



# **Speech at the 43<sup>rd</sup>. Anniversary of the Signing of the Civil**

## **Rights Act of 1964 held in St. Augustine, July 2, 2007.**

*By Dan R. Warren*

Forty- three years ago on June 19<sup>th</sup>, 1964, J. B. Stoner, a super racist and a member of the nation's oldest terrorist organization, the Klan, stood across the street in the park where slaves were formally sold, and told an eager audience of hate filled men, women and children, that "the way to white supremacy is to rid congress of all those who voted for the civil rights act and get that 'nigger' loving Lyndon Johnson out of Washington."

A year earlier, Martin Luther King, stood on the steps of the Lincoln Memorial in Washington, D. C., and made his famous "I Have A Dream" speech. He told the thousands, who were gathered on the mall in the nations capital demanding freedom, that he had come to Washington to ask the nation to redeem a promise made by the founding fathers in 1776 when they proclaimed to the world that in this new nation "all men are created equal."

"In a sense", Dr. King said, "We have come to our nation's capital to cash a check" on that promise. "I want young men and young women, who are not alive today but who will come into this world, with new privileges and new opportunities to know and see that these new privileges and opportunities did not come without somebody suffering and somebody sacrificing for them."

It is hard to believe that only 44 years ago, 300 feet from the spot where I stand today, that a men, such as J. B. Stoner and Connie Lynch, stood across the street in the old slave market of the nation's oldest city, the latter wearing a confederate battle flag as a vest and calling himself 'revered', preached to an eager congregation of assembled Klansmen while the political leadership of the city stood silently by and allowed the nation's oldest terrorist organization to become the voice of this proud ancient city.

What happened; how did this terrorist organization come to power in St. Augustine and become its unofficial voice?

To answer this question we have to go back to the spring of 1963. In March of that year, city officials in St. Augustine announced that the Vice President, Lyndon Johnson, had been invited to speak at an elaborate dinner planned by the political leaders of the community to kick off the quadric-centennial celebration of the 400<sup>th</sup> anniversary of the city's founding, and event that was to take place in 1965. There was one flaw in the plan: no Blacks had been invited.

Blacks had been indispensable to the building of St. Augustine from the beginning of its existence in 1565. The insensitivity of totally excluding Blacks from this distinguished event by leaders of the community fueled a deep seated resentment of neglect, isolation and a feeling of crass discrimination by the Black community because they had worked so hard to build the community.

This pent up feeling of neglect and isolation would ultimately culminate into a dynamic movement for equality that would be heard in the halls of congress and around the world. Those feelings arose from the neglect of the community at large of excluding 25% of its population from the Birthday party. From the very founding of St. Augustine, the Black community had tilled the fields that grew the food that fed the city; they labored long and hard to quarry coquina rock from Anastasia Island to build the fort that protected the city, and they had provided the back breaking labor that allowed the city to grow

and prosper, under three rulers: The Spanish, the English and the Americans. And now, the city planned to celebrate its' 400<sup>th</sup> anniversary using their federal tax dollars that they had paid to fund the event, and now one quarter of the city's population was to be excluded from the celebration.

Those who planned to celebrate this momentous event had not counted on the reaction of a small but determined group of young men and women, headed by Dr. Robert Hayling, who decided that a hundred years was long enough to wait for freedom, and they would wait no longer.

The civil rights movement in St. Augustine in 1963 was not to cash a check on a promise made in 1776, but a proclamation to the world, by the Black community, that those in power should demonstrate to the world that democracy worked in the nation's oldest city: that St. Augustine must truly be a show case of democracy and if city officials would not acknowledge the contributions of Blacks to the building of their city there was nothing for the city or the nation to celebrate.

Most of the accounts of the St. Augustine Civil Rights movement emphasize the historical importance of the events that occurred in March, April, May and June, of 1964, just before President Lyndon Johnson signed into law the Civil Rights Act on July 2. These accounts highlight the arrest and jailing of Mrs. Mary Peabody, as well as those of Dr. King and Rev. Ralph Abernathy, the violence of the Klan; the refusal of city officials to meet with Dr. King or to even acknowledge that segregation was a problem in St. Augustine, and the fight in the Federal District Court in Jacksonville over who controlled the demonstrations, state of federal officials. As important as these events are, the real story behind the civil rights movement in St. Augustine began a year before these events, during the long hot summer of 1963.

Just as the signers of the Declaration of Independence pledged their lives and their fortunes to be free from the odious rule of George III, this brave band of patriots were determined to fight segregation in the city, as Dr. Hailing said, "until my last dime is gone." This was not an idle threat, as time would prove, and in the final outcome, segregation would be eliminated from the city's businesses, but Dr. Hayling would pay a high price. He would eventually give up his active and flourishing dental practice and move first to Cocoa Beach, Florida, and later further south to Ft. Lauderdale where he lives today.

As State Attorney for the 7<sup>th</sup> Judicial Circuit, I was amazed at how the mores of a community, those deemed essential to its survival, could control and dictate the segregation policies of the community. The enormity of this power was forcefully brought home to me in St. Augustine in 1963 and 1964. I was amazed and astounded at the intensity of the hatred toward the Black community by the segregationist and those in political power that rose to oppose integration. It overwhelmed everything I had ever encountered before. It reminded me of the depth of the hatred and the turmoil in Germany during Hitler's rise to power.

Today, I want to pay tribute to those young men and women who, in 1963, suffered and sacrificed so much for those who, as Dr. King so eloquently stated, "were not then alive". I want the young people here today to understand that the new privileges and opportunities they enjoy came about as a direct result of the heroic acts and deeds of a small group of dedicated patriots who risk everything to secure their rights as American citizens. And, last, I would like to explore the meaning of the Civil Rights Act and to see how today's young men and young women who are seeking equality of opportunity have fared in our very competitive private enterprise system and the radical change that has recently taken place on the Supreme Court controlled by a bare majority of five justices.

In 1962, Congress, at the urging of Florida Senators Spassard Holland and George Smathers, passed a resolution authorizing the establishment of a Quadricentennial Celebration Commission to plan

for the 400<sup>th</sup> Anniversary of the founding of St. Augustine, an event that was to take place in 1965. Under the resolution, the Senate was to appoint two members, the house two and the Department of the Interior, one; the President was to name the other four. When the Committee was finally named, none were from the Black community. In 1963, Congress passed an act funding the activities of the committee and an elaborate dinner was planned for March with Vice President Lyndon Johnson the invited speaker. Blacks were not invited.

This act by the all white committee of excluding the Black community from the celebrations didn't seem quite fair to Mrs. Fannie Fulwood and Mrs. Elizabeth Hawthorne, President and Secretary of the local chapter of the NAACP. At the urging of Dr. Hayling, they quickly dispatched a telegram to the vice president, alerting him to the fact that the dinner was a segregated affair and was being financed from Federal funds. This determined group of civil rights leaders labeled their exclusion from the event as an "undemocratic act unworthy of financial support". Their telegram had the desired affect. The Vice President promptly advised the Chairman of the Committee that if Blacks were excluded, he would not attend. The committee relented, and allowed twelve Blacks to attend, but they had to sit at a segregated table. The Vice Presidents Chief of Staff, George Reedy, assured the group that he would intercede with officials in the city in an effort to change the segregation policies of the city and promised to arrange a meeting between officials of the NAACP and city officials. When he failed to do what he had promised, the group, incensed at his broken promise, threatened to boycott the quadricentennial celebrations.

The business community and public officials were indignant at this act and expressed "shocked" of the threat to interfere with such an important event. This act fueled a backlash among influential members of the political and business leadership in the community and their collective attitudes hardened against the leaders of the Black community. Even an appeal from Roy Wilkins, National President of the NAACP, not to disrupt the proceedings, could not deter or intimidate this determined group of civil rights activist. The threat of a boycott coupled with the threatened loss of the income that such an event would bring to the business community, forced city officials to finally agree to meet with leaders of the Black community, but when they did meet the Commissioner's were abrasive and accused the demonstrators of being led by the communists or, the "Kennedy's, who they claimed were behind the civil rights drive.

Dr. Hayling was not going to be intimidated by city officials, or the Klan, and despite the loss of many of his white patients, he rallied a group of determined young people who were fed up with second class citizenship and began to exercise their constitutional rights to demonstrate. They decided to petition their government for a redress of their grievances, regardless of the threats and acts of intimidation of the Klan or by city officials.

A debate had been going on among civil rights advocates for many years on the best way to achieve equality in American for the nation's then 17 million Blacks and end segregation once and for all.

Some leaders in the movement took the position that you could not negotiate with whites and revolution was the only answer to freedom. Others took the view that whites would be reasonable and if Blacks worked hard they would eventually win their freedom from segregation. Others, such as the NAACP adopted a policy of negotiating around a conference table with white officials who had the power to change segregation practices, but only as long as the negotiations were in good faith; however, the Association shied away from direct confrontation and arrests.

Dr. Martin Luther King, Jr., brought a new idea, one that was based upon his religious beliefs. He believed that Christian whites would respond to the moral appeal to their conscience and to their mutually shared Christian faith, but if that failed the Federal Government would come to his aid in challenging the use of "Jim Crow" laws through his "passive resistance" protest. The right of peaceful protest was

protected by the Constitution and if local officials restricted his right to free speech or peaceful assembly, the federal courts would intervene. He believed that in order to make public officials change segregation policies, you had to challenge the numerous unjust laws that had relegated Blacks to second class citizenship and to suffer arrest and jail, if necessary, to force the conscience of America to compel action from elected officials. However, he did not reckon with the maelstrom of hate that his message of “passive resistance” and brotherly Christian love would bring to his movement from the radical terrorists in our society and from city officials. Jim Crow laws had been passed in the south at the end of reconstruction in 1877 that were designed to defeat desegregation regardless of the Constitutional Right of free speech and assembly.

Dr. Hayling, however, brought his own brand of defiance to the Civil Rights movement, one that would bring him into direct confrontation with the Klan and city officials. After the cowardly assassination of Medgar Evers, Field Secretary of the NAACP, in Mississippi, in 1963, Dr. Hayling issued a statement that “passive resistance is no good in the face of violence” and began his own idea of direct confrontation with the forces of evil that had denied to his race their natural rights as human beings.

In a rather reckless but courageous act he decided to confront the Klan head on. He wasn't afraid of the Klan and knew that they had been meeting at night on a vacant lot some two miles south of St. Augustine where radical speakers such as Connie Lynch and J. B. Stoner carried out the Klan's message of hate to an eager crowd of Klansmen. Stoner was a lawyer from Atlanta, Georgia and was so radical in his thinking that he was kicked out of Sam Roper's Klan of America. He, together with Edward Fleet, formed the Christian Anti-Jewish Party, a pseudo-Nazi group that adopted the dreaded SS Symbol of the Nazi Party in Germany as its symbol. In 1963 Stoner lectured a group of NSRP members in Birmingham, Ala. on the construction of time bombs. Never charged with the murder of the four young ladies that were killed in the Birmingham Church Bombings, he never the less, was a dangerous terrorist.

Dr. Hayling, on a summer night in 1963, decided to take a ride. With him were Clyde Jenkins, James House and James Jackson. They decided to drive out to where the Klan was meeting “to see what was going on.” This wasn't just a small gathering of Klansmen, there were hundred's of armed Klansmen, and they weren't there for a picnic, they were there to talk about killing Blacks. Dr. Hayling drove right into the meeting.

He wasn't welcomed with open arms, but he was trying to make a point; that the Black community wasn't afraid of the Klan. He survived the beating, and his head may have been blooded, but it was not bowed. He had delivered a message to the most violent element of the community; Blacks were not afraid in their fight for freedom.

The fight for freedom in the long hot summer of 1963 was long and hard and received very little support from other organized civil rights organizations.

At noon on Labor Day, in 1963, 150 young people gathered in the park across the street, to hear speeches, and rest under the shade of the giant oak trees. The assembly was peaceful and orderly. Suddenly, without warning, law enforcement officers from the city and county surrounded the group, and a bus driven by a law enforcement officer was quickly brought to the scene, and some 27 young men and women arrested. But only those who had engaged in previous demonstrations, or were members of the NAACP. They were charged under a city ordinance with conducting a public meeting without a city permit. Dr. Hayling was incensed. This, to his way of thinking, violated the groups' right of peaceful assembly, and was a clear violation of the U. S. Constitution. He hired Attorney Earl Johnson from Jacksonville, to defend those who had been charged, and argued, unsuccessfully, that this was not an organized gathering of individuals, but a peaceful gathering of young people, exercising their

constitutional rights of free speech and assembly. Despite the acknowledgement of the city judge that the argument was well taken, they were convicted, each fined \$100 dollars, or 30 days in jail.

At every turn in the civil rights movement, Dr. Halying and his small band of patriots had been confronted with city, county, and state ordinances that restricted their most basic rights as citizens. He had had enough. Joined by Clyde Jenkins, James Houser, James Jackson and Patricia Neely, he filed a petition in the Federal District in Jacksonville, asking the court to issue restraining orders prohibiting the Mayor, the Sheriff, and the Police of Chief, from interfering with their public meetings, freedom of speech or distribution of leaflets and other peaceful protests.

Federal Judge MacRae declined to issue the injunction, ruling that the Petitioners had not come into Court with clean hands, reciting the incident that had occurred in the fight with the Klan as the legal reason. This equitable doctrine, which is jurisdictional to Federal intervention, left the small band of civil rights activists in a precarious position. Jubilant city officials, elated at the defeat of the civil right movement at the federal level, celebrated their victory. But the celebration was premature. Dr. Hayling had just beginning to fight. He broke with the NAACP and reached out to SCLC for help.

Dr. King, who had the legal know how and the support of a well-trained group of professionals, accepted the challenge. He would come to St. Augustine, and the outcome in 1964 would be different.

Prior to the revision of Article Five of the State Constitution in 1972, State Attorneys did not have jurisdiction over misdemeanor crimes. The County Prosecutor handled these cases. However, in 1964, an event would occur in St. Augustine that would bring my office and me into the conflict. Mrs. Mary Peabody, the mother of the Governor of Massachusetts, along with Dr. Hayling and others was arrested when they refused to leave the Ponce DeLeon Motor lodge restaurant. When they were being arraigned in the county judges court, I was in St. Augustine finishing up some last minute business before taking my family to the mountains of western Nor Carolina for a much needed vacation. I had just finished a long hard fought campaign for re election as St. Attorney, and as I was working my way through a crowd of demonstrators waiting to be arraigned on various charges in Judge Mathas's Court, one of the clerks stopped me and said the Governor was on the phone, and wanted to talk with me. He informed me that I was to be his personal representative in St. Augustine and clothed me with the same power that the legislature had given him when they had passed a law giving the Governor extraordinary powers to deal with racial events. This is how I became involved in the crisis, and for the next two months, I spent all my time in St. Augustine trying to bring about a peaceful solution. I met with Dr. King on several different occasions, one in a private meeting. He told me, in this private meeting. "Mr. Warren, there are those in the civil rights movement who don't think America is worth saving. I don't want to destroy America, I want to save America." I have always remembered those words, but the most vivid memory I have of the civil rights movement in St. Augustine occurred on the night of June 19<sup>th</sup>. 1964.

It was a beautiful evening, with a gentle breeze blowing in from the bay. An unusually large group of Klansmen had gathered in the park. State Law enforcement officers had assembled behind the Wax Museum waiting to escort the demonstrators in their night march through the old section of St. Augustine.

As I waited in the darkness talking to one of the law enforcement officers, awaiting the arrival of the marchers, I keenly felt the tension in the air that threatened to disturb the beauty of the night. The faint rebel yells from the assembled Klansmen, awaiting in the park for the arrival of the demonstrators, filled the night with fear.

Quietly, out of the darkness of the night, the soft tread of marching feet could be heard, so soft that the sound was hard to detect, but in a moment, a group of young people, with small children in the lead, came slowly out of the darkness of the night, holding hands, two by two, marching silently toward the raging mob that awaited them in the park. It was an inspiring and heroic act and that scene will forever be etched in my memory.

On July 2, 1964, President Lyndon Johnson signed into the law, the Civil Rights Act.

We owe a debt to the brave band of civil rights leaders who fought for equality in St. Augustine in 1964 to end the evil of segregation. If they had been born in the 18<sup>th</sup>. Century, they would have been celebrated as patriots, just as Patrick Henry was, when he made his famous speech in Virginia, declaring to the world "Give me liberty or give me death" and he was talking about taxation without representation, not about freedom. In effect, this is what the demonstrations were all about.

With passage of the 1964 Civil "Rights Act, the future seemed bright for millions of Blacks. Over the past 43 years, much progress has been made, primarily among a growing middle class, but for the large majority, especially the children of the underprivileged, the chance for equal opportunity to share in America's competitive private enterprise system is but a distant dream.

Shortly after passage of the civil rights act in 1964, President Lyndon Johnson sounded the challenge facing America. On June 4, 1965, in a speech to the graduating class at Howard University, he said: "You do not take a person who for years has been hobbled by chains and liberate him, bring him up to the starting line of a race and say, 'you are free to compete with all the others', and still justly believe that you have been completely fair. Thus, it is not equality merely to open the gates of opportunity. All our citizens must have the ability to walk through those gates. We seek not just equality as a right and a theory but equality as a fact and equality as a result.

After 43 years questions still persist on the ability of Blacks to compete in a society that is still tied to the lingering effects that segregation has on their ability to compete. The challenge that President Johnson posed to the nation in 1965 leaves many unanswered questions even in 2007 as to how Blacks can obtain equality as a fact and equality as a result.

Is Dr. King's dream of equality gained through the suffering and sacrifices of those involved in his "passive resistance" movement still a viable answer. Did the civil rights act bring equality of opportunity for the millions who had been affected by the effects of segregation? Have the new privileges and the new opportunities, which Dr. King dreamed of so many years ago, come to pass?

Are the sufferings and sacrifices of those who broke the racial barriers in the 50's and 60's to be eradicated by an ever-growing conservative right wing element in this country seeking to enforce its political agenda on the social and political processes that were designed to aid Blacks? And, more importantly, a more conservative Supreme Court has apparently turned a blind eye to affirmative action programs that were designed to give Blacks a fighting change for survival.

In 1964, the Supreme Court in a unanimous decision rendered its *Brown v. Board of Education* ruling, held that the Court's *Plessey v. Ferguson* separate but equal decision of 1896 was unconstitutional. The court found that segregated education is inherently unequal. Relying on the famous psychological studies of Mamie Clark and her husband, referred to in footnote 11 of the decision, the court found that the psychological effects that segregation had on the minds of young children was so great that the damage might never be eradicated. The remedy, the court ruled, was that segregated schools must be

desegregated with “all deliberate speed. The ruling, the court said, was necessary in order to prepare students to live in a pluralistic society.

The idea behind the Brown decision, according to Justice Thurgood Marshall, who argued the Brown case before the Supreme Court, was not to seat white children by Black children along side each other. Desegregation was necessary, he argued, because all white school boards were generously financing schools for white children while leaving Black students in over-crowded, often decrepit buildings with hand-me-down books and underpaid teachers. He wanted Black children to have the right to attend white schools as a point of leverage over the biased spending patterns of the segregationists who ran the school systems. Most parents, of both Black and white students, want better neighborhood schools and a better education for their children, no matter the racial make-up of the schools. It isn't so much about Black v. White, it was about equality of opportunity for an equal education so that every one can compete on a level playing ground.

For the past 40 years there has been a growing radical right wing movement taking root in this country. Those who advocate against programs that attempt to give Blacks an even chance, now are seeking to control the Supreme Court through the appointment of conservative Judges, the ones they believe will adhere to the alleged original intent of the founders of the country. They come disguised in many forms and under many names, and many seek Federal Funds to fund “faith based initiatives” but their goal is the same: to dominate the political process. This element has fought the process of desegregation with every tool they could muster, claiming that the Federal government was destroying their cherished State's Rights, while conveniently ignoring the fact that it was under the doctrine of State's Rights that segregation was able to survive as long as it did in the South.

This group made affirmative action a dirty word and more importantly, the conservative right wing radicals in the country sought to change the make up of the Supreme Court in order to defeat desegregation.

Their goal was to defeat racial quotas and affirmative action programs that were designed to level the educational playing field. These limited programs were designed to equalize the lingering affects that segregation had on the minds of young people who had been exposed to the degrading nature of segregation as President Johnson acknowledged in 1965.

Finally, they have partially succeeded. A majority of five Justices of the Supreme Court on Thursday turned its collective back on the proud tradition established in Brown v. Board of Education, that segregated education is inherently unequal. The conservative wing of the court tossed aside the principle of Brown v. Board of Education and I fear the effects of this ruling will be a return to segregated schools.

Jack Greenberg, who worked on the Brown case, and now a professor at Columbia University, called “Chief Justice Roberts decision on Thursday, “preposterous.” “The Plaintiff's in Brown were concerned, he said, with the marginalization and subjection of black people”.

Justice John Paul Stevens, in dissent from Thursday's decision, wrote that Chief Justice Roberts discussion of Brown ‘rewrites the history of one of this court's most important decisions’ and that “It undermines Brown's promise of integrating primary and secondary education and threatens to substitute for present calm a disruptive round of race-related litigation”. This is a decision, he wrote, “that the court and the nation will come to regret”. Justice Breyer also dissented, saying, “It is not often in the law that so few have so quickly changed so much.”



If Brown is no longer a viable way to address the equality issue in educating our children, what is the answer.

This unfortunate decision, is an eerie flash back to a similar set of rulings by the Supreme Court that occurred in the 1870's shortly after the civil war which virtually ended reconstruction.

At the end of the Civil War, the collective will of the nation was put to the test with the ratification of the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Amendments to the Constitution. These amendments sought to insure full citizenship to the newly freed slaves by abolishing slavery, guaranteeing due process and equal protection under the laws, and the right to vote. Each ended with a clause that granted to the congress the right to enact laws to enforce these rights. The first civil rights act was passed by congress in 1869. It prohibited acts of discrimination based on race, under color of state law, and provided a civil remedy for the violation of this act.

Unfortunately, three events occurred during the 1870's that made justice for the newly freed slaves short lived and robbed Blacks of their newly found freedoms.

Two of these events were decisions of the Supreme Court; One, returned to state government the right to control local laws and the second affected the ability of the Federal Government to prosecute individuals who violated the civil rights of Blacks. The last event was the disputed election of Rutherford B. Hayes in 1877 that ended reconstruction.

During this period of time the Supreme Court rendered its Slaughterhouse decision. The slaughterhouse case arose out of an effort of the city of New Orleans to regulate the butcher industry. Butchers challenged the constitutionality of the city ordinance and, the Supreme Court, striking down the ordinance ruled that the city did not have the power to regulate interstate commerce, which was reserved to the Congress. But the Supreme Court did not stop with that language. Justice Samuel F. Miller, speaking for a five-man majority, distinguished "sharply between national and state citizenship." Justice Miller wrote that the 14<sup>th</sup>. Amendment had not fundamentally altered federalism and that most of the rights of citizens remained under local and state control." With this decision, regardless of the outcome of the civil war, southern states once again had the primary authority over citizen's rights. The administration of justice once again became a local and state matter. This decision allowed the south to enact the "Jim Crow" laws, such as "trespass after warning" and "unlawful assembly" laws that were used in St. Augustine to defeat Dr. King's peaceful demonstration. It would take almost 75 years to overcome this decision.

In 1876 the Supreme Court rendered its decision in the Cruikshank case. This case arose from the Colfax massacre that occurred in Grant Parish, Arkansas in 1873. As opposition to Reconstruction and freedom of the rights of Blacks to vote and hold public office reached its height in that year, Blacks began to fight back. Many were veterans of the civil war and had fought on the side of the north. Even though they were well trained in warfare, there were few weapons available. Blacks had seized the county government, fearing that anti-reconstructionist would steal the contested election for governor. Shortly after dark, on Easter Sunday, a mob of whites stormed the barricades, and by morning, some two hundred and eighty Blacks were dead.

Using the newly enacted civil rights act, the federal government obtained convictions against three white men for conspiracy; to violate the civil rights of those murdered. The United States Supreme Court, ruling that the indictment was defective overturned the convictions. The indictment failed to allege that race was the defendant's motive. The court did not stop there. It found that the law only applied to actions by the state, not individuals. Since the acts were individual and not 'under color of state law' there

was no violation of federal law. The effect was to give a green light to acts of terror where local officials either could not or would not enforce their local laws. Once again, Blacks were at the mercy of marauding Klansmen.

In 1877 reconstruction ended with the election by a commission of congressmen that the Supreme Court Justices had appointed to rule on the contested election ballots. In a deal struck with Southern politicians to end reconstruction the election was given to Hayes over Samuel J. Tilden, the democratic candidate who had won the popular vote, Political leaders in the south began to enact “Jim Crow” laws that would reduce Blacks to their former position of servitude. The Supreme Court further added insult to injury, in 1896, when it rendered its ‘separate but equal’ decision in Plessy v. Ferguson.

There are two important lessons I learned from my experience of flying combat as a nose gunner on a heavy bomber during World War II. One is that you cannot let fear be an excuse to appease bigotry and racial prejudice. You must meet it head on. The other is that you do not ask the color of the skin of the fighter pilots who flew fighter cover for our squadron on those long dangerous missions into Germany, such as the famous 99<sup>th</sup>. Fighter Group, the Tuskegee Airmen.

Shortly before the end of World War II, Congress passed the G. I. Bill of Rights. This act allowed millions of Veterans to achieve their dreams. Mine was to become a lawyer and through the generosity of the tax-paying public, I was able to achieve my dream. It was America’s first affirmative action program.

### *Conclusion*

Dr. King, on receiving the Nobel Peace prize said that the tragedy of the civil rights movement has been the appalling silence and indifference of good people. He prophesied that our generation will have to repent not only for the words and acts of the children of darkness, but also for the fears and apathy of the children of light.

We have a debt to the millions of Blacks whose basic constitutional rights were denied for over two hundred years. Many still have the debilitating and lingering effects that segregation had on their lives and the lives of their children. Some were permanently handicapped by this experience and had a difficult time competing successfully in our often-unfair economic system. The only way we can repay the debt is to honestly recognize the wrong that has been inflicted on the millions who suffered under a system that recognized inequality. We must level the playing field so that all can have an opportunity to compete equally and fairly. I do not suggest economic reparations; I suggest the only way we as a nation can honestly atone for the two hundred years of brutal acts of degradation that we as a society have inflicted upon Blacks, is to enact an equal opportunity education bill. A bill that would recognize the effects that segregation has had on young blacks, such as the congress did for veterans after World War II.

The cumulative wisdom of our Anglo-Saxon ancestors, who gave us our common law, recognized that ‘equity will not suffer a wrong without a remedy.’ It is the most important principle of equity jurisprudence, and even though the remedy was considered in persona, not in rem, Congress has the power under the 14<sup>th</sup>. Amendment to fashion an in rem remedy. It would require a careful threading of the constitutional needle, but it is my belief that it can be done.

Time can never outlast the evil that segregation inflicted upon so many citizens, but the law can provide a remedy to alleviate some of the effects that segregation has had on the children. The time to pay the debt is now, and it must be done not through payments of money to a defined class of people, but by opening new doors of educational opportunity through a comprehensive aid program, much as this country did for its returning veterans after world war II and by guaranteeing full access to affordable

housing and medical assistance for the nation's disenfranchised minorities. This is the essential first step toward the future peace, prosperity, and security of America. The peace dividend for establishing a more perfect union, the demise of racial strife, will surely be worth the price.

The struggle for freedom in 1964 was long, hard and dangerous. During the struggle I met with Dr. King privately on two different occasions in an attempt to resolve the crisis. On one occasion he told me that "There are some in the civil rights movement who don't think America is worth saving. I don't want to destroy American, he said, I want to save America.

I am still haunted by memory of that meeting with Dr. King and the possibility of losing his dream. I am reminded of the poem written by William Herbert Carruth, "Dreamer of Dreams", and especially the last line. "Yet there's not much to do but to bury a man when the last *of his dreams are dead.*"

*We dare not lose Dr. King's dream!*

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