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Civil Liberties

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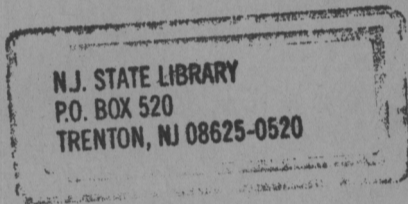
New Jersey

A REPORT

SUBMITTED TO

The Honorable Alfred E. Driscoll

GOVERNOR OF NEW JERSEY



BY THE

COMMITTEE ON CIVIL LIBERTIES

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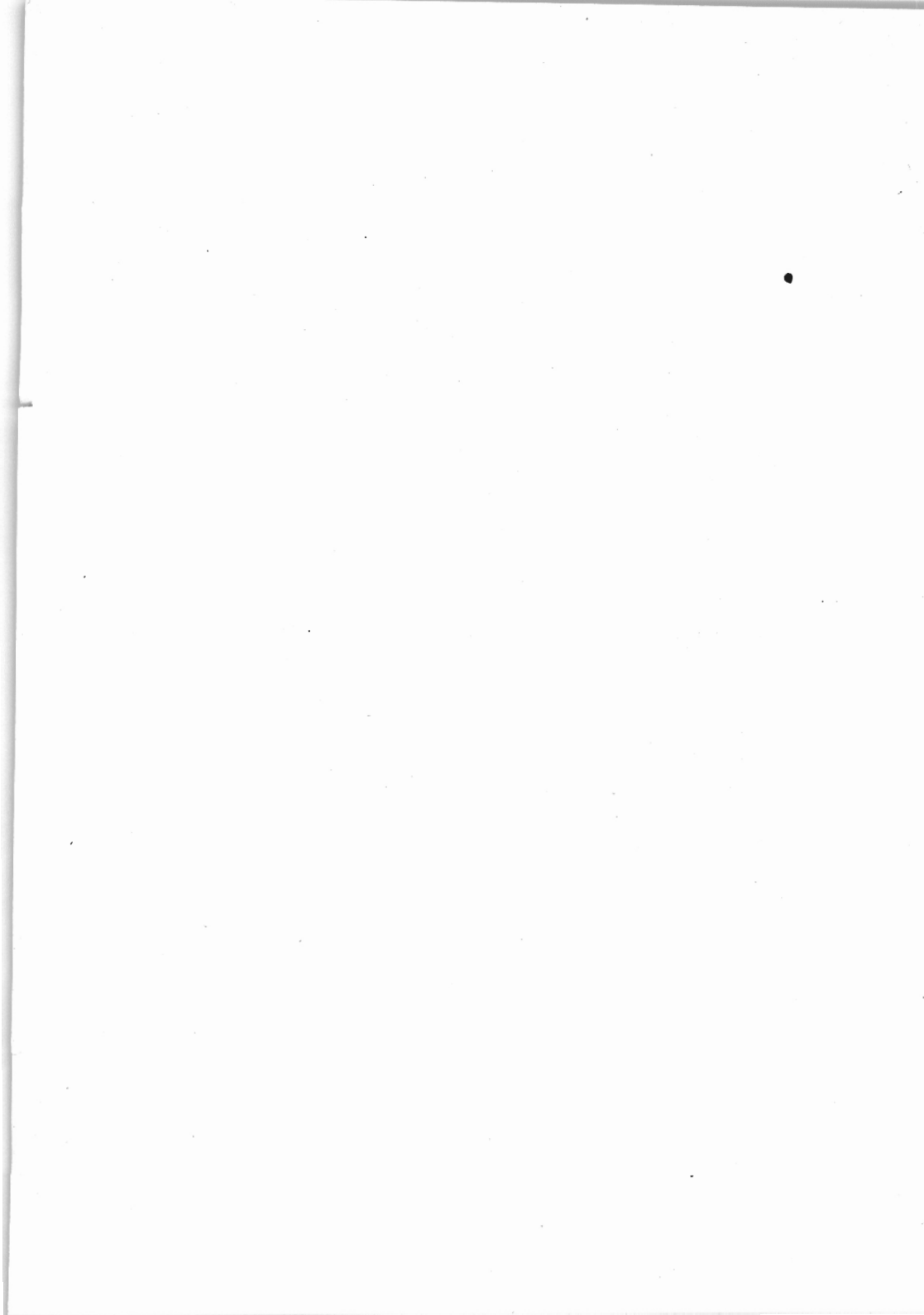
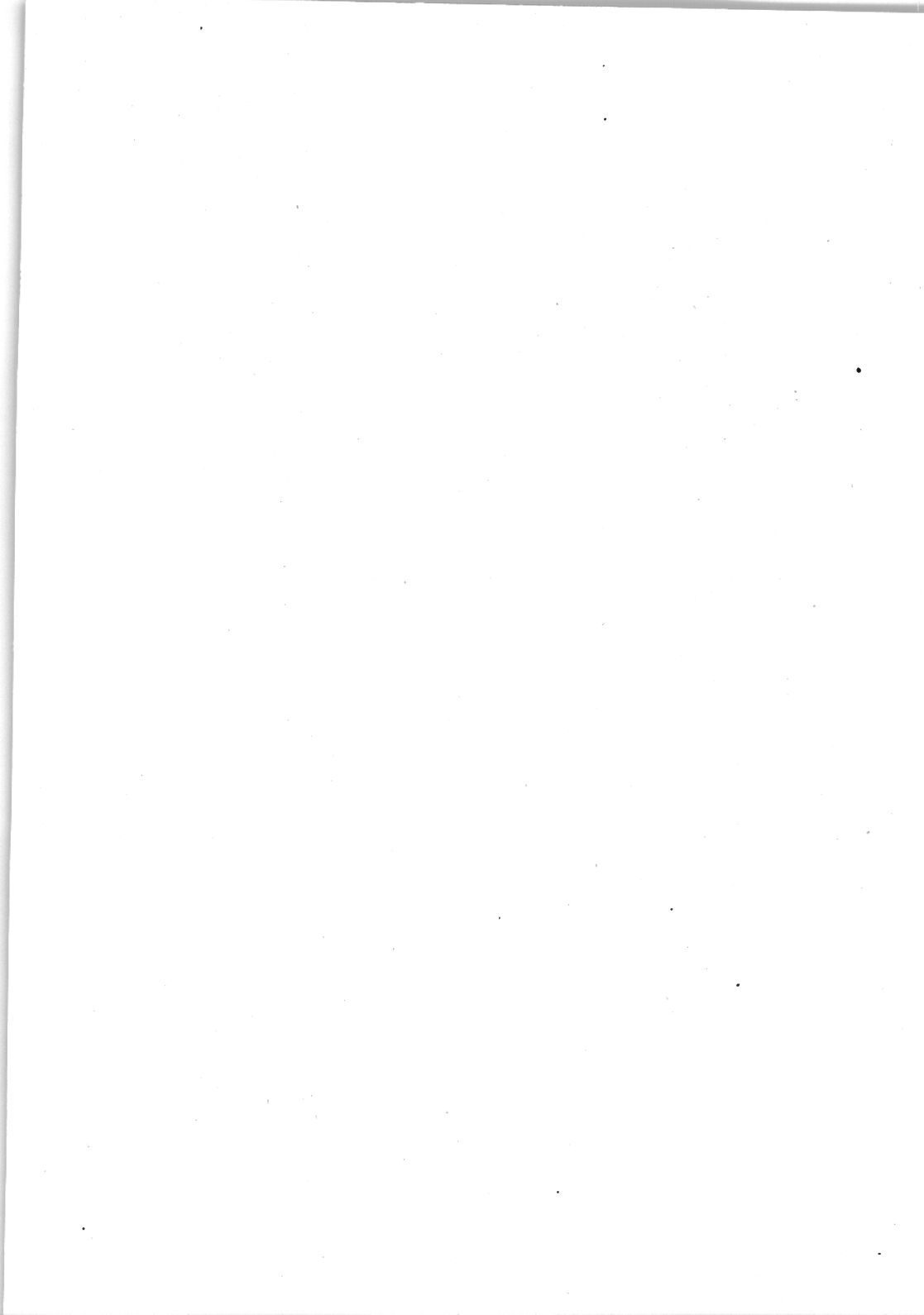


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PREFACE

The Preamble to the new Constitution which the people of New Jersey adopted on November 4, 1947, expresses the gratitude of our citizens for the civil and religious liberties which Almighty God has permitted us to enjoy, and seeks His aid in securing and transmitting those rights unimpaired to succeeding generations through the instrumentality of that Constitution.

The first Article is entitled "Rights and Privileges" and is more commonly known as the Bill of Rights. The purpose of the Bill of Rights is to set forth the principle that the people of the State have, as individual members of the State, personal rights and liberties which the government must ever recognize and protect. Among these are the right to freedom of worship, the right to freedom of speech and assembly, the right to own and enjoy property, and the right to pursue and obtain safety and happiness. These are a few of the guarantees contained in the old Constitution. All were carried over to the new.

In addition, there are new provisions, expressive of the social, political, and economic philosophy of the present day. One of these, for example, prohibits discrimination against any person because of his religious principles, race, color, ancestry, or national origin.

A mere enumeration of principles in the Bill of Rights means little unless there exists the governmental machinery to give expression to those principles. In order that these constitutional rights might be clarified and implemented, the Honorable Alfred E. Driscoll, Governor of the State of New Jersey, appointed a Committee on Civil Liberties. The timeliness of this action was emphasized by the release of the Report of the President's Committee on Civil Rights.

MISSION OF THE COMMITTEE

At the initial meeting the Governor outlined the task of the Committee as follows:

1. To appraise the present status of civil liberties in New Jersey, and to develop a policy with regard to the protection of those liberties in keeping with the new Constitution; but not to investigate alleged breaches of civil liberties; nor to explore social implications; nor to prepare specific remedial legislation.

2. In making this appraisal, to study carefully the Report of the President's Committee on Civil Rights and to ascertain to what degree its recommendations are applicable in this State.

THE COMMITTEE'S PROCEDURE

The first problem of the Committee was to determine how best to obtain an accurate picture of present conditions. It was evident that not every subject considered in the Report of the President's Committee, commonly known as the Wilson Report, needed investigation. The denial of the right of qualified citizens to vote, for example, is not a problem in New Jersey. On the other hand, problems relating to the area of freedom of expression which the Wilson Report declared to be "relatively secure" are, unfortunately, matters of some concern in this State.

The Committee divided itself into two subcommittees, the one to consider Freedom of Speech and Assembly, the other to consider the Right to Equality of Opportunity. This latter subcommittee, for example, examined such matters as discrimination in the fields of employment, housing, education, health, public accommodations and recreation.

Public officials and others familiar with the various areas of study were invited to tell the Committee of existing conditions.¹ Letters and statements were received from individuals and organizations stating their points of view.² A public hearing was held February 17, 1948, at which every person who wished to do so was privileged to state his position.³

¹See Appendix A.

²See Appendix B.

³See Appendix C.

The Committee is unanimous in its feeling that the study has called attention to many fields in which the standards of observance of civil rights in New Jersey are high. There is danger, however, that they are taken too much for granted by the whole body of citizens. While we have made some progress in observance of civil rights, the Committee has thought it wise and helpful to concentrate upon fields where we are still short in our accomplishment.

The members of the Committee express their appreciation for the able assistance of Dr. Bennett M. Rich of Rutgers University who acted as Research Consultant, and Mr. Roger H. McDonough, Director of the New Jersey State Library, who served as Secretary to the Committee.

* * *

This report is respectfully submitted by all the members of the Committee although we are not unanimous on all issues. Members have abstained from filing minority reports on those issues on which they found themselves in disagreement, feeling that the essential task of the Committee was to register in this report the settled views of the majority of its members. We do not want to complicate this report with a record of the differences of opinion inevitable in a consideration of problems of such diversity as confronted us.

We believe this procedure is in accordance with American practice and in the public interest, and feel that this whole subject can successfully be dealt with only in a spirit of give and take. The report is in no wise intended to be other than a help to the Governor and people of New Jersey in establishing a policy which will create good will in our State.

* * *

The members of the Committee are:

DR. WILBOUR EDDY SAUNDERS, *Chairman*

DR. ROBERT C. CLOTHIER

MR. JAMES KERNEY, JR.

DR. EMMA E. DILLON

MR. LOUIS B. LEDUC

DR. HAROLD W. DODDS

RT. REV. THEODORE R. LUDLOW

MR. PHILIP HOCHSTEIN

MR. WILLIAM G. MCKINLEY

MR. CARL HOLDERMAN

MRS. OMEGA V. MASON

MR. JAMES HUNTER, III

HON. VINCENT J. MURPHY

RABBI REUBEN KAUFMAN

HON. OLIVER RANDOLPH

RT. REV. JAMES F. KELLEY

MRS. THOMAS W. STREETER

MR. ROGER H. McDONOUGH, *Secretary*

DR. BENNETT M. RICH, *Research Consultant*

THE REPORT

The keystone of our American heritage is the importance of the individual person. Our country has its roots in the belief that every human being has a sacred dignity which must be respected and protected by society and by the government which acts for that society. Our experience in the preservation and development of civil rights has taught us that every individual who wishes to be secure in these rights himself must be willing scrupulously to respect, protect and preserve these same rights for all of his fellow citizens. Out of this common experience has come a responsibility to each one of us to build the kind of a society which will foster these rights and enlarge opportunities for all persons.

Civil rights or liberties arise from those demands which we, as democratic citizens, make upon ourselves and upon our society to respect every citizen as a child of God. As citizens, we are all equally bound by them. If we fail to recognize our obligation to assure these rights in full to all other citizens, we destroy the bases of our own rights. In the exercise of these rights, every individual is entitled to worship in accordance with the dictates of his own conscience, to enjoy equal opportunity to speak freely, to assemble with his fellow citizens, to be safe in his person, to obtain useful employment in accordance with his capacity, and to develop his potentiality in education. Moreover, he is entitled to an equal opportunity with every other citizen to achieve proper housing, maintain health, enjoy recreation and use various forms of public accommodation—whether they are offered at a price or not. Therefore, adequate services must be available to all citizens—men and women alike—without regard to race, color, creed or national origin. The refusal of such equality of opportunity to any individual citizen or group of citizens by reason of race, color, creed or national origin is discrimination. Such treatment is contrary to our American principles and tends to jeopardize and weaken the rights of all other citizens.

Not only does discrimination run counter to our American philosophy of life, but it takes a tremendous economic toll which is sometimes overlooked. For example, discrimination has created a wasteful duplication of many facilities and services in an effort to provide equivalent services. It tends to depress the economic status of those who are discriminated against, and thereby to throw an increased burden of taxation upon the rest of the citizens in an effort to relieve the social, economic, and physical results of such discrimination. Discrimination dries up potential resources which would and should enrich the whole body politic, if all were given an equal opportunity to make their contributions.

Only a free people can continuously question and appraise the adequacy of its own institutions. As such free men, the Governor's Committee on Civil Liberties has sought to appraise the status of the civil rights of our fellow citizens in the State of New Jersey in such matters as speech, assembly, education, housing, employment, health, public accommodations and recreational facilities.

I. PERSONAL RIGHTS—INDIVIDUAL, MINORITY, MAJORITY

FREEDOM OF WORSHIP

Freedom of religion is a basic personal right and is protected by Section 3 of Article I of our new Constitution:

“No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretense whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right or has deliberately and voluntarily engaged to perform.”

The Committee has no evidence of the violation of this right, but urges eternal vigilance as the price of continuing this freedom.

SPEECH AND ASSEMBLY

Freedom of speech has been a recurring issue in the developing history of our State. This freedom was dearly cherished in colonial days. In 1722 a 17-year-old printer's devil named Benjamin Franklin published in the pages of *The New England Courant*—“without freedom of thought there can be no such thing as wisdom; and no such thing as public liberty without freedom of speech, which is the right of every man as far as by it he does not hurt or control the right of another.”

Men have always differed as to how far this limitation upon freedom of speech should be carried. Jefferson saw no need for limiting the right, saying: “If there be any among us who would wish to dissolve this Union or to change its republican

form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated when reason is left free to combat it." (First Inaugural, March 4, 1801.)

Today, however, the problem is more complex than in Jefferson's time. The rise and spread of totalitarian ideologies has altered the environment in which he assumed democracy would live. The intention of communists and fascists, while cleverly exploiting the freedom of democracies, is to destroy them. By pretending patriotism they overthrow unwary majorities. Their efforts are not confined to the legitimate means which Jefferson had in mind, which were public persuasion by peaceful argument, culminating in a vote by the people and willing submission to the verdict of the ballot box. Later in this report we suggest means to protect our system of government against subversion without destroying the essential rights of free speech and assembly.

Freedom of speech and assembly are absolutely basic to any civilization which aspires to call itself a democracy. We tend too much to take these rights for granted. There have been recent incidents in our State where the enjoyment of the rights of free speech and assembly are claimed to have been denied to communist and other minority groups. We may not shrug off the consequences of such denials, nor justify them on the ground that the public interest was served by preventing the dissemination of seditious utterances. The right of free speech will not long endure if exceptions to its enjoyment may be raised on the current unpopularity of a minority group.

These rights should be fostered not only for the sake of principle, but for a very practical consideration as well. The crank, the fanatic, the announced enemy of our system of government, is less dangerous when given opportunity for self-expression. The zealot who is not allowed to express his ideas in public becomes a martyr and draws adherents who otherwise would have laughed at him. For all of these there should be a Hyde Park or Union Square in every large community in our State.

The Committee considers it the duty of the governing body of every municipality:

(a) To provide a place of assembly for scheduled political meetings, upon request. Such place of assembly need not be indoors.

(b) To provide a place for unscheduled discussion, where "soapbox orators" may hold forth at will.

(c) To preserve law and order while such meetings are being held.

The Committee recognizes that public schools exist primarily for educational purposes. But since they often contain the only public halls available in a community, we recommend that school boards give careful consideration to the advisability of permitting their use for the discussion of public affairs. If they are made available to any political faction, they should be made available to all political factions on the same terms. A uniform charge may be made sufficient to cover the actual expenses incurred by such use. In this connection the local board may properly require public disclosure of the sponsor and the purpose of the meeting. In the interests of consistency, we recommend that the Commissioner of Education prepare and circulate to all boards of education a model policy for the use of school facilities for public discussion.

While local school boards have generally been liberal in making their facilities available for public meetings, there will be many communities where such facilities are not adequate or are not made available. We regard it as important, particularly in each of the larger communities, that there be an established area for those impromptu public gatherings and individual speeches which are an unique, but yet healthful, manifestation of our democracy. We recommend, therefore, that the Governor appeal to all municipalities of the State, and particularly to the larger communities, to provide, wherever possible, and subject to regulation in the interests of public safety and the protection of property, public facilities, indoors or out, which may be used by groups or individuals for the purpose of assembly and discussion of public questions.

To make the exercise of these rights effective, municipal police protection is necessary. Such protection, particularly in the case of mob violence, may raise difficult problems for the

municipality. But these should not be shirked. If our civic groups would take the lead in opposing mob violence, the problems would be minimized. It should be remembered, however, that police power to regulate does not include the power to forbid lawful assemblies.

The "Hostility" Act

By Chapter 151 of the Laws of 1935, it is made a crime, punishable by a maximum sentence of three years in prison and a fine of \$5,000, to write or utter any article or speech which "in any way incites, counsels, promotes or advocates hatred, violence or hostility * * * by reason of race, color or religion * * *." This law is a legislative denial of the right of free speech. It reaches into activities never questioned before, namely, the right of our people to challenge in fair debate the beliefs and tenets of others.

In 1941 sections 3 and 5 of this act were the subject of a prosecution against members of The German-American Bund for making anti-Semitic speeches and hiring a hall for that purpose. There was a conviction, which on appeal to the Supreme Court of New Jersey was reversed on the ground that the statute violated the constitutional guarantees of free speech and assembly.¹ Had the decision in this case been by our highest court, we would have had ample assurance that the statute was a dead letter and that none of its other sections not involved in the case would ever again be invoked.

Furthermore, so long as this act remains on the statute books in its present form, it has a certain deterrent effect against the exercise by our citizens of their constitutional rights of free speech and assembly. We therefore recommend the act be amended, to confine its application to words inciting to violence.

Group Libel

The malicious and unwarranted defamation of racial or religious groups does great harm and injustice. Our common law has not developed the concept of an actionable wrong or criminal act in this connection. The subject is a difficult one re-

¹State vs. Klapprott, 127 N. J. L. 395.

quiring careful study, and we recommend that it be referred to the permanent body hereinafter proposed.

The Principle of Disclosure

Having heretofore considered the exercise of freedom of speech and assembly on the part of individuals, the Committee now presents the other side of the problem and declares that the State has an equal responsibility to protect the rights of the majority.

Events in Europe have demonstrated how easy it is for agents of a foreign country to infiltrate into a nation which is not on its guard against them; and how often individuals and groups whose purpose is to destroy that nation's form of government obtain support by disguising themselves under titles and objectives which appear harmless. The goals of totalitarianism, communist or fascist, are pursued through so-called "front" organizations, which make use of concealment and subterfuge in violation of those rules of fair play by which alone democracy can function. If we know the foundation upon which these organizations rest, they would be less dangerous. If we are in the dark about their driving forces, we cannot but be afraid. Freedom of information guaranteed by the Federal and State Constitutions is an open market place for the thoughts of all men and all groups. But the public can properly evaluate ideas only when they can determine whether they come from an ingenuous mind, from a "crackpot," or from the subversive propagandist.

Public disclosure of origins and motivations may be the answer to this problem. In this connection it is alleged that certain groups applying for use of public halls have disguised the true character of their organization and of the proposed meeting. The public is entitled to protection against such practices.

Similarly, the public needs protection in the field of publication. We considered the possibility that the practice of publication and circulation of anonymous writings with regard to government and politics, to race or creed, or to other matters of public concern, whether by book, brochure, or handbill.

might be banned by law. If publication is by an organization rather than by a single author, the name of the organization and the names of its officers and their addresses could be required to appear on the publication.

We do not believe that the requirement of disclosure will impair any individual's right. Disclosure will protect the public against imposture, and better enable it to appraise the worth of the publication.

The Committee recommends the principle of disclosure as a device for the protection of the majority and urges that the proposed permanent committee be directed to devise a procedure of disclosure that will be effective without doing violence to freedom of political activity.

Freedom of Information

It is necessary that sources of information be jealously guarded in order that we may preserve our basic right to express our opinions freely. Over the years the press has strenuously fought for complete freedom from governmental dictation. Public criticism of abuses of press freedom has resulted in the steady improvement of reporting and the separation of opinion from fact in newspaper columns.

A newspaper, particularly where it is a monopoly, has the responsibility to see that all sides of every public question are presented in its news columns. This does not interfere with its right to express its own opinion on its editorial page. By and large the press of New Jersey is responsive to this public duty. There are, however, unfortunate exceptions which occur among both daily and weekly newspapers.

The radio also has become an important medium of information. Too often misleading announcements confuse the listening public and lead to the dissemination of opinions as if they were facts. Control of radio, however, is entirely within the province of the Federal Government and the Committee does not consider further comment appropriate.

This Committee suggests that the press and radio keep constantly aware of their responsibility to present all sides of

public questions and to be as fair and accurate in their presentation of news as is humanly possible.

PROTECTION OF THE PERSON

Any consideration of personal rights would be incomplete without reference to the constant temptation which confronts the police to violate the rights of accused persons by "third degree" methods.

The remedy for this situation lies in strict and able police administration, fully conscious of its responsibility to maintain law and order in its own ranks. Education will accomplish more in this cause than legislation. The Committee recommends that a police school be established, which could be conducted by the State Police and attended by members of municipal police forces. In this way, identical standards of police administration and a high sense of responsibility for the rights of the accused could be developed.

Two temptations confront our law enforcement officers:

- (a) A desire to secure a confession, even at the expense of impairment of civil rights of the accused;
- (b) A tendency to use evidence obtained as a result of a search warrant, for purposes unrelated to the cause of the issuance of such warrant.

Both the Federal and State Constitutions emphasize the protection of accused persons from arbitrary action on the part of law enforcement agencies. This is a fundamental right concerning which the public needs to be alert. The Attorney General, as the chief law officer of the State, can take corrective action when such cases are brought to his attention.

PROTECTION FROM TERRORISM

Terrorism and the threat of terrorism are undermining influences where civil liberties are concerned. New Jersey has witnessed a number of disturbing incidents that have undermined the feeling of security of large groups of citizens. Recently, members of an infuriated mob, acting on an unsupported rumor, invaded the home of a Negro family and de-

stroyed the furnishings after the innocent residents had fled for safety. There have been a number of instances of desecration of places of public worship.

Such incidents tend to deny the most basic of all civil rights, security of person. They embitter minorities, weaken their faith in democracy, and enhance the opportunities of subversive agitators.

It is recommended, therefore, that this problem be referred to the proposed permanent committee, with the suggestion that all phases of mob behavior and terrorism be studied with a view to ascertaining causes and remedies.

LEGISLATIVE COMMITTEE HEARINGS

The basic objective of most legislative committees is the ascertainment of facts required in connection with the formulation of legislation. This is a constitutional function of such a committee, whether federal or state. It is an error to regard such hearings as involving the issue of guilt or innocence of a witness. A legislative committee has no judicial powers and may make no pronouncement as to the consequences, criminal or civil, of an individual's conduct as brought out by interrogation at such hearings, nor should it permit itself to be drawn into side issues, personal to the individual affected, which do not advance the real purpose of the investigation.

No evidence has been brought before this Committee of the invasion of private rights by legislative committees of this State. We reaffirm the clear moral duty which rests upon every legislative committee to conduct its hearings so as to avoid all possible injury to witnesses. It is important that the committee enjoy public support in the conduct of its investigations. Therefore, it should exhibit a responsible concern for the protection of all persons involved.

LOYALTY CHECKS

A Government has the unquestioned right to assure itself of the loyalty of its employees. In this respect, however, a state government differs greatly from the Federal Government. The former is not charged with international relations nor with

national defense. It has few diplomatic or military secrets and very little security is involved. Your Committee sees no possible need for wholesale loyalty checks in New Jersey. Tests for loyalty should not be confused with tests for individual competency and trustworthiness. Should an isolated case of suspected disloyalty arise, it should be treated on an individual basis by the responsible authority. In all cases the individual should be informed of the nature of the charges against him and be given the opportunity to defend himself.

RIGHTS OF WOMEN

When the new Constitution for New Jersey was adopted, a most significant change in the public policy in this State occurred in that the civil rights and privileges of women were specifically protected for the first time.

The Committee recommends that a careful examination of current laws be made so that statutory changes, where necessary, may become operative as soon as possible.

II. EQUALITY OF OPPORTUNITY

EDUCATION

There are three divisions to the problem of education. The first deals with strictly public schools, the next with quasi-public institutions, and the third with those which are strictly private.

(A) Article I, section 5 of the new Constitution says:

“5. No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools because of religious principles, race, color, ancestry or national origin.”

This provision strengthens the State Department of Education in its efforts to abolish segregation in the public schools. In approximately 50 public schools students are segregated according to color. The number of segregated schools has declined in recent years and steps are being taken by the Commissioner of Education to accelerate that decline.

There has been public discussion in New Jersey of the Springfield (Mass.) Plan by which various races are helped to appreciate and understand each other. Contemporaneously, our Department of Education has promoted a similar technique, as evidenced by Elementary School Bulletin No. 10, issued in 1945, on “Building Citizenship in a Democracy through Social Studies.” The Committee recommends it to the citizens of our State for careful and thoughtful study.

The Committee is of the opinion that so far as the public school system is concerned, the problem of discrimination is on the way to solution. We urge that the State Commissioner, the State Board of Education and the local boards of education

use every reasonable means to see that the clause in the new Constitution forbidding segregated schools in the State be carried out as promptly as possible.¹ We also recommend that supplementary legislation be enacted to implement the constitutional prohibition of segregation and that the School Code be rewritten so as to implement fully the rights now established in the new Constitution.

(B) Historically, there was a practice of selectivity in connection with the admission of students to some of our quasi-public educational institutions. This has created a serious problem which the colleges of our State are making an honest effort to remedy by admitting on the basis of qualification and without discrimination. We commend this effort and urge its continuance. Overcrowding in our educational institutions has greatly aggravated the problem of admissions. The various institutions simply cannot take all of the students who now apply.

The general standards of admission and graduation maintained by the several institutions may also lead to charges of discrimination on racial or religious grounds. If quasi-public education institutions are to function as proficient units in the complex system of American education, the right to fix and maintain general standards appropriate to their particular function must not be impaired.

The Committee is in accord with the finding of the President's Committee on Civil Rights that "It does not question the right of groups of private citizens to establish such institutions, determine their character and policies, and operate them. But it does believe that such schools immediately acquire a public character and importance. Invariably, they enjoy government support, if only in the form of exemption from taxation² and in the privilege of income-tax deduction extended to their benefactors. Inevitably, they render public service by training our young people for life in a democratic society. Consequently, they are possessed of a public responsibility from which there is no escape."³

¹A survey of this condition was not completed at the time this report was prepared.

²Partial exemption only in New Jersey.

³*To Secure These Rights. The Report of the President's Committee on Civil Rights* (Wilson Report), p. 66.

Every democratic government is dependent upon and conditioned by public opinion. In the last resort, the protection of civil rights is a matter of creating a healthy public opinion, and that public opinion is largely formed by the educational experiences of the individual citizen.

(C) In the private institution classification are the secretarial and business schools. Under present law, it is difficult to control them when they practice discrimination. The 1946-47 Annual Report of the Division against Discrimination of the Department of Education of New Jersey states: "While the representatives of the business schools in practically all cases admitted such discrimination was un-American, they hesitated to change their practices unless they could be assured that all of their competitors would also revise their admission policies. It was agreed that regulatory legislation that applied alike to all schools in this field was the best answer to the problem."¹

The problem of discrimination in business schools is related to the existing state policy of preventing discrimination in employment. The practice of some of these schools in discriminating against otherwise qualified applicants defeats the State's policy of providing equal employment opportunities. The Committee recommends that legislation be adopted so that all secretarial and business schools will reflect the public policy against discrimination established by the New Jersey Constitution itself.

EMPLOYMENT

New Jersey was the second state in the Union to pass an anti-discrimination law with reference to employment. New York passed such a law in March, 1945; New Jersey in April of the same year. Both laws became operative July 1, 1945. Chapter 169 of the Laws of 1945 forbids discrimination in employment and provides machinery to carry out the principle that discrimination in employment based on race, creed, color, national origin or ancestry is illegal. This does not mean that discrimination in employment does not occur in this State, but it does mean that an effective agency exists for removing such discrimination when it is discovered.

¹Pages 9 and 10.

HOUSING

In New Jersey all energies are now bent on producing greatly needed veterans' housing. The money for these housing projects initially came from the Federal Government and control was vested in the federal administrator. When the federal funds were exhausted, the State initiated its own program of housing. A bond issue of 41 million dollars for that purpose is being handled by the Department of Economic Development, and the State has been most active in the construction of homes. Under the State Emergency Veterans Housing Act, this housing is being erected and occupied without complaint of discrimination.

There are 32 federal and state housing projects in New Jersey at the present time, scattered over 14 municipalities. They provide housing for 8,565 families, of which 6,528 are white and 2,037 are Negro. Eight of these projects are 100% Negro and 12 of them are 100% white. Twelve of them are mixed projects and have 1,260 white families and 777 Negro families. The distribution of federal housing was originally determined by the federal administrator upon the basis of the proportion of white to Negro in the local population and their comparative needs, and antedates the new Constitution of New Jersey.¹

A serious form of discrimination arises through restrictive covenants in the use of land because of race, creed, color or national origin. The amount of land covered by these covenants is unknown. There is little doubt, however, that the practice of restricting the lease or sale of property to persons of a given race is widespread. This presents a conflict between the constitutional right to acquire, possess and protect property and the constitutional provision against discrimination. This problem is now before the Supreme Court of the United States, but an adverse decision by the Court may not inhibit the State of New Jersey from taking separate action.

The Committee is of the opinion that the situation in New Jersey should be clarified by express legislation, forbidding: (1) discrimination in public and quasi-public housing; and (2)

¹Mr. William T. Vanderlipp, Director, Planning Division, Department of Economic Development, testimony before Subcommittee on Freedom of Equality of Opportunity, January 7, 1948.

restrictive covenants based on race, creed, color or national origin.

HEALTH

Discrimination against doctors, nurses and internes in hospitals varies in different parts of the State. Public hospitals maintained solely by taxation have been obliged to do away with discrimination because of the pressure of public opinion, since the law against discrimination covers all such public institutions.

Most hospitals, however, are quasi-public institutions. They get their money from the public but exercise private control over their facilities. They are admitting Negro nurses in increasing numbers, but a majority of them still refuse even courtesy privileges to women doctors and Negro doctors.

Legally, the board of trustees of a hospital is responsible for the practice and practitioners in a given hospital, but actually the small, active hospital staff guides the board in the matter of granting such privileges. Active staffs are quite right in seeking to maintain and to raise standards for the staffs of the hospitals, but those standards should be open to achievement by all alike. These active staffs have a tendency to excuse discrimination on the ground that patients would not like women and Negro physicians to attend them. Women and Negro physicians particularly, and to a lesser degree many white male physicians, find it difficult to become qualified because of the discrimination practiced against them in training, internship, courtesy privileges, etc.

Every potential medical student in New Jersey is severely handicapped by the lack of a medical school in our State. Women and Negro medical students are doubly handicapped because of discrimination in the matter of sex and race. The Committee recommends that a medical college be established in New Jersey. It further recommends that the proposed permanent committee study the entire problem of discrimination in medical education and training, particularly in the fields of internships, nursing, staff appointments and courtesy privileges.

PUBLIC ACCOMMODATIONS AND RECREATION

New Jersey has a comprehensive law¹ providing for equality of opportunity with regard to accommodations in hotels, restaurants, theatres, etc. The Attorney General is authorized to enforce this law. The usual procedure is for an aggrieved citizen to bring a court action, but comparatively few people do this. There are still frequent violations of the provisions of this law. Negroes, for example, can never be sure when they leave the vicinity of their homes what conditions they will encounter in unfamiliar areas. Often, when they endeavor to obtain food and lodging, they are subjected to insult and humiliation. Many hotels resort to the subterfuge that no rooms are available. Many restaurants make no move to serve the Negro patron. If he does not leave during a long waiting period, grudging service may be given.

There seems to be no discrimination practiced in the use of public parks and playgrounds belonging to the State. Private or commercial recreation presents quite a different situation. Many kinds and cases of discrimination practiced by these enterprises were brought to the attention of the Committee. Apparently, many skating rinks and bowling alleys have a "gentlemen's agreement" to discriminate against Negroes. As reported to this Committee, the discrimination sometimes practiced in bowling alleys is strengthened and excused by the local proprietor because of a rule of the American Bowling Congress that it will not list the record of any team which is Negro or has a Negro player on it. This also applies with respect to some other organizations holding national contests, thus enforcing their rules upon New Jersey citizens. We suggest these organizations reconsider their discriminatory practices, especially as applied to New Jersey.

The Committee believes there would be fewer problems of discrimination in commercial recreation if adequate public facilities were provided so that all people might have an opportunity for recreation without being wholly dependent upon private enterprise.

¹Title 10, Revised Statutes of 1937 and amendments.

Because of doubts concerning its legal authority, the Division against Discrimination has never acted positively, through the issuance of cease-and-desist orders, to eliminate discrimination in the area of accommodations. The Committee recommends that this problem become the task of a definite governmental unit under the proposed permanent committee.

NEW JERSEY NATIONAL GUARD

No consideration has been given to this matter because segregation in the New Jersey National Guard because of race, creed, color or national origin has already been abolished under the provisions of our new Constitution. New Jersey is the first state to have eliminated segregation in its state militia.

III. RECOMMENDATION AS TO A PERMANENT COMMITTEE

The administrative agency now primarily concerned with the preservation of rights is the Division against Discrimination in the Department of Education. Associated with it is a State Council of seven members. The chief concern of the Division is the enforcement of the act "to prevent and eliminate practices of discrimination in employment." The Division has expressed doubt concerning its legal authority to act in any field other than employment. The jurisdiction of the Council is equally limited.

In the two years since the Division and the Council were established, much progress has been made. The Annual Report of the Division tells, for example, of the changed employment practices adopted voluntarily by many New Jersey employers. The State Council through its subsidiary regional councils has made a series of employment surveys and has advised the Commissioner of Education on problems of state-wide significance.

The provisions of the new Constitution relating to civil rights greatly enlarge the responsibilities of the State. In order to give real meaning to the new Constitution, the Committee recommends that the jurisdiction of the State Council be enlarged to include the entire field of civil rights and that it be renamed The Commission on Civil Rights, and be made responsible directly to the Governor.

The functions of the Commission would be to:

A. Study discrimination in all its forms and make recommendations to the Governor designed to prevent and eliminate such discrimination.

B. Consult with and advise the officer in charge of administering the laws relating to civil rights.

C. Survey and study the operations of the units involved in the administration of those laws.

D. Create advisory agencies and conciliation councils, local, regional, or state-wide, as deemed necessary.

E. Hold hearings when required by law or whenever it seems desirable.

F. Report to the Governor and the Legislature with respect to the work of the administrative units at such times as the Commission deems it to be in the public interest.

To carry out the purposes of the various laws within the scope of the Commission, the Committee recommends the creation of a separate administrative agency in the Executive Department. It is suggested that the present personnel of the Division against Discrimination constitute the nucleus of the proposed agency. The Committee further recommends that one unit of the agency be charged solely with the administration of the law against discrimination in employment, and that another unit, or units, administer laws relating to other areas in the field of civil rights.

IV. CONCLUSION

In conclusion, we re-emphasize our conviction that the basic solution of the problems involved lies in constant education of the public concerning their civil rights, and more particularly their obligation to grant and safeguard those rights for others. No amount of legislation and no amount of ingenuity in governmental structure by themselves will suffice to accomplish this result.

Local communities must be encouraged to examine themselves and to set their own houses in order. We believe that the recent Montclair (N. J.) Civil Rights Audit was a healthy demonstration of democratic concern for the community by the community. We commend it for study by other localities.

A real concern for the observance of all civil rights and the abolition of all discrimination is of vital importance at the present time. The threatening mass hysteria of a war-weary world is aggravated by those who would serve their own purposes by stirring up conflicts between management and labor, black and white, Jew and Christian, Protestant and Catholic. The glory of our country is that we have become a unified nation out of a diversity of peoples. We must hold to that unity and practice it because the hope of the world lies in the wider realization of that unity. Reluctantly, we as a nation are being forced into a position in world affairs where our example and influence are beyond measure. This imposes an obligation upon each one of us to be true to our history and to demonstrate to the world that unity can come out of diversity when all of us grant to all others every right which we claim for ourselves.

APPENDIX A.

PUBLIC OFFICIALS AND OTHERS WHO APPEARED BEFORE GOVERNOR DRISCOLL'S CIVIL LIBERTIES COMMITTEE

- Dr. Lovell Bixby, Deputy Commissioner of Correction and Parole, New Jersey Department of Institutions and Agencies
- Dr. John H. Bosshart, Commissioner of Education of New Jersey
- Dr. L. Greeley Brown, Elizabeth, New Jersey
- Dr. James E. Bryan, Medical Society of New Jersey
- Mr. Joseph L. Bustard, Director, Division against Discrimination, State Department of Education of New Jersey
- Dr. Henry A. Cotton, Deputy Commissioner of Hospitals and Mental Hygiene, New Jersey Department of Institutions and Agencies
- Mr. J. Harold Johnston, Executive Director, New Jersey Hospital Association
- Mr. Harold Lett, Division against Discrimination, State Department of Education of New Jersey
- Dr. E. Mae McCarroll, Newark City Hospital
- Dr. Donald Marshall, Secretary, New Jersey Medical Society
- Dr. Frederick J. Quigley, Medical Society of New Jersey
- Hon. John J. Rafferty, former Judge of the Court of Errors and Appeals
- Mr. William T. Vanderlipp, Director, Planning Division, New Jersey Department of Economic Development
- Hon. Walter D. Van Riper, Attorney General, State of New Jersey
- Mr. Charles P. Wilber, Director, Division of Forestry, Geology, Parks and Historic Sites, New Jersey Department of Conservation

APPENDIX B.

LIST OF ORGANIZATIONS AND INDIVIDUALS FROM WHOM COMMUNICATIONS WERE RECEIVED

American Brotherhood, The National Conference of Christians
and Jews
American Civil Liberties Committee, Arthur Garfield Hays,
General Counsel
American Jewish Congress, New Jersey State Region
American Veterans Committee, Brooklyn Chapter 16
American Veterans Committee, Montclair, N. J., Chapter
Americans for Democratic Action, New Jersey Chapter
Congress of Racial Equality
Miss Marietta L. Edinger
Mr. John J. Fleck
Group of Princeton and Rutgers Professors, Mr. Frank D.
Graham
Mr. George Jacobs
League of Women Shoppers, Inc., New Jersey Chapter
Military Affairs Committee, Hilmar L. Jensen
National Association for the Advancement of Colored People,
Trenton Branch, Mrs. Lenora W. Freeman
New Jersey Afro-American, O. S. McCollum
New Jersey Federation of Business and Professional Women's
Clubs, Inc.
New Jersey Independent Citizens League
New Jersey State Council, CIO
New Jersey Urban League, Mr. George H. Robinson
Passaic County Industrial Union Council
Mr. Harry Polonsky
Mr. Raymond Reid
Soroptimist Club of Trenton, N. J., Norma W. Erickson, Presi-
dent
South Jersey Industrial Union Council, CIO
Station WAAT, Mr. Ira Y. Hecht, Jr., Newark, New Jersey
(extending use of radio facilities)
Miss J. Margaret Warner
Miss Charlotte Gertrude Wells

Mr. Clifford Whitlock
Mr. Thomas C. Williams
Workers Defense League

APPENDIX C.

LIST OF PERSONS WHO TESTIFIED AT PUBLIC HEARING HELD IN ASSEMBLY CHAMBER, STATE HOUSE, TRENTON, FEBRUARY 17, 1948

Geoffrey Berrien, New Jersey State Council, American Veterans
Committee
Arthur Brown, Civil Rights Congress of New Jersey
Manuel Cantor, Legislative Representative, Communist Party
of New Jersey
Jerome C. Eisenberg, Joint Council for Civil Rights
Robert Fessl, Communist Party of New Jersey
Mrs. Estelle Goldblatt, National Council of Jewish Women
James Imbrie, New Jersey Independent Citizens League
George Jacobs, Trenton, N. J.
Hilmar L. Jensen, Military Affairs Committee
Harry Kranz, Chairman, Legislative Committee, New Jersey
State Council, CIO
Harold Lett, Division against Discrimination, State Department
of Education of New Jersey
Charles Nusser, Newark, New Jersey
Meyer Pesin, Representative, Committee on Racial Equality,
American Civil Liberties Union, and the Inter-racial Council
of Goodwill
Sidney Stein, State Chairman, Communist Party of New Jersey
Charles Williams, National Association for the Advancement
of Colored People, Trenton Branch
Clayton Williams, Chairman, Camden County Council Against
Discrimination



