

Chapter 4

Discrimination in Public Accommodations

On his way home from an overseas assignment an American GI was refused a cup of coffee at a segregated lunch counter because he was an African-American.

An American family traveling on a federal highway drove nearly 100 extra miles to find a motel that would rent them a room, because they were African-Americans.

On his way from New York City to Washington, D.C., a foreign diplomat could not buy a meal at a roadside restaurant because he was thought to be an African-American.

A college professor was unable to attend the theater in her home town because she was an African-American.

These four incidents, and hundreds like them, were commonplace as recently as the 1960's, and even today people of color are subjected to similar indignities. But in the South such occurrences formed a pervasive pattern of racial segregation practiced openly in the South and subtly in the North.

This pattern was extended to almost every aspect of race relations. African-Americans working in a southern factory used rest rooms separate from those used by their white co-workers. African-Americans also entered factories by separate doors or at separate times if they were hired at all. In grocery stores and department stores, where African-Americans were allowed to spend their money in the presence of whites, they could not use the same rest rooms, drinking fountains, or lunch counters. When traveling, African-Americans sat in separate taxis, trains, buses, or in separate sections of those facilities. Special waiting rooms were built for African-Americans, and they could not sit in the rooms reserved for whites. African-Americans had to stand before the ticket booths labeled "colored" while agents first sold fares to white customers.

Justice, too, was not color-blind. Courtrooms contained Bibles marked "white^ or ^colored;" African-Americans were seated in back of the courtroom. If found guilty by a jury, which was usually all white, the black defendant would be sentenced by a white judge to a segregated prison.

Restaurants, hotels, motels, soda fountains, lunch counters, barbershops, beauty parlors, etc. were designated for one race or the other. Woe to the African-American who broke the color line and asked for service in a store catering to whites only. The only African-Americans in white restaurants entered by the back door and worked in the kitchen or waited on tables.

Segregation extended also to places of amusement; African-Americans were barred from theaters, movie houses, amusement parks, swimming pools, pool halls, bowling alleys, parks, and zoos. Even when these facilities were supported by black as well as white tax money, African-Americans could be barred. In one town, officials removed park benches when African-Americans began sitting on them.

The segregation described above was frequently required by laws, or state and local ordinances that demanded that African-Americans and Americans of European descent be separated in public facilities. These Jim Crow laws covered everything from railroad trains to zoos. But much of the racial segregation was a matter of private choice. White property-owners chose to exclude black people in deference to their white customers, in deference to local custom, or in deference to their own prejudices.

The Pattern of Segregation

Segregation in public accommodations was part and parcel of private discrimination practiced by a society that considered African-Americans inferior and kept them in a place separate from and usually below that assigned to whites.

Such discrimination was practiced by the white gentleman who called his 40-year-old African-American porter "boy" while tipping him 25 cents for carrying his bags to the train; by the white matron who called her Negro servant "auntie" but never "Mrs."; by the white child who called black adults by their first name; and by the Southerner who angrily asked his Northern friend whether he wanted his sister to marry a "Nigra." The pattern of discrimination is seen again in the practice of paying African-Americans less money for doing the same type of work performed by their white counterparts and of not promoting African-Americans to positions of authority over whites regardless of their level of skill. This pattern is also reflected in the North by whites who worry when African-Americans move into their neighborhood; by the raised eyebrow at interracial dating; and by those who object to interracial marriages. Segregation in public accommodations covers only one aspect of a discriminatory pattern that has downgraded and humiliated African-Americans for centuries. So pervasive has this pattern been that for centuries some African-Americans accepted the inferiority it implied.

Sit-ins in Jackson, Mississippi



In late May 1963, three black college students walked quietly down Capital Street in Jackson, Mississippi and entered a Woolworth store. Once inside, they made their way to the all-white lunch counter, sat down and asked to be served. All but one of the white customers got up and left. The waitress closed down the counter. As store detectives watched the scene, whites began crowding around the area. The three demonstrators remained at the counter. For an hour, while tension built up, there was no

incident. Then whites moved in back of the African-American 'sit-ins' and someone in the gathering crowd shouted, "Go back to Russia, you black bastards!" A blonde snatched a mustard dispenser from the counter, tugged on the dress of a Negro sit-in, and squirted a thick stream of mustard down the back of her neck. Other whites grabbed catsup bottles and cups of coffee and emptied their contents on the demonstrators.

A burley ex-cop pushed his way through the crowd and knocked Memphis Norman, one of the demonstrators, to the ground. As Norman lay on the floor, the former policeman repeatedly kicked him in the face and the crowd roared its approval. Norman, doing nothing to defend himself, began bleeding profusely from the mouth. Store detectives finally arrested him on a charge of disturbing the peace, and arrested the former policeman on an assault charge. Norman later was sentenced to six months in jail and fined \$500, while his assailant was jailed for 30 days and fined \$100.

Meanwhile, more sit-ins arrived and took seats at the lunch counter. A white college professor was punched to the floor, but regained his seat. Whites crowded in and poured salt and pepper on his

wounds. Outside, policemen refused to enter the store unless asked to do so by the store's managers. The crowd, becoming more unruly, began picking up odds and ends from other sections of the store and hurling them at the demonstrators. Within fifteen minutes, the managers turned off the lights and cleared the store. The sit-in had lasted for two hours."

A History of the Sit-ins

The African-Americans protesting segregated lunch counters in Jackson, Mississippi followed the lead of their brothers in Greensboro, North Carolina. But the North Carolinians were not the first members of their race to challenge racial segregation in the South. Indeed, the first organized assault on the walls of separate facilities was made in 1947 when sixteen African-Americans and whites rode in buses through Virginia and North Carolina to test a Supreme Court decision banning racial segregation in interstate busing. Members of the group were arrested several times for violating local segregation laws, but there was no violence. Two years later, Blacks challenged the segregation practices that prevented members of their race from using Palisades Amusement Park in New Jersey. The publicity gained by their demonstrations was largely responsible for New Jersey joining several other states in banning racial segregation in public accommodations. By 1964, thirty-two states had such laws on their books, but none of these states were in the South where discrimination was so blatant.



On December 1, 1955, Mrs. Rosa Parks, an African-American and a member of the local chapter of the NAACP, was just too proud to get up and stand in the back of the bus so a white passenger could take her seat. The driver stopped the bus and a policeman arrested Mrs. Parks. Led by Martin Luther King, 50,000 African-Americans in Mrs. Parks' Montgomery, Alabama, refused to use the city's buses, preferring to walk up to five or ten miles rather than accept the humiliation of more discrimination. The boycott lasted for more than a year and ended with the bus company, on the verge of bankruptcy, surrendering to the demands of the boycott's leader. Montgomery's African-Americans had finally won the right to sit in any part of the bus they chose, and

no longer needed to surrender their seats when the bus became crowded. With the Supreme Court's ruling that the Montgomery bus segregation law had been unconstitutional, the victory in Montgomery was won, but the battle for equal rights was hardly complete.

The bus boycott demonstrated what organization and determination could accomplish. Black protest movements here became more frequent, and in the 1960's were almost commonplace. While sit-in demonstrators like those in Jackson, Mississippi

challenged segregation in restaurants, freedom riders challenged interstate bus discrimination and discrimination in terminal facilities. Wade-ins challenged segregation in pools, and pray-ins challenged discrimination in churches. Hardly a week went by without African Americans protesting segregation in some kind of public facility, and many of these protests were met by mass arrests, and some with violence. While the demonstrators, as a rule, practiced nonviolence, indignant whites did not. African-American leaders like Martin Luther King, Jr., began to openly advocate the disobeying of all laws

designed to perpetuate segregation, and some leaders began wondering whether Americans were losing their respect for law and order. As the crisis deepened/ it became apparent that the nation must take action.

When challenged on the morality of breaking any law and the chances of increasing lawlessness, Martin Luther King in his *Letter From Birmingham Jail* replied, "One who breaks an unjust law must do so openly, lovingly (he might have added 'non-violently') and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who will-ingly accepts the penalty and imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law." As well as any other words by King, this statement expressed the underlying philosophy non-violent resistance to injustice.

A Plea from President Kennedy

On June 11,1963, just two weeks after the Jackson incident. President John F. Kennedy addressed his countrymen in both the North and the South:

I hope that every American, regardless of where he lives, will stop and examine his conscience about this and other related incidents.

This nation was founded by men of many nations and backgrounds. It was founded on the principle that all men are created equal, and that the rights of every man arc diminished when the rights of one man are threatened.

Today we are committed to a worldwide struggle to promote and protect the rights of all who wish to be free. And when Americans are sent to Vietnam or West Berlin, we do not ask for whites only.

It ought to be possible for American consumers of any color to receive equal service in places of public accommodations, such as hotels and restaurants, and theaters and retail stores without being forced to resort to demonstrations in the street.

It ought to be possible, in short, for every American to enjoy the privileges of being American without regard to his race or his color.⁷

The Request for Public Accommodations

President Kennedy's speech contained more than a plea for equal treatment; it called for congressional action on, among other things, opening public accommodations to all Americans.

I am, therefore, asking the Congress to enact legislation giving all Americans the right to be served in facilities which are open to the public – hotels, restaurants and theaters, retail stores and similar establishments. This seems to be an elementary right.

The Public Accommodations Act

The evening the President spoke, Medgar Evers, an African-American leader of the Jackson demonstration, was assassinated on his front doorstep as he was returning home from an NAACP meeting. The shock of this event coupled with the impact of the demonstration/ hastened Congress's response to the President's call for action. Within days, bills were introduced in both the House and the Senate to end segregation of public facilities. The proposals underwent many modifications. In its final

form, the law covered hotels, motels, lunch counters, restaurants, gasoline stations, theaters and stadiums – it specifically did not include bowling alleys and other places of recreation, barbershops, and other service establishments. A person who suffered discrimination could file suit in a federal court; the federal government would then ask a newly created community relations service to investigate the complaint and to seek voluntary compliance with the law. If the negotiations failed to bring compliance, the suit would proceed. The federal government could supply lawyers, but the individual claiming discrimination would pay court costs and his lawyer's fees. If the government could prove the existence of a pattern of discrimination in an area, it could file suits against offenders. A separate section prohibited segregation in publicly owned facilities. The law did not go as far as some civil rights demonstrators had hoped, but it went a long way toward the complete elimination of discrimination in public accommodations.

The 1964 law did not stop with prohibiting discrimination in public accommodations. It also prohibited discrimination in public schools, in programs partially financed by the Federal government, and in employment (including hiring, firing, promoting, and demoting) and it prohibited discrimination not only against African-Americans, but against any ethnic or national group. Finally, the law included the word "sex"; i.e. discrimination on the basis of gender was also prohibited.

Congress Debates Public Accommodations

The final version of the Public Accommodations bill was the product of nearly thirteen months of Congressional debate, filibustering, and compromise, and it provided a hotly contested issue for the 1964 Presidential election. While it is impossible to sum up all the arguments for and against this bill, it is possible to reproduce some of the strongest arguments against it and a short debate on its merits. The arguments for the bill have already been presented in the speech by President Kennedy.

Farris Bryant, governor of Florida, presented an argument against the Public Accommodations provisions before the Senate in 1963. Governor Bryant believed the bill threatened the right of property owners to choose their customers and thus deprived them of the right to use their own property as they saw fit:

The debate in which we are now engaged is over the assertion of a new right: the right of non-owners of property to appropriate it from the owners. The new right is asserted in the name of equality. Differently stated, this is a debate between those who seek to preserve.

May freedom in the use of property by its owners and those who would appropriate a part of the bundle of rights which make up that ownership, without compensation, to the public, in the name of equality.

I suggest, gentlemen, that the proper goal for the Congress to seek is not a transfer of property rights, but freedom. We would all agree that the traveler is free and should be free not to buy. He can pass a hotel or a motel he does not like because he does not like the town, he does not like the color of the hotel, or he does not like the name.

Why not? He ought to be able to do these things. He is a free man. So is the owner of the property. And if the traveler is free not to buy because he does not like the owner's mustache, accent, prices, race, other customers, or for any or no reason, the owner of the property ought to have the same freedom. That, it seems to me, is simple justice. The wonder is really that it can be questioned.

Strom Thurmond and Franklin D. Roosevelt, Jr., on Public Accommodations

Strom Thurmond, a senator from South Carolina, known for his pro-segregationist views, and Franklin D. Roosevelt, Jr., a son of the former President, argued passionately at the Senate Commerce Committee hearings on the Public Accommodations bill. Thurmond/ like Bryant, claimed to be championing

property rights. Roosevelt, like President Kennedy, claimed to be championing human rights. Excerpts of their debate quoted below should help the reader determine whether a person's right to discriminate on his own property is more important than another man's right to be served without discrimination.

Mr. Roosevelt: Senator, I don't believe in scarecrows, and I think I have made my position clear, that I think that human rights come before property rights in the case of public Senator Thurmond: ...I think every citizen ought to have equal rights. But as to whether they want to serve people on their private property is a matter for them. That is a freedom, isn't it? Isn't that freedom, to handle your own private property as you see fit?

Mr. Roosevelt: I look upon this from a different point of view. I believe that if a man goes into a business which holds itself out as rendering service to the general public, he has an obligation to serve the general public regardless of whether the individual be a Jew, a Catholic, a Puerto Rican, a Negro, a white, Protestant, or anything else. I think that as long as he is a citizen and comes under the constitutional rights of our country, then in my opinion – this is obviously a difference between us – I believe property rights are secondary to human rights.

Senator Thurmond: Mr. Secretary, don't you feel, down in your heart, if you really believe in the Constitution, that a man has a right to operate his business in a way that he sees fit, to close it any hour he wants to, and under your theory that you have enunciated here today, if he is forced to take anybody... will not that lead eventually to the Government fixing the price that he can charge, the other accommodations he will have to provide in such facility, and various other items that could arise in connection with the operation of such a business?

Senator Thwmond: Can you have any human rights when you destroy property rights?

Mr. Roosevelt: This does not deprive the individual property owner of his property. It simply requires that if he is going to hold himself out as giving service to the general public, that he give it to all the public, all citizens equally. That is all.. 8.

Suggested Student Exercises:

1. Give examples of the pattern of discrimination as practiced in the South – both the discrimination embedded in the laws and in private practices.
2. Review actions taken by African-Americans to protest against restriction in public accommodations.
3. Review the property vs. human rights argument and state the strength and weakness of each position in light of the racial history reviewed in this chapter.
4. If teacher directs, prepare to act out the scene and the argument stemming from the sit-in demonstration. You will need 3 demonstrators; 3 segregationist counter-demonstrators; and 1 store owner/manager

Demonstrators should be able to articulate reasons for protesting against local segregation laws, violating laws against integration, and trespassing. Their arguments ought to incorporate ideas from Martin Luther King on non-violent protest, as well as John f. Kennedy and Franklin Roosevelt, Jr.

Counter-demonstrators and store manager ought to argue that demonstrators are going where they are not wanted, violating the law and the rights of property owners to use their own belongings as they see fit. They should use arguments made by Farris Bryant and Strom Thurmond.

Epilogue:

In July 1964, Congress passed the Public Accommodations bill into law when it approved the Civil Rights Act of 1964. Hours later, President Johnson signed the historic measure, making it illegal to bar anyone from public facilities because of race, religion, or sex. It was widely hailed as a major step forward in advancing human rights. Within seven months, the Supreme Court ratified this step by unanimously upholding the constitutionality of this section. The Court decreed that the commerce clause in the Constitution granted Congress the power to ban racial discrimination in facilities that catered to -people traveling between states or received a substantial portion of its supplies from out of state. This decision came as no surprise to lawyers and constitutional experts who found ample precedent in Congress's regulation of wages and hours of employment in facilities similar to those covered by the Public Accommodations bill.

The bill was held to be entirely in keeping with the ancient English common-law tradition that any man abroad on the highway may stop at any inn and make use of its accommodations. The African-American GI, family, and college professor as well as the African diplomat, can no longer legally be denied service in restaurants, hotels, theaters, or similar establishments. The right to use public facilities has been guaranteed to all Americans.