

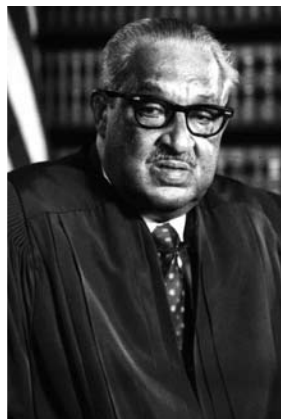
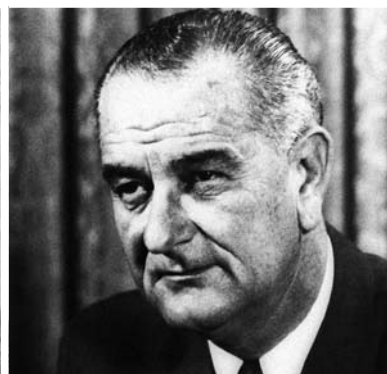


Woodrow Wilson
International
Center
for Scholars

Division of United States Studies

Civil Rights, Politics and the Law:

Three Civil Rights Lawyers Reminisce





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Civil Rights, Politics and the Law:

Three Civil Rights Lawyers Reminisce

Proceedings of a program sponsored by the Division of United States Studies, Woodrow Wilson International Center for Scholars

January 19, 2006

Participants

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William Taylor

Harris Wofford

Moderator

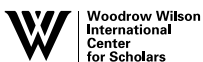
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Martin Luther King, Jr. at a 1964 press conference. Courtesy of the Library of Congress, Prints & Photographs Division, *U.S. News & World Report Magazine* Collection.

Rosa Parks, after being arrested in 1955 for refusing to give up her bus seat to a white passenger. Courtesy of the Associated Press.

President Lyndon B. Johnson. Courtesy of the Library of Congress.

Fannie Lou Hamer speaking at the 1964 Democratic National Convention. Courtesy of the Library of Congress, Prints & Photographs Division, *U.S. News & World Report Magazine* Collection.

U.S. Supreme Court Justice Thurgood Marshall in 1976. Courtesy of the Library of Congress.

Sen. John F. Kennedy, left, and Robert Kennedy on July 10, 1960, during presidential campaign. Courtesy of the Associated Press.

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*On January 19, 2006, four days after Dr. Martin Luther King's 77th birthday, three lawyers spoke at the Woodrow Wilson International Center for Scholars about their experiences in the civil rights movement. They had all graduated from Yale Law School in June, 1954, three weeks after the U.S. Supreme Court handed down its decision in *Brown v. Board of Education*.¹ William Taylor went to work for the NAACP Legal Defense and Education Fund almost immediately, and later became general counsel and then staff director of the U.S. Commission on Civil Rights. Berl Bernhard also served as the Commission's staff director during the Kennedy administration and then directed the 1966 White House conference, "To Fulfill These Rights." Harris Wofford was counsel to the Rev. Theodore Hesburgh of Notre Dame on the first U.S. Commission on Civil Rights and then a special assistant to President John F. Kennedy, chairing the Subcabinet Group on Civil Rights. (More complete biographies of the three men can be found below.²)*

The program was the suggestion of the Honorable Joseph B. Gildenhorn, chairman of the Wilson Center's Board of Trustees, who also received his law degree as a member of that impressive Yale Law School class of 1954. The Center's Division of United States Studies was pleased to organize it as a contribution to the oral history of the civil rights movement and as a reminder that the movement was the work of many people, old and young, male and female, African American and white, Northerners and Southerners, farmers and attorneys. What follows is a lightly edited transcript.

PATRICIA SULLIVAN³: In *The Passion of My Times*, William Taylor recounts Roger Wilkins⁴ asking him, "What leads a white guy like you to spend his whole professional life working on behalf of black people?"⁵ I'd like to begin by putting that question to each of you.

WILLIAM TAYLOR: We are all products of our times. I grew up in Brooklyn in the 1930s and 1940s, when one of the great influences was the New Deal. We all worshiped President Franklin Roosevelt and we all had faith that government would come to the assistance of those who needed assistance. That led me to think at an early age that what I wanted to do was work for the public interest, however defined.

I grew up at a time of rampant anti-Semitism in New York and other places in the United States and of course abroad as well. The German-American Bund⁶ was active in New York, so I had some sense as a Jew of what prejudice was like.

Then, in 1947, Jackie Robinson broke into the major leagues as a Brooklyn Dodger. I was then the sports editor of my high school newspaper in Brooklyn. I got to meet Robinson only briefly but as a great baseball fan I followed his career and I think that, more than anything I learned in school, gave me a sense of the sting of discrimination. He went south and couldn't stay with his teammates during spring training; he couldn't have meals with them; he was threatened when he got up to play; and players and managers on opposing teams said the vilest things. That gave me an intense sense of discrimination.

Finally, there is the question of timing. All of us got out of school within a month of the decision of the Supreme Court in *Brown v. Board of Education*. That focused my interest and desires on race relations and race discrimination, so when I got a chance to work with Thurgood Marshall, it was something I just absolutely jumped at.

HARRIS WOFFORD: There is someone missing from this group of three white men, the unholy trinity that we were. There was a fourth person, Louis Martin, who was the black leader least sung but who probably had as much influence on civil rights and on John and Robert Kennedy in this area as anyone.⁷ He was my chief colleague in the civil rights section of Kennedy's 1960 presidential campaign under Sargent Shriver, and he was an extraordinary man.

I can begin with some *mea culpas* that show what a learning process was necessary for most of us. I remember Shriver criticizing an editorial in the *Afro-American* of Baltimore that said that Sargent Shriver was discriminating against black women because in the talent search for the best and the brightest, no black woman had been proposed. Sarge, who had started the Catholic Interracial Council in Chicago and had long been a proponent of racial equality, was furious. "Figure out how we answer that," he told me.

"There's a very simple way to answer it," I said. "You're definitely not discriminating against black women; you're just discriminating against women."

And he said, "What do you mean?"

I said, "Well, in all of this talent search for the 'best and the brightest,' we haven't recommended a single woman; or if we did, none has been picked."

That's my first *mea culpa*. My mother campaigned for the right to vote for women but even when women got the vote, other things stopped them from reaching leadership positions.

I have a second *mea culpa*. I was in Selma, Alabama in the Army Air Corps from early 1944, wanting to fight Hitler, but the military didn't know whether they'd need us in the Pacific War. We were just stalled in Selma at Craig Field for seventeen months, and I was having a wonderful time reading a lot of books, riding horses, having great white friends on a farm where they let me ride their horse. I never walked off Broad Street into the black section of town. Later, I was lucky enough to be marching in Selma, starting at a black church and crossing the Edmund Pettus Bridge to Broad Street, but back in the 1940s I never walked those three blocks over into the unpaved black part of town. It wasn't until I went to Howard Law School, fourteen years later, that I went back to Selma and did a study of the status of African Americans in Dallas County, Alabama, where they were more than two-thirds of the population and almost none could vote. I had an amazing three weeks being shown the larger part of the community in which I had been for all those months with blinders on.

After I graduated from college in 1948, I went to India. My wife and I were there on a fellowship the first year we were married, and we later wrote a book about it.⁸ There I was, pursuing the still warm trail of Gandhi, and being asked constantly, "What have you done about segregation? Have you ever been to jail?" I was sufficiently embarrassed to start thinking about the problem that was the hardest problem and the heaviest burden on the American soul.

India has its own terrible caste discrimination, but I was embarrassed because we were the country dedicated to the proposition that all men are created equal and not many countries are born and dedicated to any kind of proposition, let alone equality. So I came back from India, no longer just a little Scarsdale boy who had gone to the University of Chicago. I wanted to go to Howard University because I returned not only wanting to get involved with the civil rights movement but convinced that the Gandhian technique of the spade, the prison and the vote – civil disobedience and constructive service, along with the vote – should be added to the American civil rights movement. At Howard we had dry runs the night before Thurgood Marshall argued *Brown v. Board* in the Supreme Court, asking him the kind of questions he would have to answer. I also went to Howard because I wanted to have African-American friends – something I hadn't had in a segregated army.

The little claim to fame in those days that I enjoyed most was that Martin Luther King joked occasionally that I was the only lawyer volunteering to help him go to jail instead of using all the tricks of the trade to keep him out.

BERL BERNHARD: When I was at Dartmouth College, I was more into football than social justice. We had an African-American halfback who was pledged to a fraternity. The national fraternity told us we couldn't do that; we would have to unpledge him. It infuriated me. I was fortunate enough to become president of the student government in my senior year and we passed a rule saying that any national fraternity with discriminatory policies would not be allowed to participate in any of the college activities. The incident alarmed me because this was a college that was supposed to be a bastion of freedom but wasn't. I wrote my senior thesis on John Marshall Harlan, who had dissented in *Plessy v. Ferguson*, and I guess that got me started on the path to the civil rights movement.⁹

WILLIAM TAYLOR: I was almost booted out of Brooklyn College when I was editor-in-chief of a newspaper that expressed itself. Years later, I got my FBI report, and it noted in one place that I was a member of the student council that favored the advancement of Negroes in the South!

Racism wasn't just a southern problem in those days; we had northern problems, and we still have northern problems.

I want to take two more minutes because the name Louis Martin has been raised. I have a couple of vignettes about him in my book. This one involved Harris Wofford as well as Louis:

"Martin had the shambling gait and the clipped speech of a '50s hipster. His invariable greeting to his friends was 'Hi, chief.' But when you got to know him as I did as a friend and a neighbor you learned that he was a deeply thoughtful man and to suspect that the speech patterns were those of an innately shy person seeking to project his ideas. Louis may have been responsible for the election of John Kennedy as president in 1960. In those years Democrats did not have the claim on the votes of African Americans that they now possess, and Richard Nixon was competitive among black voters. An experienced journalist and editor of the *Chicago Defender*, a black newspaper, Louis was recruited by the Kennedy campaign to devise strategies to win black votes. In late October [of

1960], Louis was working with Harris Wofford on the campaign when Martin Luther King, Jr. was arrested and imprisoned in Georgia. The circumstances were such that many feared for King's safety. Although they had no ability to secure King's release, Harris, along with Louis hatched the idea that a friendly phone call by candidate Kennedy to Coretta King, King's spouse, would be both compassionate and a way to draw public attention to his peril. After Kennedy made the call and Mrs. King welcomed it, Louis and other King advocates undertook to publicize Kennedy's support widely in Negro neighborhoods, getting leaflets out to churches, to bars, and neighborhood establishments in Chicago, and elsewhere. The initiative may well have made the difference in the Illinois vote, which in turn decided the election.

"I got to know Louis after the election when Harris Wofford was named a special assistant to the president and assembled an ad hoc group of advisers to meet weekly to discuss civil rights strategy. [Berl was also part of that group.] Louis brought practical judgment to these meetings as well as an offbeat, thought-provoking take on the situation of black people in this country. 'I'm always glad to see a brother arrested for robbing a bank rather than for a street mugging,' he said at one meeting. 'It shows their aspirations are rising.'

"Louis's major cause was the placement of African Americans in policy-making positions throughout government and, beginning with Kennedy and later as a confidant to Lyndon Johnson and as an assistant to Jimmy Carter, he was very successful, changing the face of the federal government. Louis had a mentoring relationship with younger blacks and his loyalty to them mirrored his deep devotion to his wife Gertrude, and their five daughters. When any of us did good work on a cause Louis was interested in, he would thank us by saying, 'You're a great American.' He was a great American."¹⁰

BERL BERNHARD: It would be a mistake to think of Louis Martin as no more than an intellectual strategist. He was in his own way the most incisive person you could work with, and he was fun. When we were preparing for the 1963 March on Washington, Louis held a series of meetings at the White House and asked for our most profound thoughts on what we should do to ensure that there would be peaceful assembly. Well, we went on and on and everybody had grand ideas. One afternoon Louis

called me and said, "Come over. I really want to talk to you. I think we're missing something."

I said, "What are we missing?"

He said, "Let's get hold of Beth Reeves at Howard University."¹¹

I said, "What for?"

He said, "Just listen. We're going to do it."

And I said, "Fine."

So we called and Louis said, "Tomorrow, Beth, you can really help your president and this country by having twenty-five Howard University football players there in the gymnasium. I need to talk with them."

She said, "I'll try to do it. I'll do the best I can."

Louis hung up. Then he called Adam Yarmolinsky, who was then executive assistant to the Secretary of Defense, and he said, "Adam, I want delivered to Howard University early tomorrow clerical garb for 25 very large people."

I thought, "What is this all about?" But the next morning Louis and I marched over to Howard University and there were all the football players. We began fitting them for the clerical garb. Louis' simple idea was perfect. He said, "Let's have each one of you learn about nonviolence. Then I want each of you to take responsibility for three buses. Go in there and pray with the people and tell them you want no trouble." Everything was fine. It was going reasonably well until the football players arrived at the Mall. Suddenly Louis looked down and said, "We forgot to tell them not to wear athletic shoes."

Louis was different. He was so cleverly imaginative. He did the same thing during the White House conference "To Fulfill These Rights."¹² Lyndon Johnson didn't want to attend unless he was assured of a quiet, respectful reception. We went back and forth on what we could do and finally Louis said, "I'll take care of this." He said, "Look, everybody is going to be exhausted at the end of this conference and we have to distract them." So he called Beth Reeves again and said, "I want you to bring as many cheerleaders as you can and meet us at Howard University." We took the young women to the dinner, where they served everyone liquor and wine and distracted everybody exceedingly well. When President Johnson arrived, distraction and peace prevailed. That was Louis.

Incidentally, it was an incredible dinner because Thurgood Marshall was going to introduce President Johnson, but Johnson said, "Sit down; I'm introducing you."

HARRIS WOFFORD: One more thing about Louis. Go back to the call to Coretta King. We – the civil rights people – had drafted a very strong statement supporting King after he was arrested. Kennedy, still a senator then, had signed off on it and we were ready to distribute it when he called and said, “I’ve gotten a commitment from the governor of Georgia to get the [expletive] out of jail if I don’t issue any public statement.”

“What we really want is to get Martin Luther King out of jail, isn’t it?” Kennedy said. Of course I replied, “Yes.”

So Louis and I went out for a drink to commiserate because we wanted to get King out of jail but we also wanted this to be an occasion when Kennedy could show where he stood and where his heart was. While we were drinking I came up with the idea that if these beautiful passionate Kennedys could just do something like calling Coretta King up on the phone it could make a difference – not only just for votes but for the whole picture of who Kennedy was, both to himself and to the public. I described it like that and Louis said, “That is the idea; we’ve got to get to Kennedy.” We tried to call the Kennedy people, who were in Chicago, but they wouldn’t take our call because we had been causing a little trouble on the King front. The next morning I called Sargent Shriver and told him that Louis and I had this idea but that nobody would take our calls.

He said, “It’s not too late. Just hang up and hope that I don’t get arrested.” He rushed out to O’Hare International Airport Hotel where he found Kennedy with his team – people like Ted [Theodore] Sorensen, Pierre Salinger, and Larry [Lawrence] O’Brien. And Sarge Shriver said to himself, “If I bring that idea up now it will never happen.”

He waited. Finally, Kenny O’Donnell, the last one there, left to go into the john.¹³ Shriver was by himself with Kennedy and said, “What would you think of just calling Coretta King and telling her you’re doing what you can and you’re with her and you give her sympathy?” She was six months pregnant and almost hysterical because Martin had been taken in the middle of the night, in chains, to a state prison. According to Shriver, Kennedy pondered for a few minutes and then said, “That’s a good idea. Do you have her number?,” and he smiled. Sarge said he gave a great Kennedy smile. Sarge had the number, dialed it and Kennedy spoke.

When Robert Kennedy heard about it, he called Louis and me. He was furious, white with anger, and said, “You bomb throwers are closed down. Nothing more in this election from you. No more editorializing,

nothing. We've probably lost the election. Three southern governors said if we supported King publicly that they would throw their support to Nixon. You've done it, so just get out."

Louis and I went out with our tail, you might say, between our legs. I think we may have tried another drink at that point.

Twenty-four hours later David Brinkley, then co-host of NBC's "The Huntley-Brinkley Report," called and said, "There's a story coming that now a brother of Kennedy has called the judge to get King out of jail."

I thought fast. I couldn't think which Kennedy that could be. I said, "I don't know, the only one I think who might have done it is Shriver, Kennedy's brother-in-law, but he wouldn't do that, I'm sure."

And Brinkley said, "How about Bob?"

I said, "I can assure you it wouldn't be Bob Kennedy."

About twenty minutes after that Brinkley called and said, "I won't put it on the air tonight."

A little while after that, a call comes from Robert Kennedy in New York to John Seigenthaler¹⁴ and me. All of a sudden I hear Robert Kennedy saying, "Would you guys get out a statement explaining why I called the judge this afternoon?"

One of us said, "*You* called?"

We remembered what he had been like the night before.

There are other versions of why he called the judge but I remember him saying next, "I just got so mad at this cracker son-of-a-bitch of a southern judge, putting a decent American in jail for four months of hard labor for driving with an out-of-state driver's license (because that was the charge) that I got that judge on the phone, and I said, 'If you're a good American, you'll get him out of jail before sundown,' but can't you draft a statement that I called to ask about Martin Luther King's right to bail?"

Years later, the judge was on Mike Wallace's "60 Minutes" and said something like, "I remember that call. He called and said if you're a Democrat you better realize that we couldn't even carry Massachusetts if I don't get that 'nigro' out of jail. And I said I'd do what I can."

We don't know exactly what happened, but that night Robert Kennedy called Louis Martin, waking him up, to say, "Louis, I want to tell you what I did today and I hope you approve."

Louis could not believe it. Louis then said, "From now on, you are an honorary brother." And from then on, Louis said, whenever he really

wanted to reach Robert Kennedy, he would call and tell whomever was blocking the calls, “Just tell him his brother Louis is calling.”

PATRICIA SULLIVAN: Of course you were all were involved with the Kennedy Administration but you arrived in Washington in the late 1950s. What was Washington, a southern town, like then? How did the prospects for civil rights look?

BERL BERNHARD: Let’s assume that you are a person of color living in Columbus, Ohio, and you drive here in 1959, with your wife and two adolescent kids, and you’re arrested in Washington for speeding. A white police officer pulls you over, says, “Listen, boy, you’re going too fast.” He gives you a ticket, takes you down to the police station, and all you see there are white clerks, white secretaries, white policemen. You go before a white judge, because they were all white. You decide that maybe this isn’t right and maybe you should go to the FBI, maybe they’ll help. You go to the FBI and there’s not a single black face in the entire place, because until 1961 there was not a single Negro agent in the FBI.

Now let’s assume for just a moment that you are a leader of an African country and you present your credentials as a new ambassador to the United Nations. Then you decide to take your family and drive down what was then Route 50. You stop at a gas station and you see “White” and “Colored” on the bathroom. You drive farther and you’re refused service at the restaurant. You’re tired but you drive farther, only to discover that you’re refused accommodations at all of the hotels along Route 50.

That was the climate, the atmosphere of Washington in the 1950s. An African American would have a hard time getting a cab. This is not that long ago. When you assess where we are today, you have to put it against this background of segregation and deprivation and what Louis Martin always described as, “We go to bed at night angry and we wake up in the morning angry.” The thrust of the civil rights effort was to recognize that this country was not what it should have been.

You may recall that when Robert Kennedy and the president decided to nominate Thurgood Marshall to the Second Circuit U.S. Court of Appeals, the chairman of the Senate Judiciary Committee was James Eastland.¹⁵ There was a big fight about whether or not the president would tolerate putting Harold Cox, a right wing segregationist, on the Federal District Court. Do

you remember what finally happened? James Eastland called Bob Kennedy and said, “Tell your brother if he’ll nominate Harold Cox I’ll allow that nigger to be nominated.”

That was the climate that existed in the United States of America in the early sixties. That was the period of the Ross Barnett governorship of Mississippi and the George Wallace governorship of Alabama. That was why there was so much anger, why so much had to be done so quickly.

WILLIAM TAYLOR: I lived my whole life in New York before I arrived in Washington in 1959. I had worked for Thurgood Marshall for four years and he kept me mainly locked in the library writing briefs so I didn’t get around the country much. I did get around the country a little bit, however, and when I traveled to the South, I saw what the situation was like in great metropolises like Atlanta. I used to travel around with Frank Reeves.¹⁶ Once we were in the Virginia suburbs outside Washington for a conference and coming back we were hungry. The McDonald’s type restaurants were just getting started in the area so we drove up to one and ordered a couple of burgers or something over the loudspeaker. The waitress came out, took a look at who was in the car, turned on her heel and walked back into the restaurant. She wouldn’t serve us, even in a car. We briefly considered the possibility of driving around and inflicting the same experience on other restaurants but we didn’t.

As Berl said, Washington was very much a southern town in those days. It had just stopped being a totally segregated town in places of public accommodation – a city where blacks sat in the balconies of theatres and so on. The bus system was owned by a man named O. Roy Chalk who refused to hire black drivers. The city was governed by a set of commissioners who were all white. I remember Joseph Rauh, the great civil rights lawyer who worked hard for home rule in this city. At one point he represented A. Philip Randolph¹⁷ in a case and when they won, Rauh, who was excited, said to Randolph, “Let’s go get a drink!”

Randolph said, “Oh, I don’t think so.”

Joe persisted and finally Randolph said to him, “Mr. Rauh, the only place that you and I could drink together in this town would be Union Station, so I think we’ll leave this for another occasion.”

Every time I go by A. Philip Randolph’s statue in Union Station I think of that story.

HARRIS WOFFORD: Let me respond by recounting an anecdote. Our Howard University Law School class had about 40 students. At that time Negroes were refused service in the basement cafeteria of Hecht's department store. Some of the Howard students really wanted to do something and decided to picket. We picketed all winter long and won in the spring. We then went down to the cafeteria and found the most miserable little basement thing I've ever seen, so I don't know who went to it thereafter.

The Gandhian philosophy was practiced by the Fellowship of Reconciliation and people like James Farmer back in the 1940s, before Martin Luther King made it so well known.¹⁸ But in the fall of 1955, I circulated a paper on why we should go the Gandhian route to a number of the civil rights leaders. Thurgood Marshall replied that it was the most subversive and divisive idea that he had ever encountered. He and the other NAACP lawyers were trying their best to get white southerners who believed that their consciences and their Bible told them that segregation was the law of God to obey the Constitution nevertheless. Thurgood and his colleagues were trying to get them to obey a law of desegregation that they deeply believed was wrong. To let loose the doctrine of following one's conscience and violating a law would be terrible – a real Pandora's box.

Dean Nelson of Howard, who had lived with Gandhi and worked with him for a while, wrote a sad letter saying, "I was with Gandhi in 1946 and remember him saying that it may be through the American Negro that the unadulterated message of non-violence will be brought to the world. I can't go and help you but you may be able to do it."¹⁹ But, "I've given it up," Nelson said; "I've been convinced there is no Gandhi in us." That was about three weeks before I read in the newspapers that Rosa Parks had said no and had gone to jail and a young preacher named Martin Luther King, Jr. had been picked to lead a movement in Montgomery.

When I arrived in Washington, the government of course had three engines. One of the engines – the judiciary – was being used courageously and skillfully by the NAACP lawyers, but the other two branches were uncooperative. President Eisenhower provided no leadership. When he was asked at a press conference about *Brown v. Board of Education*, he replied that he hadn't even told his wife what he thought about that decision. Later he sent troops to Little Rock, Arkansas but Eisenhower, who was in so many ways a great man in international

relations, failed to give us leadership for civil rights at a crucial time. Congress wanted no part of it.

So what the three of us here got involved in was turning on the executive branch, first through John and Robert Kennedy and then through Lyndon Johnson, and eventually through the major civil rights legislation. We were able to do so in part because the Gandhian dimension was added by King. The movement would have been one hand clapping if the executive branch hadn't joined in during the critical years between 1961 and 1965.

PATRICIA SULLIVAN: The decade from *Brown* to the civil rights legislation of the 1960s is often seen as a seamless march forward, but historians emphasize the tensions, divisions, and disagreements that often dominated what we call the civil rights movement. All of you were engaged in some way from the late 1950s onward. How did it look from your vantage point?

WILLIAM TAYLOR: With the advantage of hindsight, I can say that it was a movement with different methodologies, all of which were necessary. I remember being at the NAACP Legal Defense and Education Fund when Thurgood Marshall and Bob Carter²⁰ and others were still celebrating the *Brown* victory and thinking that people would adhere to the law because it was the law, it was the Constitution. Of course I knew nothing about race relations but Thurgood and others knew how deeply entrenched racism was and still they thought people would come around. Then massive resistance set in and, as Harris Wofford says, the federal government was of no help. Eisenhower opposed the *Brown* decision and said nothing about it.

The "Southern Manifesto," subscribed to by all of the major representatives of the South, was dominant in Congress.²¹ Senator William Fulbright came to the Supreme Court at the time of the Little Rock case which I was involved in and tried to file a brief on the side of the state.²² We were fighting massive resistance. King was fighting it in his way, but there were other elements.

The notion that the federal administration could do something under the president's power to take care that the laws were faithfully executed did contribute something. Harris would send me off on interesting missions. For example, the federal government could desegregate the cafeterias in its

own buildings but Southern landlords refused to desegregate cafeterias in buildings rented by the government. I was sent to jawbone the situation with a lawyer who represented landlords throughout the South and told him that the federal government would really like it if he would talk to his clients about opening up their cafeterias because that was national policy. He sat there and scratched his head and said, “You know, if you guys were from the FHA [Federal Housing Administration], I’d know how to deal with you.” He gestured in a way that suggested the offer of a bribe. But, “You’re talking civil rights; I don’t know how to handle that.”

Ultimately it took Kennedy’s and Johnson’s leadership in the executive branch, and the legislative branch weighing in with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, to make the difference.

Thurgood Marshall truly believed that Martin Luther King just made big messes that Thurgood and his lawyers had to come along and clean up. But I think even Thurgood might have admitted after a couple of drinks that the movement didn’t become real and tangible until King came along. In a sense, Rosa Parks was the first person to take ownership of *Brown v. Board of Education* and that is what is required in all these legal fights: people in the community have to take ownership of the decision and make it a reality.

So yes, there were different methodologies. Roy Wilkins, and others like Clarence Mitchell,²³ concentrated on federal legislation; Thurgood and his team worked on litigation; people inside and outside the federal government worked for implementation; and there were scraps and there were jealousies. But in the end there was a semi-harmonic convergence because all of these methodologies were necessary to produce the results that we began to get after 1964.

HARRIS WOFFORD: The goals were always very clear: winning the right to vote and ending publicly enforced segregation. Subsidiary to that was getting the schools desegregated pursuant to the Supreme Court decisions. Many people say correctly that we’ve done little in later years to fulfill the next stage of the civil rights revolution, but we should remember that by the end of those dozen years, the right to vote – the ending of racial discrimination in voting – was achieved. There’s been no falling back on that.

Secondly, publicly enforced segregation was ended in public accommodations. We still have all kinds of failures in housing and education but the

first two goals, those that were common to all the people working along different paths, were achieved.

BERL BERNHARD: I have a somewhat different point of view. What I saw in my involvement with a number of the groups, whether it was the Southern Christian Leadership Conference or SNCC [the Student Non-violent Coordinating Committee] or NAACP, was ferocious, not quiet, competition. It was competition for dollars. Some of the groups were running out of funds. Many people are probably unaware of one of the great funders of the movement: Stephen R. Currier, with his Taconic Foundation.²⁴ He probably contributed more money to advance the civil rights movement than anyone else, but he was infuriated by the drain on resources that resulted from the constant in-fighting among the groups. He called a meeting in his office in New York. Dr. King was there; so were Bob Kennedy and Roy Wilkins and Whitney Young and all the other movement leaders, and Steve's message was unequivocal. He said, simply, "I'm turning off the faucet. I want this fighting to end once and for all." Then Dr. King and Bob Kennedy had a real go-to. Bob said, "Well, I'm doing everything I can." And Dr. King said, "No, you're not."

At that time, the executive branch had committed itself totally to secure the right to vote. That was our mandatory responsibility at the Civil Rights Commission. But those of us who worked there believed that you could not denigrate other issues, like public education, housing, or the federal funds that were going to the states on a discriminatory basis. You may recall that at one point the Civil Rights Commission, out of utter frustration, issued a special report on Mississippi that stirred up quite a few people.²⁵ It said the United States should withdraw all funding from the state of Mississippi. It was not a quiet recommendation and President Kennedy was not pleased with it. In fact, at one point he said, "I'm actually thinking of cutting off funds for the Civil Rights Commission." But the fact was that those things, like the ending of discriminatory use of federal funds, were not a priority. It was talked about but nothing happened. At one point the president said he could end discrimination with a stroke of a pen (or we all said that he said that) but it never happened. Pens arrived at the White House in great numbers. Harris and Bill probably started that but the signing didn't happen.

Talking about Harris: there's something I would like to know. After we issued this report I had a call from Fred Dutton²⁶ who said the president wanted to talk with me. And I said, "On the phone?"

"No. Please come to the White House. He's quite upset with the Commission."

And I said, "Oh well, okay."

I got myself together and went to see the president. He held up the report and said, "This is not helpful."

"Mr. President, it was the unanimous view of the Commission, including both the southerners and the northerners."

He stopped and said, "Wait a second. Are you telling me that Erwin Griswold, the dean of Harvard Law School, signed this crazy report?"

And I said, "Mr. President, it was unanimous."

He stopped for another second. "How did Erwin Griswold ever become a commissioner?" he asked.

There was silence for yet another second and then he said, "Oh, I'm sure I know. It was a recommendation of that Harris Wofford."

HARRIS WOFFORD: The one stroke of a pen thing is a funny story that gets to the issue of executive action. One day during the summer of 1960, while the presidential campaign was still on, I was walking in Georgetown. That was just before I got sent down to work with Shriver on the Civil Rights Commission. Kennedy drove by in his convertible, picked me up and said, "All right. Now in ten minutes, going up to Capitol Hill, tell me what I ought to do to clean up this goddamn civil rights mess."

I started with point one: what you could do with executive power. For example, the Civil Rights Commission had recommended an executive order prohibiting discrimination in federally-assisted housing. "It's on President Eisenhower's desk," I told Kennedy, "and it's been there twelve months (or whatever it was). And with one stroke of a pen you can sign that executive order."

He said, "That's what I like to hear. One stroke of a pen."

Then I hastily went through other points while he was tapping impatiently as he drove the convertible up to the Hill.

So now we're at the second debate with Nixon and the civil rights question comes up. Kennedy said that discrimination in housing could be ended with a stroke of a pen, and that he would sign an executive order

doing so.²⁷ He loved the idea of executive action but Berl is quite accurate in conveying how rapidly it became clear that the executive action front was limited.

You could do all kinds of things that were small and we did some things that were more than small. At one time or another a potential executive action was cancelled because of the power of southerners in Congress and governorships. There was a point at which the signing of the executive order on housing had actually been set but the housing bill was still being considered by Congress.²⁸ The southern congressional leadership said, “If you sign that order we’re not going to put your bill through,” and of course Kennedy was operating with a very narrow margin.

Next was the 1962 by-election and Kennedy was told that if he signed the order he’d lose half a dozen of the congressional candidates he most wanted from the South. So it was delayed twice, and at that point the movement started sending pens with the words “one stroke of a pen.” They piled up and Kennedy is reported to have said, “Take those pens and put them on Wofford’s desk. It’s his doing.”²⁹

WILLIAM TAYLOR: I worked for three years on this executive action program and we got some things accomplished. I think the federal government helped project an image of concern. Cabinet officers would not speak at segregated gatherings, for example. But Kennedy, for the reasons you just indicated, was not willing to take on the battles that he would have had to take on with southern mandarins in the Congress. However, he himself was gradually educated, and when the violent reaction came to the King movement, when James Meredith was to be admitted to the University of Mississippi, it was fish-or-cut-bait time for President Kennedy, and he rose to the occasion.³⁰ And when violence continued, it created an atmosphere that touched the nation’s conscience for the first time and set up the ability to pass the Civil Rights Act in 1964. None of us could have foreseen that course of events.

Berl talks about the Civil Rights Commission’s long struggle to hold a hearing in Mississippi, which was blocked first by Eisenhower and then by Kennedy. I remember we went to the White House for an occasion that Louis Martin arranged, to celebrate the centennial of the Emancipation Proclamation. We met with the president (it was my first meeting with President Kennedy). The Commission had only one item on its agenda and that was the desire to

hold a hearing in Mississippi. The president said, “I don’t think that would be wise,” but we continued to press a little bit. And then one of our commissioners from the South who wasn’t always with the message said, “Well, maybe we could hold one in Alabama” – but we already had held one in Alabama.

So Kennedy paused for a minute and then he said, “Why don’t you go to Alaska? I understand they have some serious problems.”

But finally, in February 1965, when the country was in upheaval, when people began to understand that this problem wouldn’t just go away, we did hold a hearing in Mississippi.³¹ It took place in a very highly charged atmosphere, because we were hearing from people who were in constant danger, testifying about the right to vote and then about the administration of justice. That was a month before Selma and the Edmund Pettus Bridge. The hearing was the first time something like that had been shown on television in Mississippi and people got a chance to hear things that had been denied by their leaders for many years.

BERL BERNHARD: That raises an issue which has received only a little attention: the basic disagreement between the United States Commission on Civil Rights and the Justice Department. It was much more serious than people acknowledged. I’ll give you an example: Louisiana. We determined to have a hearing on deprivation of rights, particularly voting rights, in Louisiana. I was in New Orleans and issued subpoenas for about forty witnesses. Harris knows this because he was the chicken who called me that night and said he’d heard from the Attorney General and the Attorney General wanted to talk with me. And I thought, oh this will be fun. I couldn’t reach Bob Kennedy for a while. I finally reached him at home at about midnight and he said, “Harris tells me that you’ve issued subpoenas for registrars in a number of parishes in Louisiana.”

I said, “That’s absolutely true.”

He said, “I don’t want you to do that.”

I said, “But Bob, we’ve got a problem, because I’ve already issued them. Everybody knows who is being subpoenaed.”

“Withdraw them.”

I said, “Pardon me? We’re an independent commission.” And he said, “Right. Withdraw them.”

So I placed a call to Robert G. Story, one of our Commissioners, who had been designated presiding official for the hearing and was a former

president of the American Bar Association.³² I called him at about two in the morning and I said, “Dean, we’ve gotten directions from the Attorney General not to proceed with our hearing in Louisiana.” Silence.

I said, “Well, I don’t know what you want to do.”

He said, “I’ll tell you what you want to do. Withdraw the subpoenas.”

And I said, “Well, but everybody will know who we subpoenaed, both as witnesses and registrars.” I was concerned about their safety, but I finally decided I’d better call the Attorney General back to tell him that we were going to withdraw the subpoenas.

There was silence for a second after I got Bob Kennedy on the phone, at about 2:30 in the morning, and told him we were not going ahead. Then he said, “I mean it’s about time. I was wondering who in God’s name recommended you as staff director of the Commission.”

So that was the environment we had to confront. It wasn’t that Bob was doing something wrong; it was that we had a different view. We believed that it wasn’t just enforcement and seeing to it that violations could not occur but that you had to expose what was going on as a pattern, in an arena of violations, in order to make litigation meaningful. But that was not the view of the Justice Department.

WILLIAM TAYLOR: In 1965 Nicholas Katzenbach was the Attorney General and he didn’t trust me when I told him the Commission wanted to go ahead with the Mississippi hearings, even though I had told the members all of his objections. He called me several names, so we convened the Commission to enable Katzenbach to hear the members’ views directly. The Commission emphatically and unanimously said no to the Attorney General.³³

BERL BERNHARD: We were chicken.

WILLIAM TAYLOR: Different times.

HARRIS WOFFORD: Different Attorney General.

BERL BERNHARD: That’s it.

One of the problems was ongoing disbelief that things were as bad as we were reporting from the South and I think when we produced the first five

volumes,³⁴ which Harris was heavily involved in, there was not a dispute that I can recall about the factual reporting. There may have been disagreement about our recommendations but no one doubted that the report was factually accurate. One of the things that has concerned me and did concern me at the time was the disbelief on the part of key people at the White House who still did not understand that conditions were as bad as they actually were. In the two meetings I had with President Kennedy about our Commission report, one of the issues was that we had stated flat out that the United States government was supporting a set of plans to rebuild the Jackson airport on a segregated basis. The president said to me, “I’ve been told by the FAA [Federal Aviation Administration] that that’s not true.”

And I said, “Mr. President, I don’t think that we’re inaccurate on this.”

He said, “I’m told you are.”

And I said, “Would it be possible for me to supply some material?”

I went back to the office and found we had the plans for the Jackson airport, so I called Fred Dutton at the White House and said, “I really would like to see you because I think that the president is being misled about the facts.” I brought the plans in and the president saw me for a bit and he looked at the plans and said, “Tell him [the head of the FAA] I want this stopped immediately.”

When we had something that concrete we got a good response, but that degree of documentation wasn’t easy to get. It was a hard time.

HARRIS WOFFORD: Looking back, I have even more sympathy for the problem of timing and of deciding when to go forward. I think if President Kennedy had gone forward seeking a full civil rights bill from Congress in his first year he would have been badly beaten, because the time was not ripe. Lincoln waited and waited until he thought the moment had come when he could move the Emancipation Proclamation. If he had done it earlier, it probably would have lost the war for him. The problem is how you let the American political process ripen, how you assess the reasoning together that is required by our system of checks and balances and separation of powers. It can be terribly frustrating to endure the long process of hard persuasion, not just among branches of government but among all the forces that exist in our society.

WILLIAM TAYLOR: Harris, I don’t want to start an argument so late in our harmonious conversation but while I’d like to think that Kennedy was just

biding his time waiting for the right moment, I think his understanding of the depth of the problem of civil rights was fairly shallow when he became president, and that it was only as time went on that he began to understand what a serious problem it was and what needed to be done about it.

HARRIS WOFFORD: I think he was weighing it hard from the moment he became president and even earlier, when he went into the 1960 convention. He and Robert Kennedy gave the signal to go ahead with the strongest civil rights platform the Democratic Party had ever considered. So I disagree with you in part.

BERL BERNHARD: He was a believer in a rational, ordered world and he didn't like things that didn't conform with the rational.

HARRIS WOFFORD: But he had a comic approach to politics that let him understand human beings. That, I think, was a central part of John Kennedy's charm: a sense of humor that was based on his sense that the human condition is comic.

BERL BERNHARD: I don't disagree with much that's been said. I always had the sense of where the Civil Rights Commission and the whole issue stood with the administration when I'd call Ken O'Donnell because he seemed to be the one who could move things. I had the same response every time. Someone would answer, "Who is this?"

I'd tell him.

"Just a moment."

Then Ken would pick up the phone and say, "The answer is no, what's the question?"

HARRIS WOFFORD: A word of tribute to Lyndon Johnson. In 1957 there was a major effort to pass the first civil rights bill since Reconstruction. It became a major disappointment for those pushing for a strong civil rights bill because all that anyone could get out of Congress at that point was a bill that gave some additional powers to the Justice Department to pursue denial of the right to vote on the basis of race, and that created an independent Commission on Civil Rights to investigate sworn allegations of denial of the equal protection of the laws or the right to vote. The civil

rights movement was very divided as to whether to take this little piece or to say we'd rather have nothing. And Lyndon Johnson said, "If we pass this not only will the Civil Rights Commission go to work and throw light on problems but every Congress thereafter will feel that it has to pass some civil rights bill."

Let me add one other thing about Lyndon Johnson. I went to see Roy Wilkins before the convention in the spring of 1960, to get his support for Kennedy. Roy said, "Harris, if I told you the truth as to who I think has the most fire in his belly on civil rights and would do the most as president you might be surprised, because it's Lyndon Johnson. I think it's genuine and he knows what racism is doing to the South, corrupting the politics of the South. But I don't dare say it for two reasons: my constituency wouldn't believe it, I'd be losing them, and I'd lose my wife. She's not only a Roman Catholic but she loves John Kennedy and I wouldn't be able to sleep with my wife if I supported Lyndon Johnson and not John Kennedy."

That's Lyndon Johnson. If he had not led us deeper and deeper into Vietnam, he would go down as the great civil rights president of the United States, and he still deserves having that part of his record recognized.

BERL BERNHARD: I had the good fortune to do oral histories at the Kennedy Library with Dr. King, Roy Wilkins and Thurgood Marshall, each of whom talked about Lyndon Johnson.

Thurgood, who denigrated Kennedy, said Johnson was the greatest civil rights president we'll ever see. There's no question that all three believed deeply that Johnson had the fire in the belly that you're talking about, Harris, and that he was committed and capable of accomplishing what no one before him could do.

WILLIAM TAYLOR: I do agree he was the great civil rights president. Johnson asked the Civil Rights Commission to undertake a report on racial isolation in the public schools of the north and west of this country.³⁵ That came under the heading of, "When you've got a difficult problem and you know you're not going to solve it, get somebody to study it." We studied it. I thought we had quite a remarkable group of people, not just the lawyers for once, but the educators and teachers and policy advocates and we came out with this report. Before we issued it to the public we went to Harry McPherson, who was chief counsel at the White House at the time,

who arranged an appointment for us with Johnson. The president had read or been extensively briefed on the report. We had talked in it about peer group influence on children and how that could affect their achievement. Johnson said, “I know exactly what you’re talking about because I can see the difference in the academic performance of my two daughters between when they were attending school in Texas and now when they’re attending the National Cathedral School here in Washington.”

Then he talked about his own experiences as a young teacher in West Texas, teaching little Mexican kids and feeling, as he said, they could learn but just weren’t getting enough opportunity. He was very thoughtful about these issues; he felt them in his gut. At the end of our meeting with him, which went on for more than an hour, Harry told us that it was the longest meeting Johnson had on a domestic subject since the Vietnam War had heated up.

BERL BERNHARD: He wasn’t always so thoughtful. I spent six months as director and counsel of that White House conference. I worked my tail off and thought I had been brilliant. The night of the conference Johnson came over as he was leaving. We had had a lot of controversy and I thought he was going to tell me what a remarkably wonderful fellow I was. As he walked past me, however, he leaned over and said, “You couldn’t find your ass with both hands.”

One of the grand things that can happen if you work really hard and do something for the president is get an invitation to a White House dinner. I had an invitation to a state dinner for Chancellor Konrad Adenauer of Germany and I thought boy, I was in high cotton. As I went through the receiving line, Johnson saw me and said, “Mr. Chancellor, I want to tell you something. The president of the United States couldn’t operate but for these young people who dedicate themselves to help their country and the president of the United States. There’s no one that’s done a better job.” At that moment I was convinced that I was the most important person in the United States. Well, before that dinner Bill Moyers had called up and said the president wanted to nominate me as Chairman of the Equal Employment Opportunity Commission.³⁶

And I said, “Not in this lifetime. I’ve just finished four years at the Civil Rights Commission, that’s enough, and I’m moving on. Please don’t allow him to do that because I know the pressure. Please, I don’t want to do it.”

So after the president tells me what a great person I am and I'm very gratified by it, I shake Adenauer's hand, and suddenly I feel this arm on my left shoulder. Johnson spins me around, leans over and says, "And I thought you were sincere about civil rights."

HARRIS WOFFORD: I'd like to say a word for Robert Kennedy. When Burke Marshall was asked, "Can you give the trajectory of Robert Kennedy on civil rights?," he used to like to say, with his arm going up, "Starts down at ground zero and takes it all the way up."³⁷

By the time Robert Kennedy was killed I don't think there was anyone in this country more passionately committed to using all of his power to end racial discrimination, end poverty, and end the war in Vietnam – an amazing transformation. Part of that transformation came from the furnace of the civil rights issue. He wished the cup had passed from him in those first years but it was there thanks to the movement and thanks to the people who went to jail and people like the little girls who died in the Birmingham church. It was that kind of fiery trial that resulted in the transformation of Robert Kennedy.

PATRICIA SULLIVAN: Here's a question about the limitations within the government and what was expected and the pressure or expectations from outside. In his recent autobiography *Mirror to America*, John Hope Franklin describes how he was asked by the Commission on Civil Rights in 1962 to write a history of civil rights in the United States as part of the celebration of the 100th anniversary of the Emancipation Proclamation. In the end, the Commission basically rejected his piece. In Dr. Franklin's words, "anticipating a story in a celebratory key, they [the Commission] were thrown by my darker history of civil rights that indicated how much remained to be done."³⁸ The Commission asked for revisions. When Franklin did not revise in a manner that suited the Commission, noting, "I am afraid I cannot 'tidy up' the history Americans themselves have made," other arrangements were made and in the end *Freedom to be Free* was issued as a staff report.³⁹ Franklin says in his book that he continues to feel that he was used by the government.⁴⁰

BERT BERNHARD: I'm the culprit. I was there when it was written, I was there when we had the request from the president to do it. What Dr.

Franklin did (and Dr. Franklin and I talked about this very issue when he received an honorary degree at Dartmouth two years ago) was write a very good piece, but I told him I thought it was unbalanced. I thought that there had been more progress made than he recorded. If you look at the report you'll see that a significant part of the report contains a history of all the lynchings, brutality and deprivations. Dr. Franklin and I had a disagreement because the administration believed there had been significant progress made over that 100 years since emancipation. And Dr. Franklin, wonderful as he is, felt that his work and thoughts were sacrosanct and he did not intend, no matter what we said, to have them changed or modified. I thought we had an understanding that it would be a balanced report and that we wanted to record the deprivations but we also wanted to record what we saw as significant progress. When I talked with Dr. Franklin about it up at Dartmouth, he still felt that less progress had been made than we believed, and that certainly is a legitimate area of good faith disagreement.

WILLIAM TAYLOR: John Hope Franklin is one of my heroes. He is absolutely remarkable in the clarity of his vision. At the same time I agree with Berl, because so many people these days seem not to understand the extraordinary progress that has been made since the 1960s. If you don't believe, after all that blood and all that sacrifice, that progress has been made, I don't know how much hope you can have for the future of this country.

PATRICIA SULLIVAN: Let's remember that the report was written in 1962, not 2006, when the situation looked quite different from the way it may appear today. I think there will have to continue to be disagreement about whether or not Dr. Franklin, writing in 1962, may have been correct.

HARRIS WOFFORD: There's one thing that we have left out. We have talked about heroes, but we have left out the villain. I don't usually demonize people but we have not discussed a terrible force that existed during all of these years: J. Edgar Hoover and the FBI. Hoover was taping and seeking to get dirt on this new Negro leader Martin Luther King. By the time King received the Nobel Peace Prize in 1964, he was obsessed with destroying King – I mean literally finding a way to destroy him as a force in American life. Many of King's achievements and failures during his last years took

place under the shadow of Hoover and his FBI, who were not only forging things and sending them to stir up people but doing things like sending Hoover's top agent Sullivan to see the mayor of Chicago and the Cardinal of Chicago and the publisher of the *Atlanta Constitution* to tell them King was communist-led and misbehaving sexually. Hoover publicly called King the greatest liar in America.⁴¹

Racial hatred was not limited to the deep South. One of the reasons John and Robert Kennedy were worried about how far and how fast they could push was that they knew the whites of South Boston. They anticipated a backlash, and the backlash did come. Lyndon Johnson liked to say that by signing the Civil Rights Act the Democrats were giving up the South for twenty years or something like that. The race poison is deep in so many places in this world.

BERL BERNHARD: Back in the 1960s we issued a report called *Justice*.⁴² I believe that was the first time any entity of the United States had criticized the performance of the FBI. There had been complaints about police brutality, and I would say it was second only to voting rights in priority. When it got such complaints, the FBI would do what it traditionally did, which was notify the local police so that they could have a cooperative investigation. That was a disaster in the civil rights area and we so stated in footnotes. We were very careful not to put that in the text.

Mr. Hoover called and demanded a meeting with me and John Hannah, who was chairman of the Commission.⁴³ I asked Senator Philip A. Hart of Michigan, who was on the Judiciary Committee, to come with us, because I was only about 30 years old and I didn't think I was much of a match for Mr. Hoover. We went over there and he ripped us up pretty badly. Then he appointed an agent to work "with" us, and that agent was there every day the rest of my period at the Civil Rights Commission – so I was well protected!

WILLIAM TAYLOR: You had him attached to me after you left.

BERL BERNHARD: That was fine with me because I was gone.

I believe much of what Hoover did can be attributed to the fact that he had total hegemony and total power. He had a fiefdom. He ruled by fear. He had material on everybody in the government and they were all afraid of

how he would use it. Everyone was afraid to touch him. It was a spectacular display of how to use power and generate the untouchable capability to do whatever you want.

HARRIS WOFFORD: You have to add that when Kennedy became president, the Gallup polls showed J. Edgar Hoover as one of the people the American people most admired. So when Kennedy reappointed Hoover in one of his first acts after election, having won an election by a slim 100,000 votes, it was out of the sense that Hoover carried such a large part of the American people with him.

BERL BERNHARD: We all knew during that early period that if you were nominated for something and you had to go through the advice and consent route, you would have trouble if you'd ever done anything that might be questionable as far Mr. Hoover was concerned. For example, after our *Justice* report came out, I made a statement to the effect that we were concerned about the FBI's notification to the local police every time we ran a civil rights brutality investigation. As a result of that statement, Mr. Hoover decided I was a dangerous fellow. In fact, it was because of Mr. Hoover that I was hauled before the Subversive Activities Control Board in the Senate and the Un-American Activities Committee. When the investigation for my confirmation hearing was given to the Attorney General, Bob Kennedy called me up and said, "I don't think I can send this to the Hill; there are some damaging things in here." Well, one of the damaging things was that I lived in Marathon, Florida for a long time and I had raised hell about the fact that we only had one movie theater between Key West and Homestead and the owner wouldn't allow Negroes in. I had a bit of a confrontation about that while I was still in high school.

Then later there was the incident at Maxwell Air Force Base in Montgomery, Alabama. When we held our first voting rights hearing, we couldn't find a place for the Commission to stay in Montgomery itself. It was all segregated. We had Negro members of the Commission and staff so we ended up having to stay at Maxwell Air Force Base. The upshot was that at the Officer's Club, four of us were having dinner: me, two female officers and one unknown person. Well, suddenly I see this thing, in the report on me prepared by the FBI, about a dinner for me and two women and a mysterious and therefore

suspect other person, and Bob Kennedy read it and he said, “Now, how can I send this [your nomination to office] up?”

And I said, “I don’t remember, Bob, what...” and it suddenly occurred to me. I said, “Bob, if I dial a number, will you talk to the person on the other end? It might explain the situation.”

“Yes. I’ll do it now.”

So I dial the number. The next thing Kennedy breaks out in a big smile and says, “It was you, Father Ted?” It was Father Theodore Hesburgh I was with, with the two female officers.⁴⁴

That was the kind of misused power Hoover wielded: if he was down on someone, he could, through fictional distortion, destroy a confirmation.

PATRICIA SULLIVAN: What is the unfinished work of the civil rights movement?

WILLIAM TAYLOR: We now have an African-American middle class that is three or four times the size of what it was in the 1950s, but we also have a growing gap between the haves and have-nots in this country. This engine of capitalism has produced wealth that is almost obscene in some cases and meanwhile people at the bottom of the pole are slipping away. We don’t have the confidence in government that we used to have, for good reasons. The safety net is being shredded. I think we’ve got to find some ways to bridge that gap, which is largely but not entirely a racial gap. It includes ethnic groups, it includes people with disabilities. I’m glad to see a lot of young people who are the inheritors of the civil rights movement taking this on in one way or another. So as gloomy as some of us are about the current political scene, I think there’s an agenda to work on.

HARRIS WOFFORD: In his last months, Dr. King pointed to what he thought would be the next stage of civil rights. He had been to the mountaintop and he had seen the promised land but he said there are still mountains to climb. He was focused specifically on the mountain of poverty and race and their intersection, and on education. When the black power slogan “Burn Baby Burn” became the slogan of the riots, King said, “It’s not Burn Baby Burn; it’s Learn Baby Learn and Build Baby Build.”

Education is at the very heart of the attempt to climb the mountain of what is only partially racial inequality in this country. We have to see that

every child in this country has access to health care, has a good education, has a caring adult, and has an opportunity to learn citizenship by practicing it. This is the kind of thing King was talking about. The Poor People's March was the last thing that he was setting out to do before he was killed.

BERL BERNHARD: The problems have become much more diffuse and complex. It is one thing to have knocked down the legal barriers; it is quite another to try to formulate what kind of education, what kind of programs will make a real difference in the inner cities. This is extraordinarily difficult. With all the criticism that he took for his book, Pat Moynihan pointed out something about the difficulties of the inner cities, the problems of housing, and the problems of single parent families.⁴⁵ We haven't dealt with that adequately. We have to focus on it piecemeal because it is so complicated. It seems to me you can't just do it in macro terms: we must do something specific about education (and we know more now) as well as family needs. It has to be much more specific and I don't think we know what to do. The only way we'll find out what to do is not through Civil Rights Commissions or anything like them but by carefully analyzing need and fashioning programs to cope with it, and by assuring long-term financing to lift up those left at the bottom of the heap. Find the will and find the money: it must happen.

WILLIAM TAYLOR: I do think we know some things to do in education and elsewhere. It is a question of will and support on the part of the American people, on our willingness to commit resources. The fact of the matter is that in education the worst conditions for a good education are concentrations of poverty. There are two groups in this nation in highly concentrated poverty: black people and Latinos. (Native Americans who live on reservations are also isolated from the mainstream.) We know that there are policies that could ameliorate that situation.

I have a case in St. Louis that I have had now for 20 years.⁴⁶ Every year 12,000 or so mostly African-American kids, 75 percent of whom are on free and reduced priced lunches, opt to go to school in middle class suburbs. And they achieve, they graduate from high school at two or three times the rate of the kids who are in the inner city, and they go on to college. That's just one example.

I think there are things that we know how to do if we'll focus on them and try to get some support behind them. It is a question of national will.

NOTES

1. *Brown v. Board of Education*, 347 U.S. 483 (1954).

2. **William Taylor** went to work for Thurgood Marshall at the NAACP Legal Defense and Education Fund in 1954, shortly after graduating from Yale Law School. In the 1960s he served as General Counsel and later as staff director of the United States Commission on Civil Rights. In 1970, Mr. Taylor founded and became director of the Center for National Policy Review, which helped secure major desegregation victories in Wilmington, Indianapolis, St. Louis, and Cincinnati. He has long been a leader of the Leadership Conference on Civil Rights (which he currently serves as Vice Chairman) and helped it play a major role in bringing about the 1982 extension and strengthening of the Voting Rights Act of 1965. More recently, he helped lead successful efforts to enact the Civil Rights Restoration Act of 1988, the Civil Rights Act of 1991, and the 1993 National Voter Registration Act. Mr. Taylor was a founder and now serves as the Chair of the Citizens' Commission on Civil Rights, a bipartisan group of former federal officials which has monitored federal civil rights policies and enforcement efforts since the early 1980s.

Berl Bernhard is a partner at DLA Piper Rudnick Gray Cary. He was the staff director of the United States Commission on Civil Rights during the administration of President John F. Kennedy, and in 1966, during the administration of President Lyndon B. Johnson, he served as special counsel and director of the White House conference "To Fulfill These Rights." Mr. Bernhard was a trustee of the first Board of Higher Education of the District of Columbia (1966-1968) and, in 1991-1996, was chairman of The Aspen Institute. His career in politics included serving as Senator Edmund S. Muskie's national presidential campaign manager in 1971 and 1972 and as national finance chairman for Senator Ernest F. Hollings' reelection campaigns of 1986 and 1992. His numerous other positions have included trustee of Dartmouth College, special counsel to the trustee of Eastern Airlines and to the chairman of Northwest Airlines, lead lawyer in Pan American World Airway's acquisition of National Airlines, and representative of Pan Am and Intercontinental Hotels Corporation at the Hague in their effort to recover Iranian assets.

Harris Wofford, a member of the U.S. Senate from 1991 to 1995, was most recently chairman and then co-chairman of America's Promise: The Alliance for Youth (2001-2004) and Chief Executive Officer of the Corporation for National and Community Service (1995-2001). He is currently a Senior Fellow at the Case Foundation. Early in his career, he was counsel to the Rev. Theodore Hesburgh of Notre Dame on the first U.S. Commission on Civil Rights and then a special assistant to President John F. Kennedy, chairing the Subcabinet Group on Civil Rights. While

on the White House staff, Senator Wofford helped create the Peace Corps, which he subsequently served in Africa and as its associate director (1962–1966). He was president of the State University of New York–Old Westbury, 1966–1970, and of Bryn Mawr College 1970–1978. As a member of the Senate, he helped secure passage of the National and Community Service Trust Act, which created AmeriCorps and the Corporation for National and Community Service. A former professor of law at the University of Notre Dame, Sen. Wofford is the author of *Of Kennedys and Kings* and co-author of *India Afire*. He is now completing *Slightly Mad: Stories of Ideas, People and Politics from an Elder of the Tribe*.

3. **Patricia Sullivan** is associate professor of history and African American Studies at the University of South Carolina. She is the author of *Days of Hope: Race and Democracy in the New Deal Era*; editor of *Freedom Writer: Virginia Foster Durr, Letters from the Civil Rights Years*; and co-editor of both *Civil Rights in the United States* (two volume encyclopedia) and *New Directions in Civil Rights Studies*. She is also co-author of *Racial Desegregation in Public Education in the United States*, a Department of Interior report published in 2000, and is currently completing *Struggle Toward Freedom: A History of the NAACP*, which she worked on as a Fellow at the Wilson Center. The former assistant director of the Center for the Study of Civil Rights, Carter G. Woodson Institute of African and Afro-American Studies at the University of Virginia, Prof. Sullivan has co-directed a number of NEH Summer Institutes on the civil rights movement for Harvard University faculty and is co-editor of The John Hope Franklin Series in African American History and Culture, published by the University of North Carolina Press.

4. Roger Wilkins, the Clarence J. Robinson Professor of History and American Culture at George Mason University, was a leader of the campaign against apartheid in South Africa. A former Assistant Attorney General, member of the editorial boards of *The Washington Post* and *The New York Times*, and Pulitzer Prize winner for his work on Watergate, he is also past chair of the Africa–America Institute and current Chairman and Publisher of the NAACP’s *The Crisis*.

5. William L. Taylor, *The Passion of My Times: An Advocate’s Fifty-Year Journey in the Civil Rights Movement* (Carroll & Graf Publishers, 2004), p. xv.

6. The German-American Bund, which spread pro-Nazi and anti-Semitic propaganda, was active primarily in New York and Chicago in the 1930s. It was outlawed in December 1941 when the United States entered World War II.

7. Louis E. Martin (1912–1997) was a Chicago journalist who had organized a pro-Roosevelt campaign in the black media when President Franklin D. Roosevelt was running for reelection in 1944 and who had long advocated equality in housing and in wartime employment for African Americans.

8. Clare and Harris Wofford, Jr., *India Afire* (John Day Co., 1951).

9. In *Plessy v. Ferguson*, 163 U.S. 537 (1896), the Supreme Court held that

state-sanctioned segregated railroad cars were constitutional. The only dissenter was Justice Harlan, who famously declared, "Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law." *Plessy v. Ferguson*, at 163 U.S. 558.

10. Taylor, *The Passion of My Times*, pp. 55-56.

11. Elizabeth Reeves, who taught English at Howard University, was married to civil rights attorney Frank Reeves. See note 16 below.

12. "To Fulfill These Rights," held on June 1-2, 1966, was convened by the Johnson administration. Designed to suggest how the promise of racial equality could be achieved, it focused on economic security and welfare, education, housing, and the administration of justice.

13. Kenneth P. O'Donnell, who had directed Kennedy's reelection campaign for the Senate in 1958, was the organizer and director of Kennedy's presidential campaign schedule. He later became Special Assistant to the President, 1961-1965.

14. Journalist John Seigenthaler served as administrative assistant to Robert F. Kennedy in 1961-1962.

15. Senator James O. Eastland from Mississippi was an ardent segregationist. He served in the Senate from 1941 to 1978 and, at the time of the Marshall nomination, was Chairman of the Senate Judiciary Committee.

16. Frank D. Reeves (1916-1973) received his law degree from Howard University in 1939. During the 1950s he worked for the NAACP, helping to fashion the litigation that ultimately resulted in *Brown v. Board of Education*. He was an advisor on minority affairs to Senator John F. Kennedy during his campaign for the presidency, a role he repeated during the Kennedy administration. Reeves, the first African-American member of the Democratic National Committee (1960), became counsel to the Southern Christian Leadership Conference, co-founded the National Conference of Black Lawyers, and helped negotiate both the 1963 March on Washington for Jobs and Freedom and the Poor Peoples Campaign (1967).

17. Labor and civil rights leader A. Philip Randolph (1889-1979) was one of the founders of the Brotherhood of Sleeping Car Porters in 1925 and became its president in 1929. A major figure in the American Federation of Labor beginning in the 1930s, Randolph organized the 1941 March on Washington that resulted in an executive order banning discrimination in defense industries, as well as numerous subsequent demonstrations. He was one of the main organizers of the 1963 March on Washington.

18. The Fellowship of Reconciliation (FOR) is a pacifist, Quaker-founded interfaith organization. James L. Farmer, Jr. (1920-1999) was its secretary for race relations during the 1940s. He was one of the co-founders of the Congress on Racial Equality (1942) and eventually became chairman of it as well as one of the leaders of the civil rights movement. He received the Presidential Medal of Freedom from President Bill Clinton in 1998.

19. William Stuart Nelson (1895-1977) was dean of Howard University's

School of Religion from 1940 to 1948. He had been the first black president of both Shaw University (1931–1936) and Dillard University (1936–1940). While at Howard, Nelson founded the *Journal of Religious Thought* and taught about nonviolence.

20. Robert L. Carter (1917–) began working for Thurgood Marshall at the NAACP Legal Defense and Educational Fund (LDF) in 1944. He was one of the lead attorneys on integration cases, including *Brown v. Board*. When the NAACP and the LDF separated as organizations for tax reasons in 1956, Carter became general counsel of the NAACP. Over the course of his career at the LDF, Carter argued or co-argued and won 21 of 22 cases in the Supreme Court. He was appointed as a judge of the U.S. District Court for the Southern District of New York in 1972.

21. In March, 1956, 19 U.S. Senators and 81 Representatives from the South signed a “Southern Manifesto” calling *Brown v. Board* and other educational integration decisions “a clear abuse of judicial power” and commending resistance to “forced integration.” 102 Cong. Rec. 4515–16 (1956).

22. Following the logic of the Southern Manifesto, the governor and state legislature of Arkansas refused to obey court rulings ordering school desegregation and claimed that the states had the same power as the Supreme Court to interpret the Constitution. A federal court in Arkansas suspended desegregation in Little Rock because of community violence. On appeal, the Supreme Court ruled unanimously in *Cooper v. Aaron* (358 U.S. 1 [1958]), with all nine justices taking the unusual step of signing their names individually to the decision, that court desegregation rulings handed down on the basis of *Brown v. Board* were the law of the land and could not be ignored by the states.

23. Roy Wilkins (1901–1981) edited the NAACP’s *Crisis* from 1934 to 1955. From 1955 to 1977, he was executive secretary/executive director of the NAACP, and in that position he consulted on civil rights with presidents John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, and Jimmy Carter. He was a moving force behind many of the major civil rights demonstrations, including the 1963 March on Washington, and was awarded the Presidential Medal of Freedom by Lyndon Johnson in 1967. Clarence Mitchell, Jr. (1911–1984) was a lobbyist for civil rights in his position as Washington representative of the NAACP. He played an important role in the passage of the 1957 Civil Rights Act, the 1960 Civil Rights Act, the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Fair Housing Act. He was awarded the Presidential Medal of Freedom by Jimmy Carter in 1980.

24. Socialite-philanthropists Stephen R. and Audrey Currier used their Taconic Foundation to support the civil rights movement until their deaths in 1967. The New York meeting was held in 1963.

25. U.S. Commission on Civil Rights, *Interim Report of the United States Commission on Civil Rights*, April 16, 1963.

26. Frederick G. Dutton (1923–2005), a long-time Democratic political strategist, was the Special Assistant to President Kennedy for

Interdepartmental Affairs and Secretary to the Cabinet and Special Assistant for Intergovernmental Affairs, 1961-1962, as well as Assistant Secretary of State for Congressional Relations, 1962-1964.

27. From the transcript of the 2nd Kennedy-Nixon debate, October 7, 1960: Kennedy: "What will be the leadership of the president in these areas to provide equality of opportunity for employment? Equality of opportunity in the field of housing, which could be done on all federal supported housing by a stroke of the president's pen... And I can assure you that if I'm elected president we will do so." Available at <http://www.debates.org/pages/trans60b.html>.

28. The Housing Act of 1961, enacted on June 30, 1961, provided low-interest mortgages and loans for housing for low- and moderate-income families and for the elderly.

29. On November 20, 1962, President Kennedy signed Executive Order 11063. It prohibited racial discrimination in housing built, purchased or financed with federal assistance, and established the President's Committee on Equal Opportunity in Housing.

30. In 1962, James Meredith became the first black student at the University of Mississippi. His admission had to be ordered by the U.S. Supreme Court, and Attorney General Robert Kennedy sent federal marshals to prevent Meredith from being lynched. The ensuing riots resulted in 160 marshals being wounded and in the deaths of two civilians.

31. The results were reported in United States Commission on Civil Rights, *Voting in Mississippi: a Report of the United States on Civil Rights* (Government Printing Office, 1965).

32. Robert G. Storey (1893-1981) was dean of the Southern Methodist University School of Law from 1947 to 1959. He was president of the American Bar Association in 1952-1953, president of the Inter-American Bar Association in 1954-1956, and vice chairman of the Civil Rights Commission from 1957 to 1963.

33. In January 1965, the Civil Rights Commission was planning a February hearing about enforcement of voting rights in Mississippi. Attorney General Katzenbach asked the Commission to postpone the hearing because he feared it would interfere with the trial of 19 men in Mississippi charged with the murder of civil rights workers James Cheney, Andrew Goodman and Michael Schwerner. Burke Marshall, head of the Justice Department's Civil Rights Division, did not think there would be a conflict. The Commission decided to go ahead with the hearing, and subsequently issued a report urging the federal government to take additional steps to secure voting rights in the state. See note 31, above.

34. U.S. Commission on Civil Rights Report, Book 1: *Voting*; Book 2: *Education*; Book 3: *Employment*; Book 4: *Housing*; Book 5: *Justice* (U.S. Commission on Civil Rights, 1961).

35. The White House conference "To Fulfill These Rights." See note 12, above.

36. Bill Moyers was special assistant to President Johnson, 1963–1967.
37. Burke Marshall (1922–2003) was U. S. Assistant Attorney General, Civil Rights Division, Department of Justice, during the Kennedy and Johnson administrations (1961–1965). He was particularly important in achieving the government’s 1961 ban on segregation in interstate travel, the desegregation of the University of Mississippi in 1962, and passage and implementation of the Civil Rights Act of 1964.
38. John Hope Franklin, *Mirror to America* (Farrar, Straus and Giroux, 2005), p. 197. The Civil Rights Commission wanted the history to be ready in time for the centennial of the Emancipation Proclamation on January 1, 1963.
39. Franklin, op. cit., p. 198. The rewritten report, United States Commission on Civil Rights, *Freedom to Be Free: 1863–1963, The Century of Emancipation* (Government Printing Office, 1963), was distributed at a White House celebration of President Lincoln’s birthday on February 12, 1963.
40. Franklin, op. cit., p. 200.
41. In 1964, J. Edgar Hoover responded to Dr. King’s criticism of the FBI for inadequately responding to civil rights complaints by stating publicly that King was “the most notorious liar in the country.” Dr. King responded, “I cannot conceive of Mr. Hoover making a statement like this without being under extreme pressure. He has apparently faltered under the awesome burdens, complexities and responsibilities of his office, therefore, I cannot engage in a public debate with him. I have nothing but sympathy for this man who has served his country so well.” Martin Luther King, Jr., “Martin Luther King’s Reaction: A Statement and a Disagreement,” *U.S. News and World Report*, November 30, 1964, available at http://www.thirdworldtraveler.com/NSA/Vendetta_MLK_LS.html.
42. U.S. Commission on Civil Rights Report, *Justice* (1961).
43. John A. Hannah (1902–1991) was president of the Michigan State College of Agriculture and Applied Science from 1941 to 1969. He was Chairman of the Commission from 1957 to 1964.
44. Rev. Theodore S. Hesburgh (1917–) became president of Notre Dame University in 1952 and remained in that position until 1987. He was a member of the U.S. Commission on Civil Rights from 1957 to 1972.
45. Daniel Patrick Moynihan, *The Negro Family: A Case for National Action* (U.S. Department of Labor, 1965).
46. *Liddell v. Board of Education*, 731 F.2d 1294 (8th Cir. 1984), cert. denied, 469 U.S. 816 (1984). The settlement in the case, which began in 1972, has been updated and improved over the years. A review of expert testimony and educational results is in William L. Taylor, Dianne Piché and William T. Trent, eds., “The Role of Social Science on School Desegregation Efforts: The St. Louis Example,” 66 *Journal of Negro Education* 195 (1997).

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