

NATIONAL COMMITTEE AGAINST  
DISCRIMINATION IN HOUSING  
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Address by Loren Miller, Presented to  
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I cannot escape the conclusion that I have come to this meeting to carry coals to Newcastle. There is not one of you here who does not know as well as, and many of you better than, I the full story of the failure of minority groups to overcome the obstacles that have so long denied them free access to the urban housing market. That failure has had important consequences for all Americans.

The current situation was aptly epitomized by Albert Cole, Administrator of the Housing and Home Finance Agency, in a statement last October when he pointed out:

"The Negro is still not a free man in his own home.

"Too often, he must live where he is compelled to live, not where he chooses to live, or where he aspires to live. He lives in tightly contained, less desirable parts of our cities. He is denied the opportunity, even though fully qualified to use it, of freely bargaining for and acquiring a home suited to his needs and hopes as an American.

"It would be the grossest self-deception for us to think that we have given the Negro his freedom so long as he is not free to acquire one of a free man's most cherished possessions -- his own home."

If Mr. Cole is correct, and I think that he is, we are thus met at the outset with the curious and ironic fact that in a free enterprise economy some home seekers are unable to compete in the open market for the product they want to buy. And since the urban dweller must have shelter a special market has perforce grown up to supply the needs of the home seeker who is identified as a member of a minority group.

It is elementary that those who cannot buy in the open market in a free enterprise economy are subject to certain disadvantages. The special market to which they are forced to resort tends to remain a seller's market. Supply is limited. In the ordinary case, that supply will consist of those items that cannot be sold or will not bring satisfactory prices, for one reason or another, in the open market. The disadvantaged buyer is in no position to reject shoddy merchandise or haggle over prices. He must take what he can get and pay what he is asked.

The Negro urban dweller buys or rents housing in "tightly contained" parts of our cities because that is the market into which he has been forced. There is a minimum of new construction in such areas and he must accept hand-me-down dwellings. The constant pressure of in-migration has kept such housing in short supply for the past four decades. It is not as true as it once was that these dwellings are to be found only in "less desirable" parts of our cities. The steady flight of upper working class and middle class whites to the suburbs has opened up many formerly closed and well preserved communities to Negro occupancy. The practical effect of restricting the Negro home buyer or renter to the special market has been to differentiate his housing problems from those of other Americans of comparable economic status. Race intrudes everywhere. The would-be borrower is assessed, not as a credit risk, but as a Negro. The veteran sheds his veteran status and becomes a Negro when he seeks to buy or rent in a development built to attract veterans. Measures designed to promote the general welfare, such as slum clearance or urban redevelopment in many instances, would restrict the housing available to Negroes and have understandably drawn opposition on that score.

Appropriately enough, the problems bred for the Negro affect the rest of the community. Sound city planning has some times broken on the hard rock of the existence of a Negro residential area whose occupants could not be dispersed because there was no housing available for them. Neither the subdivider or the builder, or the individual owner could minister to the needs of these potentially

willing buyers or renters. In fact, no mortgage or home builder's journal is complete these days without a properly phrased lament over the inability of the lender or the builder to serve the many thousands of Negroes who are good credit risks. I hardly need labor the point that any artificial restriction of the market in a free enterprise economy is socially and economically wasteful.

The concentration and restriction of Negroes in defined residential areas has consequences far beyond the market place. The school located in a Black Belt is a school for the Negro children who live in the vicinity. Staffed by Negro teachers, clerks and caretakers -- and often named for a famous Negro -- it is a "Negro school" just as its counterparts in white neighborhoods are "white schools." If I knew nothing else except the area of original Negro occupancy and the manner in which original school boundary lines have expanded and contracted I could trace the growth and direction of the Negro population in many cities. Parks and playgrounds, public libraries and swimming pools, relief depots and health clinics, churches and settlement houses, political clubs and PTA's -- the whole range of public and semi-public facilities -- inevitably take on the racial characteristics of their neighborhoods. As long as residential segregation flourishes no judicial decree, no statutory command can effect the de-segregation of community facilities.

Americans in all walks of life have accommodated themselves to the hard fact of residential segregation. That accommodation shapes their thinking, and their actions. Men and women who would raise their voices in angry protest against any proposal to require racial segregation in public facilities of any kind view with complacency the racially segregated neighborhoods of their cities and the separate facilities spawned by those communities. Whatever doubts assail them can always be allayed by varying degrees of participation in movements to get better schools, parks and playgrounds in "our colored section." If you have read the spate of literature stimulated by government prodding, you must have been impressed by the fact that home builders have offered little except the hope that somehow -- they don't know just how -- they can build more and better segregated housing, which, of course, will lead to more and better segregated schools, parks and playgrounds. Government agencies which are giants in the regulation of everything from interest rates to floor covering, become quaking pygmies when they are asked to use their power to curb discriminatory practices.

The segregated neighborhood in its proper turn colors the racial attitudes of its inhabitants. Chicago's Trumbull Park is an extreme example. In that area workmen who for the most part belonged to a labor union justly famed for the fairness of its policies, and who professed a religious faith that stresses the oneness of the human family, resorted to the ultimate in harassment to prevent Negro occupancy in a public housing project. That same spirit permeates most other urban communities, regardless of the economic status of their inhabitants. Whether they have voted by bombs as in Atlanta or Chicago or Birmingham or Los Angeles or Miami or Cicero, or by ballots as happened in a San Francisco suburb, residents of "white" neighborhoods have demonstrated over and over again that they believe they have a "right" to exclude members of other groups. I think it is important to explore the origins of this hard-core belief that sections of our cities can be staked out and minorities excluded from them. If we are able to find the cause we may be able to discover a remedy.

The Negro began his trek to the cities after the tragedy of Reconstruction had fixed his social status as that of an inferior. The Separate But Equal doctrine was given Supreme Court sanction in 1896 and proponents of racial zoning ordinances argued vigorously (and successfully in the state courts) that racial residential segregation was entitled to the same constitutional protection as that afforded segregation in public facilities. The first of the racial zoning ordinances was enacted about 1903 and it was not until 1917 that the Supreme Court invalidated them. And by 1917 the state courts were lending their process to the enforcement of race restrictive covenants. For three long decades such enforcement was decreed: in courts in every state with a substantial Negro population, and by the federal courts in the District of Columbia. The nation's highest tribunal tacitly upheld this kind of state action with an oblique holding in 1926. It was not until 1948 that the Supreme Court said with finality that the Fourteenth Amendment bars judicial enforcement of agreements proscribing sale to, or occupancy of land by, Negroes or other non-Caucasians. Thus, for a period of almost half a century, there have been a series of judicial decisions, resting on constitutional interpretation, affirming the rights of cities to impose residential segregation, or the power of the courts to decree that same end through enforcement of racial covenants. Americans tend to regard as morally justifiable that which is said to be constitutionally permissible. By 1948 most American urban dwellers were able to square residential segregation with their consciences and were convinced that they had a right to call upon the state courts to help effectuate that purpose. Every border, northern and western city was honeycombed with property owners associations -- federated in central bodies -- whose function it was to finance enforcement of racial covenants.

Meanwhile, the city-ward migration of the Negro that had begun as a trickle at the turn of the century had become a flowing river by World War I and would become a flood by World War II. Newcomers huddled together and those who followed them sought out friends and relatives. They soon found themselves hemmed in. And small wonder. The Separate But Equal doctrine, enforced by legislation only in the South, brooded over the land. One of the great Negro spokesmen of the time told all who would listen that in all things social the two races could be as separate as the fingers of the hand. Powerful city planners lent an assist with the explanation that Negro occupancy destroyed the homogeneity of the neighborhood, and homogeneity was pictured as a very desirable end. It was plain for all to see that these Negro newcomers lived in undesirable sections of the city and that property values were on the decline where they lived. Crime was rife, delinquency rampant, disease prevalent in these areas. Cause became confused with effect. A vast body of apologetics grew up to rationalize fears and justify the actions of those who strove so mightily to keep the Negro in his place. Real estate brokers, lawyers, judges, appraisers, money lenders, builders, and even ministers and social workers, proved -- each in his own medium -- that Negro occupancy depreciated property, increased disease, crime and delinquency rates, and, better still, that Negroes liked to live by themselves in order, I suppose, to enjoy the ills they had brought down on their own heads by moving to the cities.

The end result was that the doors of the market place were more and more tightly closed to the Negro home seeker. He found himself unable to buy or rent except in areas abandoned by whites for one reason or another. The Negro who did venture to buy in the restricted community faced a lawsuit with the possibility of loss of life savings or, even worse, of going to jail for flouting the decree of a court which had ordered him to vacate his own home. I do not want to underestimate the compelling power of public opinion in this ultimate exclusion of the Negro from the open housing market, but it is my considered opinion that this result could not have been achieved without the active aid of state governments through enforcement of racial covenants. That opinion is based on the large volume of litigation arising from deliberate violation of such covenants from 1917 to 1948 with the certain knowledge that litigation would ensue. Willing sellers and willing buyers took that risk in thousands of instances, and they found lenders to share the risk with them. Thousands more were unwilling to take the chance and many thousands of others were unable to find credit. The almost universal knowledge that state courts stood ready to punish any breach convinced many would-be sellers that they had a moral duty to observe the terms of the restrictive agreements that covered the land they had purchased, and were willing to sell.

In any event, all direct governmental sanction and support of racial residential segregation in private housing has been interdicted by court decisions, the last one in 1953 when the Supreme Court held that state courts could not levy damages against a person who sold race restricted property to an individual of the proscribed group. Paradoxically, the degree of concentration of Negroes in defined areas of our cities has not declined with those decisions. As Frank Horne, of the Housing and Home Finance Agency, puts it: "The prevailing pattern is that of a central city, with rapidly increasing and spreading residency by racial minorities, ringed by expanding, relatively new all-white suburban areas." Great new all-white cities, such as the Levittowns in the East and Lakewood in the West, have sprung up in the past decade. This persistence of concentration is partially explained by the fact that hostility to Negroes living elsewhere is still active and that long habits of huddling together have conditioned them to seeking homes in racially defined communities. However, the most important factor is still governmental sanction and support of segregatory devices, now become indirect and attenuated, and exerted by the federal rather than the state governments.

State courts were still enforcing racial covenants when the federal government got into the housing business in the early 1930's, and federal housing administrators fell -- perhaps charged is the better word -- in line. Early FWA housing was built on a segregated basis. Later, the federal public housing agency adopted its present indefensible policy of leaving to municipalities the question of whether or not they would require racial segregation in public housing built with public funds. Some local housing authorities cleared out areas of mixed occupancy and imposed segregation in consequent public housing developments. Others evaded the issue and reached the same result through selecting sites that were bound to attract one racial group or another. I cannot resist getting in a good word for California by pointing out here that my state once had white projects, Negro projects, Mexican projects and Chinese projects. We never do things by halves. When I last looked at public housing figures, federal administrators were priding themselves on the fact that only 86 per cent of the nation's public projects were segregated -- eloquent testimony indeed to government's contribution to residential segregation! Every court which has considered the matter in the past decade has patiently explained that such segregation denies equal protection of the law. Apparently, communication between the judicial and executive branches of government leaves something to be desired.

The mischief worked by public housing pales into insignificance in comparison with the contribution of the Federal Housing Administration. It is easy to agree with President Richard Hughes of the National Association of Home Builders that FHA is "the very backbone of the Modern Home Builder and the Home Building Industry" and that because of its activities "millions of Americans who had never dreamed of Home Ownership are today Proud Owners of their own homes." From its birth in 1934, FHA has prided itself on the claim that it has been guided by sound business practices. In 1934 sound business practices, as that term was understood by FHA officials, called for the imposition of racial covenants on all residential subdivisions. FHA became the Typhoid Mary of race restrictive covenants. It spread them from one end of this nation to the other with the circulation of a model covenant and with its insistence on their recordation on every parcel of land on which it insured a home construction loan. It continued to encourage covenants until 1949, thus helping to close the doors of the new housing market against Negroes. Its activity in that direction was about 98 per cent effective -- of the some 2,762,000 units built with the aid of FHA-insured loans. Its widely heralded 1949 policy change did nothing to disturb the pattern simply because the change was more apparent than real.

You will recall that in 1949 the agency announced that it would not insure home construction loans unless the borrower covenanted with it that no race restriction had been recorded on the land after February 15, 1950, and that none would be recorded during the life of the loan. Veterans Administration, which can never see beyond the end of FHA's nose, announced the same policy at that time. In both cases builders were left free to discriminate in the sale or rental of such housing. They have exercised that freedom; they have continued to exclude the Negro from the new housing market.

This exclusion has exacted a tremendous dollar and cents toll from the Negro home seeker. He has been denied the advantages of the low down payment and low interest rate features of the FHA program and has had to make higher down payments and pay higher interest rates to purchase available second-hand housing. In many cases he has been forced into the second mortgage market where interest rates are at a maximum. In short, he has been required to pay the hangman's fee to have his neck broken for a crime he did not commit. He has been disadvantaged in other less tangible but no less real ways. Those who take over second-hand neighborhoods fall heir to second-hand public facilities. Above all, FHA's early positively discriminatory policies and its latter day refusal to insist that its benefits be made available to all citizens without discrimination have helped immeasurably to drum up support for residential segregation and to armor it against attack.

These maladjustments in the housing market have been forced on public attention in the past few years chiefly by the activities of the National Committee Against Discrimination in Housing, the NAACP and the Urban League. Two law suits filed by NAACP attorneys, one in California and the other in Pennsylvania, seeking judicial interdiction of discrimination in the sale or rental of homes built with the aid of FHA-insured loans have served to put the issue in sharper focus. As a result there has been widespread discussion of remedial measures by government agencies, mortgage bankers and home builders. Discussion always precedes resolution of a problem in a democratic society and there is a certain gain from the fact that the issue is out in the open. However, these discussions are taking a dangerous turn.

That danger is not readily apparent because it is concealed behind fine phrases. Government, mortgage bankers, and home builders alike agree that the Negro home seeker has been getting the short end of the housing stick. They agree that he must have access to new housing. They agree that he must share fully in the urban renewal program. They agree that he must not be made homeless through the workings of urban redevelopment schemes. They agree that he must have financing on the same terms as others. But neither government, nor mortgage bankers, nor home builders has advanced any plan to break down the obstacles that bar the Negro from the open housing market. What home builders and mortgage bankers do propose to do is to refurbish and expand the special market in which the Negro must buy housing. They are seeking to make government a partner in that enterprise. They hope to make that market attractive to Negroes.

The National Association of Home Builders, whose voice is decisive in the industry, announced last year with a fanfare that it proposed to stimulate the construction of one hundred fifty thousand dwelling units "for minorities" within a year. Regions and communities were urged to establish goals for this "minority housing program." The phrase "minority group housing" is only a euphemism for segregated housing. President Hughes explained to Texas mortgage bankers that "If we meet the issue now, plan and provide the Negro with housing on comparable FINANCIAL TERMS, but in planned communities, society will be MUCH BETTER OFF. I know we'll be happier and I sincerely believe they'll be happier." The Mortgage

Bankers Association named a Minority Housing Committee whose function it is to find funds for financing of this "minority group housing." Government housing officials continue to pay valiant lip service to the President's declaration that the benefits of the Housing Act of 1954 shall be used for the advantage of all citizens regardless of race; but FHA, and of course VA, refuse to budge from their policy of insuring loans for builders who do discriminate. As long as that policy is maintained government is a partner, willing or unwilling, in keeping the new housing market closed to Negroes. The fruit of that policy is racial residential segregation. The glittering promise of equality can no more be realized with one housing market for the majority and another for minorities than it could be, or can be, in public facilities under the Separate But Equal doctrine.

The fact of the matter is that we have reached the same stage in housing that was attained when the first school suits were filed a decade ago. Grandiose equalization plans were announced. Maintenance of segregation was heralded as a sure prescription for the happiness of majority and minority alike. The nation is being offered the equivalent in housing of the Separate But Equal doctrine and in an area of our society where it will work even greater mischief than in other fields where it has been applied. FHA once plumped for racial covenants with the assertion that a neighborhood should be evaluated as "less stable and desirable" if the "children of people" residing there "are compelled to attend school where the majority or a goodly number of pupils represent. . . an incompatible racial element." President Hughes told the Texas Mortgage Bankers Association that "The Supreme Court Ruling concerning schools in my opinion will have a profound effect on housing at an early date" and pointed up that remark with the statement that "About a month ago, I saw a picture in the Washington Post with the heading: 'Anti-Segregation Is Already A Fact In The District' and I looked at a picture of a negro boy reciting along side of white teenage girls." Residential segregation emerges as more than an end in itself.

Despite high hopes and extravagant claims the National Association of Home Builders' program will not produce one hundred fifty thousand housing units for minorities in a year. It is apparent that it has not produced one-fifth that number in the eight or nine months since its announcement. The fundamental difficulty is that the program is self-defeating. The home builder's problem is that of finding individuals who will buy homes in particular areas. All Negroes do not want homes in any given community. For example, I know from personal knowledge that there are individual Negroes, and members of other minorities, who would like to buy in Lakewood, the all-white Los Angeles suburb, because it is close to their employment. There is no reason for them to sell their present homes and move to another area equally remote from those jobs. I suppose the same thing is true in the Levittown situation. Other Negroes would like to live in other developments either to be close to employment or to gratify particular preferences. It is futile to hope that these Negro buyers with varying preferences can be gathered up and housed in a single community that would advantage some and disadvantage others. They can be served only as individuals. The result is that there is no "minority housing market" as that term is used by builders bent on creating a Negro project. There is the additional fact that the constant hue and cry for racial segregation, contributed to by the NAHB program, makes it ever more difficult to find sites where Negro occupancy would not arouse opposition from adjoining neighborhoods. And, of course, premiums will continue to be exacted wherever a special market is maintained. There is no solution short of building housing for Americans, open to Americans.

Our duty is not done in a conference of this kind with a mere recital of ills and with tracking down their origins. Our primary function is that of finding and suggesting remedies. It is plain that no single organization can tackle all of the problems that confront us. However, all of them should be united on the prime objective of removing the obstacles that bar members of minority groups from the housing market. There are many facets to that all-important task. I list a few suggestions for your consideration.

First, it seems to me, there must be a serious and concerted effort to change the climate of public opinion. We must contend for the right of the individual to have his application for housing assessed on the basis of his own qualification, without reference to racial identification, whether that application is made for public housing or for private housing built with federally-insured loans. We must face up to the fact and persuade other Americans to face up to the fact that inherent in subscription to the concept of racially designated housing is an acceptance on a far wider and more dangerous scale of the Separate But Equal doctrine which we have been at so much pains to root out of other aspects of American life. The spotlight must be turned on the separate institutionalism that is bound to flourish where residential segregation is tolerated. We must dig out the facts and explain the costliness, to majority and minority alike, of such segregation. Above all, the elimination of racial residential segregation must be

put in its proper perspective as a prime objective of a democratic society rather than as the selfish goal of selfish minority groups.

There is no possible legal or moral justification for retention of segregation in public housing and if the proper agencies do not act we must support litigation to test the propriety of those practices. As I have pointed out, there has been uniform success in this litigation for the past several years, and we must not and should not be deterred by specious claims that further action will halt or defeat the cause of public housing. Similarly, judicial tests of the claimed right of builders to discriminate in the selection of tenants or purchasers of housing built with the aid of FHA loan insurance deserve support. Although it is clear that this practice ought to be eliminated by administrative action, we cannot afford to sit on our hands while administrators dally. Nor should we heed the counsel of despair that I have heard in some quarters. Admittedly, legal principles offer no certain guideposts in this field, but we must be as willing to blaze a new path here as we were in the race restrictive covenant and school segregation cases.

Although there are no legally enforceable impediments to the sale to, or occupancy of, property by members of minority groups there is an alarming number of people who do not know that simple fact, and who believe that they are bound by racial covenants that cover their land. That truth must be disseminated. Where Negro occupancy is attended by violence or threats of violence or by harassment the home buyer must have the full protection of law enforcement authorities -- protection that he will have in direct proportion to the readiness and ability of organized groups to clarify the issue and rally public opinion.

Finally, and most important of all, every effort must be made to induce FHA, and VA, to amend their regulations to provide that every applicant for loan insurance must covenant that he will not discriminate in the sale or rental of resulting housing. Unless that change is effected, either by administrative action or by judicial direction, government will continue to be the silent partner of home builders who deny the Negro access to the housing market. We should not be sidetracked, or dissuaded, by pie-in-the-sky promises that the housing needs of members of minority groups can be met in a segregated market. This request for change in FHA policy is no plea for special privilege; it is a plea that government make the benefits it bestows available to all Americans on terms of equality. There is no middle ground for FHA. Either it must take affirmative action to deny loan insurance to discriminatory builders or it will continue to assist those builders in strengthening and extending racial residential segregation. The decision should not be difficult. Quite frankly, such a policy change would work no miracles. Resistance to Negro occupancy would persist. The Negro's own accommodation to segregated living would slow the process of integration. The change would simply strip the builder of the prerogative of classifying and rejecting the individual on the irrelevant ground of race. It would terminate a half century of government support, direct or indirect, of exclusion of the Negro from the housing market. And without that support residential segregation must ultimately yield to persuasion and education.

These are formidable tasks. Residential segregation is rooted in custom and tradition; it is bulwarked behind indifference; it is propped up by popular prejudice; it is renewed by the separate institutionalism it breeds and nourishes; it is hallowed by the long support it has had from government; it is protected by the fear of change. But the case against it rests on sound economic, legal and moral principles. It levies a tribute on those whom it victimizes and communities that tolerate it. It sets citizen against citizen, group against group. It denies the dignity of the individual. Supported by government, it subverts the constitutional principle that government must extend equal protection of the law without reference to race.

Let us cry these truths everywhere, each in his own tongue, each to his own audience: the lawyer in the court room, the minister in his pulpit, the organizer in his union. Let no man or woman of goodwill hold his peace. For ours is one of the decision-times of history. What we do -- now -- will go a long way toward determining whether Negroes and members of other minority groups are made free to "acquire one of a free man's most cherished possessions -- his own home."