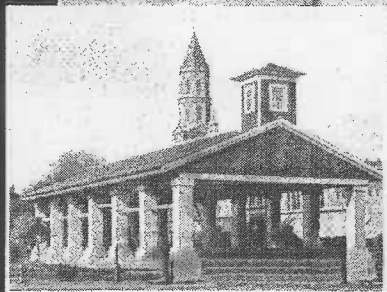
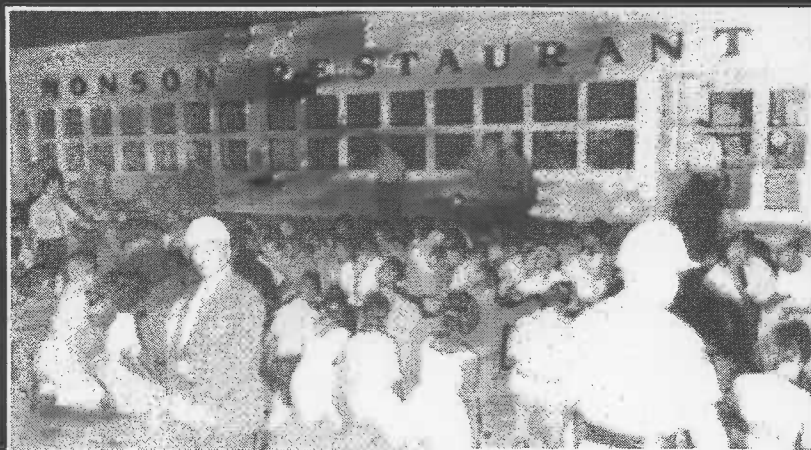


ST. AUGUSTINE 1964



Ralph Temple

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“**Y**ou nigger-lovin' Jew-lawyers, we know what y'r doin'. We waitin' f'yew, yew gonna get it. Hear me, boy?”

"Yeah, sure," I replied into the telephone. "You get that Mr. Cummings - you get the FBI trace on that?"

The bluff worked; the anonymous caller hung up abruptly. There was no Cummings, no FBI.

Contrary to the 1988 film, "Mississippi Burning," in which Gene Hackman is the FBI agent who puts the muscle on the Ku Klux Klan, and rescues the helpless black community, the FBI's role in the civil rights battles was unreliable at best and subversive at worst. Almost one-third of the FBI agents in the South were themselves Southerners, steeped in the culture of segregation, and most of the rest were detached, passively resisting the struggle of African-Americans. The FBI's observe-and-report mode is exemplified by the FBI's Ku Klux Klan operative who sat by while three other Klansmen with him, in a drive-by shooting, killed Viola Liuzzo, a forty-two-year old white housewife from Detroit who was a volunteer in an Alabama voter registration drive. FBI director J. Edgar Hoover conducted surveillance of Dr. Martin Luther King, Jr.'s adulterous affairs, hoping to destroy his leadership. The FBI didn't rescue Southern blacks; black people themselves waged the war with hundreds of Northern whites like Mrs. Liuzzo coming to lend a hand.

GOING SOUTH

That was why I was in St. Augustine, Florida, for two weeks in August 1964. I was thirty-two years old, eight years out of law school. After graduating in 1956, I worked at the NAACP Legal Defense Fund in New York City for Thurgood Marshall, the leading civil rights lawyer of the time and later the first black Supreme Court justice. I was drafted and spent two years in the Army at Ft. Bragg, North Carolina, followed by four years of teaching law. In 1962, I went to work for Arnold, Fortas & Porter, one of Washington's largest law firms.

In July 1964, Richard Sobol, another young associate in the firm, introduced me to Henry Schwarzschild, who had recruited Sobol for a stint of volunteer lawyering with the civil rights movement in New Orleans. Henry, with his sophisticated European manner and accent, though not a lawyer, was a passionate advocate, working out of New York City for the Lawyers Constitutional Defense Committee. The LCDC had recently been formed to cope with what was to be the hottest summer of the civil rights wars.

Thomas Hilbink's 112-page history of the LCDC credits its formation mainly to Mel Wulf, legal director of the American Civil Liberties Union, and Carl Rachlin, general counsel of the Congress of Racial Equality. The mass arrests of black protesters were overwhelming the few black lawyers in the South who would dare take on such cases. The few white lawyers who did so, like Bill Higgs in Mississippi and Chuck Morgan in Birmingham, were run out of town. Hilbink's history also describes the political problems in the formation of LCDC. The National Lawyers' Guild, although active in civil rights in the South, was excluded because some thought the group was tainted with Communism. Jack Greenberg of the NAACP Legal Defense Fund (Inc. Fund) was resistant to the formation of LCDC for what Hilbink describes as reasons of "turf," and also because the Inc. Fund's approach was to develop test cases methodically and carefully, not to send in platoons of volunteers inexperienced in civil rights litigation.

Hilbink tells us that in the spring of 1964 Wulf and Rachlin assembled a half dozen organizations, including the National Council of Churches, the American Jewish Congress, the American Jewish Committee, and the NAACP Inc. Fund. Each contributed money or other resources, Henry Schwarzschild was hired to round up and coordinate the operations, and in May 1964 the LCDC began seeking volunteers. The new organization oriented its recruits with a critical guiding principle: lawyers were going South, not to direct the civil rights movement, but to assist local African-Americans in the directions and activities they chose for themselves. This principle -- that the lawyer works for the client to achieve the client's ends, rather than dictating to the client -- is a luxury that had all too often been reserved for the corporate world that could pay its lawyers and therefore direct their actions. Now the civil rights movement, too, would have that autonomy. On June 6-7, 1964, over one hundred volunteer lawyers attended a training and orientation session at Columbia Law School, and shortly after that, the first contingents were on their way South.

The idea was to fill the ranks by asking Northern lawyers to spend their vacations on two-week lawyering gigs in the hot spots: Birmingham, Jackson, Memphis, New Orleans, and St. Augustine. The multiple civil rights defenses and lawsuits were conducted relay-race style, with each team of volunteers passing the litigation baton every week or two to a new team just arriving. Naturally, the twists, turns, and dynamics of even routine legal actions are too complicated to work with a constant changing of the lawyers, let alone the often complex civil rights cases conducted in hostile territory. So it would never work -- any experienced litigator knew that. But it did work. Powerfully.

On April 12, 1963, the eight leading white clergymen of Birmingham, Alabama -- six ministers, a rabbi and a bishop -- issued a public statement urging Martin Luther King to call off civil rights demonstrations in that city. The national media had been televising police and thugs viciously attacking peaceful black protesters. The clergymen emphasized reform efforts that were underway. "In Birmingham," they said, "recent public events have given indication that we all have an opportunity for a new constructive and realistic approach to racial problems." They said that Dr. King and other "outside agitators" were succeeding only in provoking violent responses and interfering with their reform efforts. From prison, Dr. King responded in his classic "Letter From Birmingham City Jail," a declaration of what the civil rights movement was about. Passages of that eloquent manifesto keep recurring in my memories of that summer. In response to the charge that he was an outside agitator, Dr. King wrote:

I am here, along with several members of my staff, because we were invited here. . . . Beyond this, I am in Birmingham because injustice is here. Just as the eighth century prophets left their little villages and carried their "thus saith the Lord" far beyond the boundaries of their home town, and just as the Apostle Paul left his little village of Tarsus and carried the gospel of Jesus Christ to practically every hamlet and city of the Graeco-Roman world, I too am compelled to carry the gospel of freedom beyond my particular home town.

Those whites who went South in the sixties were fired up, driven by the injustices of segregation, suppression, and violence, and inspired by Dr. King.

I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. . . . Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere in this country.

On the Sunday morning of August 2, 1964, on the flight from my home in Washington, DC down to Florida, I was exhilarated and nervous. There had been no shootings or bombings in St. Augustine for several months. I did not really expect danger, but my wife Sally, carrying our first child due in seven weeks, was worried when she saw me off at the airport, and on the flight down I found that I was too. The summer before, Klansmen set off the bomb in a black Birmingham church that killed four children, aged twelve to sixteen. Only six weeks earlier, on June 21, 1964, a sheriff in Philadelphia, Mississippi led a lynch mob that kidnapped and murdered three young civil rights workers, black Mississippian James Chaney, and two white Northerners, Michael Schwerner and Andrew Goodman. In St. Augustine, protesters marching out of the black section to the historic slave market in the center of the city had been attacked by a white mob swinging chains and clubs.



June 18, 1964 James Brock, manager of the Monson Motor Lodge, pouring acid on demonstrators attempting to desegregate the pool.

Newspapers across the country had carried a front page photograph showing the owner of a St. Augustine motel pouring acid into the swimming pool where black teenagers were conducting a "swim-in."

What Dr. King had to say from the Birmingham jail was not far off the mark for all the major Southern cities:

Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of police brutality is known in every section of this country. Its unjust treatment of Negroes in the courts is a notorious reality. There have been more unsolved bombings of Negro homes and churches in Birmingham than any city in this nation.

St. Augustine is close to the east coast of Florida, up near the top of that long state, and calls itself "The Ancient City," ostensibly the nation's oldest. At 11:30 a.m. the plane landed in Jacksonville, forty miles south of the Georgia border and, after Miami, the second largest city in Florida. Eric Chamblis, a volunteer law student from California, met and drove me the thirty miles south to St. Augustine. On the way, Eric described the office operation, the housing, and the activities in progress. At the office I met my two team mates, Alvin Dorfman, about thirty, from Long Island, New York, who had been there for a week, and Martin Fox, about forty, who had arrived from New Jersey the night before.

Al Dorfman briefed us on the on-going court actions in the local courts and in the federal court in Jacksonville, and guided us through the files of the most imminent. We divided assignments for the next few days. Marty Fox and I were then introduced to Dr. Robert Hayling whose dental office was our base of operations - where several days later I received the threatening telephone call just described.

Dr. Hayling was the leader of the local SCLC, Dr. King's Southern Christian Leadership Conference. The dental office was in a one-story building just big enough for an anteroom, two rooms with dental chairs, and a room with a desk. The anteroom was spacious and had been converted to the lawyering business by the addition of two desks, a couple of small work tables, three four-drawer filing cabinets, and extra phone lines.

Dr. Hayling's patients did not seem to mind, making their way around the bustling lawyers and law students. The office was situated just across the railroad tracks that were the borderline between St. Augustine-proper and Lincolnville, which is what the "colored" section of the city was called.

Southern towns and cities always had colored sections. "The colored" were allowed to come into the regular city only to work for whites. Public places in the white section always had two sets of rest rooms and drinking fountains, marked "white" and "colored," and black people were confined to a small area at the back of buses. Except for the black ghettos, African-Americans could not dine at restaurants, go to the movies, or even snack at drugstore lunch counters.

Growing up in Miami, I was revolted by that culture. In an episode when I was twelve, a group of us were standing near the rear of a crowded bus on our way to a Saturday matinee at the Dixie Theater, when a white man, having trouble squeezing past a black man, suddenly shouted, "Out of my way you goddamn nigger, don't you know to get out of the way for a white man, goddamn you," and, turning to us, "you boys ought to help me whip this goddamn nigger to teach him a lesson." The black man appeared embarrassed and frightened. No one said anything, the white man got off the bus, and we went on to our movie. When I was finally home alone at the end of the day, I cried out the humiliation and rage I'd bottled up all day over the incident.

DR. ROBERT HAYLING

Dr. Hayling was a big man, about six feet three inches tall with broad shoulders, short cropped hair, a wide face and thin mustache. His eyes and voice were soft, mellifluous, and reassuring. He was also something of a risk-taker. Less than a year earlier, on September 18, 1963, he and three friends had spied on a Ku Klux Klan rally in an open field at the edge of some woods just outside St. Augustine. Crouching in the woods, they had watched as the crowd of several hundred, many in Klan hoods and robes, had lit a large cross then listened to a lengthy harangue by one of the infamous Klan figures of the times, Connie Lynch, a self-styled minister from Alabama. Reverend Irvin Cheney, a white minister who was assistant director of the Florida Human Relations Council, monitored the event from the middle of the crowd where he appeared to be just another Klan supporter. Cheney wrote a detailed description of the event, including Connie Lynch's speech.

Excerpts of that diatribe provide a glimpse of the pathology of hatred:

My friends, I want to share with you something of the history, the glorious history of the Klan. The Klan was born out of blood-shed, out of a real need to protect the southern white man from the carpetbaggers -- the Jew Carpetbaggers. You know, of course that the carpetbaggers was Jews, and they come down here and teamed up with the Niggers and tried to take everything the white man had. But they learned that the white man would not take this lying down.

Lynch called upon white people to take up arms to defend their way of life. Then, Reverend Cheney reported, Lynch addressed the church bombing that killed the four black girls in Birmingham:

If they can find these fellows who done that, they ought to pin medals on them. Someone said, 'Ain't it a shame that them little children was killed.' Well, in the first place, they ain't little. They're 14 or 15 years old -- old enough to have venereal diseases, and I'll be surprised if all of 'em didn't have one or more. In the second place, they weren't children. Children are little people, little human beings, and that means white people. There's little monkeys, but you don't call them children. They're just little monkeys. There's little dogs and cats and apes and baboons and skunks and there's also little Niggers. But they ain't children. They're just little Niggers.

Lynch stirred the crowd and himself:

And in the third place, it wasn't no shame they was killed. Why? Because when I go out to kill rattlesnakes, I don't make no difference between little rattlesnakes and big rattlesnakes, because I know it is the nature of all rattlesnakes to be my enemies and to poison me if they can. So I kill 'em all, and if there's four less Niggers tonight, then, I say, 'Good for whoever planted the bomb.' We're all better off.

As a "minister," Lynch also addressed the theological issues:

Some people say that we'll all be in heaven together. The hell we will! Only God's family will be in heaven, and Niggers and Jews ain't God's family. Ain't gonna be no animals in heaven, and ain't gonna be no sons of perdition there. It's just a shame some people brought these black animals over here, animals highly enough developed so that their seed can mix with your seed. . . .

Some of the Niggers say, 'We want to go to your churches.' There ain't but one manly, Christian thing to do when they try, and that is to meet 'em at the church house door with a baseball bat and beat their brains out.

Reverend Cheney reported that Lynch then turned his attention to Dr. Hayling himself, who was secretly witnessing the event.

I'll tell you something else. You've got a Nigger in St. Augustine that ought not to live - that burr-headed bastard of a dentist. He's got no right to live at all, let alone walk up and down your streets and breathe the white man's free air. He ought to wake up tomorrow morning with a bullet between his eyes. If you were half the men you claim to be you'd kill him before sunup.

Reverend Cheney relates that Lynch went on for an hour and fifteen minutes. The next speaker was dull, and the crowd, growing bored, had dwindled down to about a hundred. At that moment, when something was needed to enliven those remaining, they got it. Dr. Hayling and his three companions were caught at gun-point by Klansmen coming up behind them in the woods.

The four were hauled before the crowd, which howled for their blood. Several women screamed, "Cut off their balls!" As Dr. Hayling and his three companions were being beaten bloody with chains, baseball bats, and ax handles, Reverend Cheney heard one robed Klanswoman whisper to her husband, "Go get the headchopper and the rope, and for God's sake, take off your robe and leave it in the car. You don't want to mess it up." Cheney eased his way out of the crowd to go for help.

He got the police who came and got the beaten victims out of there. All four were hospitalized, some for as long as twelve days. The mob had broken Dr. Hayling's wrists. Typical of Southern "law enforcement," the police made minor charges against only four of the Klansmen, who were then exonerated by a racist magistrate, G. Marvin Grier. Dr. Hayling and his three companions were charged with assault, trespass, and other crimes. Among the piles of civil right leaflets around Dr. Hayling's office was one with a photograph of him propped up in a hospital bed, his wrists in casts. I was glad to learn from his firm grip when we met that his hands were all right.



Dr. Robert Hayling in hospital with two broken wrists received from a beating by a mob, 1963.

Dr. Hayling described to Marty and me the office routines, the town, the daily marches and protest activity, and our housing. Each of us was assigned to stay with residents of Lincolnsville who had offered to put up the Northern visitors. We would walk down the poorly paved streets without sidewalks to the old wooden shacks of our hosts, as much as a mile from our dental office headquarters. My room was in the house of a small dark-skinned old lady who lived there with her lovely nineteen-year-old granddaughter, a domestic worker. They were delighted to have me, and their affection, the old bed, and the bath tub were great comforts during my stay.

Dr. Hayling concluded his introductory talk to us with safety cautions. "Don't ever go into St. Ow-gostine," he drawled, referring to the white section of the city, "except in the day time, and, then, only in the company of someone else. Always let someone here know where you're going and when you'll be back. Here you're safe; you can go anywhere in Lincolnsville any time of the day or night. Everyone in town knows why you boys are here. "

He added, "Use to be that the Manucys would come riding through here at night, firing guns, setting fires, raising hell."

Halstead "Hoss" Manucy, a horse-faced man strutting around in a cowboy hat and boots, his huge belly overhanging his belt line, led a family of brothers and cousins who were the core of the local Ku Klux Klan, masquerading under the name, "The Ancient City Gun & Hunting Club."

Dr. Hayling said, "They shot-gunned my house last summer, and wounded some boys standing outside. And they've burned up a few homes with Molotov cocktails. Just six months ago, they came through here and shot up my house again. Killed my dog, and almost hit my pregnant wife." Then his face turned gentler and his voice softer and he said, "But all that stopped three months ago. They came in across the railroad tracks one night in a pick-up truck. Chuck Manucy was driving, and Tom Morris (a pseudonym) was sitting next to him with a loaded shotgun across his lap, when a bullet hit him right here," he said, pressing his index finger firmly and flatly between his eyes at the middle of the forehead.



"They claim Johnny-Lee Brown (a pseudonym) did it, and they been holding him in jail on a murder charge. But they've got no proof; he'll get out." A slight smile. "So they don't come through Lincolnsville any more; you're safe here."

For the first few days, every time I stepped out the door of Dr. Hayling's office, within, say, a shot-gun blast of white St. Augustine, a frozen sensation would ripple down my chest and stomach. Throughout my stay I was on edge each time I had to venture into the white section of the city. But I could walk home alone sometimes as late as two in the morning, feeling completely safe. Violence, of course, was not the way of the civil rights movement. Martin Luther King drew his strength from his Christian faith and from the inspiration of Mahatma Gandhi, and, like Gandhi, preached non-violence. But I was grateful to the maverick whose gunshot into a Manucy car had made me feel safe in Lincolnsville.

JUDGE BRYAN SIMPSON

Marty Fox, Al Dorfman, and I got going the next day, Monday, preparing legal documents and visiting the local court house in St. Augustine and the federal court in Jacksonville, about an hour's drive away. The office staff of the clerk of the local court bristled; we were definitely in hostile territory. With care, we pushed for the files we'd come to inspect, and got them.

The federal court in Jacksonville, formally called the United States District Court for the Middle District of Florida, was different. The judge of that court, Bryan Simpson, white-haired and maybe fifty-five, was a born and bred Southern gentleman. He had responded early on to civil rights lawyers with disparaging comments and unfavorable rulings. But the mounting injustices and violence against black people that were repeatedly brought to Judge Simpson's attention had a profound effect on him, and he had changed.

Judge Simpson warmly welcomed us into his oak paneled office, shook our hands, and waved us into chairs in front of his large desk. "So you're the new team," he said with a smile. "Where are you gentlemen from?"

We chatted in this comfortable fashion for some time before coming to the main order of business. We were there to enforce the desegregation of public facilities required by the newly enacted Civil Rights Act of 1964. This new federal statute had been passed by the Congress and signed into law by President Lyndon Johnson on July 2nd, just a month earlier, a major victory for the civil rights movement. The new battle was to force compliance with the law, to dismantle the three-hundred year old Jim Crow tradition. In St. Augustine and other key cities in the South, black people were pressing forward, going to restaurants, hotels, and other places of public accommodation, no longer having to sit-in, because for the first time in the one hundred years since the Civil War, the law was on their side.

At first, St. Augustine businesses began to comply with the new law and to provide nondiscriminatory service. They reversed course when they found themselves the object of demonstrations and threats by the Ku Klux Klan. Earlier in the summer our LCDC predecessors had filed suit against seventeen St. Augustine restaurants and motels, asking the federal court to order them to obey the law, and seeking an injunction against Hoss Manucy and his gang to restrain them from intimidating the business owners and the black people seeking service. Judge Simpson had conducted a hearing the week before Marty and I arrived. We asked what the Judge was going to do. He said, "I have read all the documents and, at last week's hearing, listened to the arguments of both sides. I'm ready to rule, and on Wednesday I'm going to issue the order you fellows have been after."

"Do you want us here for that?" asked Marty Fox. "Are we and the opposing lawyers going to have to be prepared with anything?"

"Not right away," said Judge Simpson. "I'll wait a day or two after I've issued the order to give the businesses a chance to ask me to stay the order so that they have time to file an appeal from my ruling."

"We don't think they should be able to delay compliance with the order, Your Honor," Marty said. "It's plainly right, and they have had plenty of time to get ready for this."



Judge Bryan Simpson

"Just the same," the Judge said, "I'm leaning towards letting them have a stay so they can appeal. There's a similar case going from the U.S. District Court in Atlanta up to the United States Supreme Court. I will want to see what the Supreme Court is going to do with that. In the meantime, I think you all should wait and not have your people pushing it." In short, Judge Simpson wanted no more demonstrations or African-Americans asking for service at white places while the resolution of this case was pending. He wanted things to remain as calm as possible in St. Augustine. Marty and I had anticipated this and had discussed it with Dr. Hayling.

"They're pretty impatient, at this point, Your Honor," I said. "I don't know that they'll be willing to wait any longer now that the law is clear."

"Sure," said Judge Simpson, "I understand that. But they may have to wait a little longer anyway, just to let this lawsuit run its course. Anyway, after I've issued the injunction, I'll hear arguments from both sides about a stay."

Marty and I were exchanging glances, trying to keep ourselves aligned during the dialogue. At this point we felt it was time to stop pushing. We stayed awhile longer, continuing to get to know Judge Simpson. We left quite happy; we had good news for Dr. Hayling. The injunctions against the motels, the restaurants, and the Klan were coming the day after tomorrow.

Our next stop was at the office of one of our bosses, Earl Johnson, an African-American, the leading civil rights attorney in Jacksonville. He asked that one of the three of us stay in Jacksonville to work with him on a daily basis. We clustered among ourselves and found that none of us wanted to leave St. Augustine. Al Dorfman finally said he'd do it.

Marty Fox and I spent Tuesday morning fumbling with the files, which, with all the lawyers streaming in and out of town, were a mess. We had lunch at a diner across the street from Dr. Hayling's office, a place that became our social center whenever there was time to spare in the days that followed. There we got to hobnob with the folks of Lincolnville, and to eat the biggest richest peach ice cream cones I've ever had.

In the afternoon, Marty and I went to the local county court house in St. Augustine to check court records on some pending lawsuits. We again met resistance from a woman in the clerk's office, but she remained pleasant even while digging in her heels, and finally yielded to Marty's gentle pressure without getting riled.

We also wanted to get a look at Judge Charles C. Mathis, Jr., the county judge who we had been warned was hard core Southern resistance. In July 1963, after seven African-American children under fourteen years of age had been arrested for picketing against a whites-only restaurant, Judge Mathis required their parents to sign promises that the children would not participate in any more protests. When the parents of four refused to sign, Judge Mathis had the children locked up in the county jail.

We slipped into his courtroom while he was conducting a trial of a white man charged with possessing moonshine whiskey -- liquor distilled and sold without benefit of tax stamps in violation of state and federal laws. The defense lawyer, being creative in a normally routine case, cross-examined the arresting police officer, asking him how he knew the moonshine in issue was illegal. "I never heard of legal moonshine," answered the officer. The lawyer then produced a jar of clear liquid labeled "Georgia Moonshine" that bore the required tax stamps, and asked the officer to smell the contents. The policeman sniffed the jar, shook his head, grinned sheepishly, and acknowledged, "Yep, that's moonshine all right," thereby undermining his testimony that moonshine is always illegal and allowing the lawyer the classic gesture of turning away with a triumphant, "No more questions." Marty and I did not wait around to be disappointed, convinced from his comments that Judge Mathis was going to find the accused guilty anyway.

That night we traveled in a convoy of three cars from Lincolnville to church meetings in the nearby cities of Gainesville and Ocala. Southern black churches, normally lively, were tame compared to the energy we saw that night. Standing, swaying, sweating, shouting, Amen-ing, arms locked, singing "We Shall Overcome" and "We Shall Not Be Moved" and "Let My People Go," the people were ablaze with the jubilation of the Call, the Call with which the preachers, echoing Dr. King, roused their followers: "Free at last, free at last, great God Almighty, I'm free at last!" They were, as Eli Wiesel called 19th century Hassids, souls on fire.

We stayed late, as the communities prepared for Dr. King's return to St. Augustine the next day. Two months earlier, on June 11, 1964, Dr. King had been arrested here for sitting in at a restaurant. He had left jail two days later to accept an honorary degree at Yale, and prior to his departure had promised St. Augustine "a long hot summer" of demonstrations and legal actions. Now he was returning, on August 5th, to hold a press conference coinciding with Judge Simpson's order requiring the town's hotels and restaurants to comply with the new law.

The court order was significant beyond its immediate purpose of opening hotels and restaurants to African-Americans. It was aimed at the power structure that had held the walls of segregation in place throughout the South: the respectable citizens of the business communities and their shock troops - the racist police and the Klan. The aim of the civil rights movement was to force the white establishment to exert its power to open the doors of public places to African-Americans and to put a stop to the violence, in effect, to call off their dogs. That was what Dr. King was addressing in his Birmingham jail letter. In answer to the call of the eight white clergymen to wait, Dr. King had written:

For years now I have heard the word "Wait!" It rings in the ear of every Negro with a piercing familiarity . . . We have waited more than three hundred and forty years for our constitutional and God-given rights . . .

And described what racism feels like on the receiving end --

I guess it is easy for those who have never felt the stinging darts of segregation to say wait. But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize and even kill your black brothers and sisters with impunity . . .

The economic suffocation -

when you see the vast majority of your twenty million black brothers smothering in an air-tight cage of poverty in the midst of an affluent society . . .

The crippling effect on children -

when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky, and see her begin to distort her little personality by unconsciously developing a bitterness toward white people; when you have to concoct an answer for a five-year old son asking in agonizing pathos: "Daddy, why do white people treat colored people so mean?" . . .

The burdens on movement -

when you take a cross country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you . . .

And, finally and most oppressive, the dehumanization -

when you are humiliated day in and day out by nagging signs reading "white" men and "colored"; when your first name becomes "nigger" and your middle name becomes "boy" (however old you are) and your last name becomes "John," and when your wife and mother are never given the respected title "Mrs. "; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tip-toe stance never quite knowing what to expect next, and plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodiness"; -- then you will understand why we find it difficult to wait.

Following the church rallies, we arrived back in Lincolnville about 6:30 am Wednesday morning, got a few hours sleep, and were back in Dr. Hayling's office at 11. I got together with Henry Schwarzschild, who had recruited me for this stint and who had come down from New York for the press conference. In the early afternoon when we arrived at the church, Henry said, "Would you like to meet Dr. King?" Walking around the side of the church, we approached a group of men.



Dr. Martin Luther King, arrested earlier in the week after he sought service in a St. Augustine restaurant, smiles at a police dog as he is driven back to jail.

Henry introduced me to Dr. King and to his chief assistant, Hosea Williams. We shook hands. Dr. King was shorter and slightly stockier than I expected. The four of us walked into a small room of the church, where Dr. King invited me to sit with him while the others got busy preparing for the press conference. We chatted for a few minutes before he was called away. I cannot recall a word that was said; I remember only his big open face, his gentle wide eyes.

At 1 pm Dr. King, then Henry, spoke to the media, there in full force, and hailed Judge Simpson's order against the businesses and the Manucy gang.

As the press conference was winding down, Eric Chamblis, the law student who met me at the airport three days earlier, introduced me to Reverend Johnson, an African-American minister from Daytona Beach, forty miles south of St. Augustine. He told us that three nights earlier four black teenagers seeking

service at a "white" drive-in restaurant had been chased and assaulted by several white men, who then called the police and had them arrest the four youngsters plus five others nearby. All nine were charged with disorderly conduct, and seven were still in jail. They were scheduled to be charged in city court the next morning.

Eric and I hit the typewriters in Dr. Hayling's office and prepared a two-page "Petition for Removal." This legal device was one of the magic bullets in the arsenal of materials which the LCDC furnished to its volunteers before we came South. The petition invoked a previously little known federal law which allowed those who claimed that local courts would not protect their civil rights to "remove" their cases to the federal courts. Once it was filed, the local court had no power to act until the federal court decided whether the removal petition was well founded. The force of the petition was that, just by filing it in federal court, we could temporarily halt the Daytona proceedings until the dust had settled. It was a power play to let the locals know that they could be called to account. Eric and I drove to Jacksonville and got the petition filed by 5:15 pm. The next day we would serve notice on the Daytona Beach prosecutor and judge that the cases against the nine black teens had been removed to federal court.

That night we all attended a rally at the church in Lincolnsville. Reverend King and Hosea Williams spoke with stirring passion. Then Henry Schwarzschild, breathing fire, railed against the grand jury for dragging its feet in investigating and proposing solutions for the civil rights crisis in St. Augustine. Grand juries usually consider only specific criminal charges, but in some states they are authorized to address problems more broadly. Dr. King and Dr. Hayling had targeted the grand jury as a mechanism to pressure St. Augustine's political and business establishments. In April, Dr. Hayling had even filed a lengthy petition detailing the oppression of St. Augustine's black community with the Organization of American States. St. Augustine was placed in the international as well as the national spotlight.

THE TIDE TURNS

At 7 am the next morning, Thursday, August 6th, Eric and I left for Daytona Beach, arriving at 8:30 for a meeting with Reverend Johnson and a local black attorney, Joseph Hatchett. We then went to the court house where we met with the Daytona Beach City Attorney, Louis Ossinsky, Jr., a young Jewish man who displayed none of the usual hostility to us outside agitators. I told him we were appearing for the nine boys scheduled for arraignment that morning and served him with a copy of the federal removal petition we had just filed. He said he would not oppose the suspension of the city court proceedings or the release the nine accused.

Ossinsky then accompanied me to the chambers of Judge Robert Durden, the Municipal Court judge, explained why I was there, informed the judge of the petition removing the cases to federal court, and said that the city had no objection. Ossinsky thus created an ambiance in which I could, without offending the judge, serve him with the document which deprived him of authority in the case by alleging that he would not provide a fair trial. It was agreed that the teenagers would be released on low bonds.

At 9:45 am, Judge Durden convened the court, our case was called, and the nine youths were brought before the bench, seven in prison clothes. Hatchett and I stepped forward. I was fulfilling a fantasy I'd had since, at seventeen, I'd read Haywood Patterson's "Scottsboro Boy," the story of nine black youths framed for rape and sentenced to death in Scottsboro, Alabama in 1932. Judge Durden permitted me to appear as counsel, and to announce the removal petition for the record. Ossinsky said that the city agreed with us that this court had no jurisdiction to proceed, and the Judge said that no further steps would be taken pending the federal court's action. Then, on my request, the Judge reduced the bonds to \$100 each.

When the court session ended I addressed the parents and relatives of the teenagers, and later after they were released about 11:30 am, the youths themselves, on our intention to follow through with this matter as a civil rights case. They were awed and grateful. I was too.

In the afternoon, we met with Louis Ossinsky and the city manager, Norman Hickey. I suggested that the St. Augustine furor began with incidents like this one. They said they would get together with the Mayor and the City Commission and recommend issuing special orders to the police, who they acknowledged were a problem. They agreed to consider dropping the charges against the nine youngsters, and I said if they did so, we would refrain from suing over the arrests. Ossinsky and Hickey emphasized that they did not want Daytona Beach to turn into another St. Augustine.

That evening back in the office, we prepared a written statement for the African-American members of a biracial committee appointed by the grand jury to address St. Augustine's racial problems.

On Friday afternoon, August 7th, we went to Jacksonville and appeared before Judge Simpson in his chambers. As anticipated, the lawyers for the restaurants and hotels asked Judge Simpson to stay his August 5th order to serve black people until their appeal to the United States Court of Appeals for the Fifth Circuit was decided. That could take weeks or months. After listening to us - Earl Johnson, Marty Fox and I all spoke -- Judge Simpson denied the stay. But he said that, depending on what the Supreme Court did in a similar case in Atlanta, he might give the defendants a limited stay for just twelve days to let them ask the appeals court for a stay. Judge Simpson then telephoned the clerk's office of the United States Supreme Court in Washington and asked when Justice Black was expected to rule on a request for a stay in the Atlanta case. He was informed that Justice Black's ruling was expected on Monday. Judge Simpson, brushing aside my suggestion that further delay might revive Klan resistance, leaned on us, and we reluctantly agreed to hold off further demonstrations over the weekend until noon on Monday.

Early the next morning, Saturday, Marty Fox returned to New Jersey, and Al Dorfman took the weekend off in Tampa. I went to Jacksonville and spent an hour and a half chatting with Judge Simpson about all the civil rights matters in the works, both in and out of the courts. I showed him a newspaper report that the restaurants' and hotels' effort to get a stay was to buy enough time to convert their businesses into "private" clubs, so they could continue to exclude blacks.

I told the Judge there was no way we could delay testing beyond Monday, that we had caught hell for agreeing to hold off until then. The Judge grinned, and I sensed that he would not push us further to hold off on testing and protests. The Judge said he thought the private club maneuver would be broken by test cases. We talked about Hoss Manucy and whether he was complying with Judge Simpson's August 5th order directing him to call off his hoods. Judge Simpson said he did not have much confidence in a biracial committee whose black members had been selected by the white establishment.

That evening, Fred Martin, a white worker for the Southern Christian Leadership Conference, drove me to the airport in Jacksonville to meet Alvin Bronstein, a lawyer with a one-man practice in upstate New York who was replacing Marty Fox. I didn't know it then, but that was the beginning of a lifelong friendship. The day ended with Dr. Hayling taking me to hang out at a Lincolnsville cafe with some of the locals, ordinary people who'd gotten caught up in the movement.

On Sunday, Al Bronstein, pulling me along with him, jumped headlong into the chaos that we called files. Working all day under his guidance, we at last got the office into intelligible shape.

On Monday, August 10th, Al and I spent the afternoon in Judge Simpson's chambers waiting for Justice Black's ruling in the Atlanta civil rights cases. Finally, just before 5 pm, the Supreme Court clerk telephoned Judge Simpson and read Justice Black's ruling denying a stay of a U.S. District Court order forcing Atlanta restaurants and hotels to obey the Civil Rights Act of 1964 and open their doors to African-Americans. At last, Judge Simpson denied a stay. St. Augustine businesses had to serve blacks or face contempt of court penalties.

That same afternoon, black citizens resumed their testing of white facilities in St. Augustine. The law enforcement authorities, as usual, were of no help in protecting African-Americans seeking service. The FBI, as usual, said they were there only as observers, and it was up to the local authorities to maintain order. The state troopers said they too were only observers and it was up to the city police to maintain order. The city police said they would not enforce the Civil Rights Act because it was a federal law.

That's why it sometimes took brigades of federal troops or Northern lawyers to enforce the law in the South.

As matters turned out, there was only one incident that day. A group of white men taunted two black teenagers who had just been served at a Dairy Queen, and one of the men, a Manucy named Herbert, threw an ice cream cone onto the shoulder of a youth named Willie Singleton.

That the Klan had been reduced to verbal taunts and ice cream missiles was a sign of the changed atmosphere. We were intent on leaving them no edge. The next day, Tuesday, I accompanied the two youngsters into downtown St. Augustine to the office of Justice of the Peace G. Marvin Grier, the hard-core racist who had acquitted the Klansmen who beat Dr. Hayling and his friends. He looked incredulous when I told him we were there to swear out arrest warrants against Herbert Manucy for assault with an ice cream cone.

"You think throwin' a ice cream cone is a crime?" he asked.

"Its assault and battery," I said.

"Boy, where did you go to law school?"

"Harvard."

"Didn't they teach you that you need a injury for assault?"

"No," I said, "assault is putting someone in apprehension of an unconsented-to touching, and a battery is an unconsented-to touching."

Grier paid no attention. He didn't care what the law was. But he did care that I had a big brother in Jacksonville named Bryan Simpson, so he finally agreed to issue a warrant charging Manucy with disorderly conduct.

In the evening, Al Bronstein and I met with James Kelly, the state trooper in charge of the state's investigation of civil rights matters in St. Augustine. Among other things, Kelly provided mug shots of a group of local hooligans which enabled one of our clients, James Hauser, to identify Herbert Manucy and four other white men who, on June 28th at the Fairchild plant where they all work, had attacked and hospitalized him. Given the limits imposed on Kelly by his superiors, he was quite a decent man, sympathetic and cooperative with our efforts.

By Wednesday, August 12th, testing at the restaurants and hotels was going smoothly with no denials of service. I began the work of wrapping up my stay in St. Augustine by preparing a series of memoranda and drafts of complaints on the matters I was leaving behind for the next group to carry forward in our tag-team litigation. Our court filings usually had the name of a Florida attorney on them, sometimes Earl Johnson in Jacksonville, and sometimes Tobias Simon, a prominent white civil rights lawyer in Miami. Murray Unger, a Daytona Beach attorney referred to me by Toby Simon, came to take over the Daytona Beach cases and some problems in Ocala.

In the afternoon, I drove to the Fairchild plant to pick up James Hauser to take him downtown to swear out warrants for the assault on him. As I pulled into the parking lot, there was Herbert Manucy harassing Hauser. I accompanied Hauser to the office of Magistrate Grier, before whom my welcome mat was wearing thin. Grier again balked at issuing a warrant for assault and battery, even though this time we could claim injuries. Now his excuse was that we had no witnesses. Finally he agreed to issue a warrant, against a Manucy gang member named Coleman, for a "peace bond," meaning Coleman would have to post a money bond which he would forfeit if he again threatened Hauser.

Grier's sense of law was byzantine -- at first he declined to issue the warrant because Hauser quoted Coleman as having said, "You will get your head beat in." Grier argued this was not a threat because it did not suggest that Coleman would beat Hauser's head in, whereupon Hauser remembered that Coleman had said, "I will beat your head in," and Grier issued the warrant.

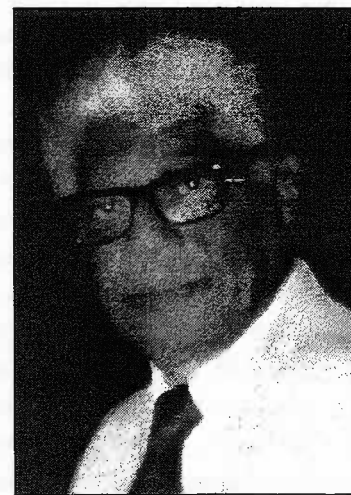
While I was dealing with Grier, Al Bronstein was having a fruitful afternoon with Judge Simpson, who issued an order requiring equal treatment of blacks at Flagler Hospital. Judge Simpson was sympathetic to our inability to get the local police to protect Africa-Americans seeking service at public places, and said he would telephone the State Attorney General. Al and I decided that, in addition to the disorderly charge I'd gotten the magistrate to issue against Herbert Manucy, we'd also file a petition with Judge Simpson to hold Manucy in contempt for the ice cream incident.

My replacement, Paul Greenberg, an attorney from New Jersey, arrived in the late afternoon.

In the morning of my last day in St. Augustine, Thursday, August 13th, Bronstein and I drove to the Fairchild plant and met with Manager W. Hall and his assistant, Crouch. They had a well-developed explanation for their inaction in the attack on Hauser, which included supposed discrepancies in Hauser's story and a medical report indicating only a head abrasion. We let them know we thought it was a whitewash. I told them I had personally witnessed Herbert Manucy harassing Hauser in the Fairchild parking lot only yesterday. We said they'd better make sure their black employees were not bothered any more.

In the afternoon Al and I had an argument by telephone with Toby Simon, the Miami civil rights lawyer. Al and I wanted to schedule for the coming Monday the contempt actions against Manucy gang members who were still harassing blacks. This was the date Judge Simpson had suggested, and we wanted to maintain the momentum, the sense of day to day urgency. Simon insisted the hearings be later in the week so that he could be there, although his presence was not necessary, and finally said he would telephone Judge Simpson to ask for the later scheduling. We felt he was putting his own convenience ahead of the speed that would best serve the clients. It was one of several clashes we had with Simon in our short time there.

Later I telephoned Judge Simpson to say goodbye. He praised our effort and the quality of our work. At 5 pm, with some regret, I said goodbye to Dr. Hayling, got a ride to Jacksonville and flew down to Miami for a weekend with my parents before returning to Washington.



Dr. Hayling at the Willie Galimore Community Center on June 21, 2003 during Dr. Robert B. Hayling's Day Celebration

LOOKING BACK

In his Birmingham jail letter, Martin Luther King described the goal of his non-violent protest movement:

[T]here is a type of . . . tension that is necessary for growth. Just as Socrates felt that it was necessary to create tension in the mind so that individuals could rise from the bondage of myths and half-truths we must see the need of having nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood.

That is exactly what happened to Judge Bryan Simpson. Near the end of my last visit with him, the Saturday before I left St. Augustine, Judge Simpson took out a file of what he ruefully called his "fan mail," hate-filled letters attacking him for his recent civil rights rulings. It was deeply painful to him to have become a pariah in his own community. But as the cases kept coming before him, he felt he had no choice. When the chips were down, this innately decent man was moved to take a stand.

In fact, the transformation experienced by Judge Simpson was universal. America was never the same after the summer of 1964. The country experienced a political and social revolution triumphant, without massive violence and bloodshed. Street protests and the American system of law were at their best, demonstrating their capacity to transmute the heat of the country's social struggles into courtroom battles, and, in doing so, to strengthen the nation. Racism and discrimination, although still endemic to this day, were dramatically diminished. The 1960s paved the way for the following decades which saw African-Americans capture the mayorship of New York City, the governorship of Virginia; and the top foreign policy positions of the federal government.

In the end, the civil rights struggle was a great healing for the country. And critical though they were, the law and the lawyers were only supporting players. The tension that gave rise to the changes was created by thousands of black people who physically and morally faced down the clubs, the fire hoses, and the dogs of hatred.

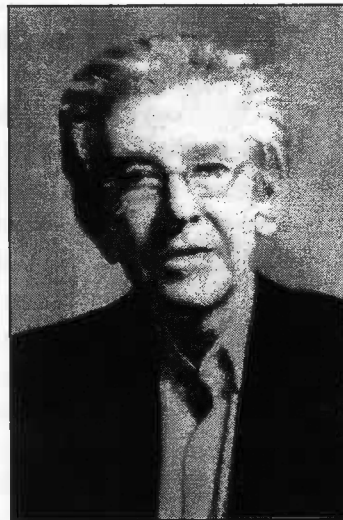
We changed, too. Al Bronstein went home just to wind things up before returning as the director of LCDC's southern operations. Richard Sobol - who had introduced me to Henry Schwarzschild and thus to St. Augustine - soon left our Washington law firm to become LCDC director in New Orleans. Before their years in the South were over, Sobol was arrested on a trumped up charge and Bronstein was assaulted by a sheriff. But they endured, leaving a trail of legal victories. I left my law firm two years after St. Augustine to direct the Washington DC ACLU. Sobol and I stayed in civil rights for over a decade, and Bronstein is still at it at this writing.

I like to think of the Sixties, not as a lost Golden Age, but in the spirit of Dr. King's closing words to the eight white clergymen in his Birmingham jail letter:

I hope this letter finds you strong in the faith.



1964



2001

Ralph Temple