

THE VOTING RIGHTS ACT OF 1965: BACKGROUND NOTE

On March 7, 1965, the Reverend Martin Luther King, Jr., and other civil rights leaders led a non-violent protest march from Selma, Alabama to Montgomery, the state capital, to petition the state government for action to guarantee Negro voting rights. Television footage showing the marchers being attacked by local police helped arouse national indignation. On March 17, 1965, President Lyndon B. Johnson sent a voting rights bill to Congress. After debate, Congress passed the Voting Rights Act of 1965 on August 4. This note is designed to provide background for a three-part case discussing the Selma march and the drafting and passage of the Voting Rights Act.

The Civil Rights Movement

The events of Selma grew out of a long history of white oppression and black civil rights agitation. Where to start that story is an arbitrary choice. Because Martin Luther King, Jr., played a prominent role in the Selma campaign, this note will begin in 1956, when King first gained national attention. This note is in no sense a complete history of the movement or of the South but merely a survey of certain highlights.

The Montgomery Bus Boycott

The Supreme Court's 1954 decision in Brown v. Board of Education, to the effect that racially segregated public schools were unconstitutional, is often cited as the beginning of the modern civil rights movement, but it might more properly be regarded as the end of the previous phase of quiet legal pressure by such long-established civil rights groups as the National Association for the Advancement of Colored People (NAACP). Progress in implementing Brown was slow: in 1962, eight years later, only 31.5% of the (predominantly Southern) school districts affected by the 1954 decision had desegregated, and in many cases "desegregation" meant nothing more than a token handful of blacks attending white schools. In the North and West, where school attendance was based on residential patterns, the pace of integration was equally slow.

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In contrast, the Montgomery bus boycott of 1955-1956 saw the beginning of a more dramatic phase of the civil rights movement, marked in many cases by illegal protest tactics and brutal responses. On December 1, 1955, Rosa Parks, a Negro seamstress in Montgomery, Alabama, violated the city's ordinance requiring segregated seating on buses by refusing to move to the back of the bus to make room for white riders. Her arrest touched off a spontaneous city-wide bus boycott by Montgomery Negroes. The boycotters organized as the Montgomery Improvement Association (MIA) and elected as their president the Reverend Martin Luther King, Jr., a young Baptist pastor fresh from Boston University's School of Theology.

Despite white responses such as bombings of Negro churches, arrests, and economic pressures on blacks, the boycott was eventually successful. In 1956, the Supreme Court ruled Montgomery's bus segregation ordinance unconstitutional. But the boycott idea had already spread to other Southern cities, and in 1956 King and several hundred others formed the Southern Christian Leadership Conference (SCLC) to coordinate the efforts of local groups working to integrate public facilities. The group's manifesto stated that "SCLC activity revolves around two main focal points: The use of non-violent direct action* as a means of creative protest; and securing the right of the ballot for every citizen." As the name implies, SCLC was composed largely of ministers, with some businessmen and professionals; an executive board decided on programs and typically announced these at quasi-religious mass meetings. Besides its emphasis on direct action, SCLC differed from other established civil rights groups such as NAACP and CORE (the Congress for Racial Equality) in that its membership and activities were largely Southern and black.

Little Rock

The next civil rights story to receive sustained national attention was the drama of Little Rock, Arkansas in 1957-1958. Backed by Governor Orval Faubus and others, whites in Little Rock prevented compliance with federal court orders to integrate the city's Central High School. When Faubus proved unwilling or unable to restore order, President Eisenhower (reluctantly, in the opinion of some) federalized the Arkansas National Guard and sent 10,000 Guardsmen and 1,000 members of the 101st Airborne Division to Little Rock to enforce compliance with the integration order and to protect the nine Negro children seeking to attend Central High. The Little Rock drama showed that without effective pressure from the national government, local officials and local mobs could successfully defy court orders.

The Sit-In Movement

By 1960, some slow progress had been made towards school integration, although four states--South Carolina, Georgia, Alabama, and Mississippi--still maintained totally segregated public school systems. But in 1960, attention shifted from schools to lunch counters: on February 2, four Negro college students in Greensboro, North Carolina, "sat in" at a variety store lunch counter and asked

* See Appendix A for material on the strategy of non-violent protest.

to be served, in contravention of the store's policy of not serving Negroes. The sit-in movement spread rapidly through the South, leading eventually to the integration of eating facilities in many states. The sit-ins marked the first time that private rather than public segregation became the target of the civil rights movement: where the Montgomery buses and the Little Rock schools were publicly owned and operated, the lunch counters were clearly private property.

The sit-ins also led to the formation of a new civil rights group, the Student Non-violent Coordinating Committee (SNCC). Composed of Southern black college students, SNCC's original purpose was to coordinate student sit-in protests throughout the South. Although SNCC accepted SCLC's commitment to non-violence, some in the group felt that King and SCLC were not dynamic enough, and SNCC insisted on maintaining its organizational independence from SCLC and other civil rights groups. Like SCLC, however, SNCC's membership never exceeded a few hundred.

The Freedom Riders

Some analysts have suggested that John F. Kennedy's election as President stirred both black hopes and white fears. Whatever the reason, 1961 saw a marked escalation of the violence accompanying the civil rights movement. In May, a biracial group under CORE sponsorship boarded several Southbound buses for a "freedom ride" to protest segregation on private interstate carriers and in waiting rooms. In Anniston, Alabama, one bus was burned, and in both Anniston and Birmingham, several riders were beaten severely. In each case, the police arrived after the mob action had taken place. After Attorney General Robert F. Kennedy had sent federal marshals to Montgomery (the next stop on the riders' itinerary), Alabama Governor John Patterson called out the Alabama National Guard and declared martial law to restore order.

The ride continued on to Mississippi and resulted in mass arrests in Jackson. By the end of the summer, some 300 college students, professors and ministers of both races were in Mississippi prisons or out on bond pending appeal. In September, the Interstate Commerce Commission, acting on Department of Justice proposals, banned segregation in all interstate transportation facilities.

Oxford and Albany

1962 saw the continuing escalation of the civil rights struggle. After being rejected for admission to the all-white University of Mississippi, James H. Meredith sued and won a federal court order requiring his admission. Mississippi Governor Ross R. Barnett defied the order, personally barring Meredith; after Barnett was found guilty of contempt by the Fifth Circuit Court of Appeals, hundreds of United States deputy marshals were assembled at Oxford, Mississippi (site of Ole Miss), federal troops were alerted, and President Kennedy federalized the Mississippi National Guard. Kennedy appeared on national television to ask for peaceful compliance with the court orders, but rioting erupted, and by the time federal troops had quelled it, two were dead and hundreds injured. Meredith, however, began attending classes.

Although King had become a national figure in the late fifties and a major spokesman for Negro aspirations, he and SCLC did not figure as prominently in the sit-ins, the freedom rides, and the struggle at Ole Miss as the other participants mentioned. But after ten members of SNCC were arrested on December 10, 1961, in Albany, Georgia, in an all-white railroad waiting room, King arrived to lead mass demonstrations and a local bus boycott. King and seven hundred others were arrested as Police Chief Laurie Pritchett enforced segregation; but Pritchett won grudging respect for his insistence on highly-disciplined law enforcement methods and his avoidance of police brutality. Albany city officials refused to negotiate with the "outside agitators", and after a year's efforts the non-violent protest movement had little to show except an omnibus lawsuit seeking to end several forms of segregation in Albany.

While the agitation continued, the Negro unemployment rate remained at twice the white rate, and de facto discrimination in housing, employment, and education in the North were under investigation. On November 20, 1962, President Kennedy issued an Executive Order barring racial discrimination in federally financed or insured housing. And in May, George C. Wallace won the run-off in the Alabama Democratic gubernatorial primary, assuring his election in the fall.

Birmingham 1963

If King had failed in Albany, it may have been because Police Chief Pritchett kept a tight rein on his officers, preventing a national spectacle that could have aroused sympathy for the protestors. Birmingham's Commissioner of Public Safety Eugene "Bull" Connor proved more accommodating. The 100th anniversary of the Emancipation Proclamation was to prove the most violent yet for the civil rights movement.

King and others had selected Birmingham as a target for mass boycotts and demonstrations because it was the most heavily industrialized yet most heavily segregated city in the South. The Easter season was selected as the year's most important shopping season (next to Christmas). Demonstrations got underway on April 3, 1963, and were met with police dogs, fire hoses, and other brutal "law enforcement" techniques. Dramatic press photographs of protesters being attacked by dogs or catapulted by high pressure hoses helped arouse national indignation. King himself was arrested, and his "Letter From a Birmingham Jail" received wide attention.

The demonstrations continued, and by May 4, a thousand persons had been arrested--half of them Negroes under 18. Assistant Attorney General Burke Marshall tried to mediate, and on May 8 a truce was declared, with local business leaders pledging to help secure lunch counter desegregation, greater employment opportunities for Negroes, release of arrestees on bond, etc.

The truce was shattered on May 11 as the bombing of a Negro church touched off "furious" Negro riots. After President Kennedy stationed 3,000 riot-trained federal troops near Birmingham and took preliminary steps towards federalizing the Alabama National Guard, tensions again subsided in Birmingham. But that summer saw over 700 demonstrations across the country* and over 13,000 arrests, the killing

* Including demonstrations and violence in Cambridge, Md., Nashville, Tenn., Greensboro, N.C., Danville, Va., Jackson, Miss., Selma, Ala., and Plaquemine Parish, La.

of a white civil rights worker in Alabama and of Medger Evers of NAACP in Mississippi, and the use of electric cattle prods on freedom walkers by the Alabama highway patrol. And on September 5, a Negro Baptist church in Birmingham was bombed, killing four small girls and injuring other children. Within hours, two Negro boys were shot and killed.

What were the effects of all this upheaval? In August 200,000 persons joined in a March on Washington, where Reverend King gave his famous "I have a dream" speech. The Kennedy administration had submitted a civil rights bill addressing principally voting rights; after Birmingham, a revised bill added equal access to public facilities in interstate commerce and an end to discrimination on federally supported projects to its goals. That summer NAACP, CORE, SCLC, SNCC, the Urban League and other civil rights groups united in a fund drive.

But just as the Administration's bill had reached the House Rules Committee, President Kennedy was shot and killed, to be replaced by a Southerner of unknown leanings. Malcolm X and the Black Muslims came to prominence, attacking Negro leaders for cooperating with whites. George Wallace used Alabama state troopers to prevent school desegregation in Birmingham, Tuskegee and Mobile, desisting only after all five Alabama federal district court judges enjoined him and after President Kennedy had federalized the National Guard.* And in Mississippi James Meredith got his degree.

1964: Better but Worse

Initial doubts about President Johnson's commitment to civil rights were dispelled when he picked up Kennedy's civil rights bill, strengthened it, and pushed hard for passage. On June 10, for the first time, the Senate voted cloture** to end debate over a civil rights bill. The Civil Rights Act of 1964 made a sixth grade education a rebuttable presumption of literacy,*** gave the Attorney General the power to sue on behalf of private individuals, forbade discrimination in most public facilities, established the Equal Employment Opportunity Commission, authorized fund cutoffs to help eliminate discrimination in federally assisted programs, and extended the life of the Civil Rights Commission. Whatever its shortcomings, it was truly the most far-reaching piece of civil rights legislation ever passed.

Needless to say, the passage of this act did not put an end to the civil rights struggle. In Mississippi, SNCC, CORE, SCLC, the NAACP Legal Defense Fund, the National Council of Churches, and other groups organized Freedom Summer, designed to send hundreds of young volunteers to the state to assist in voter

* Wallace won even greater prominence for personally barring the door of the University of Alabama at Tuscaloosa to Assistant Attorney General Nicholas Katzenbach and two black students seeking entrance.

** Under Senate rules, a Senator could hold the floor indefinitely and yield it to colleagues as he saw fit (thus blocking a vote on a bill) unless debate was limited by a successful "cloture" motion. Such a motion required a two-thirds favorable vote to pass and was infrequently successful.

*** I.e., it placed the burden of proving a registrant (with a sixth grade education) illiterate on local officials, instead of requiring the applicant to prove himself literate.

registration and education. The youths received training in non-violence and self-protection, while Mississippi broadened police powers. Between June and October at least 24 Negro churches were totally or partly destroyed, and bombings, burnings, floggings, shootings, and Ku Klux Klan activity all increased. On June 21, three young civil rights workers (two of them white) disappeared; their bodies were found on August 4, shot.

The violence of that spring and summer seems to have driven the first wedge between moderate and radical civil rights groups. In July, civil rights leaders--except those from CORE and SNCC--declared a moratorium on demonstrations until after the election, partly to concentrate on voter registration and partly to deny fuel to candidates running on law and order or race issues. The Freedom Summer project enrolled 60,000 mostly black Mississippians in the Mississippi Freedom Democratic Party (MFDP), which sent delegates to the Democratic Convention in Atlantic City to challenge the all-white regular delegation. MFDP was offered a compromise (which it rejected): two at-large voting delegates and a promise of substantial change in delegate selection procedures by 1968. SNCC and most black leaders opposed the compromise, while SCLC and King supported it.*

The Voting Rights Issue

The preceding history should make it clear that voting rights were one among many goals sought by the civil rights movement; and although whites who felt uncomfortable with "direct action" tactics sometimes urged Negroes to confine their attention to this one issue, Negro leaders steadfastly refused to do so. For them, the rights to have a cup of coffee at Woolworth's, to sit at the front of the bus, or to attend desegregated schools were just as important.

Nonetheless, voting was fundamental in the sense that the machinery of segregation depended on local officialdom--police chiefs, city councils, etc.--for its survival. As one civil rights worker analyzed it, part of the fear of working in places like Mississippi or Alabama was the knowledge that if private individuals harassed you, no official would be on your side. The centrality of voting was in fact enshrined in the Fifteenth Amendment, which forbade denial of the rights to vote on the basis of race, color, or previous condition of servitude. This section describes legislation to secure that right enacted in the fifties and sixties.

The 1957 Civil Rights Act

The first significant piece of civil rights legislation in modern times was passed in 1957; it did the following:

1. affirmed the citizen's right to seek an injunction to protect his voting rights;
2. empowered the Attorney General to seek injunctions against the obstruction or deprivation of those rights;
3. created the United States Civil Rights Commission and gave it subpoena power to aid its investigations of abridgements of civil rights; and

*In 1964 King won the Nobel Peace Prize

4. created a Civil Rights Division of the Justice Department.

As far as securing the right to vote for Southern blacks, the '57 Act was largely ineffective, since fear of reprisals deterred blacks from seeking injunctions or complaining to the Justice Department. As the Civil Rights Commission stated in its 1959 report,

substantial numbers of citizens qualified to vote under state registration and election laws are being denied the right to register . . . existing remedies . . . are insufficient to secure and protect the right to vote of such citizens.

The Commission recommended empowering federal registrars to register persons eligible to vote in federal elections who "are qualified under state registration laws but are otherwise unable to vote."

The 1960 Civil Rights Act

In 1960, the Supreme Court held the voting rights provisions of the '57 Act constitutional, and Congress passed a new civil rights measure after filibustering Southerners allowed the bill to come to a vote.* The '60 Act authorized federal courts to appoint referees to register Negroes to vote in federal elections where a "pattern or practice" of racial discrimination existed. The Act also empowered the Attorney General, after winning a '57 Act civil suit, to ask the court to hold another adversary proceeding and to make a separate finding that there was a "pattern or practice" of depriving Negroes of their voting rights in the area involved; the court could then, on application from any Negro proving discrimination, issue an order that he was qualified to vote. Once again, the requirement that a Negro step forward and prove discrimination deterred widespread use of this provision.

Actions in 1961-1962

In 1961-62, the emphasis was more on working to use the laws already on the books than on securing new legislation. In 1961, Congress did extend the life of the Civil Rights Commission to 1963, and in 1962 Congress approved a constitutional amendment outlawing the poll tax as a voting requirement in federal elections.** But a Kennedy Administration proposal to make a sixth grade education prima facie evidence of literacy for federal registration purposes died in a Senate filibuster.

Meanwhile, the Justice Department and civil rights groups pushed on with the slow processes of litigating and registering. By June of 1962, the Department had investigations or suits underway in about 100 counties. The Southern Regional

*The filibuster lasted for 125 hours and 31 minutes; the Southern forces ended it when they decided they could defeat the bill's most offensive provisions.

**The amendment received the necessary 38 state ratifications in 1964. Only Alabama, Arkansas, Mississippi, Texas and Virginia were affected, since only those states still had poll taxes.

Council organized a Voter Education Project in which NAACP, the Urban League, SCLC, SNCC and CORE took part. Half a million dollars in foundation grants fueled the drive, and by summer's end, 1962, there were over 90,000 newly registered Negro voters, for a total of 1.5 million of a potential 5 million voters. However, most of the progress was in the cities. In rural areas, churches were burned and homes fired into to prevent Negroes from registering.

The 1964 Civil Rights Act

On February 28, 1963, President Kennedy introduced new civil rights legislation addressed principally to voting rights; the bill also extended the life of the Civil Rights Commission. The voting rights provisions were as follows:

1. prohibition for federal elections of: all oral literacy tests, unequal application of registration requirements, and denial of registration because of immaterial errors in filling out the application;
2. establishment of a presumption of literacy for anyone with a sixth grade, English language education;
3. authorization for court-appointed referees to register Negroes qualified under state law in areas where fewer than 15 percent of the total Negro population was registered and where a voting suit was pending; and
4. provision for preferential and expedited treatment of voting rights suits in federal courts.

As noted above, the Administration's bill was broadened in June after the Birmingham demonstrations to include provisions on access to public facilities, discrimination on federally supported projects, and authorization for the Attorney General to sue on behalf of private citizens. The voting rights provisions of the new bill remained unchanged. A liberal subcommittee of the House Judiciary Committee strengthened the bill so much that the Administration feared defeat, and a compromise bill was worked out which eliminated the temporary registrar scheme in favor of having special three-judge federal courts hear voting rights cases if requested by the Attorney General;* other voting provisions remained the same. That bill was before the House Rules Committee when President Kennedy was assassinated. President Johnson helped broaden the bill's non-voting rights guarantees (see page 5), and after cloture was successfully invoked in the Senate, the bill passed.

* Decisions of such courts are appealable directly to the Supreme Court, bypassing the courts of appeals.

Experience under the Civil Rights Acts

By mid-March 1965, the Justice Department was pressing 70 voting rights suits, and thousands of Negroes had gained the ballot. (See Exhibit 1.) However, the process was still a slow and uncertain one. Civil Rights Division attorneys, travelling in pairs for safety, would go to counties where few or no Negroes were registered and would try to find Negroes who had tried to register. If enough such Negroes could be found, a "pattern or practice" of discrimination might be provable. However, many Negroes remained justly afraid of reprisals and declined to cooperate; even where cases were brought, county registrars would swear that there was no discrimination, and Justice would appeal to the circuit courts. A victory there was often useless because the evidence on which it rested would be out of date (i.e., the case was "moot"), so the whole process would start over. In short, the existing remedies for securing Negro voting rights were just too slow. Moreover, they applied only to federal elections.

The Scene: Selma, Alabama

A set of events which would eventually lead to strengthening of the voting rights laws began in Selma, Alabama, in 1961. Selma is a small town (1960 pop. 28,385) 50 miles west of Montgomery, the state capital; it is the county seat of Dallas County. As of 1965, the local voting rights picture was simple: Negroes didn't vote in Dallas County. This assertion is extreme but well-documented.*

In 1961, Dallas County had a voting age population of 29,515, of whom 14,400 (49%) were white and 15,115 (51%) black. Sixty-four percent (9,195) of the voting age whites were registered to vote . . . of the blacks, a total of 156 (1.03 percent). Between 1954 and 1961, only 18 new black voters had been registered.

The Kennedy Administration's first voting rights case was brought against Dallas County on April 13, 1961. The case came to trial 13 months later, and the federal district court handed down its decision 6 months after that: although agreeing that the registrars in office in 1961 and before had discriminated against Negro applicants, the court found that the current board of registrars was not and therefore declined to issue an injunction.

The Justice Department appealed the case to the Fifth Circuit Court of Appeals, and two-and-a-half years after the original suit had been filed, that court reversed the district court and ordered it to enjoin discrimination by the registrars. However, the Department had also urged the Court of Appeals to order the district court to direct the registrars to judge Negro applicants by the same standards that had been applied to whites during the long years of discrimination; in the Department's view, this was necessary to erase the effects of past discrimination. The Circuit Court refused to do this, and

* Much of what follows is based on Congressional testimony of Attorney General Nicholas Katzenbach.

Justice was thus left in the position of having to gather new evidence to show violation of the injunction by the registrars--and in the meantime, few new Negro voters would appear on the rolls.

Two months after the Circuit Court decision, Departmental inspection of records at the Dallas County Courthouse in Selma showed that standards for both races had been raised; since a top-heavy majority of whites were already registered, the effect was to create even more obstacles to closing the gap between white and black participation in the electoral process. Between May 1962 and November 1963, 89% of the 445 Negro applicants were rejected. One hundred and seventy-five of those rejected had at least 12 years of education, 21 had 16 years, and one had a master's degree.

Delay added to the frustrations of the registration process. In years when applicants had been predominantly white, up to 148 applications had been processed in one day; in October 1963, an average of 36 persons per day were allowed to fill out the forms, while at least 24 others were sent home.

Nor was Dallas County (and the rest of Alabama) content to rest on its "successes." In February 1964, all Alabama boards of registrars adopted a new application form. The new requirements did not apply to previously-registered voters--overwhelmingly white--but new (black) applicants had to spell words such as "enrollment", "capitation", "impeachment", apportionment" and despotism" and explain--to the satisfaction of the (white) registrar--the meaning of a section of the Alabama constitution. (This latter requirement was not mandated by the statewide election law.) Applicants for registration now had to fill in a form with over fifty blanks, write from dictation a part of the Constitution, answer four questions on the governmental process, read four passages from the Constitution and answer four questions on the passages, and sign an oath of loyalty to the United States and the State of Alabama.

In March 1964, the Justice Department began a new law suit against the Dallas County registrars. At the trial in October 1964, the Department proved that from May 1962 to August 1964, 93 (less than 12%) of the 795 Negro applicants had been allowed to register to vote. On February 4, 1965, the district court enjoined use of the literacy and knowledge of government tests and entered orders designed to minimize delay in compliance. After four years of litigation, a total of 383 Negroes were registered to vote in Dallas County.

The Justice Department was hardly alone in its attention to Dallas County. In 1963, SNCC workers had begun a voter registration drive in selected Alabama counties, including Dallas. However, as in the past, fear of reprisals made many black Selmans hesitant to go to the Dallas County Courthouse, and the SNCC effort made little headway. In 1963-64, middle class black Selmans such as Reverend Fred Keese, Amelia Boynton, Marie Collins, Marie Foster, and Dr. Sullivan Jackson began to conduct voter registration classes, hold meetings, and organize for voter registration purposes, and their example seemed to ease somewhat the fears (or stir the courage) of poorer blacks. But by 1965, a spark was still needed to ignite the black community.

That spark was made all the more necessary by the tactics used by Sheriff James "Jim" Clark and others to discourage Negro voter registration--tactics that by 1965 had resulted in four justice Department suits. Among these tactics were physical violence, lost jobs, denial of credit, court injunctions against organizing or meeting to discuss grievances, baseless arrests and prosecutions

of Negro registration workers--all facilitated by stationing deputy sheriffs at civil rights meetings to take down names and license plate numbers of those who attended. Local grand juries sought to interfere with operations of the Civil Rights Division, to which many Negroes looked for assistance and protection. The Dallas County Citizens' Council took out a full-page advertisement in the Selma Times-Journal on June 9, 1963, headlined: "Ask Yourself this Important Question: What have I personally done to maintain segregation?" In short, the entire panoply of local public and private power was marshalled to prevent Negro registration by whatever means--economic, judicial or physical--proved most appropriate.

These conditions were by no means unique to Selma and Dallas County. But in 1965, as the case you are about to read documents, Selma quickly became a national symbol for brutal denial of the right to vote.

Exhibit 1

Southern Negro Voter Statistics by State

STATE	Total Negro Voters as of 11/1/64 ¹	Increase Since 4/1/62	% of Eligible Negroes Registered	% of Eligible Whites Registered	% Negro of Total Registered	% Negro of Voting Age Population	Presidential Winner & Margin 1964	Unregistered Negroes of Voting Age
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
ALA.	111,000	42,700	23.0	70.7	10.4	26.2	BG 268,353	370,000
ARK.	105,000	36,000	54.4	71.7	14.6	18.4	LBJ 70,933	88,000
FLA.	300,000	117,500	63.7	84.0	12.0	15.2	LBJ 42,599	170,000
GA.	270,000	94,500	44.0	74.5	16.8	25.4	BG 94,043	343,000
LA.	164,700	13,000	32.0	80.4	13.7	28.5	BG 122,157	350,000
MISS.	28,500	4,500	6.7	70.1	5.2	36.0	BG 303,910	394,000
N.C.	258,000	47,500	46.8	92.5	11.7	21.5	LBJ 175,295	293,000
S.C.	144,000	53,100	38.8	78.5	17.0	29.3	BG 93,348	227,000
TENN.	218,000	67,100	69.4	72.9	14.4	14.9	LBJ 126,052	95,000
TEXAS	375,000	133,000	57.7	53.2	12.5	11.7	LBJ 704,619	275,000
VA.	200,000	89,900	45.7	55.9	16.0	18.8	LBJ 76,704	237,000
TOTAL ¹	2,174,200	698,000	43.3	73.2	13.0	22.4	LBJ 314,421	2,843,000

¹ Arkansas figures are as of Jan. 1, 1965. Nov. 1, 1964 is date used in massive discrimination trigger section of the Voting Rights Act of 1965. (See p. 534)

² Voting age 18.

SOURCE: U.S. COMMISSION ON CIVIL RIGHTS, THE SOUTHERN REGIONAL REPORT

NOTE: The Civil Rights Commission March 19, 1965, issued a similar report which showed rapid increases in Negro voter registration in states not covered by the Administration bill. The increases since 1956 were as follows: Tennessee from 29 to 69 percent; Florida

from 32 to 63.7 percent; Texas from 37 to 57.7 percent. Arkansas from 36 to 49.3 percent. Registration in Virginia, which was covered by the bill, rose from 19 to 45.7 percent. Increases were not appreciable in other states covered by the bill.

1965 CQ ALMANAC -- 537

[In the pages preceding this excerpt, Reverend King discussed the inadequacies of other strategies for Negro liberation--the slow path of litigation followed by the NAACP, the swift, bloody trail of violence urged by some black "militants", and others. All were found wanting.]

Fortunately, history does not pose problems without eventually producing solutions. The disenchanting, the disadvantaged and the disinherited seem, at times of deep crisis, to summon up some sort of genius that enables them to perceive and capture the appropriate weapons to carve out their destiny. Such was the peaceable weapon of nonviolent direct action, which materialized almost overnight to inspire the Negro, and was seized in his outstretched hands with a powerful grip.

Nonviolent action, the Negro saw, was the way to supplement—not replace—the process of change through legal recourse. It was the way to divest himself of passivity without arraying himself in vindictive force. Acting in concert with fellow Negroes to assert himself as a citizen, he would embark on a militant program to demand the rights which were his: in the streets, on the buses, in the stores, the parks and other public facilities.

Source: Martin Luther King, Jr., "Letter from a Birmingham Jail," in *Why We Can't Wait* (New York: Harper & Row, 1963), pp. 26-31, 33, 81-82.

The religious tradition of the Negro had shown the nonviolent resistance of the early Christians constituted a moral offensive of such overriding power that it shook the Roman Empire. American history had taught him that nonviolence in the form of boycotts and protests had confounded the British monarchy and laid the basis for freeing the colonies from unjust domination. Within his own century, the nonviolent ethic of Mahatma Gandhi and his followers had muzzled the guns of the British Empire in India and freed more than three hundred and fifty million people from colonialism.

Like his predecessors, the Negro was willing to risk martyrdom in order to move and stir the social conscience of his community and the nation. Instead of submitting to surreptitious cruelty in thousands of dark jail cells and on countless shadowed street corners, he would force his oppressor to commit his brutality openly—in the light of day—with the rest of the world looking on.

Acceptance of nonviolent direct action was a proof of a certain sophistication on the part of the Negro masses; for it showed that they dared to break with the old, ingrained concepts of our society. The eye-for-an-eye philosophy, the impulse to defend oneself when attacked, has always been held as the highest measure of American manhood. We are a nation that worships the frontier tradition, and our heroes are those who champion justice through violent retaliation against injustice. It is not simple to adopt the credo that moral force has as much strength and virtue as the capacity to return a physical blow; or that to refrain from hitting back requires more will and bravery than the automatic reflexes of defense.

Yet there is something in the American ethos that responds to the strength of moral force. I am reminded of the popular and widely respected novel and film *To Kill a Mockingbird*. Atticus Finch, a white southern lawyer, confronts a group of his neighbors who have become a lynch-crazed mob, seeking the life of his Negro client. Finch, armed with nothing more lethal than a lawbook, disperses the mob with the force of his moral courage, aided by his small daughter, who, innocently calling the would-be lynchers by name, reminds them that they are individual men, not a pack of beasts.

To the Negro in 1963, as to Atticus Finch, it had become obvious that nonviolence could symbolize the gold badge of heroism rather than the white feather of cowardice. In addition to being consistent with his religious precepts, it served his need to act on his own for his own liberation. It enabled him to transmute hatred into constructive energy, to seek not only to free himself but to free his oppressor from his sins. This transformation, in turn, had the marvelous effect of changing the face of the enemy. The enemy the Negro faced became not the individual who had oppressed him but the evil system which permitted that individual to do so.

The argument that nonviolence is a coward's refuge lost its force as its heroic and often perilous acts uttered their wordless but convincing rebuttal in Montgomery, in the sit-ins, on the freedom rides, and finally in Birmingham.

There is a powerful motivation when a suppressed people enlist in an army that marches under the banner of nonviolence. A nonviolent army has a magnificent universal quality. To join an army that trains its adherents in the methods of violence, you must be of a certain age. But in Birmingham, some of the most valued foot soldiers were youngsters ranging from elementary pupils to teen-age high school and college students. For acceptance in the armies that maim and kill, one must be physically sound, possessed of straight limbs and accurate vision. But in Birmingham, the lame and the halt and the crippled could and did join up. Al Hibbler, the sightless singer, would never have been accepted in the United States Army or the army of any other nation, but he held a commanding position in our ranks.

In armies of violence, there is a caste of rank. In Birmingham, outside of the few generals and lieutenants who necessarily directed and coordinated operations, the regiments of the demonstrators marched in democratic phalanx. Doctors marched with window cleaners. Lawyers demonstrated with laundresses. Ph.D.'s and no-D's were treated with perfect equality by the registrars of the nonviolence movement.

As the broadcasting profession will confirm, no shows are so successful as those which allow for audience participation. In order to be somebody, people must feel themselves part of something. In the nonviolent army, there is room for everyone who wants to join up. There is no color distinction. There is no examination, no pledge, except that, as a soldier

in the armies of violence is expected to inspect his carbine and keep it clean, nonviolent soldiers are called upon to examine and burnish their greatest weapons—their heart, their conscience, their courage and their sense of justice.

Nonviolent resistance paralyzed and confused the power structures against which it was directed. The brutality with which officials would have quelled the black individual became impotent when it could not be pursued with stealth and remain unobserved. It was caught—as a fugitive from a penitentiary is often caught—in gigantic circling spotlights. It was imprisoned in a luminous glare revealing the naked truth to the whole world. It is true that some demonstrators suffered violence, and that a few paid the extreme penalty of death. They were the martyrs of last summer who laid down their lives to put an end to the brutalizing of thousands who had been beaten and bruised and killed in dark streets and back rooms of sheriffs' offices, day in and day out, in hundreds of summers past.

The striking thing about the nonviolent crusade of 1963 was that so few felt the sting of bullets or the clubbing of billys and nightsticks. Looking back, it becomes obvious that the oppressors were restrained not only because the world was looking but also because, standing before them, were hundreds, sometimes thousands, of Negroes who for the first time dared to look back at a white man, eye to eye. Whether through a decision to exercise wise restraint or the operation of a guilty conscience, many a hand was stayed on a police club and many a fire hose was restrained from vomiting forth its pressure. That the Revolution was a comparatively bloodless one is explained by the fact that the Negro did not merely give lip service to nonviolence.

You may well ask: "Why direct action? Why sit-ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent-resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, non-violent tension which is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, so must we see the need for nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.

The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation. I therefore concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in a tragic effort to live in monologue rather than dialogue.

The tactics the movement utilized, and that guided far-flung actions in cities dotted across the map, discouraged violence because one side would not resort to it and the other was so often immobilized by confusion, uncertainty and disunity. Nonviolence had tremendous psychological importance to the Negro. He had to win and to vindicate his dignity in order to merit and enjoy his self-esteem. He had to let white men know that the picture of him as a clown—irresponsible, resigned and believing in his own inferiority—was a stereotype with no validity. This method was grasped by the Negro masses because it embodied the dignity of struggle, of moral conviction and self-sacrifice. The Negro was able to face his adversary, to concede to him a physical advantage and to defeat him because the superior force of the oppressor had become powerless.

To measure what this meant to the Negro may not be easy. But I am convinced that the courage and discipline with which Negro thousands accepted nonviolence healed the internal wounds of Negro millions who did not themselves march in the streets or sit in the jails of the South. One need not participate directly in order to be involved. For Negroes all over this nation, to identify with the movement, to have pride in those who were the principals, and to give moral, financial or spiritual support were to restore to them some of the pride and honor which had been stripped from them over the centuries.

Direct action is not a substitute for work in the courts and the halls of government. Bringing about passage of a new and broad law by a city council, state legislature or the Congress, or pleading cases before the courts of the land, does not eliminate the necessity for bringing about the mass dramatization of injustice in front of a city hall. Indeed, direct action and legal action complement one another; when skillfully employed, each becomes more effective.