

'A New Kind Of Persuasion Of The Last Resort'

(An article based on a sermon preached on Sunday, January 5, 1964, by the Reverend Charles M. Jones of the Community Church of Chapel Hill.)

Civil disobedience is practiced on a grand scale in Chapel Hill. Within a month's time two hundred thirty-nine anti-segregation protesters have been arrested and charged with violating trespass and other laws. It is a sad and serious situation. What can we do about it?

Some are already doing something about it. In a grocery store which has a sign on the door "Whites Only" protesters have had chlorox and ammonia poured on their bodies and sprinkled in their eyes. Some of them have required medical treatment before they could be jailed. At a restaurant on Pittsboro Road the management and others did not call police to protect their rights but by pouring water, kicking and using other violent tactics met the demonstrators with violence. This response of physical violence to the practice of non-violent civil disobedience is made by only a few and I am sure regretted and condemned by many. Others are responding to the

wave of civil disobedience in verbal anger. The words one hears most often are "anarchists," "irresponsible students."

This morning I want to place some thoughts before you concerning our sad situation. They will be in the context of faith and worship. This does not mean you are asked to accept them simply because they are uttered by a minister from a pulpit in the hour of worship on Sunday morning. They are offered only for your prayerful and thoughtful consideration.

First, let us try to consider with some calmness and objectivity the whole problem of civil disobedience. Is the willful, planned persistent disobeying of law to be simply labeled anarchistic or irresponsible? It is a new problem for civilization. The Bible shows that, Shadrach, Meshach and Abednego were heroes because they practiced civil disobedience in refusing to obey the King's order to worship his idol. An attempt was made to get Jesus in trouble by asking him if he approved of paying tribute to Caesar as the law required. Probably because the

question was not asked in good faith but to trap him, he answered it indirectly saying, "Render unto Caesar the things that are Caesar's but unto God the things that are God's." It is worth noting that he was arrested for disturbing the peace and charged with teaching people to do things which were "unlawful" for them to do. Martin Luther, greatly honored by Protestants, defied the constituted authority of his day because his conscience which he claimed was instructed of God would allow him to do nothing else. There is thus in our religious faith sustained and strong support for the right, indeed the duty, to disobey the laws of men when they conflict with the laws of God.

If we, who are white, had been more aware of the deep hurt and the unspoken dissatisfaction of our Negro brethren we would have expected civil disobedience against racial injustice. In 1958 Dr. Martin Luther King wrote in his book, "A Stride Toward Freedom": "We will take direct action

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—Rev. Charles M. Jones

against injustice without waiting for other agencies to act. We will not obey unjust laws or submit to unjust practices. We will do this peacefully, openly, cheerfully because our aim is to persuade. We adopt the means of non-violence because our end is a community at peace with itself. We will try to persuade with our words, but if our words fail, we will try to persuade with our acts.

"The way of non-violence means a willingness to suffer and sacrifice. It may mean going to jail. If such is the case the resister must be willing to fill the jail houses of the South. It may even mean physical death. But if physical death is the price a man must pay to free his children and his white brethren from a permanent death of the spirit, then nothing could be more redemptive."

Not all law-breakers are immoral according to the long teaching and practice of Protestant Christianity. Man's conscience does not belong to Caesar, it belongs to God. When men's laws violate God's laws, then man has not only the right but the duty to disobey them. Mr. Leslie Dunbar, speaking to students in Earlham College, built the major part of his talk around a resolution passed in 1960 by the General Assembly of the Presbyterian Church in the United States which reads in part:

"Acknowledging that Christians have historically upheld the just authority of the state as being constituted by God for His own glory and the public good so long as the state has not commanded anything contrary to the law of God . . . "Affirming that some laws and customs requiring racial discrimination are, in our judgment, such serious violations of the law of God as to justify peaceful and orderly disobedience or disregard of these laws . . .

"Believing that current student demonstrations against racial segregation, while in some cases conflicting with local laws or customs, seem to be consistent with our Christian heritage, and the moral consensus of our nation; "The 172nd General Assembly

"Assures students of our common cause with those who for the sake of conscience participate in such responsible non-violent demonstrations;

"Urges them to continue to recognize the dangers to civil order inherent in conflict with established authority."

Since the passing of this resolution, Dr. Eugene Carson Blake, highest executive officer in that denomination, with clergymen of other faiths, deliberately and openly broke the trespass laws in Baltimore and submitted to arrest and paid the penalty of their violation.

One does not have to be a Presbyterian or agree in detail with their resolution supporting the right to be a law-breaker when man's laws violate what one believes to be a higher law, the moral law of the Universe, to realize civilization is in a shaky position whenever its citizens assume their laws are so just and right they must never be violated. What are the laws of any time but the public expression of the minimum amount of justice the majority of citizens are willing to give each other? Laws must be supported by a majority of the people and seldom does a majority vote on anything raise anything to its greatest height. Few of us would want to take our musical standards by the popular vote that produces the ten most popular tunes of the month. If a man will not foolishly submit his musical conscience to popular vote, then he will be equally sensible not to submit his moral conscience to the unchallenged domination of the state.

Seldom, if ever, have men at the time it was happening been able to approve of men who broke man's laws because they could not consent to the injustice of them, but generations later such law-breakers have been the honored ones of civilization. I have no desire to make saints out of sinners or suggest that the two hundred thirty-nine persons who have recently been jailed in Chapel Hill are carbon copies of Martin Luther or even Martin Luther King, Jr. Indeed, some of them would be unable to philosophize as we have done; all they could or would say is they are tired of being greeted with words, signs or actions which say to them, "You aren't really a man. Don't come in here." Others, who are more sophisticated, might not use the language we have used. The word "God" has lost favor with them. But the words "right" and "justice" have not. I would not claim that all or any of those so disturbing the peace of Chapel Hill by violating laws are one hundred per cent pure in motiva-

tion. I am saying the angry and emotional judgments expressed in the words "anarchist" and "irresponsible," the automatic assumption that law breaking is evil, is not justified.

The law-breakers in our midst are troublesome to many of us because they are breaking the law to change the law and that, even though we are sympathetic with their cause, does not seem right. We know how dependent we are on law and respect for law to promote peace and tranquility, to establish justice, to educate us and enable us to be civilized persons. It is because of an awareness of the inherent goodness in the state that many are saying, some angrily, some simply sadly, "It isn't right to break the law to change the law."

Let me offer you some thoughts on this aspect of the problem. I am indebted for them, almost in entirety, to a lawyer, Mr. Harris Wofford, Jr., who is the author of an article entitled, "The Law and Civil Disobedience," which appeared in the "Presbyterian Outlook," September 25, 1960. Mr. Wofford, a graduate of the University of Chicago and of the Howard and Yale Universities Law Schools, is an Episcopalian and has served as professor in the Notre Dame Law School. Lawyer Wofford, perhaps recognizing that it will be lawyers, men convinced of and dedicated to law, who will see most clearly the high value of respect and obedience to law and the dangers of disrespect and disobedience to law, writes: "I am not an anarchist and I did pass the bar . . . I want to make a lawyer's case for civil disobedience."

He cites the freedom of speech guaranteed in the First Amendment and the principle of equal protection of the laws stated in the Fourteenth Amendment as two areas where any laws in conflict with moral law ought to be civilly disobeyed. He recognizes it is risky business, to ask men to judge the law to see if it be right rather than simply let the law judge them always as right or wrong. But let me use his own words:

"I believe there is great hope for the law, particularly the law of a republic . . . That hope is embodied in a view of law that transcends the old idea which says the law is nothing but the command of the sovereign. In a republic . . . every command of the law should be seen as a question. "A Socratic philosopher of the law, Scott Buchanan, has stated this thesis to show how 'law teaches those who obey it' (Mr. Wofford adds also those who disobey it). Buchanan says, 'Laws are questions asked by God, history, nature, or society to be answered by men individually and collectively. This formulation penetrates to the heart of human freedom. It says that no law, not even divine law, cancels out human freedom; the answer can be Yes or No or something else. It also tacitly warns of the consequences of the answer. But primarily it forces the human being to think about ends, or purposes.'"

The law, then, is no mechanical thing passed by a legislature or council which good citizens have no choice, however bad, but to obey. To the contrary, every citizen must ask himself of every law, is this a law I should obey? Is it a just law? Is it so unjust that from the beginning I must disobey or can it wait the process of parliamentary reform? Is the process of parliamentary reform hopeless or is it so slow that "justice delayed becomes justice denied?"

In this view, when one holds a law to be unjust and openly disobeys it, asking for the penalty of the law to be placed on him, he is not an anarchist but is following . . . a natural and necessary part of the great due process of our law, that process of persuasion through which we govern ourselves. Civil disobedience is a kind of persuasion of the last resort, within the boundaries of law, sometimes the only kind available.

"Is this anarchy? I hope not. I agree with Justice Brandeis that our government is 'the potent, omnipresent teacher that teaches the whole people.' The law will play its full role as teacher only when we look upon it as a question. For it is the voice of our body politic with which we must remain in dialogue . . . Civil disobedience is one way in which we can exercise the choice that law gives us."

To put forth the proposition that civil disobedience, the willful and persistent breaking of man's laws with a cheerful acceptance of the penalty for such violations as not being necessarily anarchistic or irresponsible, presents man with a frightening question and one that is expressed often: "Then this means every man can decide

what laws he will keep and what laws he will break?" The answer, frightening and freighted with responsibility as it is, is "Yes." Unless a man is willing to hand his conscience over to custom or to the state, the responsibility is solely the individual's and the only authority to which he can turn is his conscience. Mr. Leslie Dunbar spoke seriously and soberly of this responsibility to Earlham students in a convocation address:

"The idea of civil disobedience was born when men began to feel that they possessed and were possessed by souls to which they had to be true. From this realization came the theory which we call natural law, and came also the idea of the free, responsible individual and his natural rights. This has brought hardships as well as its glories, its pains and burdens as well as its satisfactions. For if the old idea of the free, responsible individual means anything, it means this: that each of us, every day, when confronted by the commands of the law, asks, 'Will I or 'Won't I obey?' . . . This is an awful weight, a crushing responsibility. If we take it seriously, and we have seen men flee that responsibility, seek escape from that freedom, yearn desperately to give it up, and to find security in the comfortable, protective embrace of a social and political order which fashion all one's values . . .

"Nor is there any aid for the individual . . . The responsibility is solely the individual's, and the only authority to which he can turn is his own conscience. It is he who must decide that his conscience directs so clearly and forcefully that he can presume to speak for God before other men . . . And with the same seriousness, those who violate man-made law in order to obey conscience have the responsibility, first, to understand what a weighty responsibility it is to appear as God's interpreter and, second, to see clearly they are constrained to act."

Even though we grant the right to civil disobedience be grounded in Christian and democratic tradition and practice so that the automatic angry response of "anarchist" is unwarranted, some will still raise the question: "But are they justified at this time and in this place to break our laws?" And the answer for many will be: "I cannot justify their acts. They are irresponsible."

May I offer for your consideration further word from Mr. Dunbar as he faced this problem himself: "I cannot . . . justify the acts . . . in disobeying the law. I think no man can, for even an attempt to do so is an invasion of the autonomy of the individual, who himself has the choice to make. It is he who must undergo the tension, weighing in the scales the legitimate claims of the social order and the directives of his own conscience. All that another can do is give material aid and comradely comfort."

"This much one man can say to another. If he cannot advise him when to obey and when not to obey the law, if he cannot even endorse his decision when it is acted on, he can at least say to him this: The civilization that we have and enjoy and boast of, with its freedom and its gentleness, its richness of knowledge rests on the shoulders of an amazingly few individuals who, in their time, saw what there was to do and chose to do it. That when freedom fails, no man does escape. That some of us who live today in freedom do so because some men—some few men—have interposed their lives and their security for the rest of us, and have been the atonement for humanity."

This is written, not to lift all the persons involved in the present wave of civil disobedience to the high status of sainthood, nor to imply there is nothing but religious and democratic purity in their motivation or action, but to put our situation in the perspective of religious and democratic tradition and practice that we might do more than react angrily with invective.

It would be a tragic misuse of our present crisis if in our anger and hurt or even if, in calm and reasoned disagreement over the necessity for and methods used at the present time, we failed to face our own responsibility and refused to ask: what can we do? There are many, who in their pique and anger, are doing just that. All their moral indignation is expended in castigating the demonstrators rather than facing the moral problem before us.

Can we not say that whatever our attitude toward the demonstrators, whether we approve or disapprove, or with Mr. Dunbar feel we have no right to justify

or condemn, each in his own way must act. Uninvolvement for one who cares is unthinkable now.

Surely, I nor anyone else can tell another what to do. This is a matter for every man's conscience. But some suggestions may be made. There are those who with good conscience cannot work for a solution of the problem by breaking the law or passing a law. Persuasion is their way. For some, it will be economic persuasion. If so, then the list of offending businesses can easily be gotten and one can refuse to cooperate in continuing injustice by withdrawing trade. If one believes only in moral suasion, then one can speak to those who need to be persuaded. One can go further and present themselves for service but politely leave when service is denied. The Human Relations Committee, a special committee appointed by the Merchants Association, and the Ministerial Association have all through persuasion brought some changes. They have all reported failure to make further progress since last summer and have given up these efforts. It is my belief that there could be further progress by persuasion if students and citizens of Chapel Hill accepted their personal responsibility and acted as individuals refusing to delegate to others what they should do themselves.

There are others who believe, as does the Mayor's Committee on Human Relations, that persuasion has been faithfully and energetically tried and only a public accommodations law will bring fair treatment to all our citizens. Last summer the Aldermen tabled a motion to deal with the problem by a public accommodations law. The motion was tabled to give a special committee of businessmen appointed by the Mayor an opportunity to exhaust all persuasive means. They failed. Monday the tabled motion will be brought before the Aldermen again. Is this not the time for each of us who believe a public accommodations act would be a step in the right direction to let this be known? How does the conscience of the community get expressed if individuals will not act?

Individuals have a tendency in Chapel Hill, as elsewhere, to sit out these troublesome periods. We have our desires and hope, but we leave it to officials and organizations to deal with them. Justice Holmes once said, "I think that, as life is action and passion, it is required of a man that he should share the passion and action of his time at the peril of being judged not to have lived." Let us not fail to share the passion and action of our time. Your conscience and concern may lead you to act in one way or another, but the present crisis faces each of us with the question: What must I do?

Finally, let me suggest, in this crisis we must ask the impossible of ourselves. Whoever we are, participants in civil disobedience, one who believes "voluntary" desegregation is the way, one who believes law is most important or even one who believes in segregation—we must try to remember we are all human beings. In controversies between human beings, whether social, political or religious, men have a hard time doing that. Those who have poured chlorox and ammonia, used broomsticks and feet to kick protesters, have forgotten the demonstrators are human beings. And those of us, who are on the other side, may all too easily forget the segregationists, for all their inhuman actions, are human, too. Even among those whose aim is racial justice, bitterness and anger when they disagree over methodology can be strong.

We are probably in for more, not less, conflict in Chapel Hill—conflict between those who practice civil disobedience and those who segregate, conflict even among those working for the end of segregation. But whatever we stand, whatever our judgment and conscience lead us to do or refuse to do, we must try to remember we are all fallible, erring, selfish and fearful human beings. One need not act with less conviction—he will need to act with less self-righteousness; one need not act less vigorously—he will need to act with more love; one need not act with less self-assurance—he will need to act with more humility and less angry judgment as regards his fellow man.

To people in controversy, the Apostle Paul once wrote, "Brethren, if a man be overtaken in a fault, ye who are spiritual restore such a one in the spirit of meekness, lest ye also fall." He was never quite able to do that himself, but it never prevented him from keeping such a goal before him. The measure in which we are able to remember we are all human beings will to a large degree determine the quickness with which we emerge from this crisis and the genuine progress we make because of it.

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Ask Not For Whom The Siren Sounds

The resignation of two more officers from Chapel Hill's generally fine Police Department to take higher paying jobs ought to shake the town more than it probably will.

The resignations of Patrolman Albert Brinkley and Detective John Nesbitt are simply the latest evidence of the fact that Chapel Hill pays its officers poorly.

It can only be chalked up to good fortune that men such as Chief William Blake, Lt. Graham Creel, Patrolman James Farrell and the many other fine officers on the force have not resigned before now.

Why? Because Chapel Hill not only pays its policemen poorly, it expects a lot from them—as witness the past several weeks of demonstrations and the Rinaldi murder case investigation, to cite only two examples.

The police department has put in some 400 hours of overtime on the demonstrations alone—with none of the officers at all sure he'll ever get compensated for his extra effort, even slightly.

The town cannot, and should not, continue to impose on the dedication of its police officers. Higher salaries with clear-cut overtime provisions are sorely needed.

The Race Is On, Move Ever Backward

After little or no serious thought and debilitating deliberation, The Daily Tar Heel has decided to institute a new honorary award of rather significant import. We do this with no little trepidation, as we fully realize the burden of sifting fact and fancy, pouring over press clippings and weighing personal appeals in an effort to reach a sound decision on the award's recipient each month.

It is to be called the Crawdad Award, and will be given to that person who unflinchingly dedicates himself to the closest emulation of that creature. (The crawdad moves only backwards).

The staff of the DTH will judge the awards, but candidates names may be submitted in letters with references enclosed. References should include at least two notable quotes from the candidate. Something like "The test-ban

treaty is dangerous," or "Eisenhower is a communist dupe" would do quite well, and will receive the judges serious consideration.

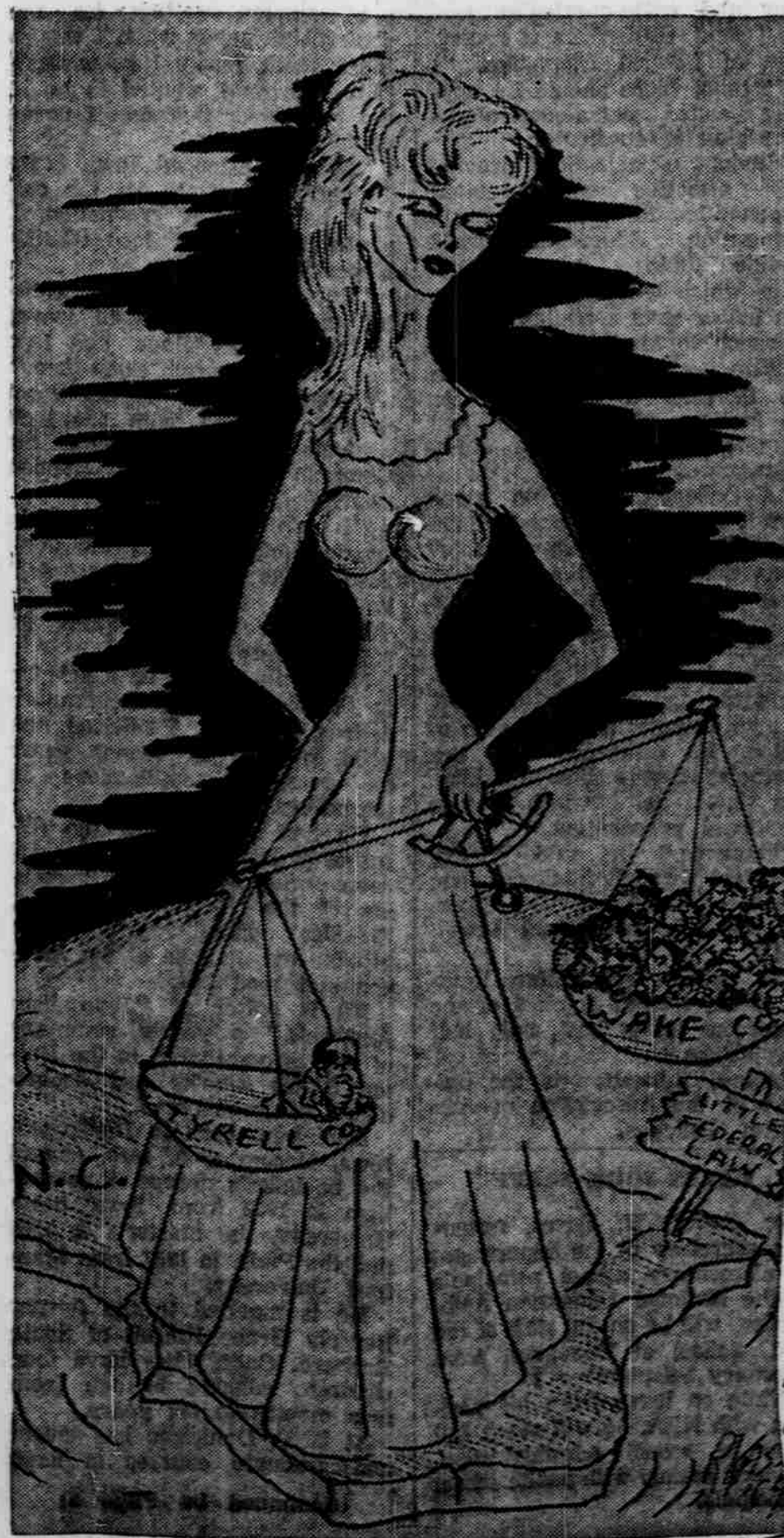
Unfortunately, The Tar Heel budget does not permit the trophy to be retired by those fortunate enough to capture the honor three times in a row, but lest it be thought that this is just another honorary with no material gain for the recipients, let us hasten to enumerate the myriad prizes that accompany this singular honor.

Each lucky winner will get to spend a day in the home of Strom Thurmond, reminiscing over old press clippings from "Farm and Ranch" magazine, or if he prefers, spend a Sunday afternoon on the town with Margaret Chase Smith. He'll also receive a bound copy of an essay on Economics and Government by Christine Keeler; a western novel Mr. Eisenhower never finished reading because his lips got tired; one of Checkers' puppies; an original reproduction of General Walker's campaign map of Oxford, Miss.; Chester Bowles' real address; a \$20 tour of Billie Sol Estes' house in Texas; a reserved seat at the first Carolina Forum presentation (good till 1966); and last but not least, a first edition copy of Dean Katharine Carmichael's astounding new book, "Saltpeper and the Wolf."

The first award will be made at the beginning of the next semester and the judges are already hard at work. Entries should be submitted at the earliest possible time.

Smoking Report

We have just finished reading a secret advance copy of the Surgeon General's report on the health hazards involved in heavy smoking. It is obvious that something must be done. We suggest, as a starter, that every-one give up reading.



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