

**Firm History:
Dr. Martin Luther King**



BURCH, PORTER & JOHNSON^{PLLC}

Memphis, TN

April 3-4, 1968

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**Letter dated September 14, 2000
describing series of events**

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September 14, 2000

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The Honorable Robert H. Henry
United States Court of Appeals
Tenth Circuit
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Oklahoma City, OK 73102

Dear Robert:

Riding home on the plane Sunday I thought about your suggestion at Jackson Hole that I put down on paper my firm's involvement in the events of April 3 and 4, 1968, when Dr. Martin Luther King was assassinated here in Memphis. Someday I will try to set aside the time to do that in a more orderly and detailed fashion, but, because of your interest, for now I wanted to send you this letter along with the attachments.

So that you will know something about the characters and their relationship to our firm, I will give this brief description. Lucius E. Burch, Jr., was the senior partner in our firm, and David Caywood, Charles Newman and I were all young lawyers here. I had served as President of the West Tennessee Chapter of the American Civil Liberties Union in 1966 and was succeeded in that position in 1968 by David Caywood. Louis Lucas was a former Justice Department attorney who was then practicing law in Memphis with an integrated firm. He was white, and one of his partners, who was also involved, was a black attorney Walter Bailey. At the court appearance on the motion, our firm represented Dr. King; Louis Lucas and Walter Bailey represented the NAACP and other civil rights organizations. The presiding Federal District Court Judge, Bailey Brown, had been a partner in my firm when the firm's name was Burch, Porter, Johnson & Brown. I began my practice here in 1961 and moved into Judge Brown's office when he was appointed to the bench by President John Kennedy. On the other side of the table for the City of Memphis was City Attorney Frank Gianotti, whose granddaughter, Mia Gianotti Henley, practices with us now, and Assistant City Attorney James Manire, who was a member of this firm in the 1950s.

The attachments come from two sources. The first is a book entitled At the River I Stand by Joan Beifuss. Lucius Burch and David Caywood were interviewed by Ms. Beifuss, and their

observations reflect the events that led to our representation of Dr. King, Dr. King's speech at Mason Temple, the hearing itself, and the conditions in Memphis immediately following Dr. King's death. The second attachment is the April 4, 1968 Federal Court hearing transcript. Of particular interest are the testimony of Andrew Young and James Lawson regarding the non-violent movement and Mr. Burch's very effective cross-examination of the police officials. In reviewing this transcript, I was reminded again of what an outstanding trial lawyer Mr. Burch was and how articulate and perceptive Lawson and Young were in describing the importance of non-violent demonstrations in the context of the civil rights movement. Finally, I have attached a copy of the telegram which we received from the American Civil Liberties Union requesting our representation of Dr. King. The telegram, which is hard to decipher in the photocopy, is reproduced at page 30 of the trial transcript and can be read more easily there.

As I indicated in our talk at dinner, I had only been practicing law for less than seven years in April of 1968. Lucius Burch was the senior partner in our office and one of the most experienced and well-respected trial lawyers in the region and a man of significant community stature.

As you know, in the Spring of 1968, Memphis was involved in a very emotional strike by its sanitation workers. They enlisted the help of the Southern Christian Leadership Conference and the American Federation of State County Municipal Employees Union in their cause. On March 28, Dr. King came to Memphis to lead a march in support of the sanitation workers. The Reverend James Lawson of Centenary Methodist Church was the local leader for the march.

As that march approached Main and Beale, a number of young people stripped the placards from the sticks they were carrying and began to smash windows in the stores on Beale. The police reacted with tear gas and mace, as well as force. The march disintegrated into a riot with significant property damage and injuries to a number of people. Dr. King was quickly removed to a place of safety, and the march leaders were embarrassed and discouraged. Against the advice of some of his advisors, Dr. King announced to the press that he would return to Memphis to lead another march in support of the sanitation workers and that it would be conducted in a non-violent and orderly fashion.

When the City of Memphis learned of King's intention to return, they went to Federal Court and obtained a temporary restraining order to enjoin the march in light of the previous march's disruption and violence.

At that point, I received a call from Mel Wolf, General Counsel of the American Civil Liberties Union in New York City. In my early years as a lawyer here in Memphis, in addition to serving as President of the West Tennessee Chapter of the American Civil Liberties Union, I was also a member of the National Board of the American Civil Liberties Union. Mel asked me if our firm

would represent Dr. King in an effort to lift the injunction and allow the march to proceed. The American Civil Liberties Union was interested in obtaining this order from the court even though Dr. King had personally indicated to the press that the march would take place with or without the injunction in force. At the same time Jerry Wurf, head of AFSCME, contacted David Caywood regarding our firm's involvement.

David and I responded to both that if we were to be successful, we would have to enlist the experience and prestige of Lucius Burch as the principal spokesman for Dr. King in the courtroom. I talked with Mr. Burch about his willingness to become involved. He said he would consider it on two conditions: 1) that he receive a formal request from the American Civil Liberties Union to take on the representation of Dr. King, and 2) that Dr. King meet with him personally and satisfy him that the march was essential and important to Dr. King and the civil rights movement. Mr. Burch wanted to make sure that the engagement was properly established even though we were handling the matter on a pro bono basis. He also wanted to be sure that this matter was of the utmost importance to Dr. King and the movement, because he realized that our representation would not be popular in Memphis and that the firm could expect to lose substantial business if the engagement was undertaken.

I communicated this to Mel Wolf, and Mr. Burch received the attached telegram from Charles Morgan, Jr., the Director of the Southern Regional Office of the American Civil Liberties Union in Atlanta. I assume that Morgan cleared the conditions of the representation with Dr. King, because arrangements were made for us to meet with Dr. King at the Lorraine Motel on April 3, the day of Dr. King's emotional speech at the Mason Temple, and the day before our court appearance on April 4. (It was on the evening of April 4 that Dr. King was assassinated.)

The attachments from Ms. Beifuss' book describe the highlights of our meeting with Dr. King on the afternoon of April 3. During his interview, David Caywood apparently told Ms. Beifuss that after we met with King at the Lorraine Motel, the lawyers came back here to our office and worked until 3:00 a.m. the next morning preparing the papers for court. While my memory is fuzzy, I apparently left the office sometime in the late evening and went to the Mason Temple. Whether I went there to talk to Reverend Lawson and Andy Young or for some other reason, I cannot remember, but I will never forget being there. Ms. Beifuss' description of the evening and its emotion is exactly as I felt it that night.

The attachments from the hearing transcript give you the flavor of our participation and the fact that the judge indicated to us on the afternoon of April 4 that he was inclined to lift the injunction and that an order would be ready the morning of April 5.

The Honorable Robert H. Henry
September 14, 2000
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After the hearing in court on April 4, I drove one of our two major witness, Reverend Andrew Young, back to the Lorraine Motel and dropped him off. (You will recall that Andrew Young later became Mayor of Atlanta and the United States Representative to the U.N.) I had not had time to drive to my home, which was only five or six miles from the Lorraine Motel, before I heard on the radio that Dr. King had been shot. Later that evening I received a call from the Chief of Police asking me to assist the police in trying to defuse a problem at Clayborn Temple, one of the sanitation workers' headquarters. Apparently a group of young people had barricaded themselves in the church and were throwing rocks out at the police. The police were going to forcibly enter the church if the young people did not come out. The Police Chief asked if I would go to the area and locate Reverend James Lawson to see if he could prevail upon the young people to come out of the church and avoid potential confrontation with the police.

As I described to you at our dinner, the police car came to my home, picked me up, and drove with sirens blaring and lights blinking straight to the Clayborn Temple. There the police car door was opened, and I stepped out. I heard the door close, looked around, and the police car left. As I surveyed the scene that Ms. Beifuss describes in the book with regard to the aftermath of the shooting and the conditions in Memphis, I was probably about as frightened as I have ever been in my life. Very fortunately I found a newspaper reporter, Clark Porteous, who helped me locate Reverend Lawson. Reverend Lawson negotiated the situation, the young people left the church, and the police went on to other areas of trouble. Lawson then arranged for me somehow to get home.

These were sad and exciting times here in Memphis, and, even though I am beginning to forget the facts, I still feel the emotions.

If I ever put together something of a more formal nature than this letter and the attachments, I will certainly send it to you.

Sincerely yours,



W.J. Michael Cody

WJMC/bd
Enclosures

**Engagement of Burch, Porter & Johnson
and meeting with Dr. King**

**Excerpts from
At the River I Stand
by Joan Beifuss**

knew there must be unmarked police cars in the area. "I was very happy to see that . . . even though King wouldn't want this. . . . There were police around. I saw them."

The police were extremely uneasy about protection for Dr. King. The tempo and volume of threats against him were increasing, and there was little or no official co-operation from the SCLC staff. Dr. King did not want to be surrounded by police. "In part, it's got to be the way King wanted live . . . rather than behind the steel plate, and you can't fault him for that," mused one observer.

"He wasn't the kind just to play and flirt with death," explained Rev. Kyles. "But, by the same token, he wouldn't try to live secretly. There were always threats. He lived with it."

Nonetheless, Dr. King's calm did not carry over to all of those who knew him and it certainly did not carry over to the uniformed police and plain-clothesmen who were assigned to him in Memphis. They were to protect him—and to keep reports on where he went and to whom he talked for inclusion in the unending intelligence files, his supporters charged—but they had to carry out their task from a distance, following, squinting, getting information on his coming and going from peripheral sources.

Among the routine and unimaginative threats coming in was one down at the *Commercial Appeal* office where a quarter-page ad was accepted, paid for in cash and scheduled to run the morning of April 4. It included the old photo of Dr. King at a meeting at the Highlander Folk School, a picture that had been making the rounds of the South for a decade to prove his Communist connections, with inflammatory headline and copy. When advertising manager Jim Cherry saw it, he refused to run it, despite the threat of "Don't be surprised if something happens to the newspaper office and you."(2)

Dr. King went into one of the church halls, a big, barren room with folding chairs. He spoke briefly and quietly to his fellow ministers, emphasizing again the need for unity in the march, and Jesse Jackson followed with an enthusiastic description of Operation Breadbasket. Reporters got a few quotes. "We are not going to be stopped by Mace or injunctions," said Dr. King, adding that "We stand on the First Amendment. In the past on the basis of conscience we have had to break injunctions and if necessary we may do it (in Memphis). We'll cross that bridge when we come to it."

He then went immediately into Lawson's office to meet with attorneys Lucas and Bailey who brought him up to date on the restraining order. Lucas then telephoned to inform federal marshals where they could find Dr. King and serve the injunction. "He agreed to stay around a few minutes to give the marshals time enough to get there," said Bailey. "However,

there was some delay. . . . Dr. King had another meeting later and he and Dr. Abernathy wanted to eat. They told us that they were going to the Lorraine and eat. . . .

"King, of course, had anticipated the injunction. He was a man of great humility and he was very professional in his approach to problems . . . he'd been through this before."

Burch and three younger lawyers from his firm, David Caywood, Michael Cody and Charles Newman, missed meeting King at the church by a few minutes, but they stayed to confer with Bailey and Lucas to determine initial legal strategy. They agreed to join forces and as a group represent all the parties involved, Dr. King, SCLC, COME, the ACLU and the NAACP Legal Defense Fund. Then they, too, drove over to the Lorraine Motel. "There were plenty of policemen around," Caywood observed as he saw them sitting in parked cars in the streets around the Lorraine.

The Lorraine Motel was a two-story, light cinderblock complex at 406 Mulberry, set in the shabby warehouse, garage and rooming house section just five blocks south of Beale Street and a block east of Main. It was Negro-owned and Negro-operated, and before integration had served as the stopping place of Negro church notables, gospel and jazz musicians, and businessmen who came through the city. It was the grand functioning dream of Walter (Bill) Bailey (no relation to the attorney) and his wife Lorraine—he had named it after her. They had scabbled to finance it and keep it going since 1955 when they had first taken over the then-existing fourteen room structure, sprucing it up and adding nearly fifty new units and a swimming pool.

Bill and Lorraine Bailey had begun inn-keeping by renting rooms for 75 cents a night in a rooming house on nearby Vance. "We were trying to go places," said Bailey. "She (Mrs. Bailey) would get up in the morning with me if I needed her. She would stay up until 7 o'clock the next morning and get right back up at 8. We cooked together. We washed dishes together. We did everything together . . . She was always saying, 'We gotta be there to fix this hamburger. We gotta be there to wash the linen. We gotta be there to watch the money.'"

"This is a family motel," Bill Bailey would say proudly. "People felt they was at home. They would come back in the kitchen. They could pick their own room to stay in." He and Lorraine Bailey were still doing much of the work around the place themselves; they specialized in "home cooked food" and business was good.

Dr. King had stayed at the Lorraine several times before, the last in mid-

March. This trip he had room 306 on the second floor level, a fact casually made known to anyone watching the TV newscast that evening on Channel 5, as the cameraman caught him entering the clearly marked doorway of the room from the balcony. After that telecast there was some talk that perhaps his room should be changed, but no one got around to it. His balcony looked over the combination parking lot and courtyard, the small empty swimming pool, and over the high block wall surrounding the complex, across Mulberry to a grassy rise and the rear of a few shabby buildings that fronted on Main. The Lorraine was conveniently located, within walking distance of Clayborn Temple, a short ride to Mason Temple, an easy gathering place for those in the Movement. And for \$13 a night, no one bothered about the view.

There was a hominess about the place. Dr. King was with friends. His SCLC aides had rooms there. James Laue, a representative of the Community Relations Service of the Justice Department and a long-time acquaintance, had checked in. So had TV photographer Joe Lowe who was working on a Public Broadcasting System documentary on preparations for the Poor People's Campaign and had been traveling with King since January. Bill Bailey and his wife were glad to welcome King back. Everywhere were smiles and handshakes.

Dr. King was eating in the motel dining room with a group of young blacks when the lawyers arrived. The marshals had also found him there and he had walked out onto the driveway to meet them, listen politely and accept the injunction. His co-defendants had also been notified.

The lawyers met with him in his room. "He was introduced to Burch and the others," said attorney Bailey. "Burch was very direct with it. We other lawyers just sort of took back seats to Burch's forwardness . . . He just said, 'Dr. King, I'm going to get right to the point. . . . We want to assure you that we are going to give you the best representation that we can possibly muster. Now I want to ask a few questions and find out a few things.' . . . Abernathy had come up with fish or chicken on a paper plate and he was still eating . . . It was very informal.

"I hadn't met Dr. King before," said Burch. "The substance of my conversation was to check out from him personally the things that I had heard about and I believed about the non-violent nature of his objectives. . . . These assurances were not legally necessary. . . . I wanted to be sure myself that these people were what they purported to be. . . .

"Dr. King made it very clear to me that his *whole* future depended on having a non-violent march in Memphis. He represented the riot as a com-

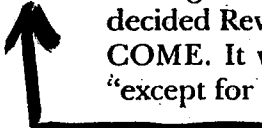
plete fiasco as far as he was concerned, that it was the result of poor planning, and he wasn't reluctant about laying the blame on the people here in Memphis. . . . He was simple and seemed to be straightforward.

"About that time I began to get more closely thrown with Andrew Young who, in my opinion formed at that time, is one of the ablest young men in this country. . . . Young completely assured me that it (the march) . . . was just exactly what it was represented to be—the right of those people to express by assembly and petition and demonstration what they felt was a just grievance. And so after that I had no second thoughts or looking back. . . . The white community didn't realize that Martin Luther King was the best friend anybody had. He was the answer to the fire bombing and he was the answer to the looting and he was the answer to Black Power."

"I think," said Bailey, "that Burch asked indirectly if the injunction were not lifted, would Dr. King march anyway, and I think Dr. King said yes, he would." But King was ready to leave the legal case in the hands of his lawyers, and he had immediately liked and put confidence in Lucius Burch, so the lawyers adjourned to Burch's law office. Late that afternoon they met with Judge Bailey Brown and the city attorneys in the Judge's chambers and a hearing on the injunction was set for the next morning.

Now the backstage legal maneuvering to reach some accommodation about the march began. It was evident to all the attorneys that, based on past court decisions, the march probably would be allowed. The teams of lawyers thought "something could be worked out about the march," said Bailey, although the city lawyers didn't want to put themselves on the spot by agreeing and King's lawyers aimed their legal research at getting the injunction lifted.

King's lawyers worked in Burch's office throughout the evening. They decided Rev. Andrew Young would testify for SCLC and Rev. Lawson for COME. It was 3 a.m. Thursday morning when they straggled home, "except for Burch," said Bailey. "I think he slept in his office."

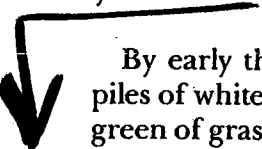


Still, there were hints of uncertainty about the wider course King was following. With Lyndon Johnson's withdrawal from the presidential race had come renewed pressure to hold up on the Poor People's Campaign, to see in which direction the Democratic Party would now move on the war and social and economic issues. Might there not be a chance that Bobby Kennedy could accomplish their objectives and that the Poor People's Campaign would only aid Richard Nixon, already the Republicans' clear-cut choice of a candidate? Could even the march for public works employees in Memphis be backed away from if there were any assurances that the

Mason Temple Speech

the ministers would meet again the next morning, this time in a black church, to make further plans for a march to the Mayor's office.

That night Rev. McRae called the Mayor to tell him of the proposed visit on Friday. "Henry said, 'Fine. Be glad to see you, Frank, but you're going to waste your time and all you're going to do is get yourselves in trouble with your congregations, and you're going to be misunderstood. And you're not going to change my mind one way or another. I know how I feel.' I said, 'Well, that's fine, but I think we need to say to this community that we as ministers have this concern.' So Henry said, 'Fine. Be glad to see you.'"



By early that evening storms were rolling and tossing across the city, piles of white-streaked gray and purple clouds, storm light deepening the green of grass and shrubs, then heavy sullen blackness. Thunder could be heard off to the west, down the bluff, across the river, the first rain running ahead of the lightning, the muggy constricting air beginning to loosen and cool.

The crowd that had come to hear Dr. King speak was heavy with Public Works men, shaking water off their jackets, looking sparse in the vastness of Mason Temple as they arranged themselves in the center seats up near the platform. Three thousand people, at most, had come out into the storm. On the platform preachers and union people conferred, and as Dr. Ralph Abernathy entered the side door of the auditorium and was recognized, applause began as the audience searched for Dr. King behind him. But they could not find him, and the applause trailed off on a puzzled note.

Abernathy was alone. Dr. King was tired. He wanted to stay at the motel and rest, talk to a few people, and since the storm seemed to presage a scanty crowd, Rev. Abernathy was dispatched to fill in with the main speech. "But he never even started to speak," said Rev. Middlebrook. "He just looked at the crowd." Ralph Abernathy had been number two man for a long time, "and I had sense enough to know that this was not my crowd." Where was the phone? he asked Middlebrook, and the two of them made their way around the side of the auditorium to the telephone in the vestibule. "When he called Dr. King," said Middlebrook, "he told him, 'Your people are here and you ought to come on and talk to them. This isn't my crowd. It's your crowd. I can look at them and tell you. They didn't come tonight just to hear Abernathy. They came tonight in this storm to hear King.'"

"Abernathy related, 'He said, 'I'll do whatever you say. If you say come,

I will be there." I said, "Come."

While they waited for Dr. King, other ministers stepped into the pulpit to speak. "There were a couple of times when there was quite a clap of thunder and wind and rain. As I stood in the pulpit and looked up above the galleries these very high windows up in the top would rattle and shake," recounted Rev. Malcolm Blackburn.

Tornado warnings were out now, the eerie wail of the civil defense sirens sounding across the city as the storms swept out of Arkansas and across Tennessee and Kentucky, leveling houses, barns, utility lines, trees. Twelve people would be dead and a hundred injured throughout the wide area before the storm was done. At 10:00 p.m. a tornado would swing down on a trailer court twenty miles north of Memphis. Power went out in some areas.

Dr. King came into Mason Temple out of the storm about 9:00 p.m. to a roaring crowd competing with the thunder outside. "I thought he looked harrowed and tired and worn and rushed," commented Rev. Middlebrook. But King grinned at the crowd and took his seat on the platform as Abernathy rose to introduce him. "Sometimes," said Abernathy, "we get in too big a hurry to introduce a man like Dr. King, but tonight I just want to take my time." He did. The introductory remarks ran twenty-five minutes. "I started off at the cradle and I ended up with that particular day, April 3rd," said Abernathy. He sat down to the jokes and jibes of his fellow ministers, remembered Middlebrook, adding, "You could hear the storm just bellowing. There were two large window fans, very large things, and we could hear them just rumbling."

Dr. King began to speak.

Something is happening in Memphis

Something is happening in our world.

The crowd was small, but it was his crowd. With "Yeah" and "Yes, sir," it moved him on. It laughed with him and applause rose and fell.

If I were standing at the beginning of time . . .

And the Almighty said to me,

Martin Luther King,

Which age would you like to live in? . . .

Strangely enough,

I would turn to the Almighty and say,

If you allow me to live just a few years

In the second half of the Twentieth Century,

I WILL be happy.

Now that's a strange statement to make

Because the world is all messed up.
 The nation is sick.
 Trouble is in the land,
 Confusion all around.
 That's a strange statement.
 But I know
 Somehow
 That **ONLY WHEN IT IS DARK ENOUGH**
 Can you see the stars.
 And I see God working
 In this period of the Twentieth Century
 In a way that men in some **STRANGE** way are responding to.
 Something is happening in our world.
 The masses of people are rising up.
 And wherever they are assembled today,
 Whether they are in Johannesburg South Africa Nairobi Kenya Acra
 Ghana New York City Atlanta Georgia Jackson Mississippi or
 Memphis Tennessee
 The cry is always the same.
WE WANT TO BE FREE!

"I'm not a religious fanatic," said Jesse Epps. "But at some high points
 where there should have been applause, there was a real severe flash of
 lightning and a real loud clap of thunder that sort of hushed the crowd."

We've got to give ourselves to this struggle

Until the end.

Nothing would be more tragic

Than to stop at this point in Memphis.

We've got to see it through.

When we have our march

You need to be there,

If it means leaving work,

If it means leaving school,

Be there.

Be concerned about your brother.

You may not be on strike,

But either we go up together

Or we go down together.

Let us develop a kind of dangerous unselfishness.

"I walked off the platform to catch a phone call at the back of the church
 and I sat on the steps back there and listened to the last twenty minutes,"

said Rev. Lawson. "I was kind of enamoured by it all . . . very pleased . . . a wonderful kind of feeling. . . . On the one hand the thunder had been going on and the rain and the lightning, but on the inside were three or four thousand people who felt very much at home with each other and with the world even though we were in the midst of a great struggle and tension . . . a great feeling of oneness . . . a great warmth. I was basking in this feeling . . . of kinship and warmth and the struggle."

One day a man came to Jesus . . .

And he said to Jesus,

Who is my neighbor?

That question could have easily ended up

In a philosophical and theological debate.

But Jesus immediately pulled that question from mid-air,

Placed it on a dangerous curve

Between Jerusalem and Jericho . . .

The Jericho Road is a dangerous road . . .

The first question that the priest asked,

The first question that the Levite asked,

If I stop to help this man

What will happen to me?

But then the Good Samaritan came by.

And he reversed the question.

If I do not stop to help this man,

What will happen to him?

That's the question before you tonight . . .

If I do not stop to help the sanitation workers,

What will happen to them?

Rev. Middlebrook on the platform watched with a preacher's admiration. "Where can the man go next to climax this thing? All of us sitting there started asking. . . . When he got to a point where he could have climaxed, he didn't . . . He was just an old Baptist preacher with eloquence and insight . . . and prophecy . . . And we said, 'Where is the man? How is he going to climax?'"

And they were telling me—Now it doesn't matter now—It really doesn't matter what happens now.

I left Atlanta this morning and as we got started on the plane—there were six of us—the pilot said over the public address system 'We're sorry for the delay. But we have Dr. Martin Luther King on the plane. And to be sure that all of the bags were checked, and to be sure that nothing would be wrong on the plane, we had to check out everything

carefully. And we've had the plane protected and guarded all night.'

And then I got into Memphis. And some began to say the threats or talk about the threats that were out, about what would happen to me from some of our sick white brothers.

Well, I don't know what will happen now. We've got some difficult days ahead. But it really doesn't matter with me now. Because I've been to the mountain top.

I don't mind. Like anybody, I would like to live
A long life.

Longevity has its place.

But I'm not concerned about that now.

I just want to do God's will.

And he's allowed me to go up to the mountain

And I've looked over

And I've seen the Promised Land.

I may not get there with you.

But I want you to know tonight

THAT WE AS A PEOPLE WILL GET TO THE PROMISED LAND.

So I'm happy tonight.

I'm not worried about any thing.

I'm not fearing any man.

**MINE EYES HAVE SEEN THE GLORY OF THE COMING OF
THE LORD!**

The sound of the crowd comes up, engulfs, surrounds, pushes, catches, threatens, all turning on him, lifting him up.

He turned abruptly, tears in his eyes, and walked to his seat. "Do you want water?" Harold Middlebrook kept pressing him. "I don't. No. Uh-uh." Middlebrook hovered over him. "He just sat there."

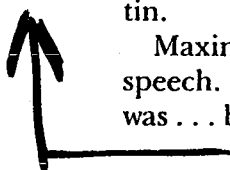
His audience, caught between tears and applause, was on its feet. "I saw ministers who ordinarily would keep their composure just break down," murmured Rev. Kyles, looking down from the platform. "You could hear one minister crying all over the building, just at the top of his voice," added Rev. Jordan.

The moment held, bewildered. Then it broke. And the crowd let go, some pulling on their jackets and raincoats, others moving toward the platform, toward Dr. King. "Usually he would like to get away from the meeting so he wouldn't be swarmed by the crowd," said Middlebrook. "But that night he just didn't want to leave. He just wanted to stay there and meet people and shake their hands and talk to them."

Outside the storm was over, the rain steady and muted. It was late, nearly

midnight, when the COME strategy committee met. Dr. King was at the home of his old friend Judge Ben Hooks. The only surprise at the meeting was the unexpected arrival of Rev. A. D. King, Dr. King's younger brother who pastored a church in Louisville, Kentucky. Driving back from a meeting in Florida, he decided on impulse to swing by Memphis and see Martin.


Maxine Smith had been at an NAACP gathering and missed Dr. King's speech. "At the meeting several people remarked about how unusual it was . . . but I didn't attach any significance."



Hearing on Motion

McRae doesn't want to because of his personal relationship with Loeb." Aldridge agreed. Dr. Carl Walters, professor of Bible at Southwestern College, was eager to help, and Dean Dimmick volunteered his curate Bob Watson, chaplain of the University of Tennessee medical units. Rev. Dick Wells had been recruited by Rev. Starks. They agreed to meet with Rev. Starks and write the statement during the mass meeting and speech by Dr. King that night.

Meanwhile, Episcopalian clergy met with their bishop, VanderHorst, to consider the ministers' proposed march. Bishop VanderHorst's position was traditionally via media; his blessings would be on those who marched and on those who did not. And Rev. Ezekiel Bell, rhetorical conjuror of dark doom and destruction upon the collective head of white Memphis, was busy getting into the mail letters inviting a number of whites to become part of an integrated congregation at his Parkway Gardens Presbyterian Church.



In Judge Bailey Brown's crowded federal courtroom began the legal skirmishing over whether or not the massive march scheduled for the next Monday would proceed under Dr. King's leadership.(1) Attorneys Burch, Lucas, Bailey, Caywood, Cody and Newman came into court asking for dismissal or modification of the restraining order. They also provided the court with a proposed plan for restrictions on the march in the event it was allowed to go on. "We thought King wanted as many restrictions as possible that would protect the march and let it go on," explained Caywood. "We took guidelines from the Selma march that were in a reported case and adapted them to our own situation and added a few." These restrictions included such things as liason between march leaders and city officials, thorough training of marshals, and the presence of "adequate police forces to accompany the march and to maintain moving and stationary positions between the marchers and the sidewalks."

With Mayor Loeb among the spectators for a short time, City Attorney Gianotti offered only two options—a riotous march or no march at all. The city's three witnesses were Fire and Police Commissioner Holloman, Chief of Police Macdonald, and Asst. Chief Lux, each telling again of the disorders of the week before, the lack of control by leaders, and the lack of enough police to handle widespread violence.

Holloman added that he knew that outsiders were coming into the city if another march were held, and he had received information from a Ku Klux Klan member that the Klan planned to march on the same day. He noted that Dr. King had met with a Black Power group at the Rivermont. He had definite information that Negroes had been buying guns and

ammunition in wholesale in adjoining Arkansas, and there had been a theft of guns and ammunition from a city sporting goods store the very night before. He was worried about the welfare of Dr. King, Rev. Lawson and other leaders "in view of the reports and rumors and threats against their lives."

All three lawmen were convinced that any new demonstration would again lead to rioting and looting, and that neither the city nor its citizens could be adequately protected. Burch moved into a strategy of alternatives. Assuming the court extended the temporary restraining order to an injunction and Dr. King and his staff said they would obey that injunction "and pack up and go back to Atlanta" and that others, not acting in concert with Dr. King, held a march, "do you think that that would be a better situation than it would be to have the march carried out Monday with Dr. King and his people at least in leadership under some court-imposed special restrictions?"

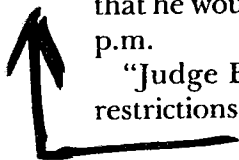
And the three law officials would finally reluctantly agree that if a mass march were to be held—an alternative they continued to deplore—its best chance for success would be under the aegis of non-violent leaders.

Chauncey Eskridge, Dr. King's personal attorney and friend, arrived from Chicago and joined Lucas' group. After a lunch break, the court session resumed with Rev. Lawson and Rev. Andrew Young, an ordained United Church of Christ minister and executive vice-president of SCLC with "authority" to speak for Dr. King, testifying. Burch was seeking to establish four main points: the defendants' commitment to non-violence, the place of demonstrations in non-violent social change, the need to march again in Memphis, and the importance to Dr. King and SCLC of a peaceful march.

Both Lawson and Young testified that mass marches called attention to injustices in a visible way, served as a controlled outlet for pent-up emotions on the part of poor people who had no equal access to the communications media, and offered hope for social change. Both ministers reiterated that the march was centered around the demands of the sanitation workers.

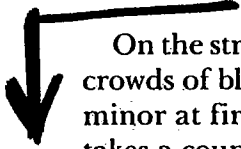
Judge Brown, with the precedents of freedom of speech, assembly and petition and the problems of prior restraint before him, concluded the hearing by stating that he wished to see the lawyers in his chambers and that he would give his written opinion the next morning. It was about 4:00 p.m.

"Judge Brown told us, 'I am going to let this march go . . . with the restrictions that are set forth in Dr. King's answer,'" related Caywood.



Aftermath of Assassination

would take a deeper look at the causes that had brought it on. He called for prayer and reflection.



On the streets some scattered glass-breaking and looting had begun and crowds of blacks were beginning to gather on street corners. Trouble was minor at first, said one policeman, "like when you burn your finger, it takes a couple of seconds for the pain to reach your brain." Chief Henry Lux said, "I didn't have time to think about a tragedy or anything. My first feeling was that, my God, we've got to get organized because all hell's gonna break loose . . . we were in for another riot." (2)

The police were caught in a frightful situation during the first hour after Dr. King's death as the trouble mounted. All available manpower was needed in the hunt for the murderer, and the false reports over a civilian radio band of the chase of a white Mustang, supposedly connected with the shooting, across the northern part of the city shortly after 6:30 p.m. had shaken up everyone at headquarters. Still, the trail was so hot and police on the scene so quickly, it seemed impossible that whoever had fired the shot had been able to get away.

If heavy rioting were to begin in the black community—and police officers were convinced it would—the only way of stopping it would be to throw in massive forces at the outset. But there would be no massive forces until the National Guard could be moved onto the streets. And if any black violence turned against whites, would whites retaliate? Even men who would never think of using guns except on hunting trips into the dry stubbly fields were glad the guns were there, in cases, on racks, in closets. Police knew the quick disposition of the National Guard would be as important in convincing some whites that they did not have to turn vigilante, that law enforcement forces were in control, as it would be in keeping actual order in the black neighborhoods, although the real fate of Memphis depended on which way the black community would go as the news that Dr. King was, indeed, dead shuddered across it.

A breakdown in telephone communications, especially in the central city, as thousands tried to make phone calls added to the tension. In some exchanges callers were unable to even get dial tones for as long as fifteen minutes and then were unable to complete calls. During a three and a half hour period that night, 30,000 more long distance calls that would normally be handled went in and out of the city.

Numbers of blacks were now converging on Mason Temple, announced site of that night's mass meeting at which Dr. King was to have spoken. Some did not know that the curfew had been called and the meeting can-

celled; some had come despite the ban. "I found my brothers there . . ." said one of the militants. "And there was an old lady there. She was as crippled as any duck. She was ready to go out and fight. She said, 'The Lord has deserted us.' . . . Every hope that any black man ever had of obtaining any kind of equality and justice, it was shattered."

Rev. Starks, at the Temple, was extremely concerned. The "mood was turning ugly."

"And people were saying, 'Let's go do this,' and 'Let's go do that,'" continued the militant. "We said, 'Just respect the man enough not to go out and do it tonight. Wait till he's buried. Don't you know the policemen are out there waiting for you? . . . That's just what the honkies want us to do. Come right out there like a bunch of wild Indians and they could wipe us out like they did the Indians. Don't do it.' And the ladies were asking, 'What do we do now?' And we told them, 'Go home. Just go home and when we call you, be ready.' . . . They went home."

"We didn't do the rioting. We had made a promise to Dr. King that the march would be successful and we had said that night if that march was held ten years from today, every one of you black s.o.b's better do right. No kidding . . . Everybody quieted down . . . But for me it meant we didn't have any choice now. We used to have a choice. We could wait for Dr. King to carry out his program and if it didn't work, we could use ours, but now it was as if white people didn't want any other program but ours."

P. J. Ciampa and others had gone to the Temple "to tell the people they better get home and off the streets. And we got out there and then the people we were telling that to were telling us to go to hell, because it's their night for revenge. And we said, 'It's impossible.'"

Attorney David Caywood also reached Mason Temple. "They (some of King's staff) were having a terrific argument with a bunch of young Negroes . . . trying to talk them out of burning the town down. . . . And they did a fairly good job of it." But two *Press-Scimitar* reporters heading for Mason Temple never got there. A group of kids broke out their back window with bricks and bottles.

At 8:15 p.m. police with calls of "less than emergency nature" were ordered to stay off the police radio and officers were ordered to disregard broken windows and ringing burglar alarms. Rock throwing incidents were spreading. Sniping reports were coming in and fires were breaking out. By 9:00 p.m. several policemen reported they were pinned down by sniper fire in North Memphis, and aid was sent. By 10:00 p.m. the biggest fire of the night, at a building supplies company just north of downtown, was raging among piles of roofing and barrels of tar, and flames were a

hundred feet in the air. Smaller fires were started at scattered locations over the inner city, both north and south. Liquor stores were again targets, and 26-year-old Ellis Tate, later discovered to have a record for assault and robbery, was critically wounded at a liquor store after police said he fired a rifle at them from the shadows. Tate would die in the hospital early Saturday morning.

"From the radio room it was a panicky situation," said Lt. Kallaher in police dispatch. Commissioner Holloman, reporting that "rioting and looting is rampant," went on television with County Sheriff William Morris to call for restraint. Every resource, he said, was being used "to identify and apprehend the person or persons responsible for this heinous crime.

"Remain calm, and co-operate with the law enforcement officers who are doing everything possible at this time to handle the situation . . . remain off the streets . . . leave this matter in the hands of your law enforcement officers . . . We are in a very critical emergency situation."

Local FBI representatives were already working with the police on Dr. King's killing, and as Holloman spoke, the first contingents of 4,000 National Guard were moving in the streets, joining the police, sheriff's deputies, highway patrol, and fifty Arkansas highway patrol sent over to help. The entire Tennessee National Guard was on alert and a large contingent was being sent into Nashville.

During the first hour of the curfew it had been almost impossible to clear the streets. People caught away from their homes headed there, and as cars would draw up next to each other at stop lights, their occupants would eye each other uneasily, unsure. Initially, there had been some stoning of cars with whites in the inner city. Nighttime stores and businesses sent their employees home. Some employers had the foresight to provide their people with notes explaining their presence on the streets; some did not, and police in certain black areas were stopping cars and checking occupants. Emergency installations such as hospitals found themselves without employees on the late night shifts unless earlier staff voluntarily stayed on to work through the night. Some employees came through the curfew, angry at being stopped by police. But the checking of cars was a sometime thing. Some blacks drove through the curfew without ever seeing police. Others were stopped, checked and warned to get off the streets and in some cases, when hot words broke out, arrested. There seemed to be no checkpoints in white areas, and reports on police brutality would again flood the NAACP office.

As news of Dr. King's death had spread, blacks had poured out of their

Witnesses for City

Thursday, April 4th, 1968

The hearing in the foregoing matter was resumed on this date, Thursday, April 4th, 1968, at 9:30 o'clock, a. m., when and where evidence was introduced and proceedings had as follows:

APPEARANCES:

For the Complainant: Frank B. Gianotti, Esquire
E. Brady Bartusch, Esquire
James M. Manire, Esquire
Frierson Graves, Esquire

For the Defendants: Lucius E. Burch, Jr., Esquire
W. J. Michael Cody, Esquire
David E. Caywood, Esquire
Charles F. Newman, Esquire
Louis R. Lucas, Esquire
Walter Bailey, Esquire

THE COURT: Before we get into the matter specially set this morning, are there any preliminary matters? I take it not.

This morning the Court was furnished copies of an answer filed by the defendants, a Motion for Advancement of Cause and for Dissolution or Modification of Restraining Order and a Motion to Allow Interdenominational Ministers Alliance to intervene as Amicus Curiae. Have copies of these pleadings been served on counsel for the City of Memphis?

Photo 1

**Telegram requesting representation
of Dr. King**



CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION TELEGRAM

SYMBOLS

DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

838A EST APR 4 68 CTA101 NSA062 AB069

A LLF109 NL PD 8 EXTRA ATLANTA GA 3

LUCIUS BURCH ESQUIRE

128 NORTH COURT MFS

CC: MELVIN L WULF

156 5 AVE NYK

YOU ARE HEREBY REQUESTED TO ENTER THE DEFENSE OF DR MARTIN LUTHER KING JR AND OTHERS IN SECURING FOR THEM THEIR CONSTITUTIONAL RIGHTS IN COURT ACTION PENDING AGAINST THEM IN MEMPHIS. YOU ARE AUTHORIZED TO AND MY NAME AND THE NAME OF MR WULF OF COUNCIL IN THE PROCEEDINGS. WE REQUEST THAT YOU ENTAR THIS CASE ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION AND ITS SOUTHERN RAGIONAL OFFICE SINCERELY

CHARLES MORGAN JR AS DIR SOUTHERN REG OFKICE AMERICAN CIVIL LIBARTIES UNION ATLANTA.

Photo 2

**Burch, Porter & Johnson
Senior Partner Lucius Burch Jr.**

Lucius Burch of
Memphis, Tennessee.

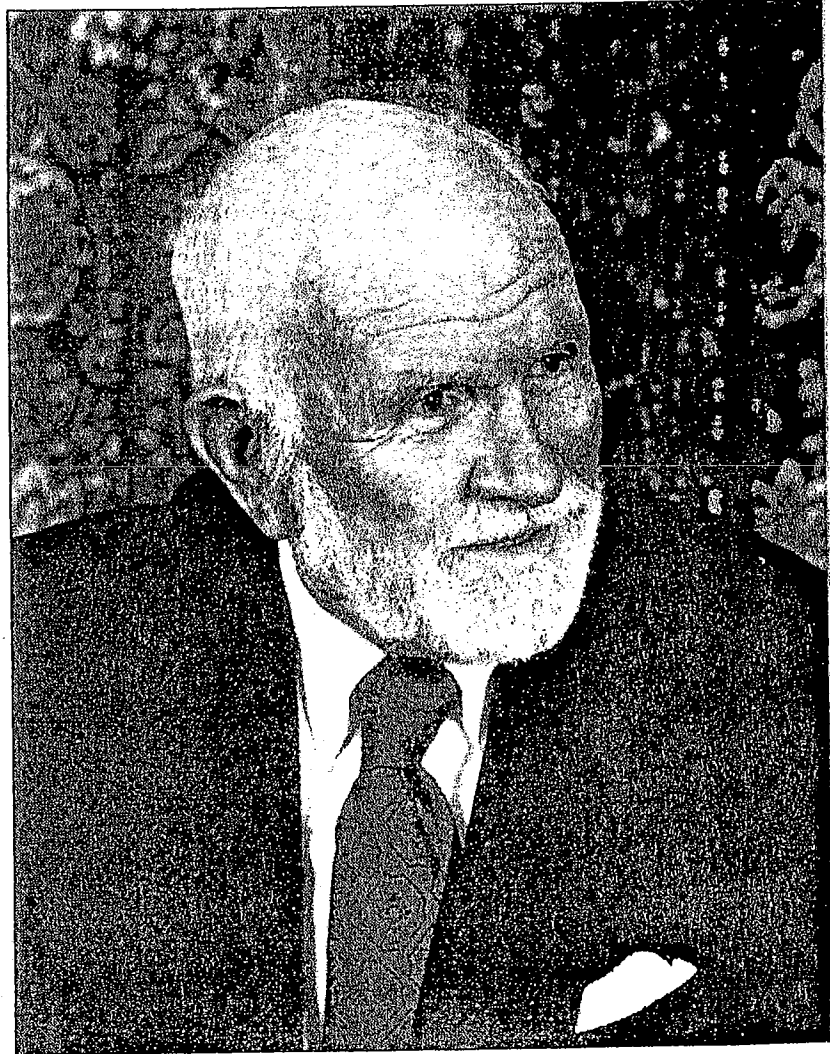


Photo 3

**Dr. King's attorneys going to
Federal Court for Injunction Hearing
April 4, 1968**

Left-Right:

**Jim Lawson, Andrew Young, Lucius Burch,
Charlie Newman and Mike Cody**

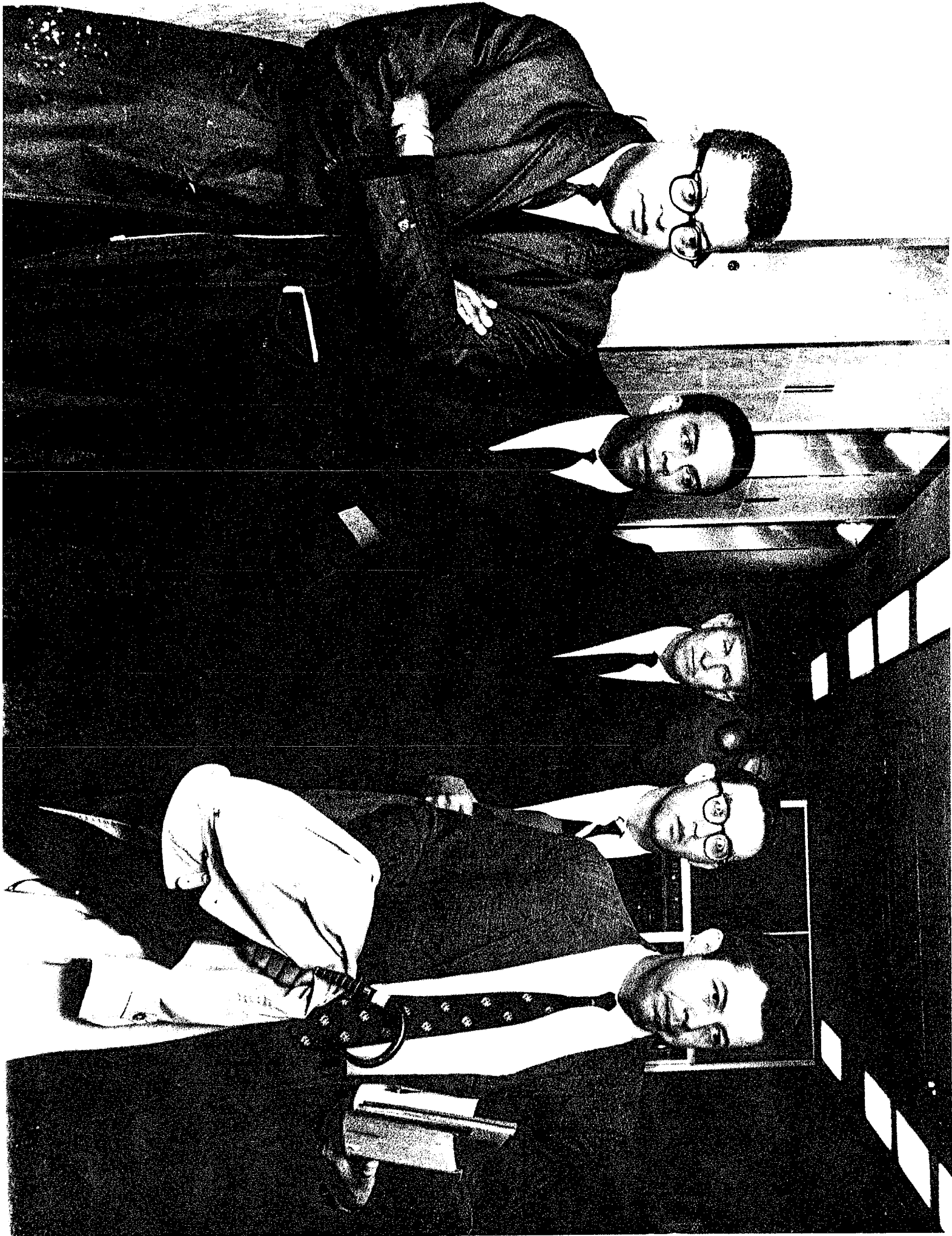


Photo 4

Preparation for march

(Mike Cody in right forefront)

