CONTENTS

(Listing of untitled Notes and References has been omitted.)

VOLUME II

Part Three. DISCRIMINATION

Preface Table of Cases	vii xxi
A. Ideal and Reality	996 996
To Secure These Rights, The Report of the President's	
Committee on Civil Rights 996	1004
B. Slavery, Involuntary Servitude, and Peonage	1004
Thirteenth Amendment 1004	
To Secure These Rights, Report of the President's	
Committee on Civil Rights 1004	1000
C. Historical Development of Federal Power	1008
Fourteenth Amendment 1009	
Fifteenth Amendment 1009	
Carr, Federal Protection of Civil Rights 1010	
Slaughter-House Cases 1013	
Civil Rights Cases 1019	
United States v. Cruikshank 1028	1024
D. Criminal Statutes to Protect Security of the Person	1034
Screws v. United States 1036	
United States v. Price 1050	
United States v. Guest 1056	
The Proposed Civil Rights Act of 1966 1068	1070
E. Civil Remedies to Protect Security of the Person	1070
1. Section 1983	1072
Monroe v. Pape 1072	
Note — Application of Section 1983 1078	1006
2. Section 1985(3)	1086
Collins v. Hardyman 1086	
F. Other Sources of Federal Power	1094
1. Presidential Power	1094
United States Commission on Civil Rights, Law	

Contents

Enforcement: A Report on Equal Protection in the South 1094	
2. The Contempt Power	1098
The Proposed Civil Rights Act of 1966 1102	1070
Bickel, Civil Rights' Dim Prospects 1103	
CHAPTER XIV. Discrimination in Voting	1105
A. The White Primary	1107
Smith v. Allwright 1107	
Terry v. Adams 1113	
B. The Poll Tax	1120
Amendment XXIV 1122	
Harman v. Forssenius 1122	
Harper v. Virginia State Board of Elections 1125	
United States v. Texas 1130	
C. The Use of the Criminal Sanction to Protect the Right to Vote	1134
Ex parte Yarbrough 1134	
D. The Attempt to Control Voting Registrars	1141
1. The Civil Rights Acts of 1957, 1960, and 1964	1141
Christopher, The Constitutionality of the Voting Rights	
Act of 1965 1141	
The Civil Rights Acts of 1957, 1960, and 1964 1144	
United States v. Duke 1146	
Hamer v. Campbell 1165	
2. The Impact of the Voting Rights Act of 1965	1173
United States v. Ramsey 1173	
E. The Voting Rights Act of 1965	1180
Voting Rights Act of 1965 1180	
South Carolina v. Katzenbach 1191	
Katzenbach v. Morgan 1208	
Cardona v. Power 1214	
F. Intimidation	1219
United States v. Original Knights of the Ku Klux	
Klan 1219	
CHAPTER XV. Discrimination in Education: South	1220
A. Separate but Equal — From Plessy to Brown	1230
Plessy v. Ferguson 1230	1230
D 1 (m)	
Brown v. Board of Education (First Decision) 1237 Bolling v. Sharpe 1243	
Wechsler, Toward Neutral Principles of Constitutional	
Law 1245	
B. The Equity Decree, Southern Resistance and Counterattack	1252
D D 1 (D1 + 40 + -	1252
Cooper v. Agron 1257	

Contents xv

Griffin v. County School Board of Prince Edward	
County 1268	
Case Note (Griffin v. State Bd. of Education) 1276 Notes — "Private" Schools 1280	
Notes — Colleges and Universities 1283 C. Tokenism and Transition	1286
	1280
United States Commission on Civil Rights, Civil Rights U.S.A. — Public Schools, Southern States 1286	
U.S.A. — Public Schools, Southern States 1286 Goss v. Board of Education 1292	
	1300
D. The Civil Rights Act of 1964 and the Statements of Policies 1. The Civil Rights Act of 1964	1300
Title IV — Desegregation of Public Education 1300	1500
Title IX — Desegregation of Fubic Education 1500 Title IX — Intervention and Procedure after Removal in	
Civil Rights Cases 1301	
Title VI — Nondiscrimination in Federally Assisted	
Programs 1302	
2. The 1965 Statement of Policies for School Desegregation Plans	1303
United States Commission on Civil Rights, Survey of	1505
School Desegregation in the Southern and Border	
States 1303	
Singleton v. Jackson Municipal Separate School	
Dist. 1306	
Leeson, Faster Pace, Scarcer Records 1314	
United States Commission on Civil Rights, Survey of	
School Desegregation in the Southern and Border States 1316	
General Statement of Policies under Title VI of the Civil	
Rights Act of 1964 Respecting Desegregation of	
Elementary and Secondary Schools 1323	
E. Discrimination Against Negro Teachers	1332
Note, Desegregation of Public School Facilities 1332	1332
Chambers v. Hendersonville City Board of	
Education 1338	
Education 1556	
CHAPTER XVI. Discrimination in Education: North and West	1346
A. The Factual Background	1346
National Association of Intergroup Relations Officials	
(NAIRO), Public School Segregation and Integration in	
the North 1346	
B. Action by Boards of Education to Relieve Racial Imbalance	1353
Fiss, Racial Imbalance in the Public Schools: The	
Constitutional Concepts 1353	
Note, Racial Imbalance in the Public Schools: Constitutional	
Dimensions and Judicial Response 1356	
Addabbo v. Donovan 1358	

Contents

C. De Jure Segregation	1307
Taylor v. Board of Education of City School District of	
New Rochelle 1367	1200
D. De Facto Segregation	1380
Bell v. School City of Gary, Indiana 1380	
Barksdale v. Springfield School Committee 1384	1201
E. Racial Imbalance and Compensatory Programs	1391
Massachusetts General Laws 1391	
Note — Compensatory Education 1398	1401
F. Fair Educational Practices Acts	1401
The Model Anti-Discrimination Act 1401	
CHAPTER XVII. Discrimination in the Administration of Justice and	
Federal-State Relations	1403
A. Administration of Justice	1403
United States Commission on Civil Rights, Law	
Enforcement: A Report on Equal Protection in the	
South 1403	
Swain v. Alabama 1406	
Notes — Discrimination in Jury Selection 1416	
Johnson v. Virginia 1425	
Notes — Discrimination in the Judicial Process 1426	
B. Federal-State Relations	1431
Amsterdam, Criminal Prosecutions Affecting Federally	
Guaranteed Civil Rights: Federal Removal and Habeas	
Corpus Jurisdiction to Abort State Court Trial 1431	
Dombrowski v. Pfister 1436	
Hillegas v. Sams 1436	
Georgia v. Rachel 1441	
City of Greenwood v. Peacock 1452	
CHAPTER XVIII. Discrimination in Employment	1467
A. The Problem	1467
House Committee on Education and Labor · 1467	
B. The Duty of Fair Representation	1470
1. The Steele Doctrine	1470
Steele v. Louisville & Nashville R.R. Co. 1470	
2. The National Labor Relations Act	1478
National Labor Relations Act 1478	
Sovern, The National Labor Relations Act and Racial	
Discrimination 1479	
Independent Metal Workers Union: Local No. 1 1484	
C. State and Local Legislation	1501
Sutin, The Experience of State Employment Commissions: A Comparative Study 1501	
A Comparative Study 1301	

Contents	xvii
Sovern, Legal Restraints on Racial Discrimination in	
Employment 1511	
Model Anti-Discrimination Act 1514	
In the Matter of State Commission for Human Rights v.	
Farrell 1516	
Girard and Jaffe, Some General Observations on	
Administration of State Fair Employment Practice	
Laws 1524	
The Model Anti-Discrimination Act 1531	
D. The Role of the Federal Government	1532
1. The Civil Rights Act of 1964	1532
a. Prohibitions and Exemptions	1533
Title VII 1533	1520
b. Investigations, Inspections, Record-keeping	1538
Title VII 1538	1540
c. Administration and Enforcement	1542
Title VII 1542	
Berg, Equal Employment Opportunity Under the Civil	
Rights Act of 1964 1545	
Conciliation Agreement between Equal Employment	
Opportunity Commission et al. and Newport News	
Shipbuilding and Drydock Company 1553	1557
2. Federal Employment	1557
Executive Order 11246 1558	1560
3. Federal Contracts	1700
Executive Order 11246 1560	1563
E. Apprenticeship Programs	1568
F. Other Forms of Discrimination	1568
1. Discrimination Because of Sex	1500
Murray and Eastwood, Jane Crow and the Law: Sex Discrimination and Title VII 1568	
	1571
2. Discrimination Because of Age	17/1
Note, Age Discrimination in Employment: The Problem of the Older Worker 1571	
of the older World	1576
3. Discrimination Against Aliens	1577
4. Discrimination Because of Religion	12//
CHAPTER XIX. Discrimination in Housing	1579
A. The Problem	1579
Drake, The Social and Economic Status of the Negro in	
the United States 1579	
Fein, An Economic and Social Profile of the Negro	
American 1581	
B. Judicial Restrictions on Private Discriminatory Arrangements	1583
,	

Contents

Shelley v. Kraemer 1983	
Note — Restrictive Covenants 1591	
Abrams, Forbidden Neighbors 1596	
Mulkey v. Reitman 1602	
C. Anti-Discrimination Legislation	1613
1. State Fair Housing Laws	1613
Robison, Housing — The Northern Civil Rights	
Frontier 1613	
Pearl and Terner, Fair Housing Laws: Halfway	
Mark 1615	
Housing and Home Finance Agency, Fair Housing	
Laws 1619	
The Model Anti-Discrimination Act 1620	
2. "Blockbusting"	1623
Ohio Rev. Code §4112.02 1623	
3. The Antitrust Remedy	1625
Dorsen, Critique of "Racial Discrimination in 'Private	
Housing'" 1625	
4. Municipal Ordinances	1627
Pearl and Terner, Survey: Fair Housing Laws - Design	
for Equal Opportunity 1627	
D. Federally Assisted Housing	1630
1. Federal Involvement	1630
Grier and Grier, Equality and Beyond: Housing	
Segregation in the Great Society 1630	
2. The Federal Response	1633
Executive Order No. 11063 1633	
E. The Benign Quota	1637
Note, Racial Discrimination and the Role of the	
State 1637	
Note, Racial Discrimination in Housing 1639	
Cooney v. Katzen 1640	
CHAPTER XX. Discrimination in Public Accommodations	1644
A. The Problem	1644
Dean Erwin N. Griswold, Testimony Before the Senate	1044
Committee on Commerce 1644	
B. The Fourteenth Amendment	1645
Burton v. Wilmington Parking Authority 1645	1042
Bell v. Maryland 1649	
Evans v. Newton 1667	
C. State Anti-Discrimination Legislation	1673
Caldwell, State Public Accommodation Laws, Fundamental	10/3
Liberties and Enforcement Programs 1673	
D. The Civil Rights Act of 1964	1683
0	1003

Contents xix

Title II 1683	
Heart of Atlanta Motel, Inc. v. United States 1686	
Katzenbach v. McClung 1692	
E. The Private Club Exemption	1700
Bradshaw v. Whigam 1700	
Note, Liquor Regulation, Racial Discrimination, and Private	
Clubs in Kansas 1703	
Dixon, Desegregation and Government Initiative,	
1887-1955: Transportation Discrimination 1708	
CHAPTER XXI. Discrimination in Health and Welfare Services	1716
A. Health Services	1716
North Carolina Advisory Committee to the United	
States Commission on Civil Rights, Equal Protection	
of the Laws in North Carolina 1716	
New York State Advisory Committee to the United	
States Commission on Civil Rights, Report on Buffalo:	
Health Facilities 1717	
Note, Working Rules for Assuring Non-Discrimination in	
Hospital Administration 1718	
United States Commission on Civil Rights, Title VI	
One Year After: A Survey of Desegregation of Health	
and Welfare Services in the South 1726	
United States Department of Health, Education, and	
Welfare, Guidelines for Compliance With Title VI	
of the Civil Rights Act of 1964 1733	
The state of the s	735
Bell, Aid to Dependent Children 1735	
Discrimination in Welfare Law 1738	
Note — Miscegenation 1744	
Index 1	747