"Although the task of providing equal opportunities for all persons without regard to superficial physical or cultural differences is far from complete, New Jersey has blazed trails in the improvement of human relations that merit serious reflection."

Marion Thompson Wright
in the *Journal of Negro History*,
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Perspective on:

CIVIL RIGHTS IN NEW JERSEY

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The Division Against Discrimination of the New Jersey State Department of Education has completed 10 years of service in the field of civil rights and anti-discrimination. This article attempts to view with perspective the civil rights program in New Jersey. It tries to see the progress of man toward brotherhood from the long view, to note the beginnings of the civil rights program in our nation following the Civil War, and to trace the results of New Jersey's civil rights laws prior to the enactment of the present Anti-Discrimination Law in 1945. Mention is made of the results of the present law and of the role of education, which this law makes a primary responsibility of the Division. The article concludes with a look to the future and with suggestions concerning possible next steps in improving the New Jersey program.

WHAT are our civil rights?

Webster's *New World Dictionary* defines them as:

> those rights guaranteed to the individual by the 13th and 14th Amendments to the Constitution of the United States and by certain other acts of Congress; especially, exemption from involuntary servitude and equal treatment of all people with respect to the enjoyment of life, liberty, and property and to the protection of law.

In 1889, Justice Dixon of the Supreme Court in New Jersey *State v. Powers* 51 N.J.L. 432, 433; 17 A 969 said that civil rights were ". . . those rights which the municipal law will enforce, at the instance of private individuals, for the purpose of securing to them the enjoyment of their means of happiness." Today we have, of course, gone beyond the idea that municipal law, only, will enforce civil rights laws, but the idea of "the enjoyment of their means of happiness" seems to take on greater meaning in terms of civil rights as the roles of law and of education expand.

There are those who would separate the civil liberties field from the field of civil rights. Webster's *New World Dictionary* says that civil liberties are:

> guaranteed to the individual by law; rights of thinking, speaking, and acting as one likes without interference or restraint except in the interests of the public welfare.

It seems difficult, by comparison of definitions to make a clear-cut separation. Justice Dixon's "enjoyment of their means of happiness" seems very close to "acting as one likes without interference or restraint." It might be fair to say with appropriate reservations that "civil rights" emphasizes the *action* phase of our rights and liberties. It is clear, however, that there is a discernible relationship between civil liberties and civil rights. The notion has been advanced by Richard Hofstadter (1.) that the type of personality which, because of prejudiced attitudes, would deny civil rights appears to be the same type of personality which is likely to be the "typical pseudo-conservative", and who would at another time and place deny civil liberties.

We shall be concerned here with those civil rights of persons which are or may be infringed because of the person's race, creed, color, national origin or ancestry.

Philosophical Basis of Civil Rights

The idea that a person has rights *as a person* has gained recognition slowly in the course of human affairs. The concept of the worth of the individual self (or soul) is a tenet of all the major religions going back through several thousands of years. It is surely a prominent tenet of the Christian faith; yet this idea of individual rights has been violated again and again, even in our times. As Gerald W. Johnson has said

> "There were times when it seemed that he (the common man) had no rights that anyone was bound to respect . . . Whether in Massachusetts . . . or in North Carolina . . . or in Louisiana . . . or in Chicago . . . everywhere it seemed that the plain American had no defense as against the aristocratic, the rich, the vicious, or the criminal. An incredible tale, indeed, and an incredible fate for him who had lately aspired to establish the rule of justice under law from pole to pole.
>
> "But it is sustained by the records. It is thoroughly documented. It happened." (2.)

So, it did happen. But at the same time, as we shall show later, the idea of personal worth was being recognized more and more.

One of the phases widely discussed, particularly in our society, is that of freedom of opportunity. This idea has evolved as man has freed himself from the primitive belief that everything in nature was controlled by good and evil spirits outside of his control. As long as man cherished the belief that his welfare lay in winning favor from spirits by means of magic ceremonies and sacrifices, there were unlikely to be any improvements in his way of life. Happily, for progress in civil rights, we are growing more and more to see that, under the laws of a beneficient God, man can—indeed, has the obligation—to improve his lot and that of his fellowmen.

Some would use the concept of freedom to support discrimination. One hears such expressions as—

"Is the law going to tell me whom I can or cannot employ?"

"Should the law tell me to whom I may or may not sell my goods or my house?"

"Am I not free to associate or not to associate with whom I please?"

The answers to such questions seem to be emerging in such statements as these which are being increasingly widely accepted:

"A man is entitled to be employed in any job for which he is qualified regardless of his race, creed, or color."

"If you run a business catering to the general public, you cannot refuse your services to any person who can pay your price just because you do not like his race, religion, or color."

"You may not refuse to be in company with any other person in public places to which he is entitled to go as you are by virtue of his citizenship."

Such replies as have been quoted seem to imply that the Golden Rule is a rule of action. If you wish to be accommodated in public services (privately or publicly operated), you must be willing to have other citizens similarly situated, likewise accommodated. The idea

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is growing, too, that this Golden Rule of action must, if necessary, be implemented by law.

Historical Growth of Human Rights Concepts

Growth in the idea of rights to be accorded an individual may be traced apart from religious and philosophical considerations (although this growth is held, by this writer, to be religiously oriented wherever it appears). The idea of the individual's possession of a self or soul, considered in many early primitive cultures to be separate from the body, is the very root and substance of the idea of personal worth. Sir James George Frazer says

> ". . . the savage thinks of it (life) as a concrete material thing of a definite bulk, capable of being seen and handled, kept in a box or jar . . . It is not needful that the life, so conceived, should be *in the man.* (italics mine) . . . So long as this object which he calls his life or soul remains unharmed, the man is well . . ." (3.)

This individual life substance is the thing that counts. Through the march of time the idea of its worth ebbs and flows. It has never yet died in any age. On the whole the idea seems to have gained strength.

It may be worth comment that the vaunted Greek civilization, valuing as it did freedom of the mind, did not extend the concept of individual worth to all mankind. The Greek freedom of the mind did not include freedom of opportunity for all. Even so great a thinker as Aristotle raises and answers the question of slavery as follows:

> "But is there anyone thus intended by nature to be a slave, and for whom such a condition is expedient and right? . . .
>
> "There is no difficulty in answering this question, on grounds both of reason and of fact. For that some should rule, and others be ruled is a thing not only necessary but expedient . . ." (4.)

It is to be further noted that Athens, at the climax of its power, had a population of about 300,000. Of this number half were slaves and strangers. Thus it was that in the so-called Greek democracies ". . . the citizens formed a *closed* corporation, ruling sometimes, as in the case of Athens in its great days, a big population of slaves and outlanders". (5.)

As in Greek culture, human rights were circumscribed in Rome. Although they were citizens, the Roman plebeians were shorn of political power and were grievously oppressed by their wealthy fellow citizens. They were somewhat better off than the slaves in Athens in an earlier day, but not much better off. They could, as citizens, appeal to the assembly of the people when their lives or rights were at stake. But their burden of debts and the unfair distribution of the territories won by conquest were so grievous to them that in 494 B.C. they resorted to what may be called a general strike. They left the City of Rome threatening to build a new city. This action so terrified the Patrician rulers that they agreed to cancel all debts and to release those imprisoned for debt. The plebeians went on to demand and get a plebeian assembly, written laws, the right of intermarriage with patricians, the right to hold public office, equality in voting. Here were civil liberties and rights hard won, as so often they have been by the common man, by vigorous and active protest against the unjust and inhumane administrations of the dominant ruling group. (6.)

Perspective on progress in civil rights requires mention of the gains made by our English forefathers. The Magna Carta, wrung from King John in 1215, made England a legal, rather than a regal state. "It rejected the power of the king to control the personal property and liberty of every sort of citizen—save with the consent of that man's equals." (7.) This was a monumental gain. Later, the English Bill of Rights, passed in 1689, affirmed the primacy of Parliament, guaranteed free elections, and the right to have arms. It opposed excessive bail and cruel and unusual punishment. "Its emphasis on fundamental rights became an accepted view among English speaking peoples everywhere." (8.)

All that has been reviewed thus far, and much that has not been reviewed, foreshadowed the Universal Declaration of Human Rights passed on December 10, 1948 by the General Assembly of the United Nations. In this document "human rights" becomes an international concern. This charter deals with such rights as those of freedom of information, status of women, access to education, and the protection of minorities.

Thus, as this brief and inadequate review points up, the march has been long. Gains have been made at great sacrifice, usually through the vigorous action of a few leaders. Even yet, the rights of man are no more than stated—and perhaps not yet adequately stated. But they have been stated and approved by the United Nations; and this fact is of inestimable value and importance. New Jersey may well be proud to be in the forefront of this great movement.

Civil Rights in the United States (9.)

In 1865 the Thirteenth Amendment, abolishing slavery, was ratified. In 1866 Congress passed a Civil Rights Bill. It was vetoed by President Johnson, but Congress passed the bill over his veto. In effect the act guaranteed to Negro citizens the same rights accorded to white citizens. Because there were those who doubted the constitutionality of this act, the Fourteenth Amendment forbidding abridgement of rights without due process of law was passed and was ratified in 1868. The Fifteenth Amendment providing against discrimination in suffrage on account of race, color, or previous condition of servitude was ratified in 1870. With constitutionality, in effect, guaranteed, Congress on May 31, 1870, enacted a new Civil Rights Act. It re-inforced the Act of 1866 with additional provisions and safeguards. In 1875, Congress passed an act protecting all citizens in their civil and legal rights, giving Negroes as well as whites access to places of public accommodation. Under this act an aggrieved person could recover $500, and the offender was guilty of a misdemeanor.

The civil rights acts just mentioned created a new concept of equality as Konvitz says—

> ". . . that in the absence of slavery, no man should be subject to the incidents of slavery; that where the reality or substance of slavery is gone its visible form or appearance should not be seen. The legislation was probably the first in the history of mankind to destroy the branches of slavery after its root had been destroyed." (10.)

Following the passage of this legislation the Supreme Court embarked upon what amounted to a negation of this legislation in the separate states. The Court's decisions on the Civil Rights cases were far-reaching. Specifically the Court decided:

> "1. Race distinctions with respect to enjoyment of facilities (in places of public accommodation) violate no constitutional guarantee.
>
> "2. Individuals are free to make such distinctions without interference from the Federal government.
>
> "3. States are free to make (or even compel) such distinctions without violating any constitutional guarantee." (11.)

The effects of the Court's action at that time are with us today. This action has, only in our own time been rectified to any degree. It does now appear that recent decisions of the Supreme Court—notably those regarding segregation of students in schools and colleges—are creating a new era in civil rights throughout the nation. Decisions of the Court in the last decade are far-reaching in reversing a trend as were the decisions in 1883 in establishing that trend.

Civil Rights Laws in New Jersey (12.)

Interest in civil rights for Negroes in New Jersey preceded the Civil War. A New Jersey Law in 1804 made possible the gradual emancipation of slaves. A statute passed in 1846 made all remaining slaves apprentices for life; thus these former slaves, though not wholly free, could not be discharged or sold without their own consent.

Some of the character of the thinking at the national level, discussed in the previous section, was reflected in the actions of the New Jersey Legislature with respect to the ratification of the Fourteenth and Fifteenth Amendments. Thus it was not until 1871 that the Fifteenth Amendment was ratified and it was in 1875 that the word "white" was removed from the section of the State Constitution governing the exercise of the right to vote.

In 1881 a law was passed by the New Jersey Legislature forbidding the exclusion of children from a public school because of nationality, religion or color As Dr. Wright says, this law was immediately sabotaged by certain Negro groups through their acceptance of segregated schools. (13.) At the same time, this law was probably effective in preventing establishment of segregated high schools, and, of elementary schools in some communities (as this writer has heard Dr. Wright remark).

In 1884 the first civil rights law was enacted in New Jersey. This law (N.J.S.A. 10:1-2) grants equal rights and privileges to all persons in public places. Other sections of the law define the meaning of "places of a public accommodation", while the law (N.J.S.A. 10:1-6) sets a penalty for offenders of a fine of $100 to $500 and not more than ninety days in jail or both. Dr. Wright states that later amendments to these laws were such as to discourage suits by aggrieved persons. Other laws, enacted forbade discrimination on jobs under contract by the State or its subdivisions. An 1889 law (N.J.S.A. 34:9-1) forbade employment of aliens on public works and indicated preference for resident citizens (though the charity and the worth of this notion may be questioned). A statute (N.J.S.A. 2A:135-12) passed in 1936 supplementing a law enacted in 1889 prohibited inquiry of an applicant for relief concerning his religion, creed or politics, national origin, or ancestry. During World War II the New Jersey Legislature forbade discrimination in industries engaged in defense work, and guaranteed access to places of shelter during an air raid alarm regardless of race, creed, or color.

But in spite of the laws just mentioned, segregation and discrimination were widespread, and the laws were little used. Education was having its effect, however. As Negroes became better educated and better organized, and as other minority groups in New Jersey became well organized, a re-birth of interest in civil rights came about. No doubt the common effort required by all of the citizens of the State in World War II had a profound educative effect. At least a notable change is apparent in the passage of the Anti-Discrimination Law at the close of World War II. Before dealing with this subject, however, let us examine in some detail the uses of the civil rights laws up to the present time.

Civil Rights Cases in the Courts

The existence of a law against discrimination in itself may mean little in giving to members of minority groups their civil rights; that is, if we may judge by the record in New Jersey. As has been shown, a civil rights law guaranteeing access to places of public accommodation, regardless of race, creed, color or national origin, and including penalties for violation thereof has been in force in New Jersey since 1884. In terms of discrimination on the basis of race, creed, color or national origin, the basis on which the present anti-discrimination law is enacted (eligibility for military service was included in 1950), we have been able to locate only fifteen cases before the New Jersey courts between 1881 (the date of the enactment of the school law) and the present. (14.) In all too few instances, as we shall see, has the aggrieved individual been granted redress. Legal technicalities, strange (to us) reasoning on the part of the courts, as well as defective legal procedures by counsel, have, in large measure negated the effects of the civil rights laws in the few instances when they were invoked. As we review the record, there is little cause to wonder why the civil rights laws in New Jersey have been so little used. Plaintiffs, for the most part, have gotten nowhere. Let us look at the record.

When Negroes in Fair Haven demanded the right to attend the white school, the result was the enactment, in 1881, of a law prohibiting the exclusion of any child from a public school because of nationality, religion or color. In 1883 in the case of *Pierce v. Union District School Trustees*, 46 N.J.L. 76, (1884) the Burlington Board of Education was ordered to admit a Negro child to the school nearest his home. The court ruled:

> "The relator was . . . entitled to have his children educated in the public school nearest his residence, unless there was some just reason for sending them elsewhere."

Thus a fundamental principle was established, but, as in the Fair Haven situation, it was a victory in one in-

stance only; for the City of Burlington maintained a separate school for Negroes until 1948.

In the case of *State v. Twining* 73 N.J.L. 3, (1905); 62A 402, although it bears not upon discrimination, but upon submission of a false record, the court ruled the penal clauses in other acts were definite; that they were not in conflict with the State Constitution; and that they did not need to be enacted under the title of "An act for the punishment of crimes".

Although the Legislature passed an act in 1884 (L. 1884, c. 56) making it a criminal offense for a cemetery company to refuse to permit the burial of a deceased person because of his color, this law was apparently not invoked until 1908. Then in the case of *Corin v. Glenwood Cemetery* 69A 1083 (1908) the Court of Chancery said that "the bill is defective in its allegations and will have to be amended." This conclusion is prefaced by this statement:

> "The argument here is that this act is not relevant to the present situation, because while burial may not be refused to colored people, proof that in the case of white persons, where there was a "hurry call", the sexton had implied authority to give receipts and let purchasers into possession, is not proof that he had such authority in the case of colored persons; the by-laws containing an express prohibition against selling to them . . ."

In 1912 in the case of *Miller v. Stampul* 83 N.J.L. 278 (1912); 84A 201 Miller, a Negro, who had been ejected from a Passaic theater was granted $500 damages, by the District Court. The case was tried without jury. On an appeal to the Supreme Court, the Court laid down the principle that "the only person entitled to sue is the one discriminated against for any one of the reasons specified by the statute."

In the same year, the Supreme Court ruled against the plaintiff in the case of *Shubert v. Nixon Amusement Co.* 83 N.J.L. 101 (1912); 83A369 saying he had no right to damages. The Court reasoned that the allegation was wanting that Shubert—who had bought his ticket and was seated—was ejected because of race, color, or previous condition of servitude. One may wonder at the reasoning of the Court in this statement:

> ". . . whatever views may be entertained as to the natural justice or injustice of ejecting a theatre patron without reason, after he had paid for his ticket and taken his seat, we feel constrained to follow that decision (Wood v. Leadbetter) as the settled law, and leave the question of changing it to the Legislature, to whom the decision of such questions belongs."

We were unable to locate any cases bearing on discrimination because of race, creed, color or national origin between 1912 and 1926. In the year 1927 in the case of *Raison v. Board of Education, Berkeley Township* 103 N.J.L. 547 (1927), 137A847 the court said a child could not be excluded from a school because of his color.

In the case of *Patterson v. Board of Education, Trenton* 11 N.J.Misc. 179 (Suf. Ct. 1944), 164A892 the Supreme Court ruled in 1933 that a Negro student could not be denied the use of the Central High School swimming pool. Justice Donges words are worth quoting:

> ". . . To say to a lad, you may study with your classmates, you may attend the gymnasium with them, but you may not have swimming with them because of your color, is unlawful discrimination."

In 1934 the Court of Errors and Appeals affirmed this decision 169A-690 (1934).

In 1939 in the case of *Bullock v. Wooding* 123 N. J. L. 176 (1939), 8A 2nd 273, the municipal ordinances setting up a separate beach for colored in the City of Long Branch were challenged. The Supreme Court ruled that the plaintiff was entitled to a writ of mandamus to compel the respondents to grant her a license to use any beach.

In January, 1944, in the year prior to the passage of the Anti-Discrimination Law the Supreme Court in the case of *Hedgepeth v. Board of Education, Trenton* 131 N. J. L. 153 (1944), 35A 2nd 622, ordered the Board to desegregate the Lincoln School. This school was attended by Negro students in grades kindergarten through nine—many of them passing other schools to get there. The Supreme Court said:

> ". . . The sole question presented is the legal right of the respondent to refuse these children admission in the school nearest their home . . . It is unlawful for Boards of Education to exclude children from any public school on the ground that they are of the Negro race."

In 1948, the Superior Court in *State v. Rosecliff Realty Co.* 1 N. J. Super. 94 (1948), 62A 2nd 488, overruled the County Court and said that a swimming place is a place of public accommodation.

A case of great moment under the New Jersey Civil Rights laws was that of *Seawell v. Macwithey et. al.* 2 N. J. 563 (1949), 63A 2nd 542. This is the case which negated the attempt to segregate Negroes in the East Orange veterans' housing program. The case was before the Chancery Division of the Superior Court in January, 1949. Judge Stein stated:

> ". . . by the Fourteenth Amendment the colored race was raised to the dignity of citizenship and equality and the states were prohibited from abridging the privileges and immunities of persons of that race. This Amendment has uniformly been held to protect all persons, white or black, against discriminatory legislation or action by the states . . ."

Judge Stein said further:

> ". . . The public funds emanate from common sources without distinction of color, race or creed. The duties and responsibilities of citizenship are discharged alike by the white and colored citizens, witness the effort made, the blood shed, and the lives sacrificed on common battle fields by citizens of all kinds of color, creed and race. Man's sense of justice, coupled with an enlightened understanding of our common humanity, would dictate that if there were to be no segregation in the field of civic duty and sacrifice, there be none in the realm of human dignity and equality."

He said further:

> ". . . I hold that the segregation, frankly admitted by the city authorities, is unlawful discrimination and violates not only our general policy of the law but also the provisions of the very statute under which these projects have been erected."

In the case of *State v. Stewart* 2 N. J. Super. 15 (1949), the charge was that Negroes were not on the jury. The Court dismissed the case on the grounds that it was not proved that Negroes had been consciously omitted from selection for jury duty. The Court pointed out

that the responsibility of the jury commissioners was only to select people without regard for race, creed or color.

In 1949, the Supreme Court in the case of *Washington National Insurance Company v. Board of Review* 1 N. J. L. 545 (1949), 64A 443, ruled that, while certain insurance agents had been excluded from the benefits of the law, there was no indication that this had been due to race, creed or color.

Another important case was that of *Valle v. Stengel* 75 F. Supp. 543 (D. N. J. 1948). This case was in the District Court in 1948. It was alleged that the defendants owned and operated an amusement park; that a Negro plaintiff paid his fee and was admitted to the park but was denied use of the swimming pool; that he was forcibly ejected by the defendants, one of whom was the Chief of Police of the Boro of Fort Lee. The Court, making great moment of the Fourteenth Amendment, particularly the phrases *under color of any statute* and *deprivation secured by the Constitution*, ruled that the allegations could not be sustained. Judge Smith said:

> "The ejection of the plaintiffs from the park after their admission upon payment of the usual fee was undoubtedly a breach of contract, and their forcible ejection from the park by the defendants may have constituted an assault. These were private wrongs which may be redressed in the state courts and under the laws of the State; they were private wrongs which may be redressed in this court under the laws of the State, provided, of course, that the elements essential to jurisdiction, 176 Fed. Rep. 2nd 697, are present. The claims for relief based upon these wrongs, however, are not cognizable under the Civil Rights Act." (Federal Supplement 75:543).

The decision of the lower court was reversed by the United States Court of Appeals, Third Circuit in August, 1949. 176 F. 2nd 697 (3rd Cir. 1949) The Court said:

> "A person who acts by virtue of an office conferred upon him under the authority of State law and purportedly pursuant to State law is acting under "color of law". 176 F. 2nd 697, 701.
>
> "Any citizen of New Jersey was entitled to use the swimming pool. It follows, therefore, that any citizen of the United States was entitled to use it." 176 F. 2nd 697, 704.

In the case of *Taylor v. Leonard*, before the Superior Court of New Jersey in 1954, 30 N. J. Super. 116 (1954), 103A 2nd 632, the Court held that the policy of segregation which had been practiced by the Elizabeth Housing Authority was discriminatory and a violation of Federal and State Constitutions and the Housing Act even though equal facilities had been provided. Justice Sullivan went on to question the validity of the quota system. He said:

> "The evil of a quota system is that it assumes that Negroes are different from other citizens and should be treated differently. Stated another way, the alleged purpose of a quota system is to prevent Negroes from getting more than their share of the available housing units. However, this takes for granted that Negroes are only entitled to the enjoyment of civil rights on a quota basis.
>
> ". . . It makes no difference that equal facilities are provided for Negroes. Segregation necessarily implies that Negroes must be kept separate and apart from other people. Like the quota system it is premised on the concept that Negroes are different."

Justice Sullivan went on to champion the cause of equal opportunity for all citizens with this ringing statement:

> "The eventual survival of any form of government necessarily depends on the equal apportionment of the rights and privileges of citizenship as well as its obligations and duties among all citizens irrespective of race, color, or creed. Such a principle has long since been the keystone of our national and state form of government."

The following generalizations seem to emerge from the cases reviewed:

a. In cases involving the zoning of schools in a community, the principle seems to have been stated unequivocably that a child is entitled to attend the school nearest his home without regard for race, creed, or color unless there are compelling reasons to cause him to attend some other school. (15.)

b. In a few instances, persons discriminated against have received redress in the courts including the fining of defendants.

c. In other instances, it appears that the courts have found technical reasons for not giving redress in cases of discrimination even though the evidence seemed to point to discrimination.

d. It would appear that the existence of civil rights laws in themselves does not guarantee to many individuals their civil rights when the action must be taken by the individual himself through the employment of counsel.

The Constitution and the Anti-Discrimination Law: Results

We turn now to a consideration of the effects of a special agency charged with the responsibility of eliminating discrimination as defined by law. Such agencies now exist in a number of states and municipalities.

The Constitution of the State of New Jersey contains the following paragraph (Article I, section 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."

Prior to the establishment of this constitutional provision in 1947, the New Jersey Legislature enacted the Anti-Discrimination Law designed to protect all persons in their civil rights and to prevent and eliminate practices of discrimination against persons because of race, creed, color and national origin. The act in 1945, provided sanctions designed to eliminate discrimination in employment. The law was amended in 1949 to include places of public accommodation; in 1951, to include discrimination because of liability for service in the armed forces; and in 1954, to include discrimination in the field of public-aided housing.

Under this law, there was established in the Department of Education a Division Against Discrimination consisting of the Commissioner of Education and a State Civil Rights Commission. The Civil Rights Commission is made up of seven individuals serving without pay.

The staff of the Division Against Discrimination at present comprises eleven professional workers and four secretaries. As of the end of the year 1955, the Division had processed a total of 2167 formal complaints, informal complaints and special investigations. The greatest number of complaints received was in the field of employment where 1408 formal and informal complaints were processed. Of this number about half have been dismissed after investigation as indicating no probable cause of discrimination. The remaining cases have been satisfactorily adjusted. The public hearing called in June, 1955, to hear complaints against the Erie Railroad dining car service was the first public hearing to be called in employment cases during ten years of effort.

In the field of public accommodations, 318 formal and 136 informal complaints have been processed. Of this number, about one out of five has been dismissed as having no probable cause, while the remaining cases have been satisfactorily adjusted in all but six instances. In these six instances public hearings were called, each resulting in a cease and desist order or a consent order, either of which enjoins the respondent to comply with the law or be taken to court.

Only one complaint has been received in the matter of eligibility for the armed forces and this was satisfactorily adjusted. The same may be said of the provisions concerning public-aided housing in which area one complaint was received and satisfactorily adjusted.

In addition to the compliance work, the Division carries on a broad program of education including public addresses, meetings with community groups, working with schools, planned conferences, surveys of employment practices and public accommodations practices and so on. A quarterly, The Division Review, is published and distributed. In the year just closed, 22,741 persons were contacted through public addresses or meetings in carrying on the program of human relations education.

In the ten years since 1945, the Division has conducted sixteen employment surveys, one hospital survey, one Puerto Rico survey, one motel survey and two retail department surveys. The Division, under the direction of the Commissioner of Education has been active in desegregating the schools in about fifty communities which prior to the change of the New Jersey Constitution had maintained such segregation. As this paper is being written, some problems remain in a few communities but agreements have been worked out with boards of education whereby contemplated building plans will, so far as this Division knows, eliminate every vestige of unlawful segregation of students because of race in this State.

In his decision growing out of public hearing in the Englewood School case, the Commissioner of Education again reiterated the established principle of long standing under the civil rights laws that a child is entitled to attend the school nearest his home unless there are compelling reasons why he should not do so.

From what has been said concerning the New Jersey Constitution and the law against discrimination, it would appear that an adequately staffed state agency established by law to assist aggrieved persons who have been discriminated against is essential if civil rights are to be widely extended. This is not to say that the Division Against Discrimination is thought to be, even by its own staff, the best type of agency for accomplishing greater extension of civil rights. It is obvious, however, that the Division Against Discrimination has extended civil rights to many more individuals in ten years than had been gained by individuals during approximately 60 years under civil rights laws without such an agency.

Role of Education

In the preceding section, the role of compliance with the law was pointed up. The role of education was mentioned but this important work deserves special consideration. What is the role of education in the field of civil rights?

One of the first of the important educational enterprises is that of bringing about a wider understanding of the religious and philosophical basis of civil rights. Through speeches; through meetings; through programs with community groups and particularly in the schools of the State, a continuing effort is being made and should continue to be made to bring about an understanding of the worth of the individual regardless of his race, creed, color or national origin.

A second role of education is that of finding and disseminating facts leading to better understanding among people of different ethnic backgrounds. In carrying out this phase of the work, it is important that surveys be made and the information gained be made available. When we know, for example, that approximately half of the motels in New Jersey say they are refusing to rent to non-whites, we know what our problem is. We must design a program to help change the attitudes of motel owners and we must encourage those discriminated against to make use of the law which is established to give remedy to aggrieved persons.

Still another important effort is that of bringing people of different backgrounds together. This is probably the most effective means of intergroup education. As long as people of different creeds, races, colors, national origins, remain separated, they have little basis for understanding each other. While we would not disparage what may be learned about other people through reading and through visual representation, there can be little doubt that the best way to promote understanding is through the meeting of people of different backgrounds in common discussions and enterprises in the community. Human relations workshops sponsored by the Division, together with other agencies, are showing the way in this regard.

Still another role of education is that of laying the basis on which the law itself may rest. When facts have been discovered through surveys and otherwise and when these have been disseminated; when community groups have met to discuss the facts; when the facts point clearly to injustice and discrimination: then an informed public is more likely to support any needed laws.

Yet another important part to be played by education is that of teaching the techniques of conciliation and persuasion. There is evidence that it is possible to establish a better basis of human relations and to extend civil

rights through processes of conciliation. When, for example, an employer has adjusted a complaint against him by the employment of persons with different backgrounds from those he has customarily employed, he has thereby extended the area of intergroup contact. As was indicated above, he has thus provided a broadened educational experience for all of those in his employ. When education can teach the techniques of conciliation and persuasion to the point where managers of all types of enterprises will be willing to employ and to extend their facilities without regard to race, creed, or color, great gains are thereby made in the field of civil rights.

The role of education is related to, although separate from, the role of law. In some instances, as has been indicated, education makes possible judicious civil rights laws. In other cases, the existence of civil rights laws makes possible advances in intergroup education. When, however, it becomes necessary to invoke the law through public hearing or through resort to court action, it may be said that in such instances education has failed. Even here, however, the role of education is apparent in that through dissemination of information about legal processes there may come about an increased respect for law and a greater disposition to observe it.

Considerations for the Future

It has been established by the foregoing account that man's struggle to establish the basic principle of the worth of the individual has been a long one. It must be admitted that it has not yet been fully achieved even in such an enlightened state as our own New Jersey. The question may well be raised as to what steps should be taken to insure progress in the field of civil rights in New Jersey.

It is assumed that the Division Against Discrimination has made an important contribution. It is also assumed that the work of the Division may be improved. It does appear, therefore, that there should be a thorough survey of the functions of the Division. Such a survey might attempt to answer such questions as these:

1. How effective are the Anti-Discrimination Laws and other civil rights laws in New Jersey?

2. How and in what ways should these laws be modified and extended?

3. How effective is our present educational program as conducted by the Division and by the State Department of Education in the field of civil rights?

4. In what ways should our educational program be improved?

5. What changes, if any, should be made in the organizations, the procedures, and the location of the Division Against Discrimination in order to insure a more effective program?

From time to time in the past, representatives of the Division and of the State Civil Rights Commission have met with other state agencies interested in the field of civil rights. Numerous recommendations have been made at such meetings. It is the recommendation of the Assistant Commissioner that there be a survey along the lines suggested in the preceding paragraph to be made by a proper authority (university, department, or otherwise); that such a survey be authorized by the State Civil Rights Commission; that adequate funds be made available to cover the necessary costs of such a survey; that a survey be initiated with all possible dispatch; and that the Division Against Discrimination seek to effectuate those recommendations of such a survey as the State Civil Rights Commission may approve.

Pending the outcome of such a survey, it appears that the establishment of Division offices in other parts of the State might facilitate the advancement of civil rights. This recommendation will require additional appropriations for the Division and, therefore, could not be effectuated before July, 1957. However, it is possible within the present budget to establish an additional office in Trenton by reassignment of staff and by decrease in the amount of floor space in the Newark office. This recommendation has been approved and has been carried out. (16.)

Without any thought that civil rights have been extended fully and completely to all of our citizens in New Jersey, it is apparent that much good work has been done. It can hardly be considered an overstatement to say that the Governor, the Legislature, the State Civil Rights Commission, and the Staff of the Division Against Discrimination with the help and assistance of all those agencies interested in the field of civil rights, can take pride in what has been accomplished. May we all here highly resolve to go forward to free opportunity for all.

1. "The Pseudo-Conservative Revolt", *The American Scholar*, 24:9-27, Winter 1954-55, p. 24.
2. *Incredible Tale*, New York: Harper & Bros., 1950, p. 84.
3. *The Golden Bough*, volume I, abridged edition. The Macmillan Co., 1942, p. 668.
4. Aristotle, "Politics" in *On Man in the Universe*. New York: Walter J. Black, Inc., 1943, p. 255.
5. Wells, H. G., *The Outline of History*, Garden City Publishing Co., p. 293.
6. Compton's Pictured Encyclopedia, 1954, 12:182-3.
7. Wells, H. G., *op. cit.*, p. 811.
8. Compton's *op cit.*, 2:145.
9. This section is based upon Milton R. Konvitz, *The Constitution and Civil Rights*. New York: Columbia University Press, 1947.
10. *Ibid*, p. 8.
11. Konvitz, *ibid*, p. 27.
12. This section is based upon "Extending Civil Rights in New Jersey," Marion Thompson Wright, an article which appeared originally in *The Journal of Negro History*, January, 1953.
13. Article noted above, p. 93-94.
14. In this project we have had a careful research by the Legal Survey Group of Columbia University Law School: James A. Lande, chairman, and Joel Field, were responsible for this commendable effort. The staff of the New Jersey Law Library in Trenton rendered invaluable aid.
15. In addition to the court cases cited, decisions of the Commissioner and the State Board of Education likewise support the principle of attendance at the nearest school. See *Worthy V. Berkeley*, 1938 S.L.D. 689; *Kenney V. Montclair*, 1938 S.L.D. 647; and *Walker and Anderson V. Englewood*, May 19, 1955.
16. The Trenton office is located at 162 West State Street.