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EXTENDING CIVIL RIGHTS IN NEW JERSEY THROUGH THE DIVISION AGAINST DISCRIMINATION

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Acknowledgment

Despite the existence of a rapidly expanding field of knowledge which is accumulating from actual experience, debate still wages fiercely on the subject of legislative controls of acts of discrimination against persons because of their race, creed, color or national origin. For this reason, it is important that, from time to time, significant contributions to this field of knowledge, prepared in objective report form by scholars of repute, be made available to the public.

This paper, prepared by Dr. Marion Thompson Wright of the School of Education, Howard University, is such a document and is the report of a skilled and sensitive observer. Its publication by the Association for the Study of Negro Life and History, in the January 1953 issue of the Journal of Negro History, is further recognition of Dr. Wright’s status as an educator and historian. The article “Extending Civil Rights in New Jersey Through the Division Against Discrimination” may be seen as a sequel to Dr. Wright’s exhaustive study “The Education of Negroes in New Jersey” (1941) to which further reference will be found.

The Division Against Discrimination of the New Jersey Department of Education gratefully acknowledges the generous act of Dr. Wright in permitting the reproduction of her paper in this pamphlet form. Likewise, acknowledgment and thanks are extended to the “Association for the Study of Negro Life and History” of Washington, D. C., and the acting editor of the Journal of Negro History, Mr. William M. Brewer, for the cooperation afforded the Division in providing this reprint of an article which contributes so richly to the body of knowledge in this particular field of human relations.

Joseph L. Bustard
Assistant Commission of Education and Director, Division Against Discrimination

June, 1953
EXTENDING CIVIL RIGHTS IN NEW JERSEY THROUGH THE DIVISION AGAINST DISCRIMINATION

"The citizens of our State have always been at odds in regards to major issues. New Jersey has never been permanently Democratic nor has it ever been wholly Republican. The same attitude was evident during the Revolution when the Tories and Patriots were of equal strength.

"Reflected through the last few centuries, these conflicts in the political, economical and industrial pattern of New Jersey have, instead of weakening the structure of the community, given strength to it and have made the state one of the real trial grounds for the solution of problems which have risen in other states."

This pronouncement by Dr. Frank Kingdon, noted educator and lecturer, has certainly been validated by the economic, social and educational developments which have taken place within New Jersey for almost two centuries. This has long been a pivotal unit of our nation. Many highly significant issues have been bitterly threshed out within the boundary lines of the state referred to by many as the "Georgia of the North." But contrary to the Georgia of the South, New Jersey has always been at least a two-party state. Whereas during the Civil War Era the Democrats of this commonwealth were equally if not more vitriolic than many of their southern brothers in their statements on matters pertaining to Negroes, there were always enough citizens with more liberal views to assure a fairly continuous trend toward a more equalitarian social environment.

In discussing the extension of civil rights through the Division Against Discrimination an effort will be made to describe first, some of the historical highlights of Negro-white relations in New Jersey; second, the fair employment practices law and its implementation; third, the civil rights section of the new constitution; fourth, the movement to
desegregate the schools; fifth, some of the forces and people responsible for improving human relations; and sixth, unfinished tasks that still lie ahead.

**Historical Highlights**

An historical survey of Negro life in this state reveals several unique events in intergroup life.¹ In 1776 a constitution, hastily drawn up in two days, granted the suffrage to all persons worth fifty pounds proclamation money. For almost thirty years Negroes, bond and free, and married as well as single women cast their votes. In 1807 a closely contested election stimulated the passage of a law restricting the franchise to *free white males* worth fifty pounds proclamation money. But according to reports, this was not the end of voting by Negroes since some officials considered the 1807 law unconstitutional. But the issue was definitely resolved by the Constitution of 1844 which restricted the privilege of voting to white male citizens of the United States “twenty-one years old who had been a resident of the state for one year and in the county for five months before election, except non-residents quartered in military or naval positions, garrisons, barracks, place or station, or paupers, idiots, insane persons or person convicted of crime which now excludes him from being a witness unless pardoned or restored by law to the right of suffrage.”

In 1788 when many states were outlawing the education of Negroes, the Society of Friends succeeded in making it mandatory for servants and slaves under twenty-one years of age to be taught to read. The educational provisions of the apprenticeship laws were equally binding for whites

and Negroes. All through the life of New Jersey, Negroes were educated in either separate or mixed schools. The Constitution of 1844 stipulated that the legislature should provide annual appropriations for the support of public schools for the equal benefit of all the people of the state.

The Law of 1804 made possible the gradual emancipation of slaves, while a statute passed in 1846 made all remaining slaves apprentices for life. Although not wholly free, the former slaves could not be discharged or sold without the consent of the apprentices.

The Reconstruction Period was characterized by the same acrimonious political battles that marked the period prior to and during the Civil War. The Thirteenth Amendment was passed by a Republican legislature after it had already become a part of the federal constitution. The Fourteenth Amendment was adopted by a Republican body only to be repudiated by the Democrats who succeeded them. The Congress of the United States refused to receive the resolution rescinding the action by which the amendment had been adopted by New Jersey and decreed that it be referred to by number only. In turn, the Fifteenth Amendment was rejected by the Democrats but was later passed by the Republicans. However, although the Fifteenth Amendment was not ratified by New Jersey until 1871, the first Negro in the United States to vote after the adoption of this amendment was Thomas Peterson Mundy in Perth Amboy, New Jersey. It was in 1875 that the word "white" was removed from the section of the state constitution which prescribed the qualifications for those who were to be permitted to exercise the right of franchise.

In 1881 as a result of the controversy concerning the admission of Negro children to the white school in Fair Haven when the colored school had to be closed, a law was passed making it illegal for a child to be excluded from any public school because of nationality, religion or color. Unfortunately, this law was immediately sabotaged by the Negroes
of Fair Haven and Long Branch through their acceptance of segregated schools.

The first civil rights law was enacted in 1884. But later amendments reflected the influence of pressure groups so that the penalties were such as to discourage suits by aggrieved persons. Damages could not be collected by those whose rights had been violated but went instead to charitable institutions. The complainant had no voice in the selection of the recipient of the money awarded. Other laws forbade discrimination on jobs contracted in behalf of the state or her subdivisions; discrimination in industries engaged in defense work; the refusal of access to a place of shelter during an air raid alarm for reason of race, creed or color. It appears that New Jersey was the first state to take official cognizance of the fact that shelter facilities had been refused Negroes during practice blackouts. In 1938 the legislature authorized the setting up of the Goodwill Commission of the State of New Jersey.

In spite of these more progressive enactments, segregation and discrimination continued to exist and in many areas tended to increase wherever the colored population approximated fifteen percent of the total group. These undemocratic practices stimulated groups concerned with social welfare and equality of opportunity for all to embark upon a period of fact-gathering on conditions surrounding Negro life in New Jersey. In 1925, at the invitation of the Committee on Information of the New Jersey Organization of Teachers of Colored Children, Lester Granger made a study of Negro high school attendance in the state. Seven years later Ira Reid conducted a survey for the New Jersey Conference of Social Work and the State Department of Institutions and Agencies which was quite comprehensive in scope. In 1935 with Harold Lett and Emil Frankel as consultants, the New Jersey Urban League and the State Department of Institutions and Agencies collaborated in making a survey of employment opportunities for Negroes.
The data of this study were used in supporting arguments for a fair employment practices law. In 1938 the state authorized the appointment of a temporary commission to study and report on the urban colored population. Three years later an enactment created a permanent commission to "examine, report upon and formulate measures to improve the economic, cultural, health and living conditions of the urban colored population of this state in order to secure to the urban colored population equal opportunity with the general population thereof for self-support and the economic and cultural development to the extent, if any, that such opportunity does not now exist."

In 1941 there began a movement which ushered in a real program of action for improving human relations. Under the leadership of the New Jersey Conference of State Branches of the National Association for the Advancement of Colored People, headed by Dorland Henderson and Fred Martin of The New Jersey Herald News, the adequacy of the curriculum of the Manual Training and Industrial School for Colored Youth at Bordentown was challenged. The publication of The Education of Negroes in New Jersey during the same year helped to spread the dissatisfaction with the school at Bordentown to the total educational program for Negroes in the state.

The first tangible effect of this protest resulted from the activities of the Trenton Committee for Unity. In Trenton, the capital of the state, all colored children irrespective of residence were sent to the Lincoln Junior High School. This group effected the integration of pupils and teachers through the abolition of this building as a separate school. The Negro principal remained in charge of the non-segregated building. Two Negro teachers were sent to the senior high school, one as teacher of social studies and the other as school counselor. The committee's recommendation that the Merchant of Venice be removed from the reading list of the schools because of its anti-Semitic passages was
adopted by the board of education. Because of the change in Trenton, the threat of a suit in Asbury Park was sufficient to persuade the school board to abandon a policy of segregation in the Bangs Avenue School in which the two racial groups were educated in separate wings of the same building and were provided play space in a playground where they were divided by a wire fence. Here, too, the Negro principal was in charge of the integrated building while the man who had been head of the white wing was made his assistant.

The Division Against Discrimination

An historical survey of New Jersey also discloses that North Jersey has tended to follow the practices of New York while South Jersey has been inclined to adopt the social patterns of the contiguous southern areas. Consequently, when New York passed a fair employment practices act in March, 1945, New Jersey passed a similar law the next month. The statutes of both states became effective the following July.

In New Jersey there arose the question as to what department was to have the responsibility of implementing this new piece of legislation. It was considered a “hot potato” and therefore no one welcomed it. Through the mechanism of rationalization, it was decided that the business of improving labor relations was an educational matter and so the job of administering the fair employment practices act was lodged in the state department of education.

There was no reason to believe that the state commissioner of education appreciated the addition of this responsibility to the one of administering the state’s public school system. But Commissioner John H. Bosshart accepted it and sought a man who would consider the directorship of the Division Against Discrimination a real challenge. He found such a person in Joseph L. Bustard, supervising principal of the Roselle public school system. Mr. Bustard
became an assistant commissioner of education and director of the Division Against Discrimination. In all matters pertaining to this field he represents and acts for the commissioner. Harold A Lett, a Negro with many years of successful experience in the labor relations field and a recent president of the National Association of Intergroup Relations Officers, was appointed assistant director. Myra Blakeslee, who had formerly headed the New Jersey Goodwill Commission, was chosen to administer the educational program.

Although the legislation setting up the DAD provided for penalties for failure to comply with its provisions, it stressed and insisted upon the use of persuasion or conciliation before recourse to public hearings. The success of this approach is attested to by the fact that in the seven years of its operation the DAD has had to go to the point of a public hearing in only two instances. Both of these cases were in the area of public accommodations. As a general rule, employers or personnel directors acted positively when informed of the requirements of the law. Others proceeded voluntarily to liberalize their practices because of the existence of the statute.

In its report for the biennial period 1949-51, the DAD\(^2\) discloses that 311 formal complaints were disposed of at the level of conference, conciliation and persuasion. One hundred twenty-seven or 40.8% of all cases were adjusted satisfactorily. One hundred forty-seven or 47.2% were found to have no probable cause for action as far as the individual filing the complaint was concerned. It is reported that in a substantial number of these cases discriminatory practices were discovered and corrected. The remaining cases were dismissed as withdrawn or as being beyond the jurisdiction of the DAD.

The legislation also provided for a State Council

\(^2\) Accounts of the activities of the DAD can be found in the annual reports of this body.
Against Discrimination which was given the duty of instituting councils to work on problems of minority groups at the grass roots level. Eight such bodies were organized but the limited staff prevented the organization of other local councils as planned. The State Council Against Discrimination and not the State Board of Education was the policy making body for the DAD. Consequently, the State Commissioner of Education became the executive officer of not one but two separate groups. Dr. Robert C. Clothier, then president of Rutgers University, was the first chairman of the state council. Dr. Thomas Bell, a Negro physician, was appointed to this body. Shortly after his appointment Dr. Bell died and was succeeded by a young Negro lawyer, Herbert Tate. Attorney Tate was a member of the Newark Board of Education. During this period he rendered yeoman service in the increased extension of civil rights to minority groups.

The state and local councils took seriously their task of improving human relations. They gave consideration to conditions making for second class citizenship, not only with respect to employment, but in other areas of living as well. The fair employment practices law placed responsibility upon the DAD for preventing or eliminating “discrimination in employment against persons because of race, creed, color, national origin or ancestry by employers, labor organizations, employment agencies or other persons” and in addition “for taking other actions against discrimination because of race, creed, color, national origin or ancestry.” The state council was authorized to create such advisory agencies and conciliation councils, local, regional or statewide, to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, creed, color, national origin or ancestry and to foster through community effort or otherwise, good will, cooperation and conciliation among the groups within the state. In addition to the councils,
there were appointed an intergroup committee to conduct a program for improving relations among various social groups in the schools and communities; a research scholar's committee to conduct a program of scientific studies to assist in the guidance and educational aspects of the activities of the DAD; and a women's council on human relations.

The state and local councils made many valuable contributions. Among the most important were the employment surveys conducted throughout the state. Ten such studies carried out in eight counties covered ninety-eight communities, five hundred and ninety-one employers and five hundred and eleven labor unions. An eleventh survey in Hudson County encompassed one hundred and twenty-nine of the largest firms representing twenty-three different major types of business. These organizations were located in twelve municipalities and employed a total of 76,902 workers. Other surveys of employment opportunities for minority members were made in the hospital and library fields.

Of high significance were the conferences held by the councils with high school guidance teachers to discuss employment offerings for minority youths. Parental dissatisfaction in more than one community had been stirred by the limitation of vocational training for Negro youth because of the belief on the part of some educators that it was futile to permit or encourage colored children to enter certain fields where chances of employment appeared slim.

The councils supported numerous educational activities. They helped to initiate and encouraged attendance at workshops in human relations held at Rutgers University. The personnel of these groups included teachers, nurses, community organization leaders, social workers, guidance workers, supervisors, librarians, administrators and police officers. In December 1948 the state council held the first and only statewide workshop of state and county council members. One hundred and seventy council members and
organization representatives met for a full day of intensive discussions of various aspects of problems in human relations and New Jersey's approach to their solution. Three years later there was initiated a one-week workshop in human relations and civil rights for community workers and members of mayors' commissions on human rights.

The council in Camden County effected the ruling against school trips to places where segregation of minority groups was required. The state body recommended legislation to prohibit discrimination in business schools. It gained the promise of insurance companies to pursue more equitable policies with regard to the treatment of Negroes in the whole insurance field.

No person or group contributed more to the educational aspects of the programs than did the staff of the DAD. The report for 1949-51 reveals that the members addressed 377 separate groups representing an approximate aggregate of 52,000 people. These included civic organizations, church groups, women's clubs, professional societies, groups of teachers, social workers, nurses, student gatherings, service clubs, labor unions, and veterans' organizations. The staff also participated in thirteen radio broadcasts and eleven telecasts. Staff speeches were delivered in 70 New Jersey municipalities and in twenty of the twenty-one counties. New Jersey, along with other eastern states and the city of Philadelphia, has held three conferences dealing with problems in the field of discrimination.

Another contribution of the staff has been the publication of the news bulletin, the Division Review. This is designed to provide information to aid members of municipal commissions on civil rights, civic organizations and all others known to have an active interest in improving inter-group contacts.

The New Constitution

In 1947 the council and staff members threw their sup-
port behind the movement to insert in the proposed new charter a provision that would be truly functional in extending civil rights to all ethnic groups within the commonwealth. Dr. Clothier, chairman of the state council, was also chairman of the constitutional convention.

Consonant with the tendency to follow the lead of New York, many persons supported efforts to have New Jersey adopt the civil rights provision included in the 1938 revision of the New York charter which held that:

No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

In New Jersey the civil rights section which was first submitted was disappointing to some because it dealt with general principles that they felt could be variously interpreted. Several serious considerations resulted in the adoption of a civil rights section of wide import. It declared that:

No person shall be denied the enjoyment of any civil or military rights nor be discriminated against in any civil right or segregated in the militia or public schools on account of religious principles, race, color, ancestry or national origin.

In this provision is the establishment of a most significant precedent. This is the first state constitution to forbid segregation in the public schools and the state militia. Several states have legislated against discrimination in the provision of educational opportunities. This enabled state and school officials to insist that as long as "equal" facilities were afforded discrimination did not hold. But the new constitution of New Jersey outlawed segregation itself, an achievement which the NAACP hopes to extend to other states through cases now pending before the United States Supreme Court.

In spite of opposition in some of the southern counties
the new constitution was adopted by an overwhelming majority. This basic charter ushered in another “first” through the constitutional provision for equality of women with men.

Governor Alfred L. Driscoll and Commissioner John H. Bosshart immediately made it clear that the provisions of the new constitution were to be enforced. The DAD was assigned the job of desegregating the educational system of the state. With the exception of four “hold-outs” the school districts cooperated with the new policy. Through determined action Negro parents settled the issue in one of these districts, Mount Holly. They sent their children to the white schools in the community. The colored school was closed by action of the board of education. The other three districts then decided to take steps to integrate their schools.

In the five year period following the adoption of the new constitution, Negro teachers have been appointed for the first time in many mixed school systems. Negroes have been appointed and elected to local boards of education. Dr. Stanley Lucas was elected president of the board of education in Atlantic City. In August 1952, Governor Driscoll appointed Dr. James Parker of Red Bank, and a member of the board of trustees of Howard University to the state board of education.

There is one particular outcome of the program in New Jersey which is indeed provocative. In a desegregation process there is always the vital question—What will become of the Negro teachers? This problem has haunted Negroes for many years and has often caused them to oppose integration to avoid loss of administrative or teaching positions. Consequently, Negroes have opposed integration in New Jersey just as they have and are opposing integration in other states. But the present integrative procedures have been accompanied by an increase in Negro
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...teachers throughout our state. Commissioner Bustard,\(^3\) in a paper before the Conference on the Courts and Racial Integration in Education at Howard University in April 1952, reported that whereas in 1945-46 there were 455 elementary and 24 secondary or a total of 479 colored teachers in the public schools with 415 of these engaged in the nine counties that maintained segregated schools, in 1952 there were 582 elementary and 63 secondary or a total of 645 colored teachers. This constitutes a gain of 166 Negro teachers over the last six years. Commissioner Bustard does point out that while it seems that teachers did not lose their jobs as the result of integration, there was a temporary slow-up in hiring additional colored teachers in some of the districts involved. However, there has been a decided increase in the state as a whole. Furthermore, Negro principals with mixed faculties and pupil enrollments are found in several of the larger and some of the smaller municipalities.

Many persons will wonder how this has come about. Two pertinent factors played a very important role. New Jersey has a law which protects teachers who have secured tenure. It also has the fair employment practices act. Before the adoption of the Constitution in 1947, steps had already been taken in Camden to present complaints against biased hiring practices in the public schools. Qualified Negroes were not appointed on the secondary level. Negroes now are employed in secondary schools in Camden and other cities such as Newark, Jersey City, Trenton, Atlantic City, Princeton, Woodstown and Salem.

The new charter also forbade segregation in the state militia. In the beginning army officials in charge of the national guard units attempted to thwart the new mandate by setting up new segregated units and refusing the applica-

tions of Negroes to white units. This was done with the cooperation of certain Negro leaders.

After making it clear that segregated units of the national guard in New Jersey were unconstitutional, Governor Driscoll received from Army Secretary Kenneth Royal, assurance that the federal government would not interfere with integration in the state militia. Then the governor proceeded to instruct the state commanders of armed service units that integration was to be effected.

How Did This Happen?

There are persons who raise the question — How did these changes come about? It is not possible to go into all of the factors responsible, but some of the more important forces will be considered. For one thing, a period of war is usually an era of high idealism with respect to human relations. Groups and individuals take advantage of this fact to protest discriminatory practices. The 1940's constituted a war period.

Another very important factor was the passage of a fair employment practices law with specific provision for its implementation. Many laws have been passed but the enforcing of the new statutes has in too many instances not been provided for in the legislation. The DAD was given definite responsibility for using educational techniques in their efforts to improve labor relations, but if these failed there was provision for legal action. History had clearly demonstrated the fact that formal education had failed to achieve results in improving living conditions for minority groups. In this state educational procedures backed by functional legislation are achieving results. People still have the right to possess prejudices against other persons, but they are being restrained by law from indulging in the outward manifestations of these prejudices to the harm of the victims.

The importance of providing for the official implemen-
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The presentation of laws is made even clearer by a comparison of desegregation efforts in New Jersey and Illinois. Illinois passed a law providing for the withholding of state funds from districts maintaining segregated schools. The citizens of this state are being compelled to fight for integration on a community by community basis, while in New Jersey the DAD was charged with the duty of desegregating the schools by a governor who had on more than one occasion expressed his determination to see that the law was enforced.

In the whole field of civil rights in New Jersey people and groups have played important roles. The NAACP, through its national leaders and under the determined guidance of local citizens such as Dorland Henderson, Dr. Ulysses Wiggins, Mrs. Margaret Caution, and Attorneys Clifford Moore and Robert Queen and many others, has contributed a great deal to this undertaking. The Trenton Committee for Unity, now the Trenton Committee on Human Relations, blazed a new trail by its intelligent action and use of educational techniques. The DAD, through its state and local councils, and by the persistent and tactful activities of its staff under the direction of Commissioner Bustard, an educator, Assistant Director Harold Lett and Educational Director Myra Blakeslee, has done a commendable job in extending wider opportunities to minority groups. Parents have demonstrated their effectiveness in situations where the public officials have hedged or failed to act. Other liberal educational and civic organizations have also influenced the trend toward first class citizenship for all people.

Admittedly, one recognizes, however, that there are unfinished tasks that lie ahead. Professor W. Robert Ming,4 of the University of Chicago Law School, pointed out that whereas in Illinois there are approximately 10,000 Negro

children in schools segregated through official edict, there are nearly 100,000 such children in schools which are segregated through residential restrictions. To a more or less degree similar conditions obtain in New Jersey and elsewhere. Therefore, in order to provide for an increased assimilation of all ethnic groups, several steps need to be taken. Residential ghettos and gerrymandering of school districts must be abolished. Educational facilities in blighted areas should be improved. In New Jersey there is a need for Negro representation on administrative and instructional staffs of the state university and the state teachers colleges and on the supervisory and administrative staffs of local school systems. Citizens must fight practices through which qualified teachers are prevented from securing tenure, such as releasing them before the completion of their probationary periods.

To avoid the appearance of token employment more members of minority groups should be employed in state and local governmental units. In this regard the state should set a good example in fair employment practices.

Since the Freeman Act of 1949 substituted municipal commissions on civil rights appointed by mayors for the county councils established by the state council, aggressive campaigns for the appointment of these commissions will have to be waged if gains under the former councils are to be retained. The substitution of these municipal commissions represents a compromise in favor of some of the southern counties. There is a danger that the municipalities most in need of groups working in the area of inter-group relations will be the ones least likely to provide for them. To date a very small fraction of the five hundred and sixty-seven municipalities in the state have these bodies.

Because the majority of Negroes are found in the lower social strata of their communities, they tend to belong to groups whose behavior provokes adverse criticism. There must be an increased interest on the part of Negro leaders
in the provision of environmental conditions that will promote among Negro youth and adults, conduct patterns which will be more socially acceptable.

These are some of the jobs to which we must address ourselves if the following words in Section 3 of the New Jersey Law Against Discrimination are to be given increasing vitality:

The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin or ancestry, are a matter of concern to the government of the State, and that such discrimination threatens not only the rights and privileges of the inhabitants of the State but menaces the institutions and foundations of a free democratic State.

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. Let us be vigilant in our efforts to eliminate still further the gaps between democratic ideals and practices. In so doing we shall not only strengthen our own nation but shall enhance her prestige as a world leader.

Marion Thompson Wright

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