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CIVIL RIGHTS BILL DOES NOT REQUIRE OPEN OCCUPANCY

By CAROL HEBOLD

The highly controversial Civil Rights Bill, a complex piece of legislation currently before the Senate, seems to be the object of some public misunderstanding. Clarified in the *Congressional Record*, the bill, as passed by the House of Representatives, does not require, reward or encourage "open occupancy" in private housing, the transfer of students away from their neighborhood schools to create racial balance, or the imposition of racial quotas or preferences in either private or public employment of individuals. Nor does the bill provide for primary, criminal penalties, but it authorizes the Federal courts to issue civil orders preventing acts of discrimination which violate the bill.

Title I, which concerns voting, establishes procedural safeguards which preclude the denial of the right to vote on racial grounds: a State must maintain uniform standards, practices, and/or procedures to citizens seeking to vote; a State may not reject a voter applicant who commits an error on a voter application form which error is immaterial to the voter's qualification to vote; a State must employ

a written literacy test, where such a test is given, since in some States the use of oral tests has become a convenient subterfuge for promoting racial discrimination; and the presumption is established that an individual is literate to vote if he has completed the sixth grade of school.

Title II forbids discrimination in certain categories of public accommodation—places of lodging (except proprietor-occupied lodging houses having 5 rooms or less), eating establishments, places of entertainment, and gasoline stations. In addition, other businesses physically located within one of the above categories must hold themselves up to entire public patronage. A barber shop located within a hotel is a fair example since in most situations the business of the barber shop depends on the guests of the hotel.

The constitutional support for the public accommodation title rests upon the commerce clause and the 14th Amendment. The commerce clause provides that businesses such as a motel or hotel which provide for transient patronizers as well as state residents cannot practice discrimination. Restaurants, hotels, and gasoline stations regularly serve

travelers or utilize goods in major part that travel in interstate commerce. Theatres and other places of entertainment regularly present films or performers that move in interstate commerce. Economically, it has been noted that widespread segregation of public accommodation in the South has curtailed interstate travel and the normal expansion of interstate trade.

Title III authorizes the Attorney General to institute civil actions to desegregate public facilities such as parks and playgrounds.

The Constitution prohibits governmentally owned, operated, or managed facilities to be segregated by reason of race or color. Title III also permits the Attorney General to intervene in civil cases instituted by private citizens who claim that they are being denied the equal protection of the law, guaranteed by the Constitution.

Under normal circumstances it is the responsibility of the state or local government to guarantee an individual equal protection of the law, but since in some localities the very issue is that of the state or local government's denial of civil rights, the Federal Government must undertake this duty.

Title IV of the Civil Rights Bill provides that the Attorney General may institute civil action to desegregate public schools or colleges. Also the Commission of Education is

financial aid to local governments or school boards, but only upon their request. However, the aid may be used only to assist teachers and school administrators in coping with problems growing out of desegregation. The House also clearly precluded the Attorney General on the Commission of Education from taking action under this title to compel the racial balancing of schools.

Title V extends the life of the Civil Rights Commission four years and authorizes it to look into the practices of vote fraud, as well as denial of voter rights because of race.

Title VI cuts off Federal funds used for discriminatory purposes. It provides that taxes paid to the Federal Government by all Americans shall be used to assist all Americans on an equal basis. It also provides for review before taking action.

Title VII offers means for discrimination elimination in employment by employers having 25 or more employees, by labor organizations having 25 or more members, and by employment agencies. Title VII does not permit the ordering of

racial quotas in businesses and unions, not interference with seniority rights of employees or union members.

Title VIII commands the Bureau of the Census to compile registration and voting statistics by race, color and national origin regarding the extent to which persons are eligible to vote and exert their right.

Under Title IX, a defendant who is seeking removal of a State court suit to a Federal district court on the ground that he would be denied his civil rights in the State court, may appeal to the Federal court of appeals an order by the Federal district court sending the case back to the State court.

Title X establishes a Community Relations Service to assist local communities in resolving disputes and disagreements relating to racial discrimination.

Title XI authorizes Congress to appropriate the funds necessary to carry out the operating provisions of the act. This title also provides that the Civil Rights Bill shall not interfere with or nullify State or local civil rights laws.