

Debate with James J. Kilpatrick on "The Nation's Future"

[26 November 1960]

[New York, N.Y.]

King debates segregationist editor James J. Kilpatrick on a live, nationally televised program.¹ They appeared before a studio audience of representatives from several civil rights and conservative groups as well as mayors attending the American Municipal Association Convention.² Defending the student protesters, King insists that "they respect law so much that they want to see all laws just and in line with the moral law of the universe." Kilpatrick calls it "an interesting experience to be here tonight and see Mr. King assert a right to obey those laws he chooses to obey and disobey those that he chooses not to obey and insist the whole time that he has what he terms the highest respect for law." Kilpatrick further describes the sit-ins as "a boorish exhibition of what seems to me plain bad manners in crashing into a place where they are not welcome."³ Host John McCaffery moderates.⁴ This transcription was taken from NBC television footage.

1. In a 7 November letter to Robert Allison, the program's producer, Kilpatrick requested details as to the structure of the program, explaining that "the last time I appeared on television with Martin Luther King, I got boobytrapped by David Susskind into the short end of 5-1 odds. I don't propose to walk into a rigged situation again if I can avoid it." On 3 April 1960, Kilpatrick had debated King on "Open End," a New York television program. James Jackson Kilpatrick, Jr. (1920-), born in Oklahoma City, received a B.J. (1941) from the University of Missouri. Kilpatrick began working as a reporter for the *Richmond News Leader* in 1941. He became the paper's chief editorial writer in 1949 and its editor in 1951. Kilpatrick was frequently featured on television for his defense of segregation, and he wrote several books on the South and the law, including *The Sovereign States: Notes of a Citizen of Virginia* (1957) and *The Smut Peddlers* (1960).

2. Robert Allison to King, 12 October 1960 and List of New York audience for "The Nation's Future," 26 November 1960.

3. King's performance disappointed some members of SNCC, who watched the debate with Ella Baker during a meeting of SNCC's executive council. Baker criticized King's lack of preparation: "It was almost in the cards that he would muff it . . . for he had not forced himself to analytically come to grips with these issues. The students were sitting there in front of the TV, waiting for him to 'take care' of Kilpatrick. Finally some got up and walked away" (quoted in James Howard Laue, "Direct Action and Desegregation: Toward a Theory of the Rationalization of Protest" [Ph.D. diss., Harvard University, 1965], p. 169). At SNCC's November 1960 meeting, the group discussed King's performance and voted to contact the show and suggest that a "student involved in the movement be included in a future program of this type" (SNCC, Minutes of meeting, 25 November-27 November 1960).

4. John Kerwin Michael McCaffery (1913-1983), born in Moscow, Idaho, received a B.A. (1936) from the University of Wisconsin and an M.A. (1938) from Columbia University. McCaffery worked in radio and television as a newscaster, master of ceremonies, and game show host. His program, "Eleventh Hour News," ran on WNBC-TV from 1952 until 1963.

[*McCaffery*]: Ladies and gentlemen, welcome to this special half-hour edition of The Nation's Future. Now, every third week we concentrate on issues of national impact which have special local importance, and our subject tonight is, "Are Sit-In Strikes Justifiable?" 26 Nov 1960

Now, this question, with its overtones of racial segregation, is one of the most disturbing that we Americans have ever faced. Just today in Atlanta, for instance, klansmen and Negro demonstrators demonstrated in the city, each walking up and down one side of the street. They did not speak to each other; they did not exchange any words; there was certainly no violence, and finally both groups dispersed. As a result of this, all the lunch counters in Atlanta were closed.⁵ This was the first time that we have had a white group and a Negro group demonstrating with no violence at the same time.

Now, of course, in a question like this there are moral problems involved, there are legal problems involved. Our first speaker, Reverend Martin Luther King, Jr., introduced the technique of direct nonviolent action in the South five years ago. He's an ordained minister, a Doctor of Philosophy. He is president of the Southern Christian Leadership Conference. He is particularly well-known as an outstanding leader in the anti-segregation battle.

Reverend Martin Luther King, Jr., then, will you state your position?

[*King*]: The position that I am attempting to present tonight is one that presents itself or commends itself both in its goals and its methods. The goals of the sit-in movement can scarcely be debatable in a society founded on the principle that all men are created equal. This movement seeks to remove from the body of our nation a cancerous disease which prevents our democratic health from being realized. It seeks to remove those barriers between men and men, barriers between color, dealing with color, barriers dealing with caste, which prevent us from realizing the ideals of human brotherhood. And so I would say that the sit-in demonstrations are justifiable because their ends are humanitarian, constructive, and moral.

But happily, the means toward these ends are consonant with the highest ideals of man in that they are peaceful and non-violent. The sit-in demonstrations seek to secure moral ends through moral means. And ever so often in history when men seek to achieve the splendid goals of freedom, human dignity, and justice, they resort to methods of violence, such as guerilla warfare, such as assassination, and other methods of bloody revolution. But we know that this isn't true of the sit-ins. We see here a crusade without violence, and there is no attempt on the part of those who engaged in sit-ins to annihilate the opponent but to convert him. There is no attempt to defeat the segregationists but to defeat segregation, and I submit that this method, this sit-in movement, is justifiable because it uses moral, humanitarian, and constructive means in order to achieve the constructive end.

And of course, this approach, the sit-in demonstrations, call upon the best in man. They somehow challenge his moral sense. They require action. And they do not merely wait and deal with a century of litigation. And they do not involve them-

5. For newspaper coverage of the demonstrations, see Bruce Galphin, "Negroes Resume Sit-Ins, End Truce," *Atlanta Constitution*, 26 November 1960.

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selves in endless debates. But we see here real action working to bring about the realization of the ideals and principles of democracy.

Now, there are those who would argue that these demonstrations are unconstitutional and that they are illegal. They would go on to argue that they have no respect for law. But I would say that this is absolutely wrong. The individuals engaged in sit-in demonstrations are revealing the highest respect for law. And they respect law so much that they want to see all laws just and in line with the moral law of the universe. They're willing to suffer and sacrifice in order to square local custom, customs and local laws with the moral law of the universe. And they are seeking to square these local laws with the federal Constitution and with what is the just law of the land.

Therefore, I am sure, I am convinced, that they are just and that they are truly American, that somehow these sit-in demonstrations send us back to the deep wells of democracy that were dug by the Founding Fathers of our nation in formulating the Constitution and the Declaration of Independence. And so in sitting down, these students are in reality standing up for the highest and the best in the American tradition. And I think it is justifiable because it isn't a selfish movement. It isn't based on seeking merely rights for Negroes or seeking to secure those things that would apply only to one minority group, but they're seeking to save the soul of America.

Truly, America faces today a rendezvous with destiny, and I think these students, through their nonviolent, direct, courageous action have met the challenge of this destiny-packed moment in a very majestic and sublime way.⁶

[*McCaffery*]: Thank you, Dr. King. And now [*applause*] our second guest. [*sustained applause*] Mr. James J. Kilpatrick for the past nine years has been editor of the *Richmond News Leader* of Richmond, Virginia. He is a member of the Virginia Commission on Constitutional Government, an agency set up in 1956 by the State of Virginia to promote the role of the state in relation to the federal government. In addition to his award-winning accomplishments as an editorial writer, Mr. Kilpatrick is the author of *The Sovereign State* and a just-published work called *The Smut-Peddlers*, an investigation of the obscenity racket and censorship. Mr. Kilpatrick, may we have your position, please?

[*Kilpatrick*]: Mr. Chairman, these sit-ins, it seems to me, must be viewed in terms of the total problem of race relations that has occupied the South not merely since 1954 but for a very long period in our history. And seen in this larger perspective, the question of who eats integrated hot dogs seems to me greatly exaggerated, and both sides, I believe, have shared in this exaggeration, both the Negroes and the whites. The business of who sits where to eat the blue plate special in Woolworth's on Broad Street in Richmond seems to me to rank somewhat lower in this scale of values than voting rights or the right to own property or the right to serve on juries. And when some of my opponents tend to equate lunch counters with public education, it seems to me it reflects a rather

6. Portions of King's opening remarks closely follow his handwritten note cards. Video footage reveals King periodically referring to notes (King, Notes for debate on "The Nation's Future," 26 November 1960).

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poor opinion of public education—though from what I have seen of public education here and there, perhaps the comparison with lunch counters may not be wholly inapropos at that.

These sit-ins, it seems to me, find their chief significance in very large, broad patterns of social and constitutional questions, and these divide us grievously. On that point I might make one thing plain. Contrary to recent high example, Mr. King and I do not agree on our objectives and disagree only on means of reaching them. He would accept racial separation nowhere; he would have integration everywhere. His aim, as I comprehend it, is the obliteration of race altogether. At the end of his line of argument, I submit, lies what has been termed the “coffee-colored compromise,” a society in which every distinction of race has been blotted out by this principle of togetherness.

Now, I am opposed to this Waring blender process on our society. In common with most southerners, I believe, I take pride in our race, and we are often puzzled—perhaps Mr. King will comment upon this—that Negroes by and large seem to take so little pride in theirs.

We believe it is an affirmatively good thing to preserve the predominant racial characteristics that have contributed to Western civilization over the past two thousand years, and we do not believe that the way to preserve them lies in fostering any intimate race mixing by which these principles and characteristics inevitably must be destroyed. Toward that end, we believe in public policies that promote separation of the races in those few essential social areas where intimate personal association, long continued, would foster a break-down, especially among young people, of those ethnic lines that seem to us important.

Now, to the extent that integrated lunch counters and tea rooms in our department stores would contribute toward that breakdown, I would regard them as unwise. But I would say that as a practical matter I am inclined to believe this extent is relatively small. The business of eating lunch in a big city dime store, so far as I can see, is a largely impersonal exercise in indigestion. It involves no long-continued intimacy, and I would suppose that in the course of time most of the South’s larger cities could adjust to this change as they have adjusted to an end of segregation on public transportation lines and in their parks. Indeed, my impression is that more than a hundred public eating facilities in private stores in the South already have taken this step.

Now, in his opening remarks, Mr. King dwelt at length upon the point that these are peaceful and nonviolent demonstrations. I would like, if I may, to present another side of that picture because I have seen these demonstrations as he has been involved in them and I know that they involve a great deal of tense pushing and shoving in an atmosphere that is electric with restrained violence and hostility, and in one city after another these demonstrations—they are more accurately described as disciplined and planned invasions—have resulted in riot and disorder. In one city after another there have been bomb threats, and melees, and disturbances, and the police called in. Peaceful demonstrations may be fine, but what we’ve seen in Tallahassee, Chattanooga, and elsewhere are far from peaceful.

I want principally to discuss, as our program goes along this evening, the legal and constitutional issues that seem to me so important in this because the key thing that is involved are questions of property rights. These are the rights of the store

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owners. I want to ask Mr. King if he would direct some comment to this question: Whence come the right that he asserts in these southern states on the part of the Negroes to eat in privately-owned lunch counters and department stores?

Other subjects I will touch on—my opening statement time is exhausted.

[*McCaffery*]: Thank you very much, Mr. Kilpatrick. [*applause*] Now, gentlemen, you both have an opportunity for discussion, for cross-examination, if you will, for rebuttal. And Dr. King, to you first, then.

[*King*]: I would like to mention just two or three things, or rather answer two or three things that you raised, Mr. Kilpatrick. First, I would like to deal with this whole question of violence. You contend that violence has always followed the sit-ins, that the sit-ins have led to riots and what-have-you. I would submit to you that if there has been any violence it has not come from the sit-inners themselves but from the opponents and the extremist groups in the white community. But the sit-inners have been amazingly disciplined. They have evinced dignity; and they have been non-violent at every point, so that we cannot hold the Negro students and the sit-inners responsible for the violence, but we must hold the individuals in the white community who have precipitated the violence responsible for it. [*one person applauds*]

I would like to also say [*applause*] that on the question of property rights, I would be the first one to contend that there are certain sacred and basic rights that should be protected concerning private property, but I do not think this is the issue at this point. We are not dealing with property that is exclusively private. We are dealing with property that is privately owned but supported by, sustained by the public and which depends on the public for its very existence, and I think we have a great difference here.

[*Kilpatrick*]: I would say on that point that as a matter of law, whatever rights are asserted by the sit-downers in these matters presumably come from the 14th Amendment, which applies to the States only, and court after court has said that.

I would like to go back to something that you said in your opening remarks about how moral all this is, that this was moral ends, it was a moral end that would be reached by moral means. It occurs to me on that point that there is a pretty high degree of morality involved in simply abiding by the law, and I would wonder, rhetorically, if a high degree of morality is not involved in obedience to law as such. Certainly, we of the South were told that over and over at the time of our early resistance to school integration. We were exhorted on every hand to abide by the law, and people were aghast at what they termed the southern resistance and southern defiance, southern, indeed, southern anarchy, and it is therefore an interesting experience to be here tonight and see Mr. King assert a right to obey those laws he chooses to obey and disobey those that he chooses not to obey and insist the whole time that he has what he terms the highest respect for law, because he is abiding by the moral law of the universe. I would [*word inaudible*] here on earth if we try to abide by the law of the land, by the statutes, by the court decisions, by the other acts that establish law here on earth. There will be time enough later on to get to the moral law of the universe. And I got one more thing I want to say on this question of morality

[*McCaffery interrupts*]: You can ask it right directly of Reverend King. This isn't a segregated discussion at all. [*laughter*] You don't have to make it a rhetorical

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[*Kilpatrick*]: He has based this on the moral question, and I simply submit to you, sir, that when this disciplined platoon comes in—in one of your letters you described them as your forces engaged in what you call a foray, very military language—when this disciplined platoon comes into a store, occupies all of the seats at the lunch counter, displaces the white patrons, makes it impossible for them to sit down. They occupy these lunch counter stools; they say, “We will sit here all day.” They refuse to move on the request of the store owner; the police are called in; they disrupt the store’s entire law-abiding operation; they put on a boorish exhibition of what seems to me plain bad manners in crashing into a place where they are not welcome. I submit to you, sir, it comes with singularly poor grace for their spokesman to then charge the store owner with bad behavior.

[*King*]: Mr. Kilpatrick, I think on this point you would have to agree with me that most of these local laws that have been set up are certainly contrary to the federal law.

[*Kilpatrick*]: Oh, I don’t agree with that at all.

[*King*]: To the Constitution of our United States.

[*Kilpatrick*]: I don’t agree with that at all.

[*King*]: I think they are. And I think in disobeying these laws, the students are really seeking to affirm the just law of the land and the Constitution of our United States. I would say this—that all people should obey just laws, but I would also say, with St. Augustine, that an unjust law is no law at all. And when we find an unjust law, I think we have a moral obligation to take a stand against it, and I think these local laws that have been set up are unjust.⁷ Now, in many instances there were no laws—they were just customs—and the students were not breaking laws; they were just going against local customs.

I would also like to deal with another question that you raised, namely the resistance of the segregationists to the Supreme Court’s decision of 1954.

[*Kilpatrick*]: We thought we were resisting an unjust law, you see.

[*King*]: But I think, there is [*laughter, applause*], I think. Mr. Kilpatrick [*applause*], I think, Mr. Kilpatrick, you would have to agree that there is a great distinction between the immoral, the hateful, the violent resistance of many of the white segregationists and the nonviolent, peaceful, loving, civil resistance of the Negro students. I think one is uncivil disobedience; the other is civil disobedience, if you will. [*applause*]

[*Kilpatrick*]: [*words inaudible*] Well, these are very interesting viewpoints on your part. Let me ask this question: Suppose that—let me precede it by saying this: within the past two years, five courts have passed upon this very point of the property rights of the store owner that I have been trying to defend here tonight. In every single one of these five cases, the courts have upheld the right of the property owner to say he will serve whom he pleases and will not serve whom he pleases. These are the Supreme Courts of Delaware, Virginia, North Carolina, a United States District Court in Maryland, and the Fifth United States Circuit Court of Appeals. Now, two of these cases are on appeal now, one coming out of Delaware and one coming out of Virginia. In one case, the Delaware case, involves a restaurant

7. Cf. Augustine, *The City of God*, 19.21.

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in a publicly owned building; the Virginia case involves a bus terminal that's involved in interstate commerce. But let me suppose for a moment that a case should get up to the Supreme Court of the United States on a Woolworth's, or on a Kress's, or on a Thalheimer's Department Store in Richmond, not involved in interstate commerce, not involved in a publicly owned facility, and let me suppose further that the Supreme Court of the United States were to adopt the opinion of the Fourth United States Circuit Court of Appeals in this Howard Johnson's case.⁸ Then, wouldn't it be your view that that became the supreme law of the land? Would you feel any higher moral duty to obey it then?

[*King*]: I think, first, on the question of the courts passing on this issue, I think again you would have to agree that no court has given the state the right to deny individuals their constitutional rights. Certainly this hasn't

[*Kilpatrick interrupts*]: Oh, no

[*King continues*]: happened with the federal court and it hasn't happened with the Supreme Court.

[*Kilpatrick*]: No, that is not what we are talking about.

[*King*]: I think it was made palpably clear that no court has the power or the authority to use its power, whether it is in the form of a legislative act, an anti-trespass law, or an executive decree, to deny an individual his constitutional rights.

I would say also that on this question of whether individuals have a moral right to obey what they consider just law, I think we all should do that, but I think the individual who discovers, on the basis of conscience, that a law is unjust and is willing, in a very peaceful sense, to disobey that unjust law and willingly and voluntarily suffer the consequence, I think at that moment he is expressing the highest respect for law. [*applause*]

[*Kilpatrick*]: Wouldn't you say that the legislature of Louisiana right now, do you believe that they are motivated by what they regard sincerely as the impulses of their conscience in conceiving these things to be wrong and unjust and that, therefore, they are justified in taking the actions they're taking?⁹

[*King*]: I would be the first one to say that there are some people in the white South who sincerely believe segregation is right. Some of them believe that it is morally right, I imagine, and I would call upon these people, if they want to resist, that they should resist nonviolently and peacefully and in a loving spirit. And I believe with this type of resistance we will ultimately come to a just resolution of the problem, and I think the right point of view will ultimately win. But I repeat that the resistance that I see is an unloving, impatient, uncivil resistance, which can only lead to chaos and anarchy.

8. In the case of *Williams v. Howard Johnson's Restaurant*, the Fourth Circuit United States Court of Appeals found that an Alexandria, Virginia, restaurant's refusal to serve Charles E. Williams was not a violation of federal laws prohibiting discrimination in businesses engaged in interstate commerce, as it engaged only in local commerce (268 F.2d 845 [1959]).

9. On 13 November 1960, the Louisiana legislature attempted to block the New Orleans public school desegregation plans by seizing control of the school system. When a federal district court issued a restraining order against legislators, state police arrived at the forty-eight elementary schools and ordered a school holiday. School principals ignored the directive and held classes as usual (Claude Sitton, "Pupils Integrate in New Orleans as Crowd Jeers," *New York Times*, 15 November 1960).

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[*Kilpatrick*]: Well, I'm the most loving, peaceful anarchist you ever likened to meet. [*laughter*] But going back to the question, which you didn't answer a minute ago when I put it to you, because I am probing to find out your sense of obedience or dedication to the Supreme Court of the United States, whose pronouncements we're so often told are the supreme law of the land. Should the Supreme Court of the United States affirm such an opinion as was written in that Williams case involving the Howard Johnson's restaurant? Would you, then, abandon all of your further efforts to sit in? Would you say the supreme law of the land has been settled and we have a duty to obey it?

[*King*]: I would answer that by asking you a question.

[*Kilpatrick interrupts*]: No, that's no way to answer a question. Why don't you answer first and then ask me a question?

[*King*]: And then I would come back to answering the question.

[*Kilpatrick*]: All right.

[*King*]: If the United States Supreme Court of the government of our nation issued a law, set forth a law or a decision stating that the public worship of God is unconstitutional, there would be a denial of the right of freedom of religion and to worship God publicly. Would you urge people to obey that and to be obedient to it and wait fifty or a hundred years through the century of litigation before protesting this?

[*Kilpatrick*]: No, sir, I would take the recourses that are provided under the law. I would try to impeach the Justices, for one thing, but I would go through legal procedures to try to do something about it. Though I may say on that very point, since you bring it up, that there is very high example in this country, in the Thomas Jefferson, whom you recite in one of your letters or that famous March 29th ad.¹⁰ In 1798, when the Supreme Court of the United States, through Washington and Justice [*Samuel*] Chase, had overthrown freedom of speech and freedom of press absolutely, exactly as you talk about overthrowing freedom of religion, and they drew up the Kentucky and Virginia Resolutions of 1798, saying that a state had a right—had a right, and a power, and a duty—to put its sovereign powers between the court and, in this case the Congress also, and the people, so that that was a technique of resistance that was advocated by Jefferson whom you seem to admire a good deal.¹¹

Now, let me go back to the question I put to you a while ago. If the Court should say this, would you be inclined to call off all your troops and disband your school down there where you're teaching them these techniques and so on?

[*King*]: I go back to the argument, Mr. Kilpatrick, that an unjust law is no law at all.

[*Kilpatrick*]: And you

[*King interrupts*]: And I think any law

10. Kilpatrick refers to the 29 March fund-raising advertisement placed in the *New York Times* by the Committee to Defend Martin Luther King and the Struggle for Freedom in the South. For a facsimile of the ad, "Heed Their Rising Voices," see p. 382 in this volume.

11. Jefferson authored the Kentucky resolution of 1798 in response to the Alien and Sedition Acts, designed to silence criticism of the Federalist government. The Kentucky resolution and its succeeding Virginia resolution of 1799 served as precedents for the nullification of federal law by the states.

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[*Kilpatrick continues*]: reserve the right to say whether it is just or unjust?

[*King*]: Well, I think this, that on the basis of conscience—and how do we test conscience? On the basis of the insights of the ages through saints and prophets, on the basis of the best evidence of the intellectual disciplines of the day, psychology, sociology, anthropology, and what have you, on the basis of all that we find in the religious insights of the ages—and I think we will all agree that any law that degrades human personality is an unjust law, and one's conscience should reveal that to him.

[*Kilpatrick*]: Would you extend the right, the same right to everyone else that you claim for yourself, to decide what is just and what is unjust?

[*King*]: I would extend that right only if individuals will do it on the basis of conscience and in resisting it will do it in what I call a loving, nonviolent, peaceful sense, and not in terms of a violent, unloving, and uncivil sense.

[*Kilpatrick*]: This is the most remarkable exposition of obedience to law that I ever remember taking part in, in which everyone has the right to decide for himself on the basis of his conscience what laws he regards as just and what he regards as unjust.

Let me ask you about the boycott business since we have two or three minutes left. You've used the boycott as a very effective weapon, and you regard that certainly as the right of your forces not to buy and so on. Do you see any right comparable on the part of the store owner not to sell? Do you see in your freedom to associate any right of others not to associate?

[*King*]: I would say that on the one hand those individuals who are in the common market with their stores should not deny individuals access to the common market. I think, on the other hand, we must see that the boycott method as used by the students is not a negative thing.

[*McCaffery*]: Gentlemen, I'm sorry; we didn't have that two minutes. Our time is already up. I am afraid that you have been unkind to lawyers in how well you have taken care of the legal aspects of this.

It is obvious that we haven't enough time to take care of all of the ramifications of this, but we promise you that we will return to it in a future program.¹²

This is John McCaffery. Good night. [*applause*]

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12. In a 14 December letter, King thanked Allison for the opportunity to appear on the show and offered to participate in a future debate. King further commended the network for airing "a program of this nature" and stated that "I have always felt that news media could be a tremendous force in helping our nation to realize its unfulfilled dream."