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The Uncivil Civil Rights Act

Conservative views are often unjustly linked to racism by harkening back to the topic of civil rights and especially to the Civil Rights Act of 1964, which conservatives fought against. Simply linking someone to disagreement with the hallowed act is expected to carry the day. It shouldn't.

There's no denying that some who opposed civil rights legislation were racially motivated. But the act should be judged on its merits or demerits. Some opponents of the act, for instance, insisted there is no such thing as a "civil" right. They added that attributing rights to a "group" is untenable. Also, government can't legitimately grant *rights* because what can be granted by a government can later be canceled by that same government, meaning that what is granted is a "privilege." Isn't this one of the reasons why America's Founders thundered that men were "endowed by their Creator with certain unalienable rights." If a Creator is the source of rights, only He can legitimately dissolve them. Hence, the United States is different — or at least it was different when it was founded.

Consider the real-life consequences of government-granted "rights." Both the former Soviet Union and the current United Nations issued a long list of rights that each person is supposed to enjoy. However, each right was followed with an assertion that the "right" can be suspended by law. In the USSR, all rights were indeed suspended.

The provisions of the 1964 act — though generally thought of as wonderful — are abhorrent to those care about individual liberty and the freedom of association. Discrimination on the basis of race, color, religion, sex, or national origin became outlawed. Someone operating a business would no longer be able to serve only a particular group while denying service to others. Turning away customers from one's workplace could justifiably be termed foolish, immoral, or wrong, but how could it be made a federal crime for excercising freedom of association? Also, a businessman would no longer have the final say in the hiring, firing, or promoting of employees. Where in the U.S. Constitution are such powers granted to the federal government? The answer is: Nowhere.

At its core, the Civil Rights Act wasn't about rights. It was about a huge increase in power for the federal government. Critics said it was 10 percent about civil rights and 90 percent about increases in

federal power. Lloyd Wright and John Satterfield, both past presidents of the American Bar Association, stated: "The civil rights aspect of this legislation is but a cloak; uncontrolled federal executive power is the body."

During the 1964 Senate debate about the measure, its most ardent supporter was Minnesota Senator Hubert Humphrey. Addressing charges that the act would lead to racially based hiring quotas, he insisted that no provisions in the bill require such action. He added that, if there were such mandates, he would "start eating the pages one after another." Another Senate supporter, New Jersey's Clifford Case, claimed, "There is no requirement … that an employer maintain a racial balance in the workforce." He added that "any deliberate attempt to maintain a racial balance … would involve a violation [of the act]."

Once the act was approved, though, an employer had to consider qualifications other than the ability of a person he wished to hire, and the owner of a business could no longer choose his customers. The overriding consideration became the group to which a potential employee or customer belonged.

The act's Title VII *did* outlaw any discrimination based on "race, color, religion, sex or national origin," but in what now seems like the blink of an eye, what was forbidden in the famous act became mandated one year later via additional legislation and executive orders issued by the White House. Promoters of the switch called this new mandate "affirmative action." The very things Senators Humphrey and Case (and others) said would never happen became federal policy. But Humphrey never ate the bill's pages, and Case didn't protest when the requirements he insisted would never become law did, in fact, attain such a status. Overnight, employers were forced to hire and promote according to norms they thought had been outlawed. The old adage, "Don't make a federal case out of it!" was foolishly — and perhaps deliberately — cast aside.

Only one year after the act's passage, discrimination based on race, color, and gender became — and remains — the rule.

How different things would have been had America's leaders taken an alternative route, one employing moral persuasion. The wrongs the promoters of the Civil Rights Act said they were addressing gave power-seeking enemies of freedom exactly what they wanted. Most opponents of this monumental alteration of fundamental American thinking weren't racially motivated. They were then, and remain, defenders of freedom. Attempting to castigate them for taking a stand against federal intrusion into matters where it doesn't belong is another wrong.

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