

# Excerpts From the Statement on Civil

WASHINGTON, Dec. 8—  
Following are excerpts from  
the statement on civil diso-  
bedience by the National  
Commission on the Causes  
and Prevention of Violence:

## THE MAJORITY STATEMENT

Our concern with civil dis-  
obediences is not that they  
may involve acts of violence  
per se. Most of them do not.  
Rather, our concern is that  
erosion of the law is an in-  
evitable consequence of wide-  
spread civil disobediences.

In our democratic society,  
lawlessness cannot be justi-  
fied on the grounds of indi-  
vidual belief. The spectrum  
of individual consciences en-  
compasses social and political  
beliefs replete with discord-  
ant views. If, for example, the  
civil libertarian in good  
conscience becomes a diso-  
beyers of law, the segregation-  
ist is endowed with the same  
choice of conscience, or vice  
versa.

If this reasoning is carried  
to its logical conclusion, we  
must also make allowance  
for the grievances on numer-  
ous groups of citizens who  
regard themselves shackled  
by laws in which they do not  
believe.

Is each group to be free  
to disregard due process and  
to violate laws considered  
objectionable? If personal or  
group selectivity of laws to  
be obeyed is to be the yard-  
stick, we shall face nation-  
wide disobedience of many  
laws and thus anarchy.

We regard the right of  
peaceful dissent to be funda-  
mental, not only to the in-  
dividual freedoms we enjoy,  
but to the social progress  
so essential to our nation.  
Yet, just as fundamental are  
the disciplines that must con-  
trol our individual and group  
actions, without which indi-  
vidual freedoms would be  
threatened and social pro-  
gress retarded.

### A Threat to Rights

Every time a court order is  
disobeyed, each time an in-  
junction is violated, each oc-  
casion on which a court  
decision is flouted, the effec-  
tiveness of our judicial sys-  
tem is eroded. How much  
erosion can it tolerate? It  
takes no prophet to know  
that our judicial system can-  
not face wholesale violations  
of its orders and still retain  
its efficacy.

Violators must ponder the  
fact that once they have

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# Disobedience by National Panel

## on Violence

weakened their judicial sys-  
tem, the very ends they  
sought to attain—and may  
have attained—cannot then  
be preserved. For the antag-  
onist of the disobeyer's at-  
tained objectives most likely  
will proceed viciously to vi-  
olate them, and since judicial  
institutions would no longer  
possess essential authority  
and power, the "rights" ini-  
tially gained could be quick-  
ly lost.

It is argued that in in-  
stances where disobeyers  
seek to test the constitution-  
ality of a legislative enact-  
ment or a court decree and  
are willing to accept punish-  
ment, their acts should be  
condoned.

We suggest that if in good  
faith the constitutionality of  
a statute, ordinance or a

court decree is to be chal-  
lenged, it can be done effec-  
tively by one individual or a  
small group. While the ju-  
dicial test is in progress, all  
other dissenters should abide  
by the law involved until it  
is declared unconstitutional.

### Statement Unanimous

Over the past two decades  
increasing numbers of people  
seem to have embraced the  
idea that active disobedience  
to valid law—perhaps even  
violent disobedience—is jus-  
tified for the purpose of  
achieving a desirable political  
goal.

This idea found widespread  
support in the South as the  
white majority in that region  
resisted enforcement of the  
constitutionally defined rights  
of Negroes, and some such  
notion was probably not far  
from the minds of the Ala-  
bama state troopers when  
they attacked Dr. King's  
peaceful demonstration at  
Selma in 1965.

No doubt it was also prom-  
inent in the thinking of the  
Chicago policemen who ad-  
ministered punishment to the  
demonstrators in Chicago  
during the Democratic con-  
vention of 1968.

### Idea Widely Held

The same idea—that diso-  
bedience to law is justified  
in a good cause which can be  
furthered in no other way—  
is also widely held by many

students, black citizens and  
other groups pressing for  
social change in America  
today.

It is the illegal and some-  
times violent activities of  
these groups that have been  
most perplexing and distur-  
bing to the great majority of  
Americans. Their actions  
have prompted the most in-  
tense interest in the ancient  
philosophical question of  
man's duty of obedience to  
the state.

In recent years, increasing  
numbers of Americans have  
taken to the streets to ex-  
press their views on basic is-  
sues. Some come to exercise  
their right to dissent by pa-  
rades and picketing. Some  
dramatize their causes by vi-  
olating laws they feel to be  
wrong. Some use the issues  
being protested as drums to  
beat in a larger parade.

For example, the Vietnam  
war has been used on one  
side as a dramatic moment in  
the ubiquitous, always evil  
Communist conspiracy; on  
the other as an exemplar of  
the fundamental diabolism of  
Western capitalist nations.

Some take to the streets

in the belief that the public,  
if made aware of their griev-  
ances, will institute the nec-  
essary processes to correct  
them. Others come in anger;  
not hopeful, but insistent;  
serving notice, not seeking  
audience. Finally, there are  
even a few who take to the  
streets to tear at the fabric of  
society; to confront, to com-  
mit acts of violence, to create  
conditions under which the  
present system can be swept  
away.

Out of the widening pro-  
test, one disturbing theme  
has repeatedly appeared. In-  
creasingly, those who protest  
speak of civil disobedience  
or even revolution as neces-  
sary instruments of effecting  
needed social change, charg-  
ing that the processes of law-

ful change built into the sys-  
tem are inadequate to the  
task.

We must, of course, realize  
that civil rights demonstra-  
tions arise from great suf-  
fering, disappointment and  
yearning. We must recognize  
the importance to the demo-  
cratic process, and to the ul-  
timate well-being of our na-  
tion, of young people com-  
bating hypocrisy and indif-  
ference.

But when these emotions

become a basis for action, and when that action creates social disorder, even the most sympathetic are forced to judge whether and to what extent the ends sought justify the means that are being used.

#### War and Moral Duty

Most of the unlawful opposition today to the Vietnam war is justified on the ground that the war itself is immoral and "unlawful" in various respects. Since it is immoral, the argument goes, there is no moral duty to obey those laws which are in the aid of the conduct of the war. Indeed, the argument continues, one's true moral duty is to resist the war and to take affirmative action to impede its prosecution.

On theories of this kind, Americans have refused to be drafted; they have disrupted Selective Service facilities and destroyed Selective Service records; they have vilified the President, the Secretary of State and the Secretary of Defense and attempted to disrupt their public speeches; they have attempted to bar companies and governmental agencies participating in the war effort from university campuses and to disrupt the universities that have refused to accede to that demand.

At the level of individual morality, the problem of disobedience to law is wholly intractable. One is tempted to suggest that even if the war is immoral, the general level of morality of the country is not much improved by the conduct described above. Moreover, if we allow individual conscience to guide obedience to the law, we must take all consciences. The law cannot distinguish between the consciences of saints and sinners.

The evidence is insufficient to demonstrate that acts of civil disobedience of the more limited kind inevitably lead to an increased disrespect

for law or propensity toward crime. In fact, some experts have argued that engaging in disciplined civil disobedience allows people to channel resentment into constructive paths, thereby reducing the propensity for engaging in antisocial behavior.

#### Small Part of Problem

But the fact that disobedience to law does not appear adversely to affect the attitudes of the people who engage in it is only one small part of the problem. For such conduct does have a serious adverse effect both upon other people in the society, and, most importantly of all, upon the system of laws upon which society must inevitably depend.

The experience of India seems to indicate that civil

disobedience has a strong tendency to become a pattern of conduct which soon replaces normal legal processes as the usual way in which society functions.

Put in American terms, this would mean, once the pattern is established, that the accepted method of getting a new traffic light might be to disrupt traffic by blocking intersections, that complaints against businessmen might result in massive sit-ins, that improper garbage service might result in a campaign of simply dumping garbage into the street, and so on.

Of course, these kinds of actions are not unknown in America today, but in India they have become a necessary part of the political system. Without a massive demonstration to support it a grievance simply is not taken seriously because everyone knows that if the grievance were serious, there would be a demonstration to support it.

#### Question Is Asked

The adverse effect upon normal democratic processes is obvious. Though not intended to destroy democratic processes, civil disobedience tends plainly to impair their operation. This is a fact to which those who engage in civil disobedience should give consideration lest, in seeking to improve society, they may well seriously injure it.

We believe that the time has come for those participating in the various protest movements, on and off the college campuses, to subject their disobedience to law to realistic appraisal.

The question that needs to

be put to young people of generous impulses all over the country is whether tactics relying on deliberate, symbolic and sometimes violent lawbreaking are in fact contributing to the emergence of a society that will show enhanced regard for human values—for equality, decency and individual volition.

For some in the protest movement, this is not a relevant inquiry; their motivations are essentially illiberal and destructive. But this is not descriptive of most of those engaged today in social protest, including most who have violated the law in the course of their protest; their intention is to recall America to the ideals upon which she is founded.

We believe, however, that candid examination of what is occurring in the United States today will lead to the conclusion that disobedience to valid law as a tactic of protest by discontented groups is not contributing to the emergence of a more liberal and humane society, but is, on the contrary, producing an opposite tendency.

The fears and resentments created by symbolic law violation have strengthened the political power of some of the most destructive elements in American society. No naive and willful blindness can obscure the strength of these dark forces, which, but for the loosening of the bonds of law, might otherwise lie qui-

escent beneath the surface of our national life.

An almost Newtonian process of action and reaction is at work, and fanaticism even for laudable goals breeds fanaticism in opposition. Just

as "extremism in defense of liberty" does not promote liberty, so extremism in the cause of justice will extinguish hopes for a just society.

#### STATEMENT OF CARDINAL COOKE

Our democratic society is based on the concept and common agreement that civil law deserves the respect and obedience of every citizen. Civil disobedience as an act of conscience expressed by public acts of defiance is permissible only as a last resort to obtain justice when all the other remedies available in our system of representation and checks and balances have been exhausted.

Civil disobedience can only be justified when a civil law is conscientiously regarded as being clearly in conflict with a higher law—namely our Constitution, the natural law or divine law.

In this extreme case, non-violent forms of civil disobedience, accompanied by willing acceptance of any penalty the law provides, are the only means that can be justified in our democratic society. These principles are not only the foundation of an ordered society under law, but they guarantee our freedom and our social progress as well.

#### STATEMENT OF MRS. HARRIS

I must take exception to the majority statement of the commission dealing with civil disobedience. No data developed by or presented to this commission show a significant relationship between civil disobedience based upon conscience and violence, as

the statement itself admits when it says that most civil disobedience does not involve acts of violence per se.

Furthermore, governmental commissions should tread very lightly, if at all, in fields where individuals make claims of conscience. Those who have urged civil disobedience, from Gandhi to Martin Luther King, and including those who supported the trials of Nazi leaders at Nuremberg, have asserted that there are some laws so repugnant to the dignity of man that regardless of the concurrence of the majority, the law must not be obeyed.

A nation whose history enshrines the civil disobedience of the Boston Tea Party cannot fail to recognize at least the symbolic merit of demonstrated hostility to unjust laws.

I am not nearly so certain as are the supporters of the commission statement that the legal process will always respond effectively to those who resort only to petition and lawsuit. Perhaps my uncertainty is due to the fact that I see a relationship between the civil disobedience of antisegregation sit-ins and the eventual elimination of laws requiring segregation of the races.

Certainly, black Americans had used legal process at least as early as the Dred Scott case. Yet, despite a Civil War, constitutional amendments and court decisions, black Americans at the beginning of this decade were still faced with laws and practices treating them as second-class citizens. The majority statement condemns acts such as the sit-ins if they were not for the purpose of

instituting a specific test case.

#### STATEMENT OF SENATOR HART

My faith in the Constitution is great. And our constitutional system will certainly admit of fewer Joans of Arc than less enlightened structures.

Still, a close scrutiny of my own failings—at the risk of unfairly projecting a generalization from a single specific case—leads me to have some doubts about the infallibility of Congress.

It is even conceivable that I might concur in a bill that history comes to regard as an immoral measure. And if one or several citizens truly feel their consciences so offended by that law that they are willing to accept punishment rather than obey it, then I find it difficult to condemn them in advance.

#### STATEMENT OF JUDGE HIGGINBOTHAM

Recent advances in the field of civil rights have not come about and could never have come about solely through judicial tests made "by one individual" while all others in the silent black majority waited for the ultimate constitutional determination.

Rather, the major impetus for the Civil Rights Acts of 1957, 1960, 1964 and 1965, which promised more equal access to the opportunities of our society, resulted from the determination, the spirit and the nonviolent commitment of the many who continually challenged the constitutionality of racial discrimination and awakened the national conscience.