rejected forms. The FBI request dealing with East Baton Rouge Parish was extremely detailed. Much background information was set out including a detailed description of the registration procedure and what the records were used for. The FBI was asked (1) to determine the chronological periods during which each test or procedure has been used; (2) to obtain detailed statistical data; (3) to ascertain with great specificity the standards used in grading each test; (4) to compile evidence of aid and assistance to applicants, and (5) to assemble evidence of the quality of applicants who are accepted and rejected. The request concluded: "In this request we have endeavored to anticipate most of the useful data which you will find in the East Baton Rouge Parish voter registration records. However, in examining these records closely you may find other items which will require further analysis. It is not our intention to restrict the analysis to the items covered in this memorandum."

(16) In Mr. Marshall's testimony before Congressman Rooney's Subcommittee on January 28, 1964 he testified as follows:

Mr. Rooney: In connection, with all of this, you have the services of the FBI, do you not?

Mr. Marshall: Mr. Chairman, in connection with this budget, I took up and discussed with the FBI whether they could relieve some of the burden on the Division involved in analyzing records. They photographed during the last year 250,000 pages of records for analysis, which is the analysis work currently done completely within the Division. I discussed with the Bureau whether they could take on that burden and they said that they did not have the personnel to do it. Of the 250,000 pages of records --

Mr. Rooney: Are you telling us that the FBI does not make the investigations for you in this area of civil rights?

Mr. Marshall: I am telling you, Mr. Chairman, that they do not make the analysis of the voting records.

Mr. Rooney: Do they make the investigation?

Mr. Marshall: They make investigations for us, yes, sir. They do, Mr. Chairman. They do a very good job of interviewing a good number of witnesses and they investigate completely criminal matters.

***

Mr. Marshall: We first determine upon the basis of the complaints received and the statistical analysis in the particular county whether or not there appears to be a problem of discrimination. If there is, then we request permission to photograph the records...either upon the basis of a voluntary compliance by the registrar, or upon the basis of a court order, we go into photograph the records. That is mechanically done by agents of the Federal Bureau of Investigation who are accompanied by a lawyer from my Division at the time. That takes maybe two or three days, depending on how large the volume of records is in the particular county, which, in turn, depends on its population.

After that, the films of the records are brought back to Washington and they are blown up and analyzed by lawyers and clerks working under lawyers in my Division.

None of the actual work of the analysis is now done by the Federal Bureau of Investigation. As I said, Mr. Chairman, an effort is being made to see if we could relieve the burden on the Division and

took it up with the Bureau the question of whether they could do that work and was informed they cound not.

***

Mr. Bow: Just a minute. "Obtaining statistics from registration books and poll books." Is that or is that not something that the FBI does by photographing?

Mr. Marshall: Congressman, if I could draw a distinction between snapping the shutter on a camera and looking at the picture that is taken, that is the distinction. The FBI snaps the shutter on the camera. That is all they do. Then somebody had to take what they photographed and draw conclusions from it. One of the things they draw from it is statistics. It is not always possible to get statistics from poll books and registration books. In some case the race of the registered voter is not shown on those books and we have, in other ways, to seek that out. That is the distinction I want to make, Congressman, that the FBI only snaps the shutter on the camera and that that is not the major effect that is involved in these matters.

***

Mr. Marshall: The FBI has the camera. We do not have the camera. The FBI has a technician who is skilled in photographing things. We do not have a technician who is skilled in photographing things. As far as the physical photographing that is done, which may take two days or so in a particular county, that is done by agents of the FBI who are skilled camermen, plus a lawyer from the Civil Rights Division that tells him what to photograph. That is a small part of the work involved. When these 30,000 photographs (in 11 Alabama counties) are taken they are put on reels and the reels are

among 20 textile companies which were referred to the Justice Department by Equal Employment Opportunity Commission on the basis of terrible statistics. Each company operated one or more plants which had less than 1% black male employees, no black female employees, or no black employees at all.

On April 29, the Bureau was asked to investigate such things as the methods of job recruitment, selection and training; accepted and rejected applicants since the effective date of Title VII; company structure and promotional policies; and whether employee facilities were desegregated.

On May 2, the Director send the Division a memo declining to conduct the investigations. His reasons were that no complaint had been received against any of these companies; that in the absence of any complaint the requested investigations amounted to "statistical surveys" which are not a proper function of the FBI. The Bureau suggested "that inquiries of this type can most appropriately be handled by the Equal Employment Opportunity Commission..."

On May 5, 1957, I sent a meno to the Director explaining our position and requesting that the investigations be conducted. I pointed out that the receipt of a complaint is not a prerequisite for investigation or suit under Title VIII; that the statistics showing virtually no blacks employed were indicative of a probable violations; and that the purpose of investigating was not a statistical survey but the development of proof for a possible suit.

On May 9, the Director again refused to conduct the investigations. He felt there was no provision in the law authorizing EEOC to refer matters to the Department for investigation, only to refer for suit, and EEOC should conduct the necessary investigations.

brought back to Washington and every one is gone over by lawyers in the Division and clerks in the Division, working the lawyers. This is the major work and I cannot accept the suggestion it is misleading.

(18) In June 1964, Mr. Mally came to see me about Sheridan's forces impersonating Bureau agents in Mississippi. During the course of the conversation, he complained that Sheridan was investigating and the FBI was the investigatory arm of the Department of Justice. To this, I replied "What are you talking about? I've been investigating in the South for years." To this Mally replied, "You don't investigate, John, people just talk to you."

(18a) To appreciate the amount of proof, (and the work required) see the answer to interrogatories filed by the Division or the Division's proposed findings of fact in any of its voting cases.

(19) In the work of the Civil Rights Commission and in the legislation hearings between 1957 and 1964 there was expressed much scholarly doubt on how far Congress could go in superceding registration process in the sovereign states. I have no doubt that the Division's monumental collection of facts is what caused Congress to go as far as it did without causing a constitutional problem. On 3/7/66 the Supreme Court in South Carolina v. Katzenbach upheld the constitutionality of the 1965 Voting Rights Act. The opinion summarizes in some detail the voluminous legal history of the Act and demonstrates that the massive record of case-by-case litigation against voting discrimination established by the Justice Department was the basis for the 1965 Act. Both the legislative history, and the Supreme Court's opinion, are filled with references to the voting cases brought by Justice. "Discriminatory application of voting qualifications has been found in all eight Alabama cases, in all 9 Louisiana cases, and in all nine Mississippi cases which have come under final judgment." This record enabled Congress to conclude that "the unsuccessful remedies which it had prescribed in the past would have to be replaced by sterner and more elaborate measures. Because of the specific knowledge of discriminatory techniques in use gained from this record, Congress was able to devise very detailed and sweeping remedies which got at the heart of the problem and which had ample precedent in the voting cases themselves. "Congress had learned that widespread and persistent discrimination in voting during recent years has typically entailed the misuse of tests and devices, and this was the evil for which the new remedies were specifically designed."

(20) This pattern may have to be repeated. In 1967 the FBI declined to conduct investigations into employment discrimination in six textile companies in North and South Carolina. These cases were

About the same time the Bureau also refused to conduct certain investigation in an employment case in Birmingham involving the H.K. Porter Company. The Division asked the FBI on May 11, to obtain information regarding the organization and internal function of 2 plants in the North which were engaged in operations similar to the Porter plant in Birmingham. The purpose was to try to show the distinction between separate departments in the Birmingham mill to be artificial and discriminatory. The Director on May 17, declined to conduct the investigation because no complaint had been received as to these Northern plants and the Birmingham plant was being investigated by EEOC.

The Division appealed to Attorney General Clark who sent a memo to the FBI again requesting them to conduct these investigations. On June 13, the Bureau finally agreed.

The oft repeated statement that the Bureau does not police elections is not adequate to explain its reluctance to fully perform in employment discrimination investigations.

(21) Attorney General Katzenbach testified in 1965 this difficulty "the litigation cases amply demonstrate the inadequacy of present statutes prohibiting voter intimidation...perhaps the most serious inadequacy result from the practice of District Courts to require the Government to carry a very onerous burden of proof of 'purpose' since many types of intimidation, particularly economic intimidation, involves subtle forms of pressure. This treatment of the purpose requirement has rendered the statute largely ineffective.

(22) But in 1961, Director Hoover write to Mr. Bernhard of the Civil Rights Commission that "we know of no instances of any individual being fearful to bring complaints to the attention of the FBI."

(23) Heywood County, Tennessee is a rural county located near the Mississippi border; its majority is black. Resgistration in Tennessee was a fairly simple matter; applicants were not required to pass a literacy test nor to interpret a section of the Constitution. But no Blacks were registered to vote in Heywood County until 1960; none had been for at least 50 years. The first attempts by qualified blacks to register began in 1958 but no Negroes was registered to vote before May 1960 because from November of 1958 to February 1960 there was no functioning election commission or register of voters in the county.

(23a) No one can overlook the Mack Charles Parker investigation. Mack Charles Parker, a black, was indicted in April 1959 by the Pearl River County grand jury and charged with raping a white woman. He was confined in the county jail in Poplarville, Mississippi on April 13 awaiting trial scheduled for April 27. During the night of April 24, a group of masked men abducted Parker from jail. They beat him, dragged him down the stairs, put him in a car and sped out of town. A nurse in the hospital next to the courthouse heard his cries for help and called local officials. Parker's body, badly beated and with bullets in it, was found in the Pearl River on May 4.

According to Time Magazine, within a few hours of the abduction Governor Coleman called the FBI and asked for their assistance. The Bureau immediately began to investigate.The investigation was extensive and a large number of agents took part, headed by the SAC from New Orleans.

Justice Department officials said the investigation was one of the most intensive in FBI history and cost about $80,000. Time 6/8/59 reported that a temporary field office was established in Poplarville, and for four weeks, a 60-man FBI task force roamed Pearl River County.

The FBI identified many of the members of the lynch mob and turned the results of their investigation over to state authorities.

Following a Justice Department ruling that the FBI investigation had clearly established that the persons responsible had not violated Federal kidnapping statutes and no other successful federal prosecution could be maintained, the Attorney General instructed the FBI to give Governor Coleman a summary of the facts and evidence.

Director Hoover announced that agents would be available to testify in state court. On November 2, a state grand jury was empaneled in Poplarville to hear the case. After three days the jury went home without returning any indictments in the Parker case. The local prosecutor refused to read the FBI report to the jury, saying it could be considered only hearsay evidence. The jury declined to hear FBI agents who offered to appear without being subpoened. Attorney General Rogers termed the handling of the case "a travesty on justice -- flagrant and calculated". A federal grand jury was empaneled to hear the case on January 4, 1960. Evidence in the FBI report was presented; FBI agents testified, and the jury was asked to return an indictment. They failed to do so.

The FBI did an excellent job on the Parker case. The Bureau carefully interviewed the other blacks in the jail, developed a white trustee who identified several of the men who entered the jail cell, learned the location of the farm where

the men gathered to plan the lynch, got admissions from three of the participants, and established that the abduction occurred with the cooperation of an official who had the duty to protect Parker. The Parker case demonstrates that the FBI was willing to commit the necessary resources to solve a civil rights case and that they could solve one with an aggressive investigation.

(24) One League charter member told the agents that five blacks who were all affiliated with the League were told by their five respective landlords that "they either had to move or withdraw their membership in the (League)" He named the five blacks and the landlords. Another black allegedly was fired when he refused to withdraw from the league; another was reportedly denied credit on account of his membership.

(25) Here the FBI was asked to investigate allegations under (a) and possible 1971 (b) violations were reported by the persons they interviewed.

(26) The cover sheet of the report notes that "the investigation is continuing and you will be furnished copies of reports as they are received."

(27) On 6/23, Mr. Tyler noted that he had a very satisfactory talk with Mr. Rosen about Heywood and Fayette Counties and "was informed that the Bureau has already started to expand its investigations back to where we requested them."

(28) See the 3/31/60 request to the FBI mentioned above.

(29) Request to the FBI, 9/14/60

(30) In January, 1962, these resident agencies existed in Mississippi:

Northern Mississippi (Reported to Memphis)	Southern Mississippi (Reported to New Orleans)
Oxford	Biloxi
Clarksdale	Gulfport
Tupelo	Hattiesburg
Greenwood	Laurel
Columbus	Meridian
Greenville	Natchez
	Jackson

(31) The Patrolman told the FBI "... I called the County Attorney, Joe Piggot and he came over. I told Piggot what had happened and he handled the matter from there".

(32) My interview of Moses conducted in September 1961 at McComb, Mississippi, states: "In McComb the doctor stitched up the wounds in my head. The big one at the top of the head near the back took five stitches. Another one behind the right eye took three stitches. Another one on my forehead took one stitch. The doctor wrote out a statement that there were multiple lacerations caused by a blunt instrument..."

(33) Or soon thereafter.

(34) On_____, 1964, Lewis Allen was gunned down in the driveway of his home in rural Amite County.

(35) "This week at my request Burke Marshall spent some time in Southwestern Mississippi and Jackson to get some first-hand impressions of the possibilities for this summer and the future. He has reported the following general conclusions to me:

1. There has unquestionably been as you know, an increase in acts of terrorism in this part of Mississippi. As a result the tensions are very great not only between whites and Negroes, but among whites. This is not as true in Jackson as in the outgoing areas.

2. Law enforcement officials, at least outside Jackson, are widely believed to be linked to extremist anti-Negro activity, or at the very least to tolerate it...For example, groups have been formed under the auspices of the Americans for the Preservation of the White Race to act as deputized law enforcement officials in some counties...These groups appear to include individuals of the type associated with Klan activities...

3. The area is characterized by fear based upon rumor. In Jackson, rumors of organized Negro attacks on whites appear to be deliberately planted to spread in organized fashion through pamphlets, leaflets and word of mouth...
It seems to me that this situation presents new and quite unprecedented problems of law enforcement.

As one step I am directing some of the personnel here in the Department who have had organized crime experience to make a more detailed survey of the area to try to substantiate the details concerning acts of terrorism which are at least

generally believed to have taken place in the last few weeks.

In addition, it seems to me that consideration should be given by the Federal Bureau of Investigation to new procedures for identification of the individuals who may be or have been involved in acts of terrorism, and to the possible participation in such acts by law enforcement officials or at least their toleration of terrorist activity. In the past the procedures used by the Bureau for gaining information on known, local Klan groups have been successful in many places, and the information gathering techniques used by the Bureau on Communist or Communist related organizations have of course been spectacularly efficient.

The unique difficulty that seems to me to be presented by the situation in Mississippi(which is duplicated in parts of Alabama and Louisiana at least) is in gathering information on fundamentally lawless activities which have the sanction of local law enforcement agencies, political officials and a substantial segment of the white population. The techniques followed in the use of specially trained, special assignment agents in the infiltration of Communist groups should be of value. If you approve, it might be desirable to take up with the Bureau the possibility of developing a similar effort to meet this new porblem.

(36) A very different reception was given Walter Sheridan when he met with Al Rosen at the FBI office in Jackson on July 2. Sheridan and Rosen discussed how Sheridan's unit and the FBI could be of mutual help. The FBI agreed to furnish copies of FBI reports; in urgent cases, Sheridan was authorized to make oral requests locally or by phone to the New Orleans office or written requests on local basis; the results would be furnished directly to Sheridan in Jackson; Sheridan agreed to furnish their intelligence information to FBI; and they would work together to obtain good prosecutable case as a starting point for calling a grand jury.

(36a) The following column by Joseph Alsop appeared in the Washington Post of June 17, 1964. It's headline read: "Murder by Night".

"A great storm is gathering -- and may break very soon indeed -- in the State of Mississippi and some other regions of the South. The southern half of Mississippi, to be specific, has now been powerfully reinvaded by the Ku Klux Klan, which was banished from the state many years ago. And the Klan groups have, in turn, merged with, or adhered to, a new and very ugly organization known as Americans for the Preservation of the White Race.

"Senator James Eastland has managed to prevent infiltration of the northern part of the state, where his influence predominates. But southern Mississippi is now known to contain no less than 60,000 armed men organized in what amounts to guerrilla units dedicated to terrorism.

"Acts of terrorism against the local Negro population are already every day occurences. Justice Department investigators believe -- but cannot absolutely prove -- that five Negroes have already been killed by terrorists to date. The most probable recent case was the death of Lewis Allen, an Amite County Negro leader, who was ambushed and shot a few nights ago.

"Allen had invited reprisals by complaining to the Justice Department that he had been beaten by one of the Deputy Sheriffs of Amite County. Shortly before he was ambushed, the wife of another Negro leader in the county, Mrs. W. R. Steptoe, warned him that he was in danger.

"'Well,' said Allen, 'if they get me, they won't get a scared man'.

"Despite the murder of Allen, Mrs. Steptoe is still preparing to give board and lodging to several of the northern students who are being sent into Mississippi by the Student Non-Violent Coordinating Committee, better known as Snick. Even though she has refused to take any but Negro students, she has already predicted that her farmhouse will be bombed.

"These vivid fragments of information reaching the Justice Department are worth setting down, because they make an important point. The point is that the local Negro leaders are not ready to yield to the

mounting campaign of intimidation.

"In Jackson, Mississippi, the offices of COFO -- the Council of Federated Organizations which includes Snick -- had their windows broken almost nightly. But now Negro armed guards are posted at the office every night. Other cases of this sort could also be cited.

"This, in Mississippi today, the two sides already confront each other gun in hand. Before long, moreover, the situation will be enormously complicated -- and envenomed -- by the arrival of several hundred Northern white and Negro students recruited by Snick to open "Freedom Schools" in Mississippi this summer.

"The first contingent of these students has now begun a training program, sponsored by the Federation Council of Churches, at the Western College for Women in Oxford, Ohio. Except for lessons in how to register and vote, the curriculum of the 'freedom school' will be the opposite of inflammatory. But the students' simple presence in Mississippi will be highly inflammatory, and it will be close to miraculous if a good many of them do not fall victim to the terrorists.

"What can be done to damp down this horrifyingly explosive situation is already being done by both state and federal authorities. The two Mississippi Senators -- Eastland and John Stennis, have thrown the whole weight of their influence against violence.

"The new Governor of Mississippi, Paul Johnson, has also let it be known that he will not tolerate violence. Since the Governor cannot depend on the Sheriffs and Deputy Sheriffs in the counties, he has powerfully reinforced his highway police and semi-alerted his National Guard. Because of Governor Johnson, another Negro student, Cleveland Donald, was just admitted to the University of Mississippi without any rioting.

"The Justice Department has also strengthened the FBI in Mississippi, by assigning to investigation of the underground terrorist groups the crack team of men who triumphantly got the facts on James Hoffa. Yet the Governor, the Senators and the Justice Department are all confronted by the same problem.

"Guerrilla war in Mississippi is no easier to win than guerilla war in South Vietnam. Guerilla war - rather than the kind of open mass outbreak that brought the troops to Little Rock, Arkansas -- is now the danger.

"The real aim of Snick and the other more extreme Negro organizations is to secure the military occupation of Mississippi by federal troops. But even if worst comes to worst, will military occupation secure the desired result? That is the problem President Johnson may have to solve before long."

The June 16, 1964 edition of the Louisville, Kentucky Courier-Journal carried a story by Richard Harwood headlined "In Mississippi: Federal Officials Face Race Crisis".

"Washington -- The Johnson Administration is filled with deep forebodings over events that will unfold in Mississippi in the weeks just ahead.

"A major racial crisis seems imminent. Arms are being shipped into the state. 'Auxiliary' police forces of white segregationists are being drilled and trained for riot duty in rural counties by the state. The Ku Klux Klan is showing surprising new strength and is rallying whites to resist 'those black savages and their communist leaders'.

"Negroes, the Justice Department has revealed, already are being stalked in the poor, piney woods section of southeastern Mississippi. There have been nearly fifty floggings, murders, and other acts of violence -- many by 'hooded men' -- since January 1.

"The spirit of violence, the Administration reports, is being fanned by inflammatory statements made by integration leaders who will move into Mississippi in force beginning Sunday. John Lewis, the national chairman of the Student Nonviolent Coordinating Committee, has predicted a crisis of such magnitude that 'the Federal Government will have to take over the state'. Lewis has said that 'some kind of conflict, some kind of violence' is inevitable.

"Another Negro student leader, Claude L. Weaver of Howard, was quoted recently as having said, 'the Negroes might start killing the white people in Mississippi very soon'.

"Statements of this sort, a Government source revealed, have been reproduced and widely circulated among the Whites in Mississippi.

"The full weight of the storm, the administration believes, could come much sooner than the public is generally aware. The catalyst may be the Mississippi summer project.

"This project will bring to Mississippi 800 to 1,000 volunteer integration workers from all sections of the United States -- students, lawyers, housewives and ministers. They will set up workshops in sixteen Mississippi communities to encourage and prepare Negroes for a massive voter registration campaign.

"The project is sponsored by all the major civil rights organizations in the country -- NAACP, CORE, SNCC and other groups. The volunteers are being trained at week long seminars at Western College for Women, Oxford, Ohio. The first class of 225 volunteers and 125 staff members from Civil Rights organizations will complete their training this week and move into Mississippi immediately.

"A second class of 350 volunteers will begin training next week and a third class of 150 the following week.

"They have been warned that violence and bloodshed may result from their work. Indeed, many believe it is inevitable.

"The Crimson, student newspaper at Harvard, where many volunteers have been recruited, said in an editorial that the summer project will be a 'massive, daring, probably bloody assault on the racial powers of Mississippi.. . .For the first time, active self-defense and actual retaliation (by Negroes), though not officially advocated, are being openly discussed. . . The (project) planners reason that massive nonviolence will precipitate a crisis of violence which they consider prerequisite for further progress.'

"Justice Department officials from Attorney General Robert Kennedy on down are more disturbed over the situation than they have stated publicly.

"Their concern is based on these considerations:

"White resistance to integration efforts in Mississippi is using and is reflected in increased activity by the Klan. The May 10th issue of The Klan Ledger, published in Mississippi, predicts a 'nerve wracking, long, hot summer' and calls for the formation of 'a large and adequate auxiliary police force or deputy sheriff force' in each community to resist these Communist-led Negro mobs'.

"Whites are urged to arm themselves, to refuse to give up their weapons. 'Do not go out looking for trouble,' The Ledger advises. 'Arm yourself well and stay at home. Do not fire unless your home, your person, or your family is attacked.'

"The 'auxiliary' police forces demanded by the Klan, it has been learned, are now being organized in several Mississippi counties, including Walthall, Clay and Pike in the southwestern part of the state.

"The Mississippi climate has been aggravated by the increasing militant posture of certain integration leaders who seem determined, one high Government official said, to precipitate violence and force the White House to order troops into the state."

(37) On July 24, 1964, I wrote Mr. Marshall as follows: "An FBI investigation into the church burning was requested by the CRD on 6/19, after the New Orleans office reported the incident. So far as we can tell, in the three days before the three civil rights workers were missing, the Bureau only interviewed the three blacks who were beaten, and, perhaps talked to a civil rights worker in Meridian. Before 6/21 the Bureau apparently made no inspection of the church for physical evidence and no contact with state or local authorities as to what investigation they were conducting."

(38) See Joseph Kraft's 2/65 article in Commentary.

(39) The following appeared in the New York Times of Saturday, June 27, 1964 headlined "Dulles Request More FBI Agents for Mississippi" -- "Urges President to expand force in state to control 'terroristic activities'"

> Allen W. Dulles recommended to President Johnson today that more agents of the Federal Bureau of Investigation be sent to Mississippi to help "control the terroristic activities."
>
> Mr. Dulles, talking to reporters after his conference with President Johnson did not specify how many more agents he thought should be assigned to Mississippi. He said that would be up to J. Edgar Hoover, Director of the Bureau.
>
> A spokesman for the Bureau declined to say how many, if any, additional agents would be sent to Mississippi. They also declined to say how many agents were already stationed there. The stepped-up FBI activity was the principal recommendation made to the President by Mr. Dulles ...
>
> ***
>
> Mr. Dulles said that the President appeared to favor his recommendation and had indicated that it would be implemented very shortly.

That same date, June 27, 1964, The Washington Post's story headlined "Dulles Sees Johnson on Racial Issue" -- "Mississippi Report Urges Bolstered FBI Force in State," included the following:

> Allen W. Dulles recommended to President Johnson yesterday that the FBI force in Mississippi be increased to help halt "terrorist activities" in that state.
>
> The former Director of the Central Intelligence Agency reported to the President for nearly two hours on his two-day fact-finding mission to Mississippi where three young civil rights workers have been missing since Sunday.
>
> ***
>
> Dulles said he had discussed with FBI Director J. Edgar Hoover his proposal to increase the FBI strength in Mississippi. He noted that the FBI had "greatly augmented its staff there to work on the case of the three missing workers and did not have a lot of extra people" easily available to move in. "But," said Dulles, "I think it will be done."
>
> A FBI spokesman said he would not comment.

APPENDIX B

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116395

January 12, 1976

U. S. SENATE SELECT COMMITTEE
TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES (SSC)

Reference is made to the testimony of FBI Director Clarence M. Kelley before the SSC on December 10, 1975. During this testimony, certain questions arose on which answers were deferred. Set forth hereinafter are the unanswered questions along with the responses thereto.

Senator Howard H. Baker, Jr., inquired as to Director Kelley's feeling concerning an Inspector General concept extending Governmentwide. Senator Baker asked the Director to think about the question and furnish his thoughts at a later date. Upon reflection and consideration of the question, Director Kelley has decided it would be inappropriate for him, as Director of the FBI, to comment concerning the need for a national Inspector General as it would affect any agency other than the FBI.

Senator Gary Hart stated that although higher authorities had been alerted to the existence of Counterintelligence Programs (COINTELPROS) in one or two instances, in terms of the bulk of the Programs there was no systematic information flowing upward through the chain of command to former Director Hoover's superiors. Specifically, Senator Hart indicated the SSC had received testimony that the existence of the COINTELPRO effort against the New Left had not been made known to higher authorities and asked if Director Kelley had any information in this regard. Director Kelley asked for an opportunity to substantiate the notification provided by former Director Hoover to higher authorities.

NOTE: The inquiry by Senator Baker referred to above can be found at page 291 of this volume. The question of Senator Hart can be found at page 301 of this volume.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

While no systematic report was made on a regular basis by former Director Hoover regarding COINTELPRO activities, information regarding the COINTELPROS was periodically provided to his superiors in the Executive and Legislative Branches. FBI files contain considerable documentation clearly establishing no effort was made by Director Hoover to conceal from superior authorities the fact the FBI was engaged in neutralizing and disruptive tactics against revolutionary and violence-prone groups. This documentation is as follows:

1. Briefing of the President. On November 6, 1958, Director Hoover presented to President Dwight Eisenhower and the Cabinet an oral briefing entitled "Current Communist Subversion and Espionage in the United States, 1958." Included in the presentation material was a description of the Bureau's effort to "intensify any confusion and dissatisfaction among its (Communist Party, USA) members." Use of informants was cited as a technique to further this goal. This particular effort was referred to as one of several programs to counteract resurgence of Communist Party influence in the United States. In November, 1974, former Assistant to the Director Cartha D. DeLoach advised he recalled very clearly briefing President Lyndon B. Johnson regarding the Bureau's activities against black militants.

2. Notification of White House. In 1958, a letter was sent to Presidential Aide Robert Cutler at the White House specifically advising that our COINTELPRO directed against the Communist Party had been initiated in August, 1956, and citing examples of techniques utilized. In 1965, a letter was directed to Presidential Aide Marvin Watson at the White House advising him this Bureau was seizing every opportunity to disrupt the Klan.

3. Notification of Secretary of State. In 1961, a letter enclosing a memorandum setting forth examples of COINTELPRO actions directed against the Communist Party was sent to Secretary of State Dean Rusk.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

4. Notification of Attorneys General. A letter was directed to Attorney General William Rogers in 1958 specifically advising him our COINTELPRO had been initiated against the Communist Party in August, 1956, and citing examples of techniques utilized. In 1961, a letter was directed to Attorney General Robert Kennedy enclosing a memorandum citing examples of COINTELPRO actions directed against the Communist Party. In 1965, a letter was sent to Attorney General Nicholas Katzenbach advising him the FBI was seizing every opportunity to disrupt the Ku Klux Klan. Attorney General Ramsey Clark was furnished, in 1967, a letter which enclosed a detailed memorandum outlining our efforts to neutralize and disrupt the Ku Klux Klan. In September, 1969, Attorney General John Mitchell was advised of our efforts to disrupt the Klan. Additionally, former Assistant to the Director DeLoach advised in November, 1974, he had briefed former Attorney General Ramsey Clark regarding the various COINTELPROS and he also expressed the opinion that former Assistant to the Director Alan H. Belmont or former Assistant to the Director William C. Sullivan had briefed Attorney General Katzenbach.

5. Notification of Congress. Bureau files reveal that detailed information concerning the COINTELPROS was prepared for off-the-record use by former Director Hoover in connection with several appearances before the House Subcommittee on Appropriations. Material concerning the COINTELPROS was prepared for the Director's use in connection with Appropriations testimony for the fiscal years 1958, 1959, 1960, 1961, 1963, 1966 and 1967. All this material was clearly marked for off-the-record discussion. Published transcripts of hearings by the House Subcommittee on Appropriations contain notations that on at least six occasions between 1958 and 1966, off-the-record discussions took place at those points in Mr. Hoover's prepared remarks dealing with the COINTELPROS. Former Assistant to the Director John P. Mohr advised in November, 1974, he recalled the Director on several occasions had furnished details to the House Subcommittee on Appropriations relating to FBI COINTELPROS. In November, 1974, Assistant to the Director Nicholas P. Callahan advised he, too, recalled several instances involving off-the-record discussion

by the Director with members of the House Subcommittee regarding this Bureau's efforts to neutralize groups and organizations involved and that there was no critical comment made in regard thereto.

An FBI Headquarters supervisor who was assigned responsibility for COINTELPRO matters during the period 1964 to 1967 recalls that on a number of occasions he was required to prepare informal memoranda and summaries relating to COINTELPRO actions. It was his understanding this material was to be utilized by Director Hoover in connection with briefings of various Government officials.

A review of FBI files has not located any document indicating higher authority was formally advised of the existence of the COINTELPRO effort directed against revolutionary New Left elements. It should be pointed out the program that targeted the New Left was only in existence during the period 1968 to 1971 (35 months) and only 285 actions were approved, which represent approximately 12 percent of all actions approved in the basic COINTELPROS. Additionally, during the time period of the New Left program this Bureau was engaged in extensive reporting and dissemination of information relating to activities and violence perpetrated by revolutionary elements, including the so-called New Left.

The Chairman, Senator Frank Church, inquired as to how much time and money is being spent by the FBI in conducting investigations on possible Presidential appointments to Federal offices, plus any other information which would indicate what proportion of the FBI's time and effort was absorbed in this kind of activity. Senator Church also asked the Director to supply the number of such investigations conducted each year beginning with 1970 and also information as to what offices are now covered by such investigations.

NOTE: The inquiry by Senator Church referred to above can be found at page 304 of this volume.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

The FBI conducts investigations under the Federal Employee Security Program pursuant to Executive Orders 10450 and 10422. Executive Order 10450 became effective May 28, 1953, and sets forth security requirements for employment in the Executive Branch. The purpose of the Federal Employee Security Program is to insure that the employment and retention in employment of any civilian in the Executive Branch is clearly consistent with the interests of the national security.

At the request of the White House, investigations are conducted concerning Presidential appointees and White House personnel. At the request of Cabinet officers, investigations are conducted concerning certain personnel.

Upon request, investigations are conducted concerning staff personnel of seven Congressional Committees. These are handled by agreement with the Department of Justice and include:

Senate Foreign Relations Committee
Senate Committee on Judiciary
House Committee on Judiciary
Joint Committee on Atomic Energy
Senate Appropriations Committee
House Appropriations Committee
Senate Armed Services Committee

At the request of the Department of Justice, investigations are conducted concerning Departmental Applicants for Presidential appointments and professional positions such as Federal Judges, United States Attorneys, and other legal positions. In addition, investigations are conducted for the Administrative Office of the United States Courts concerning applicants for the positions of United States Magistrate, Federal Public Defender, Referee in Bankruptcy, Federal Court Executive, and Probation Officer. Also investigations are conducted concerning persons who have applied for pardons after completion of sentences upon being convicted of felonies in the United States District Courts.

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

Investigations are also conducted of personnel who have sensitive positions with the Nuclear Regulatory Commission and the Energy Research and Development Administration (formerly the Atomic Energy Commission).

In connection with all of these investigations, we report the facts developed and furnish the results to the requesting agency without any comment or recommendation or any evaluation of the facts developed.

The costs involved concerning investigations on behalf of the White House, Congressional Staff Committees, Department of Justice, and Applications for Pardon After Completion of Sentence, as well as cases referred to the FBI under various public laws, are included in the overall FBI budget. In all other investigations charges are made. The current rates for these charges, which became effective on October 12, 1975, are listed below. For Fiscal Year 1975, expenditures for these investigations amounted to approximately $6,760,000 of which slightly over $3,000,000 was reimbursed from other agencies. It is to be noted the costs of these investigations fluctuate from year to year dependent upon changes in salary, travel, and other expenses.

Atomic Energy Commission Investigation:*	New rates eff. 10/12/75
*Name changed eff. 1/20/75	$ 834.00
Energy Research and Development Administration Nuclear Regulatory Commission Library of Congress	
Full-Field Loyalty Investigations:	2,117.00
Civil Service Commission (United Nations Personnel) State Department (Ambassadorial and Ministerial Appointees) All Agencies (Administration Appointees)	

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

Preliminary Inquiries: 410.00

Civil Service Commission (CSC)
(United Nations Personnel)

There follows a tabulation listing the number of investigations conducted by the FBI for other Government agencies for the period from Fiscal Year 1970 through Fiscal Year 1975.

	1970	1971	1972	1973	1974	1975
Federal Employees Security Program-Executive Order 10450	1235	1296	993	985	943	591
United Nations Loyalty Program-Executive Order 10422	36	31	31	31	8	14
Referrals from CSC under various public laws	339	242	196	160	95	68
Energy Research and Development Administration/Nuclear Regulatory Commission (ERDA/NRC) (formerly Atomic Energy Commission)	1648	1529	1615	2083	1982	2346
Reinvestigation Program of ERDA/NRC	348	553	485	467	381	203
Departmental Applicant/U. S. Courts Applicant	4737	4964	5835	3576	1492	1224

U. S. Senate Select Committee
to Study Governmental Operations
With Respect to Intelligence Activities (SSC)

	1970	1971	1972	1973	1974	1975
Special Inquiry						
a. White House and Executive Branch	892	888	1218	979	1127	1163
b. Congressional Committees	87	110	76	98	84	259
Maintenance Employees	724	775	500	767	996	947
Total	10046	10388	10949	9146	7108	6815

In early 1975, at the request of the SSC and the House Select Committee on Intelligence Activities (HSC), we began conducting applicant-type investigations of personnel assigned to these committees and also of applicants for positions with these committees. Through January 6, 1976, we have conducted 160 such investigations received from the SSC and 39 received from the HSC. Although no charges have been made, the costs involved at the current rate would be $338,720 for the SSC and $82,563 for the HSC, for a total of $421,283.

Pursuant to Constitutional Amendment 25, approved in 1967, the President requested an investigation in October of 1973, concerning Gerald R. Ford for the appointment to Vice President. Then in August, 1974, an investigation was conducted at the request of the President concerning Nelson Aldrich Rockefeller, Vice President-Designate. Thus, for the first time in the history of the United States Government, an applicant-type investigation was conducted concerning the President and Vice President. These were the most extensive investigations ever conducted by the FBI of an applicant-type nature.

The investigations handled by the FBI are limited to existing law, executive order, or by special agreement with the President and/or the Attorney General. They are not routine and it is not believed they should be or could be eliminated.

Where possible, steps have been taken to insure that these cases are kept to an absolute minimum. It is noted prior to July, 1973, the FBI conducted investigations concerning nonprofessional positions in connection with Departmental applicant/U. S. Court applicant investigations, such as general clerical personnel. It was determined and agreed upon that these investigations could be handled by the Civil Service Commission and, therefore, they were transferred to that agency.

A manpower utilization survey conducted during March, 1975, disclosed that 2.3% of field investigative time by FBI personnel was being devoted to these applicant-type investigations conducted for other Government agencies. This low percentage is indicative of the Bureau's efforts to hold down applicant-type work to that essential and necessary to meet our various commitments in this field. We have and will continue to oppose legislation seeking to involve the FBI in routine applicant-type investigations.

○