

INTERVIEWEE: MARY D. KEYSERLING (Tape 1)

INTERVIEWER: DAVID G. McCOMB

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M: The machine is on. You were going to tell me about a Cabinet meeting?

K: I don't know how you want to organize this.

M: Well, let's talk about the Women's Bureau and (Mr.) Johnson's interest in it; his policies toward women. I understand that he has been greatly interested, more so than other Presidents, in minority groups and women working in government, and in problems of women, and I'd like to explore this to see if it's true or false.

K: It's very, very true. Let me go back to the days of my appointment. The story begins, for me, with a dinner on March 4 in 1964--the occasion of the first annual presentation of the Eleanor Roosevelt Award.

M: You might explain this award.

K: Each year at the Women's National Press Club, for many years an award has been given to an outstanding woman. On this particular occasion, President Johnson was to be the speaker. It's a dinner honoring Mrs. Roosevelt and the women who followed after in her tradition of contribution to the country. It was on that occasion that the President announced the appointment of 10 women to high level government posts. My appointment to direct the Women's Bureau was among them.

M: Was this a surprise to you, incidentally?

K: It was a surprise that it was announced. The previous week the Secretary of Labor had discussed with me the possibility of my accepting the Directorship if this were offered to me. And as I remember he had asked me on Friday whether I would take this job. I had had previous jobs offered to me by members of the Administration.

M: The President was familiar with you? He knew you--

K: I had known the President--perhaps I can go back to that--and I had known Mrs. Johnson over the years in quite a number of ways. But perhaps we can go back to that a little later on.

On that Friday, the Secretary had said that he would like my answer by the following week, and I hesitated to say yes very quickly. I was engaged in work in which I was tremendously interested. This was a very challenging job. I had never worked on the problems of women only; my work in economics had, over the years, been concerned with the welfare of people as people, and not primarily with special problems which women confront. On Tuesday afternoon I got a telephone call saying, "I'd like you to do this," and I found myself saying, "Yes, sir."

M: This was the President who called you?

K: Yes. But I had said that because I was very closely involved in the work that I was doing; it would be helpful if I might be given a few weeks before I would be expected to be on deck, and that it might be helpful in connection with the work that I was then concluding, if it weren't publicly announced. No one had said, "Yes, ma'am," but I had assumed that was so. The following Tuesday evening I went with friends as their guest to the Eleanor Roosevelt Award dinner, knowing

that there'd be appointments made because at a President's Cabinet meeting in January of '64, the President had said that he intended to appoint a good many women to government posts. He had said he considered the talents of women extremely important and under-utilized, and that our country needed to draw more fully on these talents, not only in government, but in the country as a whole. As I remember, late in January, he said that he would appoint some fifty women within about six weeks, not because it was "politic" but because it was "sound." And so I thought it is possible that some of these appointments would be announced at the award dinner, but that my appointment would not be.

The President made a wonderful speech. To my surprise, when the President read his list of appointees, my name was among them. I was on deck a few days thereafter, and these years with the Women's Bureau have been some of the most challenging and heart-warming experiences that anyone could have.

This has been a period, these years since '64--these four-and-a-half years, almost five now--to my mind, of unprecedented progress in the life of women. I think women have realized more gains in many ways during this period than at any comparable period in our history. Of course, there were tremendous gains earlier in the winning of the vote, but this was a period of settling down to some of the hard realities of specific jobs that had to be done, if the talents of women were to be drawn on more fully.

M: Can you explain this in more detail?

K: Yes, I can.

M: You're talking about great gains being made, specific jobs. What do you mean?

K: Well, it has been a period of very specific gains. In 1963 an equal pay act had been passed by Congress.

M: So that women would be--

K: No women--that all people who do work of equal skill, equal effort, and equal responsibility, would be compensated equally. This was the beginning. We were moving into a period--let me put it this way--moving into a period of commitment to equality of opportunity for people. It seems to me it has been a period of more intensified democratic commitment than any that preceded it. Now, I know that's a very strong statement, but I really believe that this is true. My admiration for President Johnson is more profound than I can express because I think that this commitment has been the core of his Administration. In many ways, I think more gains have been accomplished for people--and if you want me to, I'd be glad to be specific about this a little later--than at any earlier period of comparable length. It was a period in which such gains were harder to accomplish, in one sense. Yes, I know that a great many of my friends, my historian friends, look on the period of the New Deal as a period of outstanding progress unequalled before or since. I lived through the years of the New Deal as an adult, teaching economics, involved in the winning of many of the programs that became a reality. I spent a great deal of time in Washington during the New Deal years. I knew what was going on. But the progress we made then was part of the momentum of the time.

I don't mean to detract in any sense from the greatness of President Roosevelt's leadership, which was very great. But these were changes that were almost inevitable in that period as we emerged from the years of the worst depression of our history. We saw the consequences of failure to meet human need on a scale such as we hadn't seen in modern times. We saw the need to build in basic securities of unemployment insurance, of social security, of low income housing, and much beside. It was a period of coalition of liberal forces. In that sense, the changes were easier to come by.

M: And practically inevitable?

K: Nothing is ever inevitable--

M: But almost.

K: But they were a part of the very strong forces that would have been hard for anyone to have resisted in the position of leadership. The contrast with these recent years seems to me to lie in the fact that we had come very far in terms of our living standards--living standards of the average family had about doubled--in terms of what the dollar would buy--since 1940. It was a period when we could have been quite complacent, but it was a period in which we weren't. It was a period in which I think President Johnson gave unique leadership to the country in saying that we now have the capacity to finish the unfinished items of business on the agenda as far as our people are concerned. To get at the problem of poverty--this was one of his very early challenges. And it was he who put this on the action agenda, in saying we now have the skills and the resources which, if used, can make of poverty the

the anachronism it truly is.

The accomplishments with respect to the strengthening of civil rights and liberties were immense.

For the first time, we put large amounts of federal resources into the improvement of our schools with concentration on the needs of the less privileged of our youngsters. This was the beginning of-- what has it been--sixty measures that the President has signed-- directed toward the improvement of the schooling of our young people. This is a basic investment in people.

It's true that the manpower programs were started in '62 during the Kennedy Administration, but they have moved forward in this period with increased momentum, with tremendous increase in the investment in people. The programs have grown very rapidly and expanded.

The Neighborhood Youth Corps has been a tremendous program through which over a million youngsters have been given new skills, a second chance, a toehold on the ladder of economic advance, moving toward economic self-sufficiency. The Job Corps too, although a much smaller program, has given youngsters new hope and opportunity.

So, one can go on. These were programs that were by no means part of the tide of the times. It took creative, imaginative leadership, and I think President Johnson has given this to the country. I could go on. I don't want to digress into the general; I want to come back to the story of his role with respect to the advances that women have made during this period.

I mentioned earlier that it was at his very first Cabinet meeting that the President said this: "The day is over when top jobs are reserved for men." Then I mentioned that within a few weeks he had presented the names of the first fifty women that he had appointed to top posts in government. And at that time, he said, I'd like to quote it because it's a delightful quote: "I would like at this time," he said, "to make a policy announcement. I am unabashedly in favor of women."

Now, he went on and said this: "I am insisting that women play a larger role in this government's plans and programs. Women have a willingness of heart; moreover, they have an instinct for rightness that is as important to decision-making as numbers or logic." He spoke of his intent to bring women of imagination and energy to the fore in all the big and challenging jobs to be done.

M: Excuse me a minute. Could I identify that quote? Where did it come from, and when was it stated? Can you tell me that?

K: Yes. It comes from a speech dated March 4, 1964, "Remarks of the President at the Women's National Press Club, Presentation of the Eleanor Roosevelt Candlestick Award, Statler-Hilton Hotel, Washington, D. C."

Now, there is nothing sentimental about the President's approach as far as women are concerned--in my book. He's not singling women out as special creatures. I see his interest, what he has done, and his continued support of the programs that have advanced women, not as a case of special pleading for one group, but it seems to me it's part and parcel of what I've admired so much that is reflected in so many other programs as well. It seems to me that when he was talking

of the utilization of women's skills he was saying the potentials of all our people must be drawn on fully. To the extent that we waste talents, whether it be the talents of women or youth or of the Mexican-American or the Negro, our society is the poorer. And it seems to me, in other words, that the emphasis is on what it must be on--human resource use, which is basic to achieving the growth, the goals, of a democratic society. It seems to me he was saying women are people, and people are our richest resource; our society should draw fully on the contribution that all our people are able, willing and eager to make.

M: Well, this would be part of his concept of the Great Society?

K: This, to me, is the essence of the Great Society, and it underlies the education programs, the manpower programs, the poverty programs, and the approach to the problems of women. And he has reiterated this constantly.

M: Do you have any idea where he got this idea--this motivation--to improve the quality of American life--the Great Society Program?

K: For people.

M: Where does this come from? Why should he do this?

K: Well, I think as a young man he grew up, as so many of us did, in the depression years; the work he did took him in contact as a young teacher with the Mexican-American child; his work with the National Youth Administration showed him the problems of people at close hand. No sensitive and intelligent person--he is both--uniquely intelligent, could have been a Congressman during those years when



he served, without having brought constantly to his attention the unmet needs of the people.

M: So the well-spring is from his total experience?

K: I think it's total experience; I also think that his mother must have been a very superior person. And I know that Mrs. Johnson is one of the world's great ladies. I believe he refers to both of these influences when he talks of his awareness of the talents of women that our society can more fully draw on. But this is more than an interest in equal opportunity for women; it seems to me it's basically part of a concept of our society's obligation to assure equal opportunity for all its people. I've seen the same kind of interest that I've referred to as expressed in that first Cabinet meeting and the dinner in March of 1964 reiterated quite often throughout these years.

M: When you say the first Cabinet meeting, are you referring to--

K: It was the January meeting of '64. I remember that in May of '65, in making the presentation of the National Civil Service League's Career Service awards in the Rose Garden, he again drew national attention to his concern for the fuller utilization of the talents of women. He was talking of the National Civil Service League's Career Service awards. Then he asked this question: Were there just men in the Civil Service, or does it include women? Where are the women? That is the point I want to make. Apparently, no women had been given awards at that occasion.

He has supported us in the Department of Labor in the work of the Women's Bureau throughout the entire time that I've been here. You may know that in 1961 President Kennedy had appointed the

Commission on the Status of Women. I won't go into the details of this, because this must be recorded elsewhere in your historical recordings. If you want me to, I can just speak--

M: Why don't you sketch the background of that?

K: This was a commission headed by Mrs. Roosevelt and as I say, appointed in 1961. She accepted the chairmanship very happily and willingly, feeling that this was an extremely important challenge. There were twenty-six members on that commission--several Cabinet members, including the Secretary of Labor; the Chairman of the Civil Service Commission; there were congressmen, senators, representatives of labor, business, and the outstanding women's organizations.

M: Were you a part of this?

K: I was not a member of the commission. I worked very hard as a member of one of the seven committees that the commission set up, and so was very close to the work of the commission throughout. This was the Committee on Labor Legislation Affecting Women, and I was the chairman of the committee that drafted the report.

The commission had set up seven task forces--or committees--which brought together experts in all the main phases of its concern. As I mentioned, I was connected with the committee that considered legislation affecting women in employment. There was a committee on social insurance and taxes; on education; on home and community; on civil and political rights; on Federal employment; and one on private employment.

M: Do you have any idea why this board was appointed at this time?

K: Yes. President Kennedy felt that, just as President Johnson did, the

time had come for us to take a new look at the position which women occupy in our society, problems that still confront them, the barriers to their full contribution, to their full partnership, and what we need to do to draw more fully on the abilities of women.

The committee worked for two years. At the end of the two years, the recommendations that had been drawn up by the seven committees were reviewed by the commission itself. Some fifty recommendations were finally formulated and encompassed in a report called "American Women," which was presented to the President. That was in October of '63. At that point the commission went out of business.

The people who had been associated with the commission recommended that two bodies be set up to follow the Commission on the Status of Women: a high-level governmental body called the Interdepartmental Committee on the Status of Women; and an advisory group, a Citizens' Advisory Council on the Status of Women. President Johnson appointed these two groups shortly after he took office.

Secretary Wirtz has chaired the Interdepartmental Committee on the Status of Women. His other members have included the Secretary of State, of Defense, of Agriculture, of Commerce and of the HEW. The Attorney General and the Chairman of the Civil Service Commission are also members. The Director of the Office of Economic Opportunity and the Chairman of the Equal Employment Opportunity Commission were added to this interdepartmental group after their agencies were appointed. While the Secretaries of Labor and HEW have played an active role, the other Cabinet members have not participated actively themselves, but have had high representation on the interdepartmental

committee. Mrs. Esther Peterson, the Assistant Secretary of Labor, now serves as Vice Chairman, and I have had the privilege of serving as the Executive Vice Chairman in my capacity as Director of the Women's Bureau.

The second body, the Citizens' Advisory Council on the Status of Women, was headed first by Margaret Hickey, who had been a member of the President's Commission, and a good many of the members who had served on the President's Commission continued as members of the Citizens' Advisory Council. When Mrs. Hickey resigned the chairmanship of the council, as I remember in '66, Senator Maureen Neuberger, who had determined not to run in the fall again for the Senate--she had remarried and was leaving her state of Oregon to move to Boston--consented to be the chairman; and she has served since.

These two bodies have carried forward the work of the President's Commission, seeking to find means to help in the implementation of as many of the recommendations of the President's Commission as possible. And of course the work of the Women's Bureau has concentrated in these five years, almost five, that I've been its director, as it had in the earlier years of its existence, in advancing the position not only of the women wage-earner, but it has been concerned with the overall advancement of the status of women in general.

One of the recommendations of the President's Commission had been that the governors of the States or the legislatures establish similar commissions to do for each of the States what the President's

Commission had done for the nation--to review their laws as they affect women, to see what updating of archaic legislation was needed, not only archaic--any kind of limitation and legislation that needed attention. Some were milder than archaic limitations, but nonetheless burdensome and limiting. To look at the educational problems that women confronted in the state; to look at the counselling and guidance needs of women; what we're doing to prepare our young women for the kinds of roles that we now see women should be playing, both in their own interest and in the interest of society. To look not only at their private employment, but public employment, as the commission did; to look at women's leadership roles; to look at the appointment of women to positions in the State--is this a story of under-utilization? This had been a very important recommendation of the commission, one which we in the Women's Bureau took very seriously.

In the Bureau, we have five regional offices. And we set, as one of our highest priorities, the job through our regional directors of reaching out to our friends in each of the States to move toward the establishment of State Commissions. We called on every governor, to put the case for the establishment of commissions; we met with friends in the legislatures; we met with our natural allies in the women's organizations, and there are many--the business and professional women, the National Council of Catholic Women, the National Council of Negro Women, the Council of Jewish Women, Church Women United, the Y. W. C. A. , the Labor Groups, the Soroptimists, the Altrusa, the American Association of University Women--among

others. There are a great many organizations which speak for women today, and concern themselves with problems that still need to be met.

As a consequence of all of our joint activities, we've seen a Commission on the Status of Women in these five years established in every State, in the District of Columbia, Puerto Rico and the Virgin Islands and in two municipalities.

Each year we have brought to Washington for a summer conference the chairman and members--as many members as were free to come--to bring their common experience together; to exchange information on what they're doing, goals, targets for action. I've come a long way around to make the point I started out with, which was that in all of this work we have had the strongest support of the President and Mrs. Johnson.

We've now had four national commission meetings, and each time that our friends have come from all over the states, they've been welcomed to the White House. The President, as I remember, on three of the four occasions felt that this was an important enough enterprise for him to be directly related to it. He has greeted our friends and spoken to them, and talked with them about the importance of their work. Mrs. Johnson has been there on all four occasions. This has meant a great deal to all of the people involved in this important work. It has made them feel as they should feel--that they're part of a nationwide movement that matters to all of us.

M: Have these state committees in your organization accomplished any concrete results? You can establish a committee, but it doesn't necessarily do anything. Now, what has been accomplished?

K: Well, you remember we started out some time back in our discussion when I said that this has been a period of great accomplishment for women. Now, perhaps, let's be a little more orderly and talk about some of the specific accomplishments. Let's talk first about the national scene, and then let's talk in terms of state accomplishments.

We're talking off the cuff; therefore, I'm not documenting this blow by blow. You will find the gains documented in far greater detail than I can now recount, in many of the publications which we in the Women's Bureau have issued. Less than two weeks ago--we sent to the President from the Interdepartmental Committee on the Status of Women a five-year progress report, which highlighted the gains from '63 to '68. And any historian who may see this recording in the future would be advised to look at this document; should also look, of course, at "American Women," to start with the report of the President's Commission; should look at the four earlier annual progress reports which our Interdepartmental Committee on the Status of Women issued in '64, '65, '66 and '67.

These tell some of the specifics year by year--what the gains have been. But if you want just a thumbnail sketch, which is the purpose of our discourse today, let me just give you some of the national highlights.

I had mentioned the fact that the Equal Pay Act had been enacted in '63; it went into effect in '64.

The President's appointments of additional women to high positions in government had a great deal of symbolic significance. In all, he may have appointed--I don't have the exact count; I suppose the Civil Service Commission has it--I remember counting at one point up to some three hundred additional women several years back who the President had appointed to high posts in government. I perhaps am remiss in not keeping a tally, but we had some help through someone on the White House staff who worked on this full time to keep track of these appointments. In the last two years that tally hasn't been made; I hope that the Civil Service Commission has recorded it. Three hundred women in a great nation of two hundred million people isn't a large number in itself, but it has significance because it's a clear indication that the President wished the government to be a showcase example of good employment policy. It's an indication that we have plenty of able, talented women who can be used if we will find them. It also is saying that they must be recruited. So that this had very real significance.

In 1964, the Civil Rights Act was passed; this, I think, is one of the great accomplishments of the Johnson years. It seems incredible, doesn't it, that it took us so long to embody in law what one might have expected to have been part of our legal institutions long before.

M: You're referring to--



K: I'm referring especially to Title VII, which prohibits discrimination in employment on the basis of race or color, of religion, of country of origin, or sex. Now, the historian of the future may look at the record; he may see that the man who first suggested that the little three-letter word sex be included in Title VII had no intent, really, of seeing that sex discrimination was banned or prohibited. It would seem quite obvious that he hoped that this would slow the passage of the title. Quite to the contrary. Once it was introduced, it, I think, contributed to the success in passage of the legislation. It's interesting that those of us who'd been connected with the Commission on the Status of Women had not strongly advocated the inclusion of this prohibition of discrimination in the civil rights legislation, discrimination on the basis of sex. Why? Not because we didn't think that sex discrimination in employment wasn't one of the worst abuses in employment--it is. Any discrimination against any people in employment or in any other aspect of life is, of course, a blight of the worst kind.

But we were so deeply concerned with the problem of larger opportunities, equality of opportunities, on the basis of race--where perhaps the hardest problem has resided--that we did not want to introduce any issue which might impede the progress of the civil rights legislation. It was a deliberate hold-back on that ground, and I think is a very important aspect of the legislative history. The hope was that once the Civil Rights Act was passed, it could then be amended to include a prohibition of discrimination on the basis of sex. This was the consensus of judgment. It was not my own personal view at

the time. I felt that if we had deliberately included in the first draft all of the grounds on which discrimination must be prohibited, that it would not have weakened its cause and might have strengthened it. And so that did prove to be the case. What congressman is going to say, "Take sex discrimination--that clause--out," and risk the hostility of the women voters?

M: How did the sex clause get put back in?

K: Well, it was amended quite early--to have sex added. But the intent of the congressman who introduced it was not to improve or advance the chances of the passage of the bill.

M: He amended it to impede--

K: This was, I think, his clear hope.

M: And it turned out to be the reverse?

K: It turned out to be the reverse, as I had assumed it would be. But this becomes part of the record. There was very little discussion on the floor of the sex amendment. This is one of the difficulties with this piece of legislation, because we do not have sufficient illumination of what was in the minds of Congress with respect to the administration of the law, as far as sex discrimination is concerned. In other words, this issue was never spoken to, at the hearings. Evidence was not taken from witnesses. We don't have a discourse of any considerable length from either the members of the House or the Senate on this particular issue. There was no doubt that it was wanted; it was included and passed; but it would have been helpful if the intent of Congress, with respect to the administration of this aspect of the law, were a

little clearer.

Perhaps I can elaborate on that a bit later, because we have some problems in the enforcement of Title VII, as far as women are concerned, which arise out of the absence of a detailed debate as part of legislative history.

M: Do you have any idea why they did not debate that?

K: The bill was amended on the floor rather late in the stage to prohibit sex discrimination, long after the hearings were complete. It was rather late in the history of the legislation, and a vote was pretty close to being taken. Once this prohibition was included on the House side, it was then never, of course, removed.

Well, to return to the main track. I'm afraid our conversation has been digressing. To put it in order again, we're enumerating some of the gains on the national level.

We have Title VII of the Civil Rights Act. Then another very important national gain was to take place in October of 1967. This relates to Executive Order 11246 with respect to sex discrimination. In 1962 the President's Commission had recommended that there be a presidential directive with respect to employment policy relating to women in the federal government. For some years (it was a long way back--I should know precisely how far back, but I think it may go back to the beginning) it had been possible for a supervisor in government in posting a job vacancy to indicate that a man was wanted for the job, or a woman. This was customary practice. The commission felt strongly that all jobs should be opened to people on the basis of

qualification, and that sex is relevant to job performance in so few cases that you'd have a very hard job enumerating more than a mere handful of jobs in which, as we now say, sex is BFOQ--a bona fide occupational qualification. Modeling a woman's dress is a good example, or a warden in a man's prison--sex is a relevant qualification. But you try to enumerate any large number and you have a little trouble. Because this was so clearly a problem in government service, limited promotions open to women and limited job opportunities for women, the council strongly recommended that appointments be based on qualification throughout the federal service. The President issued a directive to this effect in '62.

Not long afterward, then, an executive order was issued which is a much more powerful instrument of policy than a presidential directive. This executive order prohibited discrimination in federal employment, and on the part of federal contractors, on the basis of race, color, or religion. Sex was not in the executive order. The Interdepartmental Committee and the Citizens Advisory Council felt quite strongly that sex should also be included in the executive order. And in October, I believe it was the thirteenth, 1967, the President signed Executive Order 11246, prohibiting discrimination in federal employment on the basis of sex as well as on the basis of these other grounds. And this applies, too, to all federal contractors.

This is a very important advance. Employment by federal contractors represents a very large segment of employment. This executive order has teeth in it. It is going to be very strongly admini-

stered by the Office of Federal Contract Compliance. I have met in initial meetings with officials of the Office of Federal Contract Compliance, the people who'll be carrying out this order in the field. They say quite flatly, just as they have in relation to the problem of race discrimination, "We expect affirmative action on the part of federal contractors and on the part of government supervisors." This means recruiting people on the basis of ability. Where sex isn't relevant, and it almost never is, you recruit people, and all people who are qualified are open to appointment.

M: Is there a structure of enforcement for this?

K: Yes, there are compliance offices; there is machinery for presentation of complaints; and a contract will be withdrawn if the order is violated.

M: So there's not going to be the problem of enforcement here?

K: No, because the government obviously, if there's a clear case of race discrimination or sex discrimination, can simply say to the firm, "We do not do business with people who discriminate."

M: There's never going to be the problem of enforcement here that you would have under Title VII?

K: There's a very serious problem of enforcement under Title VII, but there's not in relation to Executive Order 11246, because once the facts are established, it's either perform in accordance with the executive order or we won't do business.

Now, the problem of determining whether or not there is discrimination is not an easy one. If a supervisor is considering two candidates and the man is appointed and not the woman, it's not easy for the

woman to prove she was the better qualified candidate. This is very hard even in the case of promotion, although it's clearer because there's a work experience record. But general employment patterns are detectable. The firm that never has any women in certain of its jobs where women are skillful and qualified--and I believe that women are skillful and qualified in the full range of jobs--the firm that establishes this pattern is clearly discriminating. And there are also whole specific areas where discrimination is very clear. If, for instance, you say, "These are women's jobs; these are men's jobs; no woman can apply for this," you're clearly discriminating, unless this is an area of bona fide occupational qualification where sex is relevant, and that's almost never true in whole categories of jobs.

Let me cite a clear case. If a firm fires a woman the minute it's obvious that she's pregnant, this is discrimination, and the Office of Federal Contract Compliance will hold this to be true. A woman is equally competent to perform her job, with very few exceptions. Whether she stays on her job, as long as she's performing, should be a matter of self-determination. And yet there are many firms that have dismissed women in the first or second or third month of pregnancy, or as soon as they know it, and offered her no job-return rights. Now, a firm that tells a man who's in the hospital, say because of a major kidney operation, "We'll hold your job open; if we can't hold it open that long, we'll return you to similar employment," should be expected to say to a woman who wants to come back after childbirth, "either your job will be held open or a comparable job will be available for you." This concept of a reasonable maternity leave has become an aspect of fair employment practice.

With respect to contractors, the OFCC--Office of Federal Contract Compliance--has the power to withhold the contract when proven violations of the Order occur. And I assume from what I have heard in my contacts with the officials of the enforcement office, this is an obligation and a commitment which is taken very seriously. It's part of the Administration's position on discrimination in all forms. It's part of the commitment to equality of opportunity for all people--women included.

Now, Title VII has very serious defects. It does not have strong enforcement provisions. The Equal Employment Opportunity Commission which administers the Title does not have the power to issue cease and desist orders. A complaint comes into the EEOC of discrimination, say, on the part of a woman (and about a third of their complaints that stood up under investigation in their first year were on the basis of sex) and they can review the story. They can say, "Yes, it's a clear case of discrimination not only against you, but against all women in this firm; this is a very obvious practice." But they can only mediate; they can try to persuade the employer; but if he isn't persuadable, if he isn't amenable, then all they can do is to say--that isn't all they can do; the main thing they can do is to say to the complainant, "Bring your case to court." Now, very few people with employment practice complaints can afford to do this. Very few people will hazard the risk of doing it; it's very hard to prove the case in many, many instances. Few women will risk the consequences. They might be fired before they could even bring an action.

Now, it is true that under Title VII of the Civil Rights Act, the Attorney General can himself institute proceedings if--not in the case of an individual--but if this is a typical and characteristic practice. The case would have to be of some national import. The Attorney General has not done this in the, what is it now, three years, a little more,

that the act has been on the books. There've been a good many cases brought in the courts by women, but this is a slow and not a very effective proceeding. The Administration, as you undoubtedly know, and what should be part of this record, has asked the Congress to enact legislation to give the Equal Employment Opportunity Commission the same effective powers for meeting these problems of discrimination as we have here in the Department of Labor in administering the Equal Pay Act, which is an amendment to the Federal Fair Labor Standards Act. We have regular inspections; we can receive a complaint; the complainant can remain anonymous; we will investigate; we can approach the employer; we can substantiate the case. If the complaint is found to be valid, we can issue a cease and desist order. If the employer says, "So sorry, try and make me," we can take him to court. And we have done this in the case of the Equal Pay Act and returned to a great many women many millions of dollars since the Equal Pay Act went into effect, which were rightfully theirs, that is, representing the pay that they were due in cases where they were doing work of equal skill, equal effort and responsibility, and were not being equally remunerated.

M: Is it correct, then, that the problem with Title VII is in the mechanics of enforcement and not so much as in the intent?

K: Not in the intent. This is not an easy area in any case. There are many kinds of discrimination that you can put right on the line, but there are others that are very difficult to substantiate, although they're very real. Equal pay is one thing. You have two bank tellers, a man and a woman, working side by side; and the employer says, "I pay the man more because he picks up the money bag at the end of the day." This is not a substantial or significant part of the job. And these are findings that you can make in the administration of equal pay. There are many other illustrations that we could take. It's very identifiable as



discrimination when a firm says, "These are men's jobs; these are women's jobs." This is clear. Or that a woman must retire at 63, and the man need not retire until he's 65. Or that an airline will only employ attractive young women who are not married; this is discrimination if they don't say to their men, whom they employ as pilots, "You can fly a plane until you're married." We don't believe that the marriage of the pilot affects his flight performance any more than marriage affects the stewardess' serving of a meal. The service she renders is, obviously we think very clearly, not affected. A case is now before the EEOC and if you've traveled as I have recently, you'll see engagement rings and wedding rings on the fingers of stewardesses; you can even see some men flight attendants. This was a case effected through a ruling which was not contested. Fortunately, we have airlines which have pleasantly complied; who have said, "This is the finding; we will perform accordingly." But then many employers don't do this.

M: To get the breadth of enforcement in this idea of nondiscrimination, Title VII will have to be--

K: It will have to be amended to give the Commission effective enforcement powers. And my own guess is that we will move, if I may speculate a little at this stage in history, toward the consolidation of these various anti-discrimination efforts. We have added an amendment to the Federal Fair Labor Standards Act, in addition to the Equal Pay Amendment, an age discrimination amendment, and people may no longer, under the law, discriminate against people over forty on the basis of age alone where performance isn't affected by age. We now have inspections under the Federal Fair Labor Standards Act to ascertain whether firms are paying the minimum wage which is required--now \$1.60 an hour for those who've been covered over a period, and to ascertain whether

employees receive time and a half for overtime after forty hours. The same inspectors look at the books from the point of view of age discrimination and equal pay. But we have a different mechanism in the Office of Federal Contracts Compliance. We're not using the same inspectors; we don't use the same complaint resources. This is a separate administration with respect to sex discrimination on the part of federal contractors relating to the functions of the Office of Federal Contract Compliance. So, here is the second set of machinery.

And then we have the third set of machinery in the EEOC--the Equal Employment Opportunity Commission administering Title VII. It's rather surprising to me that we haven't moved to the consolidation of these various functions. The employer must be aware of three sets of guidelines. The rulings are not necessarily coordinated, although they may prove to be through interagency cooperation. It's true that we in the Labor Department, in enforcing the Equal Pay Act, coordinate our work very closely with determinations with relation to equal pay as far as EEOC is concerned. I think EEOC prefers to refer equal pay cases to the Labor Department, or unequal pay cases I should say, because we have the stronger enforcement machinery. But my guess will be that we will see these functions consolidated in time.

M: It would seem to provide for more efficient administration.

K: That's right, and I think that it will have the kind of effective enforcement machinery which is inherent in the Federal Fair Labor Standards Act. I think, too, that the future will see the appropriation of considerably larger sums for enforcement. The number of investigations that can be made now, because funds are so limited, are relatively few and on a spot basis. And if we really mean business in eliminating discrimination in employment, whatever the grounds may be, then I think

we will show the seriousness of our intent by making available larger sums for effective enforcement. We are not making a large enough number of investigations. I think that when equal pay complaints come in to the Labor Department they're handled very effectively and very efficiently, but many people aren't aware of their rights; they don't know where and how to file their complaints. Many people are fearful of complaining, not aware that as we administer the law, the complaint is held in confidence and would not endanger their employment relationship.

Well, to put us back on the track, we were talking of national gains, weren't we? I had mentioned some of them. Anyone who wants to see the fuller record will go to the documents, but supposedly in our conversation we are trying to enumerate some of the highlights. You asked me to move on into the state picture and to talk of some of the highlights of state gains, which we can attribute in whole or in part to the work of the state commissions on the status of women which, as I said, have been established universally as far as the states and jurisdictions are concerned. The progress that one sees in the field of legislation is somewhat clearer--this is measurable; this is a concrete act. Historians can nail it down. Changes in attitude are much harder to measure.

But if we can talk of the legislative changes first, I'm not putting them in first priority--they are important, but it's an easy thing to hang on to. Women, we've all been aware, are highly concentrated in the lowest paid jobs. We have twenty-nine million women in the labor force at the present time. This has to be a prelude to legislative action, if you'll forgive me. This isn't a digression. These are hard areas to talk of in seconds. If you turn to those women, all those women presently in the labor force who work year round and full time, in the latest year for which we have statistics, we find that about a third

had money incomes of under \$3,000. If you go up the ladder, just a little further up the ladder, you'll find that something like two-thirds of all the women in the labor force who worked year round and full time had money incomes of under \$5,000 in 1967, the latest year for which statistics are available. This means our women are concentrated very heavily in the lowest paying jobs. The Federal Fair Labor Standards Act has been tremendously improved in recent years. This is another great accomplishment of the Johnson Administration. In the course of the eight years of the two Democratic administrations, the minimum wage went up to \$1.25 first; it went up then to \$1.40 just two years ago, and is now at \$1.60 an hour. About twelve million people have been added to the Act's coverage. While it's true that 80 percent of all non-supervisor workers are now covered by the Federal Labor Standards minimum wage benefits, it's only 72 percent of the women. And as far as Negro women are concerned, or non-white women, rather, only about 45 percent are covered by the Federal Fair Labor Standards Act.

The lower coverage of women is due to the fact that women are concentrated in those occupations far more than men, which we still say are outside of the coverage of federal jurisdiction; that is, in the intrastate occupations. It is true that we have changed very dramatically, over recent years, our concept of what interstate commerce is within the jurisdiction of the federal government. Ultimately, my own conviction is that we will move toward the concept that we have the power through federal legislation to assure a basic minimum wage to all people who work. We've certainly extended our definitions of interstate commerce since the Federal Fair Labor Standards Act was enacted in the late thirties. Now we say that if a person is working on a job and using materials in the course of the job that have moved across state

lines, they are within the Act's coverage. This is a relatively recently added concept. Once you've gotten to this point, why cover only some and not all workers? Non-white women are still concentrated in non-covered occupations such as household employment, work as waitresses in the very little establishments that don't get covered, or in other service jobs which are still left largely to the state jurisdictions. Well, this is the long way around to say that minimum wage legislation has tremendous importance to women. And all of our state commissions, I think, have regarded meeting this pittance wage problem as one of their major assignments. They have been especially challenged where minimum wage laws have not been on the state statute books. Virtually all of the commissions have said, "We will support the enactment of minimum wage laws in our state for not just women alone, but for men as well as women." We owe largely to these State Commissions on the Status of Women the enactment of many minimum wage laws and the improvement of many weak laws previously enacted. The point of view of the Commissions, as it was the point of view of the President's Commission, is not special legislation for women, but legislation for people. In the case of minimum wage, it's very clear that when you enact minimum wage legislation for people, women benefit particularly. This has been the Commission emphasis--not special rights pleading. We can attribute some six new minimum wage laws enacted in the last five years very largely to the activities of our Commissions on the Status of Women.

We have today some thirty-six states with minimum wage laws supplementing the Federal law, as far as those who don't benefit by the Federal law are concerned. A few states actually set standards higher than the Federal law. But in the last five years six states,

for the first time, enacted minimum wage legislation for both men and women. Five additional jurisdictions broadened their coverage, and nine jurisdictions extended the coverage of the minimum wage laws, which were first enacted for women only, to men. And in this activity the State Commissions have played a leading role.

M: Which, of course, relates to your Women's Bureau.

K: We, here in the Bureau, have made available facts and figures with respect to needs. We've served as technical consultants on requests. We have suggested minimum wage bill language. We have assisted in every way we can.

Minimum wage legislation has long been a very real concern of the Bureau. The Bureau was set up by an act of Congress in 1920. One of its primary early concerns was helping to lift the very low wages that women were paid, especially in the '20's and '30's and also helping through the promotion of legislation to shorten the excessive hours of work that women were working. In the earlier days, the Bureau and women's groups that were active in this field saw as the only way of shortening the excessive work week for women the enactment of hours laws, and some forty-three states over the years enacted hours laws for women. Four or five of the states enacted hours laws which limited the work of both men and women alike, but the characteristic hours law related to women only and sought to bring the hours of work, which had been twelve or more hours of work a week, down to ten or nine or eight hours, and to reduce weekly hours.

These hours laws, limiting the hours of work for women, have created something of a problem. This has become one of the interesting issues of these recent years. Suppose, as in some states, there is an hours law that actually prohibits the employment of women for more than eight hours a day, or more than forty hours a week. Let's illustrate

by taking an automobile plant or any other factory where the basic hourly wage might be \$4 an hour in a particular craft. Overtime would be time and a half and might even be more under certain circumstances. This rate of overtime pay is attractive to some women as well as men. Men are free to work overtime but a state law might limit a woman's hours. Thus, some women have regarded the limitation of these hours laws as an impediment to their equal employment opportunity rights. Cases have arisen that have been taken to the Equal Employment Opportunity Commission administering Title VII in which women have claimed, "This hours law is in conflict with my rights under Title VII."

This type of problem has been a very real concern to us in the Women's Bureau; it has been a concern to the Interdepartmental Committee and the Citizens Advisory Council on the Status of Women. It was also a very real concern to the Commission on the Status of Women. I served from '61 to '63 on its Committee on Labor Legislation which gave much thought to this issue. It's surprising how much unanimity there was in relation to this matter.

M: Are working conditions, such as air conditioning or anything of that nature, still a problem for women?

K: No, it's not a special problem for women. The basic problems are wages and hours, weight-lifting, the occupational limitations--some states say women can't be bartenders, and there are also some night work laws. This was the area with which we were concerned, the laws relating to women's employment. Our committee, the committee that was set up by the President's Commission in this field, took the position that all of these labor laws should to the fullest extent feasible apply to men as well as women--minimum wage laws, rest periods, lunch periods. With respect to hours laws, we took this position. We said, "Excessive

hours of work should be limited for both men and women. It isn't consistent with the kinds of lives people want to live." We urged that there be universally, both in federal and state laws, requirements that overtime be compensated at time and a half the regular rate of pay, not only after forty hours a week, as we do in the administration of the Federal Fair Standards Act, but time and a half should be paid after eight hours a day as well.

In other words, the daily hours, as well as the weekly, of work should not be excessive. It's possible to have a forty-hour limit, with people working very long hours three or four days, and this isn't, we think, consistent with sound labor practice. We said that we would like to see this kind of legislation enacted, applicable to men as well as women. But in the interim, until you've got it as a deterrent, what were you going to do with the hours laws? You do have a problem reconciling equal employment opportunity legislation with the existing hours laws. Should you throw the hours laws out? If you did, if you threw the hours laws out, yes, you'd give the woman who wants the overtime pay the overtime work and pay that she wants, but what about the millions of women who don't want to work overtime? We have seven times as many married women at work today as we did in 1940. And a great majority of these women don't want overtime work; they want to get home at the end of the regular work day. They're working to supplement family income, or they may be the prime supporters of the family. And an increasing number of women's incomes are just as important to their family welfare as the income of the husband. What's a woman going to do if she wants to go home when the whistle blows to get the kids off the street, to do the cleaning and the wash and the cooking, and the hours laws are abrogated? Take the hours laws away, and you are going



to find a great many women pushed into longer hours quite against their will and with no overtime payment if they're not covered by the Federal Fair Labor Standards Law, or by a state overtime law, pushed into working nine or ten hours at the regular rate. This presented a real danger, to our minds. So we urged that the state hours laws not be repealed but be modified and made administratively flexible. And any number of devices suggest themselves for this purpose, so that the woman who wants to go home at five o'clock is free to do so, and the woman who wants to work overtime can apply for an exemption which can be just automatically granted, provided that she's paid at least time and a half for overtime. Two purposes can then be reconciled.

This was basically the position which we took back in the days of the Commission on the Status of Women. Many states under the leadership of the Commission on the Status of Women have introduced various devices for making these hours laws more flexible. Pennsylvania had an exemption procedure set up. In Virginia, automatically any firm that complies with the premium pay provisions and record-keeping provisions of the Federal Fair Labor Standards Act was exempted from the hours law. This meant that you had the deterrent of overtime pay to prevent excessive hours of work on a weekly basis. It didn't provide the daily deterrent and to that extent was not in conformity with the recommendation which we had made in the President's Commission.

I should mention--this is a complicated business to review in a short time--but many of the states, under the leadership of the State Commissions, with this new impetus, have sought to write into their state minimum wage laws premium pay provisions for overtime in accordance with the concept I have recounted. Many states have modified the more rigid hours laws, and I hope that totally rigid hours laws will be

soon passé. These are the directions in which we've moved in this area.

We now have thirty-six states which prohibit inequality of pay, and the Commissions on the Status of Women have been a big force in these years for adding to this long list and additional ones will be added.

In the field of civil and political rights legislation, the Commissions have also been a great force for progress. In one year that we kept records there were nearly four hundred improvements in the state civil and political laws as they related to women. There've been many antiquated laws that have persisted and have been a nuisance. Several states, for instance, prohibited women from setting up their own business without the written permission of their husbands--it's that kind of silly limitation that has been legislated out.

We had a few states that prohibited the service of women on state juries--that's gone. And the death of these laws has come in this period. These are some of the illustrations of legislative gains that we cannot attribute in full to the Commissions, but which the Commissions have helped to bring about. We could document the fact that in many states they have been the primary force, but not in all, where these gains have been recorded. All social change is a process of interrelationships. The Commissions exist because this is an undercurrent of progress of our time, and their very existence reflects forces which have operated to bring about all of these changes. I think they've been a very real force in calling attention to the need for very real improvements in vocational guidance for women. Our girls are very seriously short-changed, pretty much throughout the country, with respect to vocational guidance. The facts of life are kept from them, unfortunately. They don't know that nine out of ten of them are going to work--if you look at--our latest figures are old, they're 1960, but

in 1960 the census figures revealed that the average woman who worked would work for about twenty-five years. It's a good deal more by now, because the span of work-life expectancy is increasing. And the more educated the woman, the more likely she is to work and to work for a much longer period of her lifetime. They're very interesting figures that I could bring into this discussion. Our young women are not adequately aware of the importance of career choice and preparation.

M: May I shift this a little bit to the philosophic meaning of this? All of this thrust of your activity in the Women's Bureau, the President's support of you and your work, is this a thrust to what might be called greater democracy?

K: Yes. The thrust is toward greater human resource use. The talents of our people are our greatest asset. Let's use them. Let's not have old myths about who can do what, obstruct the human potential. And when you keep your youngsters--your young women--from not knowing that work will be a very important part of their life, then you've denied them a sense of the importance of choice of what their jobs will be. They don't see the importance of job choice or job training. They believe that any job choice will stand them in good stead until they marry, and when they marry, that's the end of them as far as the work force is concerned. And somehow we've got to get through to them the fact that the whole pattern of women's work life is changed. It used to be that about, say 1940, about half of our girls worked--actually 46 percent--between the ages of eighteen and twenty-four.

Then in the next phase of women's life, say between the years of twenty-five and thirty-four, as they married and began to rear their children, the percentage of women who worked dropped to around 35 percent. From that point forward in a woman's life, the likelihood

of her working continued to diminish. This is no longer true. Now, pretty close to about 55 percent, I would say, of our young women, between the ages of eighteen and twenty-four, are in the labor force. But in the peak years of child-bearing and child-rearing, twenty-five to thirty-four, 42 percent of our women are nonetheless in the labor force. In other words, the retreat is nothing like as sharp as it used to be. More women combine marriage and child-rearing with a place in the world of work.

Today, the interesting thing is that instead of labor force participation rates diminishing the older a woman gets, from the age of thirty-five on, participation rates increase. And the period of her life when she is most likely to be a wage-earner is now in her middle years. The latest figures that I received this morning are very interesting. As I remember them, something like 55 percent of our forty-five to fifty-four year old women are in the labor force. The point I'm making is that we need new approaches to the guidance of girls to bring the new patterns of women's life more clearly to them, so that they set their aspirations high. And the National and State Commissions on the Status of Women have been saying this, have been urging the states to appoint more guidance people, to educate their guidance people better to the new realities. They've been saying to parents in their state, "Don't short-change your daughters." They've been saying to teachers, "Don't say to the girls, 'science isn't your best, or math;' the world is your oyster. Anything is your beat. Go as far as your talents allow."

And this is a very healthy thing to be said throughout America. It will help change attitudes and the Commissions have been doing just this. They've been concerned with better career guidance and training

for youngsters. They've been helping in the job which we take very seriously here in the Women's Bureau: the encouragement of the colleges and universities to establish continuing education programs for the middle-age woman--the woman in mid-stream who wants to return to the job world after having taken five or ten years out to rear her children. She wants the training that will enable her to come back and to make a real contribution. She doesn't want any longer to just drift back to any old job. You see, the fact that so much larger a percentage of women in the work force are middle-aged women today is really responsible for the fact that the talents of women are even more under-utilized in the labor force, relatively speaking, than they were some years back.

President Johnson had something to say about this. Let me bring this in. Because of his very real concern with the under-utilization of woman-power, he asked all of the women in government who had received special awards for outstanding service to constitute a special committee to advise him on career opportunities for women in government, and how we in government can do a better job. At the time he appointed this committee several years ago, about thirty-five women had been so honored, and he set them up as a special study group to advise him. When he first appointed this group, he invited the women to meet with him and made this statement. He said, "The under-utilization of women is the greatest waste of this century." And he was thinking of the kinds of things that I'm talking about. When you have a very large percentage of women coming back into the labor force after an absence, drifting back to any job that they can get, not upgrading their skills, with the skills they initially got slightly out of date or very out of date, you're not going to have good woman-power use. So, our Commissions--the President's Commission, the other bodies that I have spoken of--the State Commissions and the

Women's Bureau--have all felt that we needed to have greatly expanded training opportunities for women coming back in mid-stream.

The movement started only about ten years ago with a continuing education program for women at the University of Minnesota. It spread to the University of Wisconsin, then to Michigan University. Now, a recent study of the Women's Bureau indicates that nearly three hundred of our colleges and universities have these special programs to which women can come back to prepare for the next long work span ahead, and it is a long span. Our figures or studies here in the Department indicate this, and this is very interesting: at the age of thirty-five, the single woman can expect to work, if she's on the job, another thirty-one years. This is two-and-a-half years more than the work life expectation of a man. Widowed, separated, and divorced women represent 20 percent of all women at work, and they can expect to work twenty-eight more years on the average--just about the same work life expectation as men--if they are in jobs at age 35. The married woman, whether she has children or not, can expect, on the average, to work twenty-four more years if she's on the job at thirty-five. So this is a period so long that it's well worth training for--for upgrading of skills. And we in our Commissions throughout the country--we in the Bureau feel very strongly that these training opportunities should be available for women throughout the country in our colleges, our universities, our community colleges. And we feel very strongly that our high schools should establish not just adult education programs for mature women that are culturally oriented or self-improvement oriented, but are vocationally oriented. I think that this is going to be a very large area of activity in the years ahead.

M: I'm about at the end of that tape. Excuse me a minute.

(End of tape)

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By Mary D. Keyserling

to the

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