

THE U. S. COMMISSION ON CIVIL RIGHTS:
requiescat in pacem

By
W.B. Allen

The struggle for the soul of the U. S. Commission on Civil Rights has pitted left against right. The fight finds the civil rights lobby (especially the NAACP and the Leadership Conference) and its power foci in Congress (such as California's Don Edwards in the House and New Jersey's Frank Lautenberg in the Senate) threatening to close the Commission in the name of civil rights. They argue that the right, in the form of the Reagan Administration, have captured the Commission and turned it into an anti-civil rights agency.

The irony of this situation stems from far more than the reality behind the charges and countercharges. At the surface, it is ironic enough that the civil rights lobby should object to discussions of the efficacy of an enormously complex and expensive federal civil rights enforcement structure (at least 130 federal statutes, plus numerous regulations and executive orders with the force of law, 37 agencies with dedicated responsibilities, and all 107 agencies with internal responsibilities, and spending over \$650 million). The irony is enhanced when the promise against the results spring from sources historically, if mistakenly, regarded as anti civil rights in orientation.

The irony becomes perfectly Byzantine, however, when we note that, even as the left schemes to kill the Commission, some conservatives and libertarians share exactly the same agenda (if silently). Persons within and without the Administration have nurtured the perspective that the best way to solve the problem of this agency (which in the 60s and 70s had become the vanguard for ideas and programs of racial preference and economic redistribution) is to maneuver it into a position in which the left is forced to kill it.

Meanwhile, the Commission itself rather quietly persists in pressing the message: the original design of the Commission as a national conscience and generator of ideas for maintenance of racial peace in the United States remains valid, and what is more, is an urgent necessity at the point at which we have arrived. Years of misguided activism, tyrannical EEOC guidelines, and deeply flawed court decisions have produced a civil rights regime overlaying the American Constitution which, if left in place, will spell the death of liberty within the United States. To kill the Commission in that circumstance, precisely at the moment when it stands to raise a voice in favor of liberty and to lead the way toward a restructuring of civil rights laws such that they express the principles of just constitutionalism, would be to fasten the chains of despotism on American society as its permanent order.

No other agency of the federal government may operate so freely as the Commission, unimpeded by the special interests and having no vested interest of its own to be threatened by legislative intemperance. Today the concept of civil rights is maintained in America as an exception to the idea of American citizenship in general. It remains as true today as it did in the opinion of the first Justice Harlan, that the true promise of civil rights is none other than the

universal application of the terms of American citizenship. Americans are farther removed from that promise today than they were in the days of Justice Harlan. If the left in a self-defensive reaction to the prospect that someone other than its own minions might contribute to our understanding of civil rights and misguided shock troops on the right continue to paralyze the Commission with a distracting and noisy battle over its right to exist, the work of redeeming the promise of American citizenship will be retarded. The Commission needs to be left at peace though not unobserved and uncriticised with respect to matters of substance in order to make a meaningful contribution to our national dialogue.