

A Report On Nashville

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In Nashville Negro and white children attend class together in public schools and parochial schools and in the city's major colleges and universities.

In Nashville there are two Negro city councilmen, Negro policemen (one now in the process of being upgraded from enlisted to detective rank), and Negro members of the board of education, transit and hospital authorities.

In Nashville, for years, Negroes have attended lunch dinner meetings of various social, religious, civic and professional groups with interracial memberships in downtown hotels. Among such meetings have been those of the United Givers Fund, the League of Women Voters and the United Church Women.

In Nashville, Negro and white commuters ride the city busses in smooth, non-segregated style.

In Nashville also, Negroes are welcomed as customers in the downtown stores where they spend an estimated \$7,500,000 a year. In two department stores, for example, they are politely fitted for clothes from head to foot—and from skinside out.

In downtown Nashville, however, Negroes have no adequate facilities for eating. Welcomed as customers for merchandise, they are refused service as customers for food.

During February and early March, a major effort by Negroes to obtain service at eating facilities in seven separate department, variety and drug stores as well as two bus terminals was met with unanimous refusal, a flurry of violence and 143 arrests.

This effort, spearheaded by the now famous student "sitins", spread over a period of 18 days.

It started February 13 when 100 students from Fisk University, Tennessee State University and American Baptist Theological Seminary, all institutions with predominantly Negro student bodies, appeared in groups at three downtown variety stores.

The students sat down at the lunch counter in each store and asked for service. In each case, service was politely refused.

The lunch counters were then closed and, after a brief period of time, the students departed.

Sites of the first of the February sitins: Woolworth, Kress and McClellan stores, each a local branch of a national chain store operation.

The February student movement spilled over into the next month and ended on March 2 with the arrest of 63 students who staged sitins at the lunch counters in the Greyhound and Trailway bus terminals.

What happened between February 13 and March 2 has been well detailed in the press and is now a matter of common knowledge. Highlights of the period:

The students extended their sitin movement to other local branches of national chain store operations, such as W. T. Grant department store, Cain-Sloan department store (owned by Allied Stores, the world's largest department store chain), and a Walgreen's drug store.

Also included in the extension: Nashville's largest department store, Harveys, a locally owned enterprise which, some months be-

fore, had closed a special food bar for Negroes because it proved unprofitable.

On February 18, an estimated 200 students from the three educational institutions staged sitins during the noon hour in four stores. The lunch counters were closed immediately and at one, McClellan's, merchandise was hurriedly stacked up on the lunch counter. After a brief period of time, the students departed.

On February 20, an estimated 350 students from Fisk, Tennessee State and the seminary engaged in sitins at five stores, beginning at 11:45 a.m.

This was the first day any signs of potential physical opposition to the movement appeared. Some white teenage boys watching the demonstration jeered. One engaged in a heated argument with a white co-ed from Fisk in the Walgreen's drug store.

Police standing nearby cleared the students from the store immediately. The store management placed a sign on the lunch counter reading:

"Closed In The Interest Of Public Safety."

On February 27, the day of the fourth sitin of the month, the students met their first physical opposition. It came in the form of quick but violent attacks from young white men who ranged in age, according to observers, from mid-teens to mid-twenties.

A white student from Fisk was pulled from his stool at McClellan's lunch counter and beat to the floor. Another Fisk student, a Negro, was yanked from his stool and struck by a white man.

At Woolworth's, a Negro student was pushed downstairs from the second floor lunch counter by a group of white teenagers, others were struck by the whites who also mashed out lighted cigarettes on the backs of some of the students.

In no case did one of the students participating in the sitin attempt to defend himself from attack.

None of the young white men and boys who attacked the students were arrested.

Upshot of the day's activities: 80 participants in the sitins were arrested on charges of loitering and disorderly conduct.

Since March 2, the day of the last sitins, Mayor Ben West has appointed a bi-racial committee of prominent citizens to study and report on the situation. Committee members include Dr. Stephen Wright, Negro, president of Fisk; Dr. W. S. Davis, Negro, president of Tennessee State; Dr. C. Madison Sarratt, white, vice chancellor emeritus of Vanderbilt University; Mr. F. Donald Hart, white, president of Temco, Inc.; Mr. Lipscomb Davis, white, president of Davis Cabinet Company; Mr. B. B. Gullett, white, president of the Nashville Bar Association; and Mr. George Barrett, white, an attorney and president of the Nashville Community Relations Conference.

And since that time, 79 of the 80 sitin participants arrested on Feb. 27 have been arrested again. The new charge: unlawful conspiracy to commit acts injurious to public trade and commerce . . .

Also arrested in this new charge: The Rev. James M. Lawson, Jr., a Negro Methodist minister, who was dismissed as a divinity school student at Vanderbilt University for the role he played in the sitin movement.

Thus the maze of incident facing the mayor's special committee.

Underlying the surface incidents, however, are problems of a far more fundamental nature.

One is a problem of law. The question is simple: Are sitins illegal? The answer is difficult. First there is no state law that prohibits whites and Negroes from eating together in a restaurant; there is, however, a regulation of the conservation commission's restaurant board forbidding owners to serve white and Negro customers together.

Do the sitins violate any other laws?

Confusion over this point is readily apparent in the legal twists and turns indulged in by city police and legal officials in recent weeks.

On February 13, the day of the first sitin that month, four uniformed policemen visited each of the managers of Woolworth, Kress, McClellan and Grant's and said police could not interfere with the students unless there were incidents.

On the Friday before the sitins of February 27, a small group of students went to police headquarters and conferred with Police Chief Douglas Hosse about their movement. The only law showed them as applying to the situation was a copy of the city ordinance concerning disorderly conduct.

On that same day, Mayor West met with the managers of the variety stores. The mayor said the merchants asked him to order police to stop the Negroes from sitting down at the lunch counters in their stores. The mayor said later he told the merchants he must refuse their request.

"I told them," he said, "that in my opinion and after consultation with my attorneys, the opinion was that as long as their business was open to the public any member of the public had a right to come in and request service and I could not interfere with this right."

Mayor West said, however, it was his opinion and that of his attorneys also, that the law is broken when anyone insists on remaining seated at lunch counters after they have been closed to all members of the public.

To find a law to fit this crime, however, was a task.

The students were first arrested on charges of loitering and disorderly conduct. In court, the loitering charges were dropped immediately and the 79 convictions for disorderly conduct are on appeal.

Legal authorities here privately cast doubt these convictions will be upheld. They point to the procedure of the trial judge, a substitute whose impartiality was challenged by attorneys for the students, and to a question on the validity of the disorderly conduct warrants on which the students were finally tried.

Here also, there is question over the acts involved. Mayor West likened the sitins to school integration disturbances here involving segregationist John Kasper.

"We refused to permit John Kasper and his associates to flout the law," he said. "We consistently intend to follow this same policy toward all without regard to race, color or religion."

District Attorney Harry Nichol, however, looks on the sitin situation in a different light.

"This whole thing seems a lot different than the Kasper business to me," he said. "During that Kasper business those people were yelling for hangings and killings, but the Negroes haven't done a bit of violence."

"In fact it looks like everyone did violence but the Negroes," he said. "It looks like they got pushed around pretty bad by some whites from what I've seen and read."

Further doubt over the disorderly conduct charges became apparent during the first week of March when the students were re-arrested on conspiracy charges.

It is known that on March 2, the day of the bus terminal sitins, the city attorney and police chief conferred with District Attorney Nichol in search of a more precise law that could be applied to the sitins. From all reports, this was done to see if there was any law under which Rev. Lawson could be arrested. Lawson, although not present at the sitins on February 27, did guide, advise and counsel the students.

Result of the conference: The district attorney advised there was only one law in the statute books that seemed to apply, the conspiracy to disrupt trade law.

The effectiveness of this law in application to the sitin cases will depend entirely on the court's interpretation of it and the degree of acceptance of the students' defense against it.

For the students contend they did not stage the sitins to disrupt business but rather to increase it. They contend they sat at the lunch counters to buy food, not to stop any other customers from buying it.

Overriding the specific legal points at issue relating to the students is the fundamental question of whether the owner of a private business providing service to the public has a right to serve particular parts of the public and not serve others.

In the case of the Nashville sitins, this question can be stated in more pointed form: Does the owner of a private business inviting customers from the general public into his store have the right to deny part of that public access to various departments within the store?

Precedent is vague on this point.

A recent decision by the North Carolina State Supreme Court upheld the right of privately owned eating places to refuse service to whom they please in the case of *State v. Clyburn*.

And in July, 1959, a federal court of appeals in *Williams v. Howard Johnson's Restaurant* sustained dismissal of a suit brought by a Negro against a chain restaurant in Virginia which denied him service.

The only court decision uncovered so far which may be used as a challenge to this right is a U.S. Supreme Court ruling in the case of *Marsh v. Alabama*, 326 U.S. 501.

This case actually dealt with a company owned town in Alabama and the right of the owners to prevent the distribution of religious literature within its limits.

Part of the decision contained words to the effect that the operator of a privately owned business becomes bound by the statutory and constitutional rights of individuals to the degree he invites the general public as customers for his private gain.

Side by side with the legal problem is one of morality. No place has this been debated more sharply than on the campus of Vanderbilt University, a debate prompted by the dismissal of Rev. Lawson from the divinity school.

Lawson was dismissed by Vanderbilt because, according to the executive committee of the University's board of trustees (meeting in Nashville to consider financial problems) he had become publicly identified with a movement advocating civil disobedience.

Chancellor Harvie S. Branscomb of Vanderbilt said the dismissal in no way inferred an attempt to deny freedom of thought, conscience or speech or of the right to protest against social custom.

"The issue is whether or not the University can be identified (through Lawson) with a continuing campaign of mass disobedience of law as a means of protest."

Eleven of 16 members of the divinity school faculty rejected the chancellor's reasons for Lawson's dismissal. In a statement they declared, in part:

"He (Lawson) has acted in his capacity as a Christian minister according to the dictates of his conscience . . . (we) support the right of the Negro community to focus attention on the unjust denial of their rights as American citizens, although some of us have reservations about the timing and specific methods used in this case."

Lawson's dismissal was also rejected by 111 others of the 428 full-time member university faculty in a statement which said, in part:

"We deplore the intolerance that is the fundamental cause of the Nashville disturbances. We believe that the merchants who elect to serve the Nashville community have a moral obligation to

supply their goods and services to all their customers without discrimination on the basis of race.

"Furthermore we distinguish both morally and legally between perpetrators of actual violence who defy the peaceful traditions of this community by reviling, beating and otherwise persecuting their fellow men, and citizens who peacefully and lawfully assert their rights . . .

"We commend the students of Nashville's Negro educational institutions and their supporters, including members of the Vanderbilt divinity school faculty and student body, for conducting themselves with patience and forbearance under extreme provocation."

The moral issue boiled down to this:

Can a Negro work for a goal considered morally right by a method about which there may be some legal doubt?

One Vanderbilt faculty member, after listening to a defense of the university's dismissal of Lawson on grounds the minister had advocated disobedience of the law, declared:

"Everything Hitler did in Germany was legal."

Another expressed concern over the effect of the dismissal on his teaching. He asked:

"How can I teach my students about the recent Hungarian revolution in the context of what has happened? The Hungarian rebels disobeyed everything that was strictly legal in their country."

A third problem that must be resolved is one of economics.

To a man, spokesmen for the businesses involved in the sitins say they believe integration at their eating facilities would result in an economic loss. It would, they say, keep the white customers from rural Middle Tennessee away from the stores as well as many from within the city itself.

The segregation policies of all the businesses hit by the sitins, according to their spokesmen, are established by traditional, local custom and they do not believe they are responsible for taking the initiative in changing custom. None said, however, that there could not be a change.

Chain store officials, with branches in the Deep South, also express fear that if the stores here open their lunch counters to all, white persons with extreme segregationist views elsewhere will boycott their stores.

The validity of these arguments are challenged by Negro leaders in Nashville.

"The rural whites may stay away for awhile," said one Negro businessman, "but I don't believe they would stay away too long. I think these managers are missing something here. They think the reaction of the country folks to integrated eating places in stores would be the same as perhaps over the school issue.

"There is a big difference here," he said. "The kids had to go to school but eating in a store is optional. No one has to do that."

As to the possibility of boycotts in the South by white persons of branch stores should their sister operations in Nashville open their lunch counters to Negroes, an executive of a Nashville bank declared:

"That is a two-edged weapon. These chains have stores in the North also, some of which have already been picketed in sympathy demonstrations for the student sitins. Besides, a few years back some Mississippians attempted to boycott Ford Motor Company and a certain cigarette brand because these companies billed whites and Negroes on the same television programs. The boycotts didn't work."

Another factor some Negroes discuss in private: Control of Negro purchasing power in the downtown stores. None of the community leaders even vaguely suggested anything as a boycott by all Negroes of the stores in the downtown area which do not allow them to sit down at lunch counters.

"That wouldn't do anybody any good and end up hurting just about everybody," said one businessman. "But we do have more of a stake in those stores than many of the managers realize."

Just how big this stake is cannot be accurately defined.

It is fairly well accepted the 100,000 plus Negroes spend roughly \$7,500,000 in the downtown area each year. But how much of this is spent in the department and variety stores where the students held sitins is really an unknown factor. No records disclosing a racial distribution of sales is kept by any of the stores.

A Negro economist, Dr. Vivian Henderson of the Fisk economics department estimated Negroes are probably responsible for close to 15 per cent of the total sales volume at Harveys, and around 11 per cent of the total sales volume of Cain-Sloan.

The latter figure is not accepted by Cain-Sloan officials who place the sales of Negroes at roughly five per cent of their total volume.

A highly placed observer of the Nashville business world summed up the economic problem this way:

"Some decision has to be made and made soon. We do not know just what would happen if these stores open their lunch counters to Negroes. We do not have enough experience to make any estimates from situations similar to Nashville.

"We are on a spot. If they open, maybe those stores will lose business. Maybe some of the white kids who caused trouble here during the sitins would cause trouble again although good police work could stop that.

"On the other hand, suppose they don't open up and the students continue their sitins? Would any fewer people come to town than if Negroes were allowed to eat at the counters? I don't know. But this must be settled. We are supposed to have our Nashville Extra Value days coming up soon. We stand to do an estimated \$2,000,000 extra business during those days. But something has to be decided now to get this cleared up before the NEVD."

In the final analysis, the basic problem is making an accurate assessment of the sitin movement.

It is just a panty-raid type affair with a sociological twist, doomed to die as all college fads or disappear as students leave school for their homes on vacation?

Is it a purely local, spontaneous outburst of feeling on the part of the students at Fisk, Tennessee State and American Baptist Seminary?

Is it the result of a deeply felt restlessness among Negroes?

Does it have any relation to student sitin movements elsewhere?

Does it have roots and support in the adult community?

Is it amenable to compromise?

The first time the public at large in Nashville became aware of the sitin movement was on February 13, the day the 100 university students placed their protest on the lunch counters of three downtown variety stores.

As a matter of fact, the first sitin was held at a lunch counter in Harveys on November 28, 1959. A second one was held on December 5 at a lunch counter in Cain-Sloan's. Each resulted in a refusal of service, although in Cain-Sloan's, orders from three members of one sitin group were taken before a store official came on the scene and determined through questioning they were not Filipinos or Indians but Negroes.

These two sitins were tests, according to the Rev. Kelly Miller Smith, pastor of First Baptist Church, Eighth Avenue, North and president of the Nashville Christian Leadership Council.

"The purpose of these visits," he said, "was to establish in an action situation what the store policy was and to engage representatives of the management in conversation about the situation."

Project chairman for the NCLC and the man who headed the test sitin groups was Rev. Lawson.

In a lengthy interview, Rev. Lawson described the Nashville sitin movement and his role in it this way:

"Back in 1958, shortly after the new Cain-Sloan store opened, we heard of complaints from quite a few Negro women about the way they had been treated at the store.

"They had been denied use of all dining facilities except the lunch counter in the sub-basement which was installed principally for use of Negro employees at the store. Some said they had been publicly humiliated when ordered out of the ladies rest rooms and told to use segregated rest rooms down in the basement.

"The idea jelled in our mind that this was a field we should do some work in. I can't say the exact time we realized this but it was shortly after the store opened and I was talking with Rev. Smith and Rev. Robert W. Kelley, the former pastor of Clark Memorial Methodist Church, who is no longer in Nashville.

"We didn't do too much about it until a meeting of the NCLC in March of 1959 when it was decided to make the opening of rest rooms and dining rooms to Negroes a specific goal.

"We revived the idea again in the fall of 1959 and decided to hold a couple of workshops on the subject of passive resistance.

"I held a couple of training sessions on non-violence at Clark Memorial. Their purpose is to inoculate in people the idea of Christian non-violence and at the same time, I wanted to give the people a chance at role playing. Set up situations and roles they may run into within their own experience.

"The students started to enter the picture at this point, sometime along in November, and by the time the first sitin group went to Harveys, there were more students in the workshop than anyone else.

"I think we probably had four workshops in the fall and then three more in January. We seldom had more than 15 to 20 students though.

"What was my role? I was not the leader. My understanding of the Christian non-violence concept is that you don't have a single leader but group leadership. You try to pull together, be creative together, have mutual trust. I sort of look on it like a small group trying to become a church, working together in the Christian spirit."

The NCLC, formed here in 1957, is the Nashville branch of the Southern Christian Leadership Conference led by Rev. Martin Luther King of Montgomery, the man who led the Negroes of Montgomery in their successful effort to obtain non-segregated bus service by boycotting the bus system.

The statement of the purposes and principles of the NCLC declares in part:

"To discover ways of non-violent resistance or resistance in love to all forms of racial, social, economic or political injustice.

"To explore opportunities for non-partisan service in labor, industry, voting, registration and civic life.

"To coordinate these forces for good in the city which seeks the growth of a genuine Christian movement toward the new community.

"The purpose of the Nashville Christian Leadership Council is to apply the central tenets of our faith to the problems of injustice and persecution and segregation . . . If we are to see the real downfall of segregation and discrimination, it will be because of a disciplined Negro Christian movement which breaks with the antiquated methods of resolving our fears and tensions and dramatically applies the gospel we profess."

It is clear from the interview with Rev. Lawson and an interview with Rev. Smith, the NCLC provided at least a framework for the sitins and a core of students on the campuses of Fisk, Tennessee State and American Baptist Theological Seminary.

Rev. Lawson said neither he nor Rev. Smith nor any of the students had any set plan of operation to apply their method of Christian non-violence when the Negro college students in North Carolina started their sitin movement.

Was there any connection between the North Carolina sitins and those that followed in Nashville?

Rev. Lawson said there was. It was two fold.

"First, most of the students from what I understand were excited about the sitins in North Carolina. The campuses were humming with talk about them and there was sort of informal talk about starting one here.

"Second, at 6 a.m. on the morning of the 10th (of February) I received a long distance telephone call from a personal friend of mine in Durham. He asked me if there was anything the students over here could do to show their sympathy for the North Carolina sitins.

"I told him I did not know but I would see. I called Rev. Smith and he suggested I talk to some of the students at Fisk and A & I (Tennessee State) to see if they were willing.

"I called Paul Laprad (a white student at Fisk who was pulled from a stool and beaten during the Feb. 27 sitin) and he said he would talk to some of the students. They agreed it would be a good idea and Rev. Smith told them if they wanted to do it, go ahead.

"The next night about 50 students met and discussed the subject. They met in the science building at Fisk, I believe. One thing must be remembered about this movement. That's the democratic nature of it. No one person gave the orders or said what was to be done. All decisions were made by the students, not just a few of them."

Interviews with 15 students representing all three campuses (seven interviewed in a single group and eight picked at random) indicate a feeling that this is a deadly serious business to them. This is no panty-raid type affair.

Nor is it something born and executed in the minds of white students at Fisk or Negro students there who come from homes in the North. Here are the words of a Nashville Negro student attending Fisk:

"Maybe there were more students from the North who ended up as strong figures in the sitins. They are strong campus figures anyway. And besides, you know, some of us down here get so used to things we get in a rut and its hard to get out. But don't think we don't feel the same way they do. We do. Just as strong and maybe stronger. Do you know when I used to go downtown I used to walk just so I wouldn't have to ride a segregated bus? I hated them!"

The students said, incidentally, they selected the particular stores for the sitins largely because they were the same types being hit elsewhere.

"We really don't make any philosophical distinction between the store that wants you to come in and buy goods but won't let you eat at the restaurant and the place that is only a restaurant and won't let you eat there. The idea of a business dealing with the public being able to keep anybody out because of race is not right. But we do feel those that welcome you for one thing but won't let you have another are cheating just a little bit more than the others."

Will the students accept any compromise in the Nashville situation short of immediate opening of the lunch counters to all?

They say no and firmly declare the sitins will resume if their requests for service are denied.

"There will be a difference next time," said one student. "We will do everything the same as before, be polite and be passive, but we won't sit at the counters once they are closed. When the counter closes on one group, they will leave immediately."

The students interviewed said, however, they would be willing to work out an agreement satisfactory to the store owners and themselves regarding a transition period.

Rev. Lawson said, however, he believed the students might accept a tentative compromise "as long as it is pointing in the direction of the ultimate solution, i. e. desegregation.

"I don't mean that they would accept some sort of temporary separation," he said, "I mean something like opening up in a controlled way with designated groups appearing at designated times."

The relationship of the student movement to the adult Negro community in Nashville is difficult to judge accurately.

Z. Alexander Looby, a Negro Nashville city councilman and one of the defense attorneys for the students arrested in the sitins, declared the student movement a "revelation" to Negro adults.

He, and other Negro leaders, firmly believe that should the students sitins stop for any reason, they would be picked up by Negro adults.

"If you went down to the public square on Feb. 29, the day we were brought up for trial," said a Tennessee State student, "you saw 2500 Negroes standing around the courthouse, waiting for the trials to begin. Most of them were students but there were a good number of adults there too. They weren't there just out of curiosity. They were there because they wanted to be available in case we needed help."

One Negro businessman, recalling the day when the students were first brought to court said when a call went out for money, "it came in by the hundreds.

"This was all from adults," he said, "adults of this community, not Chicago or New York."

Another Negro leader pointed to a church rally held the first of this month to drum up support for the students.

"There were many more than 500 there," he said. "They were there to back the students and also back the sitin idea. Now if the students stopped, maybe we couldn't get all of these people out, but even if we just get one-fifth of them, that would be over a hundred and you don't need many for sitins."

A Negro minister declared: "If the sitins start again, they won't be just students doing the sitting in.

"The old folks will be there too," he said.

Obviously there is no easy solution to the problem.

Each of the stores can, of course close up their lunch counters and dining rooms. The students indicate if this is done, they will stage sitins in restaurants unconnected with stores.

As it stands in Nashville now, the racial segregation situation is paradoxically confusing.

Negroes and whites go to school together, govern together, ride busses together, shop together, even try on the same clothes in stores.

But they still can't eat together at the lunch counters in downtown department, variety and drug stores, or in the two bus terminals.

The permissive acts are the result of specific legal action and quiet changes in custom.

The forbidden act stands fundamentally on custom alone, although it is bathed in a thin light of strictly interpreted legal propriety.

The students have made it clear they will accept no compromise with their basic goal of complete and equal access to the lunch counters downtown.

The merchants have not indicated whether they can shift from their present position of segregation of the lunch counters in their stores.