

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

File

January 20, 1966

TO: Mr. Lee C. White

FROM: Clifford L. Alexander, Jr. *CL*

The attached appeared in today's New York Times. It is certain to stimulate a good deal of reaction. I think it would be useful if it were possible for Bill Moyers at a press **briefing** to give the views of the President on the Bond **case**. It would seem that the basic point to be made is how this action by the Georgia legislature stifles the precious right to dissent. If there is no Presidential reaction, we face the interpretation that we support the action of the Georgia Legislature by our silence.

Attachment

CR - Misc. 1965

'Negroes have died for the right to Now they are saying, what good does it do to get the vote, to elect representa- tives, if those elected must face 'attitude tests' and loyalty oaths?'

These were the words of 26-year-old Julian Bond after he was denied his seat in the Georgia state legislature because he had supported the Student Non-violent Coordinating Committee in its opposition to the Vietnam war.



Americans from many walks of life have spoken out in support of Bond's right to his seat.

The following telegram, signed by the Congressmen listed below was sent to Gov. Carl Sanders of Georgia on Jan. 11:

"...The right of every citizen to voice dissent is a keystone of the right by refusing to seat a legislator elected by the people, u opinions, strikes at the very basis of our democracy. The fact th first Negroes freely elected to a formerly segregated Georgia Ho concern on the part of all Americans. Free speech, as guaranteed nothing unless it means free speech for the unpopular cause and every American stands in jeopardy if the action of the Georgic

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Rep. Phillip Burton (D-Calif.)
Rep. Ronald B. Cameron (D-Calif.)
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Rep. John Conyers (D-Mich.)
Rep. Charles Diggs, Jr. (D-Mich.)
Rep. John Dow (D-N.Y.)
Rep. John Edwards (D-Calif.)
Rep. Leonard Farbstein (D-N.Y.)
Rep. Donald Fraser (D-Minn.)
Rep. Jacob Gilbert (D-N.Y.)

Rep. Augustus Hawkins (D-Calif.)
Rep. Paul Krebs (D-N.Y.)
Rep. Robert L. Leggett (D-Calif.)
Rep. Robert Nix (D-Pa.)
Rep. Adam Clayton Powell (D-N.Y.)
Rep. Joseph Resnick (D-N.Y.)
Rep. Henry Reuss (D-Wisc.)
Rep. Benjamin Rosenthal (D-N.Y.)
Rep. William Fitts Ryan (D-N.Y.)
Rep. James Scheuer (D-N.Y.)
Rep. Lionel Van Deerlin (D-Calif.)
Rep. Charles Vanik (D-Ohio)

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Rev. Martin Luther King, Jr.
Mr. and Mrs. Burton Lane
Carey McWilliams
Mrs. Lucy Montgomery
Sidney Poitier
A. Philip Randolph
Bayard Rustin
Ben Shann
Rafael Soyfer
Dr. Benjamin Spock
Norman Thomas
Eli Wallach
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| Rep. Donald Fraser (D-Minn.) | Rep. Lionel Van Deerlin (D-Calif.) | |
| Rep. Jacob Gilbert (D-N.Y.) | Rep. Charles Vanik (D-Ohio) | |

And Other Voices Join In Prot

"The Georgia legislature has repudiated an honest and open election on the sole ground that the elected representative endorsed unpopular views . . . None of us agrees with Mr. Bond's views on the Vietnam war . . . but unless otherwise determined by a court of law, which the Georgia legislature is not, he is entitled to express them."

"...we ought to remember what John Stuart Mill on of the reasons we ought to protect the right of disse right. I do not think that the dissenters in this insta every American that one of the most precious freed

- Sen. Clifford P. Case (R-N.J.)
- Rep. Silvio O. Conte (R-Mass.)
- Rep. Frank J. Horton (R-N.Y.)
- Sen. Jacob K. Javits (R-N.Y.)
- Rep. Joseph M. McDade (R-Pa.)
- Rep. F. Bradford Morse (R-Mass.)
- Sen. Hugh Scott (R-Pa.)
- Rep. Stanley R. Tupper (R-Me.)

"We must counter with all the energy, skill and res repression, the move to deprive voters of their legal be won; let right be done; let Julian Bond take his

ILL YOU JOIN THE DEFENDERS OF BOND'S

Julian Bond is not giving up. He will spearhead a voter registration drive in Atlanta, for he has not lost hope that the democratic process can be made to work.

YOU CAN HELP.

Send a telegram of protest to President Johnson asking that he use the prestige of his office to assure that Julian Bond is seated.

Send a contribution NOW to support Julian Bond's struggle and voter registration drive.

To: Citizen
Mrs. Carita B
Suite 803
100 Fifth A
New York, I

I enclose \$-
for the righ

Name

Street Addr

City

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| anik (D-Ohio) | Joseph Heller | Eli Wallach |
| | Joseph Hirsch | Mr. and Mrs. Joseph Weinstein |
| | Anne Jackson | Dagmar Wilson |

Other Voices Join In Protest

“...we ought to remember what John Stuart Mill once said, and I can only paraphrase it: one of the reasons we ought to protect the right of dissent is that the dissenter may turn out to be right. I do not think that the dissenters in this instance will be right but I want to forewarn every American that one of the most precious freedoms we have is the right to be different...”

Vice President Hubert Humphrey on CBS, Jan. 16, when asked his opinion on Vietnam protests and Julian Bonds right to be seated.

“We must counter with all the energy, skill and resources at our command the drift toward repression, the move to deprive voters of their legally elected representatives...Let justice be won; let right be done; let Julian Bond take his legally elected seat.”

Statement by members of 75 church, labor, civil rights, student and women's organizations in Atlanta, Georgia.

DEFENDERS OF BOND'S RIGHT TO DISSENT?

istration drive in Atlanta,
ade to work.
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Bond's
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speech for
spandy

To: Citizens Committee for Julian Bond
Mrs. Carita Bernsohn, secretary
Suite 803
100 Fifth Avenue
New York, N. Y. 10011

I enclose \$_____ to support Julian Bond's struggle for the right to dissent.

Name.....

Street Address

City..... State..... Zip Code.....

**GENERAL SERVICES ADMINISTRATION
ROUTING SLIP**

TO	CO	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10						
NAME AND/OR SYMBOL						BUILDING, ROOM, ETC.											
1. Hon. Lee C. White																	
2.																	
3.																	
4.																	
5.																	
<input type="checkbox"/> ALLOTMENT SYMBOL <input type="checkbox"/> APPROVAL <input type="checkbox"/> AS REQUESTED <input type="checkbox"/> CONCURRENCE <input type="checkbox"/> CORRECTION <input type="checkbox"/> FILING <input type="checkbox"/> FULL REPORT <input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____ <input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____						<input type="checkbox"/> HANDLE DIRECT <input type="checkbox"/> IMMEDIATE ACTION <input type="checkbox"/> INITIALS <input type="checkbox"/> NECESSARY ACTION <input type="checkbox"/> NOTE AND RETURN <input type="checkbox"/> PER OUR CONVERSATION <input type="checkbox"/> PER TELEPHONE CONVERSATION						<input type="checkbox"/> READ AND DESTROY <input type="checkbox"/> RECOMMENDATION <input type="checkbox"/> SEE ME <input type="checkbox"/> SIGNATURE <input type="checkbox"/> YOUR COMMENT <input type="checkbox"/> YOUR INFORMATION <input type="checkbox"/>					
REMARKS																	
Per our discussion. Copies of correspondence between myself and Galen Martin, and the Kentucky Civil Rights Bill.																	
FROM	CO	R1	R2	R3	R4	R5	R6	R7	R8	R9	R10						
NAME AND/OR SYMBOL						BUILDING, ROOM, ETC.											
William L. Taylor <i>WT</i> Staff Director																	
						TELEPHONE			DATE								
									1/13								



STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

January 13, 1966

Mr. Galen Martin
Executive Director
Commission on Human Rights
State of Kentucky
172 Capitol Annex
Frankfort, Kentucky 40601

Dear Galen:

I hope this will be useful. I had a discussion with Lee White about the matter you raised with me. I think if you call him it may be possible to work something out.

Sincerely yours,

(SIGNED) WILLIAM L. TAYLOR

William L. Taylor

Enclosure

CR-Miss-1966



COMMISSION ON HUMAN RIGHTS

172 CAPITOL ANNEX
FRANKFORT, KENTUCKY 40601
PHONE 227-9661, EXT. 584

CHAIRMAN
THE VERY REVEREND ROBERT W. ESTILL,
LOUISVILLE

December 20, 1965

VICE-CHAIRMAN
PAUL OBBERT,
LEXINGTON

SECRETARY-TREASURER
CHARLES T. STEELE,
LOUISVILLE

WILLIAM F. BILLINGSLEY,
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MRS. DANN C. BYCK,
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REVEREND THOMAS FRANCIS,
HENDERSON

MRS. PAUL L. KRAUS,
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DAVID WELCH,
ASHLAND

EXECUTIVE DIRECTOR
GALEN MARTIN

ASSISTANT DIRECTORS
MARK S. ISRAEL
JAMES E. CLAY

Mr. William L. Taylor
Staff Director
U.S. Commission on Civil Rights
Washington 25, D.C.

Dear Bill:

We could use your help on a matter which shouldn't take much of your time but could help us greatly. Could you send a letter to Governor Breathitt commending him on his efforts for a State Civil Rights bill, covering fair employment and public accommodations. I know that such a letter would be helpful in encouraging Governor Breathitt to stay with the good bill which he has just proposed. National attention won't hurt a bit in this situation.

I enclose some clips which provide the necessary background on this, as well as an explanation and digest of the bill. I am not asking that you get into the general details of our bill, but it might help to note that our bill provides for coverage of employers of 8 or more, which is the figure the EEOC is seeking. It would also cover all public accommodations except barbers, beauticians, and Mrs. Murphy's boarding house. I am sure you understand the confidential nature of this request and I'll try to call you about this in a day or two.

Sincerely,


Galen Martin

GM/llt

Enclosure

*Martin also wants Pres. note
in the case of Administration support*



STAFF DIRECTOR

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON 25, D.C.

January 13, 1966

Honorable Edward T. Breathitt
Governor of Kentucky
Frankfort, Kentucky

Dear Governor Breathitt:

I was very pleased to learn recently of your efforts to secure passage of a Civil Rights Act in Kentucky which would provide that no individual would be discriminated against in connection with employment or public accommodations because of race, religion or national origin. The enactment of such a statute would permit the public agencies and courts of Kentucky to seek to eliminate discriminatory practices in places of public accommodation and employment and avoid the intervention of Federal agencies and courts.

The Bill which you have proposed would also significantly supplement certain provisions of the 1964 Civil Rights Act. As you are aware Title II of the Civil Rights Act covers only those places of public accommodation which affect interstate commerce. Your proposed legislation would provide nondiscriminatory access to many facilities which the Federal law does not reach.

The employment provisions of the proposed bill, applying as they do to employers of 8 or more persons, would extend protection from discriminatory employment practices to hundreds of persons not within the purview of Federal law.

I hope that the Kentucky Legislature will support your proposal and, thus, help to insure equal rights for all citizens of the State.

If the Commission can be of any assistance to you on any matter, please do not hesitate to write to us.

Sincerely yours,

(SIGNED) WILLIAM L. TAYLOR

William L. Taylor

~~CONFIDENTIAL~~

TO: Commission Members

FROM: The Staff

SUBJECT: The Importance of Certain Sections of the Draft Bill

1. Public Accommodations Coverage - The vital significance of a general definition of the coverage of places of public accommodation was established in our 1964 efforts. The proposed language (Section 402) is identical to that used in the combined Blume-Kincaid bill which was agreed upon by all the civil rights groups. An attempt to list each type of business covered would present serious problems from a legislative drafting and legal interpretation point of view. There is considerable history on the problems which arose in other states when attempts were made to list each type of business and the courts construed the lists very narrowly. Of even more importance is the practical difficulty of politically justifying each new descriptive category which needs to be included.

2. Power in the Commission to Issue Cease and Desist Orders After Hearing.

Enforcement by the issuance of cease and desist orders is essential if Kentucky legislation is to be considered enforceable by Federal agencies. If probable cause was found and the respondent refused to conciliate, the Commission could hold a hearing and issue a cease and desist order. Without the provisions included in Section 504 (a), the Act would be weak and the Equal Employment Opportunity Commission would not cede jurisdiction.

3. Coverage of the State & Local Government.

The language in Section 201(a) which would include "the State, any of its political or civil subdivisions or agencies," is of very great consequence. It is especially needed with regard to teacher discrimination and other such actions by local government. Our survey of other states brought out the concern that State and local governments are not covered under the federal act. Our counterpart agency in Indiana stated that government provided the source of most of their complaints. Unfortunately, the Louisville Employment Ordinance does not cover government. This language in our bill's definition of "person" comes from the Uniform Model and seems to be subtly placed. We may want to avoid directing attention to it for fear of opposition. If a test came, it could be argued that any bill which covered private employment should not exclude public employment.

4. Employment Coverage.

The employment coverage figure to be placed in the blank in section 301 (a) deserves to be the focus of much attention. The document on legislation shows the comparisons with other states and the number of employers and employees who would be covered by the various figures. In the legislative process it would

be helpful to keep this figure as low as practical for as long as possible. We should be aware of the comparative ease of drafting and citing evidence to support an even lower coverage figure in future years.

5. Power in the Commission to Initiate Complaints.

The usefulness of the opportunity for the Commission and its members (but not the staff) to initiate complaints should be understood as provided in Sections 501 (h) and 502 (a). This feature is contained in the Federal Civil Rights Act and the better state laws but it was achieved only after a fight in some states. It has proven necessary in many situations where the aggrieved Negro was not able individually to pursue a complaint. We have frequently encountered this in Kentucky situations involving Negro teacher dismissals or demotions. We need it in the Act.

6. Civil Remedies.

The remedies including reinstatement, damages, etc. as provided in section 504. (b) are necessary if justice is to be achieved in employment cases.

7. Temporary Restraining Orders.

The provisions in Section 502. (f) for a temporary restraining order would seem to be especially useful if and when a section on non-discrimination in housing is added to the act, but it would also be useful in some situations in employment and public accommodation.

8. Protection Against Retaliation. Section 602 provides for a criminal sanction against those who would retaliate against a person exercising his legal rights under this Act. While the regular cease and desist procedures would reach employers, labor unions, employment agencies, places of public accommodation, etc; Section 601 and 602 would reach those not otherwise covered who intimidate complainants or other persons exercising their legal rights. The Act as a whole is not a penal statute but would be enforced through administrative and civil court proceedings. We may have to remind some persons that this provision for a fine does not apply generally but only to retaliation, intimidation, etc.

Explanation and Digest Draft Kentucky Civil Rights Act

I. Purpose

The purpose of this Act is to safeguard all individuals within the state from discrimination because of race, color, religion, and national origin in connection with employment and public accommodations. Discrimination is a matter of state concern because it invades an individual's interest in personal dignity and freedom from humiliation. Such discrimination deprives the state of the full productive capacities of individuals, foments strife and unrest, menaces the democratic institutions of the state, and damages the interests, rights, and privileges of all persons within the state.

The Congress of the United States recognized the desirability of having the implementation of the public policy of the United States (which is non-discrimination on the basis of race, color, religion, or national origin) at the state and local level. The Federal Civil Rights Act of 1964 emphasizes that its enforcement should be through state agencies which function under state laws compatible with the federal statute. The Civil Rights Act in effect says to state legislatures:

"If you will meet your responsibility to all citizens of your state, then there will be no need for federal officials to come into the state."

This state civil rights act would meet the requirements of the federal law and would provide more sensitive, more efficient, and less remote enforcement procedures than the federal law. This act uses as a model the Uniform State Civil Rights Act which is being drafted by a special committee of the National Conference of Commissioners on Uniform State Laws. This group is composed of outstanding judges, lawyers, and law professors from all sections of the United States including the South.

While the heart of the bill is contained in the three chapters covering public accommodations, fair employment practices, and enforcement; there are seven chapters in the bill as follows:

1. Declaration of Purpose; Construction; Severability
2. General Definitions
3. Discrimination in Employment
4. Discrimination in Public Accommodations
5. Enforcement; Judicial Review
6. Miscellaneous
7. Local Human Rights Commissions

II. Employment

Equal access to employment opportunities is the greatest need of minority persons today. Persons who are unemployed or under-utilized because of their race, color, religion, or national origin do not have the opportunity to contribute their full productive capacities toward a better life for themselves, their families, and for the whole society. Discrimination in employment practices is a continuing problem in Kentucky and is a problem which a Kentucky fair employment practices law can help remedy.

Employment discrimination is covered by Chapter Three of the bill. Basically, sections 302 through 307 state that race, color religion, and national origin are not lawful criteria for making employment decisions. It is made clear in section 310 that an employer can use seniority and merit systems and can make employment decisions on the basis of professionally developed ability tests. Section 311 makes it doubly clear that nothing in the act requires preferential treatment for any person or group, all that is required is equality of treatment based on individual merit. Employees can be selected on the basis of religion or national origin where religion or national origin is a bona fide occupational qualification reasonably necessary to the operation of the business or enterprise.

Like the Federal law, employers, employment agencies, and labor organizations are all covered by the act. The smaller employees of the state are not covered by the law. Most all states which have fair employment practices laws have a limitation of coverage at some level.

Title VII of the Civil Rights Act of 1964 also sets a limit, but this limit is set high enough to exclude most of Kentucky employers and a very large percentage of Kentucky employees. Kentucky should act to protect as many employees from discrimination as possible.

III Public Accommodations

There are many exceptions to Title II of the Federal Civil Rights Act. Places of active amusement and recreational facilities such as bowling alleys, skating rinks, and driving ranges are not covered by this Act. To leave such loopholes in the law perpetuates a crazy quilt pattern of ethics.

The Kentucky bill would apply generally to places of public accommodation which serve the public. Its clear coverage would be fairer to proprietors because it would apply equally to all businesses. This Uniform rule would help to eliminate anxiety and avoid incidents.

Since its creation in 1960, the Commission on Human Rights has released several studies which show that desegregation of facilities has worked wherever it has been tried in Kentucky. Kentucky is now ready to open all facilities serving the public to the whole public.

Chapter Four of the Kentucky Act covers discrimination in places of public accommodation. The places which are required not to discriminate are defined in section 402 (a). Bona fide private clubs are excluded from this definition and can establish whatever membership criteria they desire.

IV Enforcement; Judicial Review

This proposed legislation would emphasize efforts at persuasion and conciliation by the Commission on Human Rights. Only where these methods failed would the Commission be required to hold hearings. The whole enforcement procedure is based on the best available

state administrative procedure. Many of the procedures are taken from the Model State Administrative Procedure Act. Safeguards are included to protect the rights of employers and complainants from arbitrary action by the Commission at any stage of the administrative process. The availability of judicial review is an integral part of the process and is available to any party who feels that he has been aggrieved by a decision of the Commission.

The powers and obligations of the Commission on Human Rights are spelled out in detail in Section 501. The procedure for complaint, investigation, and conciliation is covered in Section 502. Section 502 (a) states who may file a complaint and sets a limit of six months within which a complaint must be filed. Employment complaints have an even shorter time limit of 120 days.

The Commission on Human Rights would be charged with the administration of this state law. Upon complaint, the Commission would conduct a preliminary investigation to determine if there is probable cause to believe that an unlawful discrimination has occurred. If probable cause is found, the Commission must proceed to encourage compliance by conference, conciliation, and persuasion. Experience has shown that the conciliation activities effectively settle all but very few cases. If these efforts fail, the Commission would serve a complaint upon the respondent, hold a public hearing, and subpoena witnesses and documents. All hearings are to be conducted in accordance with strict administrative procedures specified by the Act.

A member of the Commission who filed a complaint or who endeavored to eliminate the alleged discrimination would be barred from participating in a hearing or subsequent deliberation in that case. This separation between the investigative and hearing functions of the Commission would assure the fairness of the procedure. After hearing, the Commission could issue a cease and desist order upon a finding that the law had been violated. The final orders of the Commission could be reviewed and enforced in the local circuit courts.

If, on the other hand, the Commission staff determines after investigation that there was no probable cause, then the complaint will be dismissed. The complainant has a right to appeal this decision to the full Commission and to appeal a decision of the Commission to the courts.

Persons subject to the act are required to keep records by the provisions of Section 506 (b). Regulations for this requirement can only be issued after public hearing. In no case will this requirement be more stringent than the requirements of the Federal Equal Employment Opportunity Commission. For the purpose of uniformity and in the interest of multi-state employers, it might be helpful for the state to adopt the regulations of the Federal Commission on this matter.

Chapter Six makes retaliation and conspiracy to retaliate against anyone exercising rights guaranteed by this act an unlawful practice punishable by a fine and/or imprisonment. The bill as a whole provides for civil remedies and this sanction is only for situations where a person is not otherwise covered.

V. Local Human Rights Commissions

Government should be more responsive to the needs of people at the local level. The Civil Rights Act of 1964 provides for local implementation of the policy established by that law where local agencies have sufficient enforcement power and staff to implement the policy.

Chapter Seven is concerned with the establishment procedures and powers of local human rights commissions. Counties are authorized to create commissions and thus cities and counties can legally cooperate to eliminate unlawful discriminatory practices.

Cities and counties can pass ordinances which would be enforceable in the Circuit Courts of the state. Under present law a city can not impose an obligation on a Circuit Court which it does not already possess.

Chapter Seven thus provides for the highly desirable local legal efforts to eliminate problems, since all levels of government have an obligation to protect their citizens from the evils of discrimination.

There are provisions in this draft act which can be the subject of honest differences of opinion. The basic framework of the act, however, is the product of the efforts of some of the best legal minds in Kentucky and the United States. This framework, with its substantive and procedural provisions, is designed to help the state make a significant advance in human rights, while at the same time providing the best procedural safeguards for all parties.