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### Part I. Discussion Summary

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## PART I. DISCUSSION SUMMARY\*

The discussion following the presentation of the prepared papers on Friday evening focused on several themes which recurred throughout the conference.

The first of these themes is that the Negro community has lost faith in the FEPC system as an effective device for getting jobs. This was emphasized by a representative of the New York State Commission, who, replying to Mr. Hill's paper, pointed to a crisis in confidence—Negroes just do not believe that the state commissions generally can do much for them. A joint effort—by the civil rights groups and the commissions—is required. In confirmation of this, Mr. Hill noted on Saturday morning that his highly critical paper was simply an articulation of what the Negro community feels. Dean Ferguson stressed, however, that there was little any agency could do to achieve equal job opportunities until employers begin to concentrate on this problem as a matter of administrative routine. It seemed to him that there should be some way to build a concentrated and institutional concern for the problem, perhaps through the use of economic incentives and pressures.

This feeling was shared by many at the conference who pointed out that most employers simply want to operate profitably and, as one speaker noted, did not consider themselves in business to try social experiments. Only if they faced economic loss would they be willing to focus their energies on this problem.

A second recurrent theme was whether and why few Negroes applied for various jobs, apprenticeships and other programs. Mr. Hill and Mr. Joseph Easley, President of the Buffalo NAACP, replied that: (1) there have been numerous applicants over the years; and (2) if the number of applicants has declined recently, this is because many Negroes have become reluctant to undergo the continual and frustrating refusal which almost inevitably meets such applications. In the printing trades, noted Mr. Hill, the procedures for applying had been kept secret for a long time.

The third recurring theme was that of preferences for Negro applicants. Citing an example from Dean Ferguson's paper, where a Negro post office employee had been elevated to supervisory status despite the seniority of several white employees, Professor Pollak asked whether this amounted to preferring an unqualified applicant because of his race. Dean Ferguson replied that the Negro was indeed less qualified because less experienced on an objective basis *as of the moment of choice*. But this lack of experience was based on a historical discriminatory pattern which had prevented the Negro from getting the requisite experience. The key question for decision in such matters is therefore: What would have been this Negro applicant's qualifications had there been no discrimination?

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\* These summaries were prepared by Associate Professor Herman Schwartz, Co-Chairman of the Conference, and checked by the named participants who made corrections and amplifications where they thought it necessary.

The approach would determine individual rights on the basis of membership in a group and Dean Ferguson recognized that it raised constitutional problems, though he did not think it unconstitutional. He also recognized that the white employee may have had nothing to do with depriving the Negro of the opportunity to become qualified, for he may have joined a discriminatory union long after the discriminatory policy had been firmly established. In Dean Ferguson's mind, one ameliorating factor in the problem is that such hardship cases are likely to be infrequent for usually only a few Negroes will be involved and thus few jobs will be determined on such a basis. This did not, however, dispose of the academic question of the conflict in rights between the specific Negro applicant who gets the job and the specific white employee who loses it.