

INTERVIEWEE: BURKE MARSHALL

INTERVIEWER: T. H. BAKER

October 28, 1968

B: This is the interview with Burke Marshall, formerly Assistant Attorney General of the Civil Rights Division.

Mr. Marshall, do you recall when you first met Mr. Johnson? Did you have any dealings with him before 1961 before you entered government?

M: No, I never met him before 1961. As a matter of fact, I can't really put my finger on when I first met him as Vice President, although I would be fairly confident it would have been in connection with the President's Committee on Equal Employment Opportunity.

B: Were you, incidentally, active politically before 1961?

M: No.

B: I know you were with a Washington, D. C., law firm about ten years before then, but neither you individually nor the firm had any direct political circumstances?

M: No, certainly not the firm, and I didn't either.

B: Do you recall the circumstances of your being recruited into government in 1961? Who got hold of you and got you into the Justice Department?

M: Well, of course, Robert Kennedy was the one that decided. I didn't know him, so I've often been asked why he chose me, and I really don't know the answer to that. It was probably on Byron White's recommendation, I suppose.

B: I was wondering how a Yale man got mixed up in there. Do you happen to know if you might have been on Mr. John Macy's list of possibilities?

M: Well, they had a talent hunt that was conducted by Sarge [Sargent] Shriver at that time. I don't know whether John had anything to do with it; I don't think he would have because he--was he in the government then? I think he came in in 1961--. But it was a similar thing except that it was much less organized than John Macy's.

B: Did you have any doubts about taking on the responsibility of that job?

M: No.

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B: What makes a man decide to leave a successful private practice and go into government service?

M: Well, I suppose it was Kennedy--President Kennedy; I didn't know Robert Kennedy. That's what it was--personal attraction, and then the subject matter of the civil rights and the bringing to bear the processes of the law on that, you know, is a matter of great interest--at least, it seemed to me to be obvious at the time; I suppose it wasn't obvious to everyone, but it seemed to be obvious at the time--1961, that that was going to be the most interesting lawyers' work going on in the country.

B: Had you had any prior experience as a private attorney?

M: No, not really.

B: Is it possible for you to describe what there was about John Kennedy that attracted men like yourself?

M: I suppose there were a whole lot of things, but the best way of summarizing them would be in his Inaugural Address itself; I mean, the words and the movement of generations. Although that was just a speech, I think that sort of in that speech he put into words the things that attracted people of my age and experiences and interests into his Administration. I can't think of any better way to describe it.

B: That's probably not a fair question to ask somebody without giving them time to prepare an answer in advance.

Did you by any chance anticipate there in January of 1961 the volume, the intensity of civil rights activity that you would have in the next few years?

M: No.

B: The Civil Rights Division at that time in the Justice Department was a fairly small unit, wasn't it?

M: It was very small and not very efficient. It hadn't been very active. As I say, I did anticipate that that was going to be the most interesting and demanding lawyers' work going on in the country, and so I think I anticipated that all right; but to say that I anticipated the real historical upheaval that was going to take place in the next five years, I didn't anticipate that.

B: Did you go about immediately recruiting and enlarging the staff?

M: Well, we went about recruiting immediately. And the question of enlarging--we did ask

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immediately for some additional monies, but of course we had to get Congressional approval for enlarging the staff significantly. What we tried to do was recruit young lawyers that would travel and work very hard, and we were pretty successful in doing that. And a large part of that building up the division was moving people out of it that had been put in it in 1957 when the division was created because they were the people that were surplus from the other divisions when the division was put together.

John Doar was there, and he was my first assistant. He had been a first assistant to the predecessor. And he did a lot of recruiting work himself of young people.

B: These people you had to move out--were they permanent civil servant types?

M: Yes.

B: Is it difficult to move them out? What do you do with them?

M: Yes. Well, you have to find another place for them.

B: That means not necessarily within Justice, but within government somewhere?

M: Well, you have to make sure they're taken care of obviously; I mean that's only fair. Some of them had been working for the government for years, and the higher they'd grown in rank in the government, you know, the more difficult the personnel problem was. And that was a difficult problem. All the section chiefs--there wasn't a section chief in the Civil Rights Division that should have been a section chief--not one.

B: How many section chiefs are there--were there at the time?

M: Well, say, half a dozen.

B: When you're making that kind of decision that, say, section chief "X" ought to be moved out, is that kind of decision made on some sort of collegiate basis, that is, among the several Assistant Attorneys General or between you and the Attorney General, or exactly who participates in that kind of personnel decision?

M: I would do that myself. I can't speak for everyone, but that's the way I did it.

B: And you had the backing of the Attorney General, Robert Kennedy, and all that kind of thing?

M: Yes, he always backed me.

B: The other side of that same aspect--the recruiting program that you said Mr. Doar was

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more directly involved in--how does that operate? How do you go about even finding out where possibilities are?

M: Well, you see, in 1961 we had a great deal of interest; and certainly by that fall, you know, the recruiting from law schools--you recruit in December for the next spring or fall. Well, we missed that fall recruiting, but we found a lot of people in the law schools during the first six months of 1961 who would come to the Civil Rights Division when they graduated. And the interest grew more and more, of course, as things got--and as the responsibility of the Department of Justice got to be better and better known, particularly in the law schools, recruiting became easier and easier because the interest was so high. After the freedom rides took place in May of 1961--and that thrust the Department of Justice right into the thick of this and it also demonstrated that the civil rights movement was going to be a dramatic, colorful, interesting, turbulent kind of a period; so that there were just a lot of young people coming out of law schools that wanted to participate.

B: In your recruiting and later on in your assigning of cases to your division's attorneys, did you take into consideration regional factors; that is, whether it would be advisable or not advisable to have so many attorneys from southern schools and whether or not to assign them to the cases?

M: Well, I suppose that we wanted Southerners--I don't mean exclusively Southerners, but we wanted--if I had had a choice, if I had had two young lawyers in there and they both were, of course, interested and dedicated, and I had a choice, I suppose I would have favored the Southerner.

B: Did you find many Southerners who shared this interest you're talking about?

M: Oh, yes. There were several. I can't remember how many now. I would have to look it up, but there were several.

B: You mentioned that you had to have Congressional approval for extending your staff. Was that difficult to obtain?

M: Well, not the first year. I guess we got as much as we could absorb.

B: That would have been in the spring of '61 then?

M: Yes.

B: Before the freedom rides?

M: Yes. We went to Congress with the budget--I can't remember what, but in the normal course of things it would have been in February before the House; John Rooney's [D-New

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York] committee would have most to do with that. And there was no problem. We did have a problem with him later, I think in either the '63 fiscal year budget or the '64 fiscal year budget, I can't remember which. But we had wanted to have a very, very modest increase, you know, with something like \$300,000, imagine, of the federal budget; and we couldn't get it all.

B: Was it the Justice Department generally or the Civil Rights Division specifically that ran into the objections in Congress?

M: Well, this was the Civil Rights Division.

B: What do you do in a case like that? Who handled Congressional liaison for you?

M: Well, I did it myself.

B: Appeared before committees and so on?

M: Yes.

B: Does that kind of thing also involve less formal contacts than committee hearings?

M: Well, on the budget I don't think so. Now, of course, on the legislation a great deal. And I didn't do it all myself; I mean the deputy did some and at times did a great deal. And with the '64 act, the bill that Kennedy introduced that became the '64 act, the Attorney General did a great deal.

B: Did anyone in this kind of thing seek out Mr. Johnson, then Vice President, as a Southerner with a long record of Congressional influence for assistance?

M: Well at the time that President Kennedy was deciding about introducing the bill that he introduced in June of 1963, he sought Mr. Johnson's advice. We wouldn't do that. I mean, I wouldn't have done that; that would have been the President that would have had to go to the Vice President. But at that time he did, and in fact he asked me to talk to Mr. Johnson at that time in June or late May of 1963 about the legislation, and I had a long conversation with him.

B: This was in connection with the drafting of the '64 Civil Rights Bill?

M: Well, with drafting, and whether we could get it passed, and how to go about it, and what should be in it.

B: Do you recall your conversations with Mr. Johnson in that connection?

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M: Well, I recall--yes, I do. I mean, I can't recall it in detail. There was a tremendous amount of activity at that time, you know, and everybody was rushing around. But I do remember clearly because I think President Kennedy talked to Mr. Johnson himself--I know he had; and I suppose other people had, but he did ask me to go see him. And so I did go see him, and I had quite a long conversation in which Mr. Johnson stressed more than anything else, I think, the economic aspects of the black problem--the Negro problem in the United States. The legislation wasn't directed at that as much, but that's what he--I think that he was very reluctant to give anything more than the most diffident suggestions, if I can put it that way, really. But I think that what I got out of that conversation was that we should not forget that the basic Negro problem was an economic problem. And, of course, the legislation dealt with the consequences of that but not with the reality of it in a sense except through the equal employment title. But even the equal employment title was only a matter of eliminating discrimination--wasn't a job creation.

B: Did Mr. Johnson get any more specific about precisely what kind of economic provisions the government should try?

M: Well, you know, I'm sure all these memories are checked with each other, and therefore this will be checked and whatever. I confuse conversations; my memory is bad, and I could take a conversation I had in 1964 and think it was in 1963, and therefore confuse occasions.

B: That's not at all uncommon. That's the job of the poor future historian.

M: Yes. But I know that he talked about from his own experience and works programs, public works programs, particularly job creation programs.

B: Mr. Johnson's memory must have been right long, too. He was in works programs in the mid-1930's.

M: Yes.

B: You said that you got the impression of diffidence from Mr. Johnson.

M: Also, could I add this before I get off that conversation? I think he was very doubtful that we could get that legislation passed. And my impression just, you know, and I was a rather lowly intermediary or conduit of information from him to the President, but my impression was that he was very dubious that we could get it passed. And a lot of people were, but he was very dubious.

B: Do you know if he offered any specific suggestions on the mechanics of getting it passed?

M: Well, I think that at that time one thing that he did say was that the President ought to

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hold it back until he thoroughly discussed it at least with the Congressional leaders, and the President did do that.

B: Did you report back on this conversation to either Robert Kennedy or John Kennedy?

M: Well, I'm sure I did. And I would have said something like I just said to you now.

B: I was wondering if you could remember their reactions to Mr. Johnson's suggestion of economic emphasis?

M: Well, I can't remember specifically. I'm sure that their reaction, which was my reaction, too, was that we'd bitten off an awfully big chunk as it was, and that although the point was valid, there wasn't anything that could be done about it right then. I think I would have concluded, and I know Robert Kennedy agreed with this and I suppose the President did, because he introduced the other bill, that we could not, whatever the validity of the point about the economics of it, we could not ignore the public accommodations which at that time was the toughest part. So that you couldn't substitute for the bill that President Kennedy asked for a bill no matter how good, that was basically a bill directed at poverty that would not have met the needs of the situation. The needs of the situation required that this problem of restaurants, which is a silly problem really, but that that be solved.

B: You said a moment ago, sir, that you got the impression of diffidence from Mr. Johnson in this conversation with him. Was that a general impression of Mr. Johnson during the Vice Presidential years?

M: Well, it may be the wrong word for Mr. Johnson, but I--

B: Restraint, holding back?

M: I think that he had a firm view of the limits of what a Vice President could do, and that those, this was my impression, and that that meant that he really had to let the President decide what he was going to do and then back him rather than the other way around. That was my impression. Now, I didn't have a lot of contact with him. The Vice President, Mr. Johnson, was given a specific responsibility by the President for running the Equal Employment Opportunity Committee, and he ran that. He took that on, and there was nothing diffident about that at all, because that was a specific assignment. But I think that's the way he felt about it.

B: We'll get to that in a moment. In this same area, after the Civil Rights Bill of '64 was introduced in Congress and did indeed run into difficulties, to your knowledge was Mr. Johnson called in to help push, to treat with Congressmen, or whatever was necessary?

M: Well, not to my knowledge. I'm sure the President discussed it with him, but the handling

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of that legislation President Kennedy left up basically to the Department of Justice. And that included not only the Vice President but Larry [Lawrence] O'Brien and the people in the White House that dealt with the legislation. By and large, they didn't have much to do with that bill.

B: Even Mr. O'Brien was--

M: Yes, that's right.

B: Who was the main person in the Justice Department in Congressional work like that?

M: Well, the people that dealt with that would have been Robert Kennedy and Nick [Nicholas deB.] Katzenbach and me--the three of us. Now, after President Kennedy was killed, Nick Katzenbach had much more to do with it than before that, but he had a lot to do with it in the House Judiciary Committee in the summer of 1963--a great deal to do with it.

B: Did you find that a strange world?

M: Did I find it a strange world?

B: The business of trying to get legislation through Congress?

M: Well, of course, it's strange until you get used to it, like everything else.

B: Is it hard to learn? I may be phrasing these questions badly, but one hears so much about Congress as a group of personalities who must be known individually to be able to work with them effectively.

M: I think you do have to know them individually, and that you're not very good at it if you go in with preconceptions or just deal with things on sort of a basis that all Congressmen are the same, or that they're all responsible; or that they're all irresponsible; or that they're all the same in any way. But I found that most of the people in both the House and the Senate were responsive; they were responsive and responsible to arguments or an approach that was based on merits and the needs of the national need. I found them to be responsive to that for the large part.

B: Most of your activity was then in effect simply educational?

M: Yes.

B: Just explaining the bill and the needs for it?

M: Yes. I really don't know what Mr. Johnson did. I'm sure he did some things, but held do



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them and I wouldn't know about them.

B: Before we leave this area, there has been a good deal of speculation to the effect that there might have been some friction between Mr. Johnson or Mr. Johnson's staff and either of the Kennedy brothers or their staffs. Did you ever see any signs of this from your point of view?

M: Well, I'm sure that there was friction in 1960; I mean, because two men contending for the Presidency, there's bound to be some friction between them and there's inevitably going to be friction between the people working for them. But I never noticed it. That may be because I wasn't in a position to notice it. There was some personal friction between Robert Kennedy and Mr. Johnson, mainly because of the terms of the President's Committee on Equal Employment Opportunity. Because Kennedy wanted everything done immediately, and there were some things that weren't done immediately, and so there-

B: You mean Robert Kennedy?

M: Robert Kennedy. And so there was some of that, but not serious.

B: How was this expressed? What made it noticeable?

M: Well, I remember a meeting of the President's Committee which the Vice President chaired in which I was there. I usually sat in that committee in place of the Attorney General, but on this occasion the Attorney General came. This was in May of 1963, I think, roughly. Well, in May of 1963, the country was in turmoil, as you will remember, absolute turmoil because of Birmingham; it was repeating itself all over the place and everybody was on President Kennedy's neck--black people, white people, everybody was on his neck. So Robert Kennedy was trying to do all sorts of things; he was trying to persuade businessmen to open their restaurants and theaters; he was trying to get this legislation underway; he was trying to get church groups and educators and labor people stirred up about this and doing something within their own constituency. And so he was very impatient. He went to this meeting and he asked a lot of questions that were impatient, very impatient; I could see it made the Vice President mad.

B: Asked them directly of the Vice President?

M: Well, he asked them of Hobart Taylor, and Hobart Taylor was at that time the staff head of the President's Committee on Equal Employment Opportunity. And he was a Johnson man--he was what you would call a Johnson man. That's the only outward sign that I ever saw was at that meeting.

B: What was Mr. Johnson's reaction to that kind of questioning?

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- M: Well, he didn't like it because the implications of the questions, all of which were the kind of questions of, "Why hasn't this been done?" or "Why hasn't that been done?" or "Why hasn't something else been done?" or "When is it going to be done?" They were necessarily carrying an implication that these things should have been done. And since it was Mr. Johnson's committee, he didn't think that was--
- B: How could you tell he didn't like the questioning? Mr. Johnson has on occasions a pretty obvious temper. Did it get that far or anything?
- M: Well, he didn't say anything, but I could just tell. I mean I could tell from his face. And I didn't blame him. I mean, if I had been chairman of that committee, I would have been irritated by those questions, too. But the questions were justified. The question is whether it was wise to do them in the full committee or whether it could have been done in some other way.
- B: To deal directly with that committee, the President's Committee on Equal Employment, as you've said, Mr. Johnson was assigned the chairmanship of that committee and you generally sat in for the Justice Department on its meetings?
- M: Well, I did several times at least. Sometimes John Segenthaler did, I think.
- B: From your vantage point, how effective was that committee and Mr. Johnson's handling of it?
- M: I thought it was pretty effective on the whole.
- B: What precisely did that committee try to do?
- M: Well, they established their cause--caused the employing agencies of the government to establish procedures that both made the direct federal employment effective and also made the employment by contractors effective; that is, there was a follow-up, it was not just a reaction to individual complaints which was all that the similar Nixon committee had done. If you compare the rules and regulations and steps taken by the Nixon committee with those taken by the Johnson committee, you'll see that there's just a world of difference. In addition to that, there was an affirmative program which Mr. Johnson personally pushed very hard called "Plans for Progress," which a lot of the civil rights people were very skeptical of, but which I think was a useful program. I think that it caused a lot of jobs to be opened up that wouldn't have been opened up in any other way.

There was a fellow on that committee called Bobby [Robert] Troutman, and Bobby Troutman and the Vice-President didn't get along very well. I think the Vice-President thought that Bobby Troutman was one of the Kennedy people you're talking about that had a resentment going back to 1960.

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- B: I might insert here--is the kind of terminology that I used fair; that is, to talk about Johnson people and Kennedy people? You've already mentioned Mr. Troutman as a Kennedy man and Mr. Taylor as a Johnson man--
- M: Well, I was picking up your phrase, but I think it's fair.
- B: I didn't want to put the words into your mouth.
- M: But I think it's fair. I think there were a lot of people, not people that just worked for the Kennedys like me, I mean I had nothing to do with the 1960 struggle, but the people that did have a lot to do with that in the fight for the nomination--I think that you could classify a number of people like that as either Johnson people or Kennedy people.
- B: One presumes those same people might have been looking forward to, say, 1972?
- M: What people?
- B: These Kennedy and Johnson groups; that is, a possible clash between Robert Kennedy and President Johnson at what would have been the normal end of President Kennedy's two terms.
- M: I don't think so.
- B: Oh, really?
- M: No, I don't think so at all.
- B: No one planning that far ahead?
- M: No. I don't think there was anything like that. I think Robert Kennedy-- that there was nothing like that in his mind ever.
- B: Oh, really?
- M: Yes. He thought that by the time his brother had finished being President, I think that he thought that he would have had to have made so many enemies by that time that I don't think there was anything further from his mind.
- B: That's an interesting point.
- Sir, on this Committee on Equal Employment, did Mr. Johnson himself originate any new ideas in that area?

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- M: Well, the Plans for Progress. And I don't want to minimize, because they're very important, the sweep of the regulations and rules that were issued by that committee which affected the way the Defense Department did its business. The clause in the contract, I mean there was a clause that was required to be inserted in all government contracts. If you compared the clause that was used in the Eisenhower Administration with the clause that was used in the Kennedy Administration which originated with that committee, they're just worlds apart. One was real and effective, and the other wasn't.
- B: Who did the following up on these contracts? Did your division, the Civil Rights Division, do the following up to see that contractors--?
- M: Now, that was done first by the contracting agencies; that is, the--
- B: Of the federal government?
- M: Of the federal government. And secondly by the staff of the President's Committee. Now, of course, they never could have a very big staff; there are legal restrictions on the amount of budget that an inter-departmental committee can have anyway, and that was always a problem--what was called the Russell Amendment. So that there was always that, but the basic work had to be done by the contracting agency. But we did not do that. We did not do that. I only had to do with the President's committee insofar as that was sort of delegated to me by Robert Kennedy who was on the committee. And insofar as over a period of time, everybody thought that the Department of Justice, and particularly the Civil Rights Division, was responsible for anything that had anything to do with Negroes. If somebody, I don't care who it was, thought there was a problem, they'd often bring it to me, not because I had anything to do with it, but just because that impression had gotten around.
- B: Do you feel that that committee went as far as fast as it could have?
- M: Well, nothing went as far or as fast as it could or should have, so I wouldn't say that. But I think that it did a good job.
- B: The specific incidents of those years through 1963, as you have already said, mount in intensity by 1963 to turmoil in many areas. Do you recall if, in any of those things beginning with the freedom rides of '61 and on through the march on Washington in '63, Mr. Johnson played a direct part?
- M: No, I think not.
- B: I was wondering, to take for an example the admission of James Meredith into the University of Mississippi in those hectic weeks there when, I believe I'm correct, you and the Justice Department were seeking every means to influence Mississippi's state officials

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to get Meredith in easily without violence, was Mr. Johnson called on to use his influence in the South?

M: Not to my knowledge. I mean, not to my knowledge, because he may have been. At the time of Oxford and that, of course, that was all Mississippi basically. I mean, there were a lot of Klansmen and others coming from other states, but the political people that you had to deal with were Mississippians. And we dealt with them directly to the extent that we could deal with them; we dealt directly with the Governor and with the two Senators and with anyone we could deal with. Now, Mr. Johnson may have been asked by the President to do something, to talk to someone, but I don't know about that. I think at the time of Birmingham--well, let me retreat a bit. At Oxford, the University of Mississippi, was a lawsuit, and a rather specific problem which was difficult to handle, but for which the solution and the need were clear--it was difficult to achieve it, but you knew what you were trying to achieve very clearly. At the time of Birmingham in May of 1963 when there were the street demonstrations and the police dogs and the fire hoses and [Eugene (Bull)] Connor and (Martin Luther) King [Jr.], it had the country much more in a turmoil than Oxford. You didn't know what you were trying to do. I mean, that was one of the problems--that there were no clear objectives anywhere and you didn't know what they were trying to do. Negro leaders would call on President Kennedy to send in the army, but of course what would the Army do if it got there other than declare martial law and arrest anyone that demonstrated? And the objectives were not achievable by government; I mean there was no way the government could make restaurants serve Negroes or hire people. So that was a much more difficult and ambiguous situation.

Now, at the time, I was down there. I went down there to do what I could to resolve it--

B: To Birmingham?

M: To Birmingham. And I called for a lot of help from the Attorney General and from the White House. And particularly in terms of calling people, not just political people, but business people or any of the newspaper people, or anyone that could influence the situation. And I think that the Vice President may have been asked to talk to some people at that time. I know the President personally talked to some people, and I'm quite sure the Vice President did, and the Attorney General did, and a whole lot of people did. But I don't know to whom because I didn't have time to do anything except to ask that somebody talk to somebody.

B: Were the Birmingham riots the first time you had personally gone to the scene to take charge? I know you were in Washington at the time of the Oxford affair.

M: Yes, but I conducted that litigation. I mean, I had been in court. But I hadn't been--I stayed in Washington at the time of the Freedom Rides, too. That's right. In terms of

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there being a turmoil going on, that was the first time that I went down to the turmoil. I did it after that in Birmingham also, and in some other places.

B: Do you recall your impressions on an occasion like that; that is, in Washington you must have formed some opinion of what the situation and the emotions involved in it were like; did you find that when you actually went to Birmingham your opinions were justified, or was it worse than you had thought?

M: Don't misunderstand me. I went South a lot starting in 1961. It just wasn't in the middle of a riot.

B: Oh, I see. Litigation---

M: Well, I also went in the summer of '61. We resolved--I mean, you resolve these things, and then of course you can't bring them about, but we decided that we were going to do everything so there wouldn't be an outbreak at schools in the fall. So we found out all the cities in the South that were going to have a first-time desegregation in the fall, and I went to every one of them. I can't remember what they were now; I know Atlanta was one; I think Memphis was one; there were at least ten cities--Dallas, maybe. So I knew a lot of people from that kind of trip.

B: On this kind of trip, the one you just described, to the cities that were going to integrate, whom do you talk to on a trip like that?

M: The mayor, police chief, the school board, businessmen, church people. You know, I'd find out--I'd get a contact in the city and get advice from him and maybe get some political advice if a Congressman would talk to me. There's always somebody, but we never publicized it.

B: That's why I'm asking. It's the first I had heard of such trips. Did you offer them any federal assistance, or was it just sort of an encouragement?

M: Well, we always offered them federal assistance, and I always tried to do that in a way that suggested they were going to get it whether or not if they let the situation get out of control. But we also tried to make it clear, and I think did make it clear basically by not having any publicity, that we weren't trying to push them around and that it was good for business and good for their city if they got this thing over with in a peaceful manner--and most of them responded to that. They all did really.

B: Such a visit in effect is also a reminder of federal concern and presence, too, I suppose.

M: Well, that's what I say--that I think there was that suggestion that they'd get federal assistance even if they didn't want it unless they managed things.

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- B: Is there anything else about these events through 1963 that you feel ought to be on a record of this kind? I have for my own reminder here a list of the major ones on through '63; I was wondering if there was any need to rehearse them one by one.
- M: Well, in connection with Mr. Johnson, I've spoken about the Equal Employment Opportunity Committee and the legislation, and I didn't basically see much of him except in those connections.
- B: So far as I know, the details of most of these events have been pretty well covered in the written record. There is one area I know of of a fairly recent controversy, or revived controversy, in connection with the Oxford affair; precisely, what went on in the telephone conversations between Robert Kennedy and Governor Barnett of Mississippi. It was, I believe, the Justice Department's point of view that Barnett had in fact made a deal that he would back down at a minimal show of force which he then reneged on.
- M: That's correct.
- B: And Mr. Barnett later denied that such a deal had ever been made?
- M: Mr. Barnett didn't tell the truth. I think that most of that is written somewhere. Walter Lord wrote a book about that incident.
- B: I was going to ask you if Mr. Lord's The Past That Would Not Die was an accurate account to your knowledge.
- M: Yes. I couldn't vouch for every page of it, but in general it was an accurate account. There's no doubt that Barnett made that deal; I mean Barnett was a very weak, fundamentally unscrupulous man, which is shown by the nature of what he did. But there's no doubt that he did it; there's no doubt the reason that he did it. The reason that he did--when Meredith went on the campus at Oxford, he went on there with the State Highway Patrol; that was by arrangement with the governor. So that the governor did bring Meredith into the university. Now, why did he do that? Well, I'll tell you why he did. He did it because Robert Kennedy told him that otherwise the President was going on nationwide television and announce that Governor Barnett had made an arrangement to let Meredith in and then backed out of it. The governor said, "Oh, you can't do that!" And so he made this other arrangement.
- B: Actually, you had a taped telephone call--
- M: We did not tape it. He may have taped it, but there was a tape, I guess. But we did not tape it.
- B: The Justice Department did not?

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M: No.

B: And you have no knowledge of who made the tape?

M: Well, we had a secretary taking notes, but no tape. Now, I understand that Barnett taped it, but I don't think that he was very anxious to have any of those conversations get out, so I don't know what he did with the tape.

B: Later in Mississippi politics when Governor Barnett ran again, a tape or an alleged tape involving this figured in his primary contest for governor.

M: Yes. I remember that. We went down, just while we're on tapes--I went in with Robert Kennedy to call on Governor Wallace. And that, of course, was after the Oxford thing and because of that business about taping and everything like that, Governor Wallace did have a tape sitting right out in plain sight on his desk and taped everything.

B: This was the next year in connection with Wallace's stand in the door?

M: Yes.

B: Did you find Governor Wallace any easier to deal with than Governor Barnett?

M: Well, he was smarter, I'll say that. He was smarter.

B: Was it pretty well assured in advance that in connection with the integration of the University of Alabama that Wallace's stand in the door would be just kind of a charade to allow him to save face politically?

M: Well, that was what we thought but of course we had no assurance of what he'd do, but that was what we guessed he was doing and that turned out to be correct.

B: Were you prepared for a duplicate of the Oxford incident the year before?

M: We were prepared, yes.

B: What sort of preparations were involved in that?

M: Well, we had some troops. I can't remember where they were. I think they were in Nashville or some place, but they were ready. I mean it was all worked out--the logistics of it were all worked out.

B: In this kind of thing in connection with the admission of James Meredith to Ole Miss and the integration of the University of Alabama and the Birmingham riots and all the rest of



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these, you said earlier that you tried to find local contacts. Was that difficult? Could you find easily in all of these cases--I dislike using the term native, residents of the area who could and would assist you?

M: Yes, we always did, even in Mississippi.

B: Again, from reading Walter Lord's book, I was aware that there was a confidante of the governor--was his name Watson?

M: Watkins.

B: --with whom you were in fairly close contact.

M: Yes. I wouldn't call Tom Watkins a friend or an assistant in that way, but he was at least somebody you could talk to who could understand you. I mean, I'd been associated with him in a law suit in Mississippi in 1960 so that I had a professional kind of acquaintance with him. But that was tough and Alabama was tough, but we always found some people. There were people on the faculty of Ole Miss; Governor [J. P.] Coleman [former governor of Mississippi] was very helpful. I'm sure he'd hate even now for anybody to know how helpful he was, but he was very helpful with advice at least and names, you know. You could call him and say, "This is the situation. What should we do?" and he'd say, "Go talk to" someone or other.

The mayor of Jackson was often very helpful although he is a very rigid, rigidly conservative segregationist, but he didn't believe in riots; he didn't like the Klan and so forth.

In Louisiana, the majority leader in the State Senate in 1961 was very helpful. That was when the legislature was passing all these laws shutting off funds from the New Orleans schools because of integration.

There were a number of people in Georgia--of course, Governor [Carl] Sanders [former governor of Georgia] by the time he became governor.

In Alabama, you know, it differed from place to place, but there were always some people. I got a great deal of advice, if not comfort, from the editor of the Birmingham News and from other people down there. So that there was always somebody.

B: Did you ever form any opinions about why these somebodies weren't doing this for themselves, or for their own states?

M: Of course, it's understandable. The social pressures and the economic pressures on them would have been very great. In terms of taking a public stance on this at that time, there

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was almost no in-between ground. You were either against us or for us, "us" being the federal government; and if you were for us, you were all mixed up with Communists and everything like that; therefore, they were all against us publicly. So that it was very difficult to get publicly involved. And I think that was perfectly understandable, so I never criticized or blamed anyone for not--

B: On your trips to the South, were you ever physically threatened? Perhaps I should phrase that, how many times?

M: Well, I suppose, but I never took it very seriously. I remember once in Birmingham after those children--there were four children that were killed by a bomb in Sunday School, and Birmingham for a few days after that was really at war basically. There were guns all over the place, and there were guns all over the Negro areas. And I went into the Negro area one night. I couldn't get the FBI to take me in there, and I got the head of the Negro civil defense unit to take me in, but they sort of disguised me. They had a man on each side of me with shotguns. That was September of '63, I think.

B: How did they disguise you?

M: Well, they put a big helmet over my head so no one could see what color I was.

B: You couldn't get the FBI to take you in?

M: Well, I suppose I could have if I had called up the Attorney General and gotten him to call up Mr. Hoover, but they were scared to.

B: Did you find the FBI generally cooperative in these crises in the South?

M: No. They got more cooperative as time went on. And Mr. Johnson, after he became President, maneuvered the Bureau into opening up a new big office in Jackson, Mississippi, and that office was very effective. But in 1961 they were absolutely useless. They were somewhat better, you know, after Oxford, but there weren't many agents around any way, and they were interested in finding out who had stolen cars, you know, which is the way the Bureau builds up its statistics. And by and large they weren't much use.

B: If you can pin it down more precisely, was this because of the attitude at the very top on the part of Mr. Hoover, or was it because the resident FBI agents, mostly Southerners themselves I believe, were uncooperative?

M: It's not just a matter of personal lack of cooperation; it's a matter of the way the Bureau is run, too. The Bureau is very rigidly run. It'll take ten interviews to go into this, but the Bureau is run as being an investigative arm and nothing else, nothing else--that's the way

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Mr. Hoover has run it, and he sticks to that line. Everything has to be written. You can't get anything done without having it written. And they won't do anything of preventive or prophylactic nature, at least in this area. And then a lot of these things are so ambiguous, you know; racial troubles are so ambiguous; the authority of the federal government is ambiguous--it was very ambiguous in Birmingham. But there weren't any federal crimes being committed, you know, was the Bureau's attitude. If there was a federal crime and you'd ask them to do something, they'd say, "What federal crime? Who committed what federal crime?" And you'd have to write them a memorandum saying that someone had committed a federal crime--please investigate it, because that's the only form which evoked action. So, I don't think it was just a matter of attitude although I think the attitude of Mr. Hoover was very negative, very negative.

B: And neither President Kennedy nor Attorney General Kennedy could make any dent in this attitude?

M: Well, we made dents. When he thought that the public reputation of the Bureau was being damaged, as it was, because of their inability to deal with this problem at all, he'd do something. But the notion that Attorney General Kennedy or any attorney general can really have an effect on Mr. Hoover does exaggerate it, to say the least.

B: I think it's pretty general knowledge that attorney generals come and go, but Mr. Hoover is there forever.

M: Yes.

B: Sir, to move on in time, into November of '63, when President Kennedy was assassinated and Mr. Johnson then became the President, outside of the human anguish obviously caused by the assassination, was there any glimmer of dismay in the Civil Rights Division that perhaps under President Johnson the civil rights movement--your activity in civil rights would not be conducted as strongly as it had been?

M: Well, I can't speak for the whole division. I don't think so though. It never occurred to me, I mean that aspect of it. There were other aspects of it. Although I didn't know the Vice-President well at all, it never occurred to me, and I never heard it mentioned as a problem by anyone. There were other sources, you know, of anguish, but I don't think that anybody--especially since he acted so quickly about that legislation and his speech before the joint session.

B: The other sources of anguish--you meant the simple human emotion of President Kennedy's death?

M: Yes, a personal emotional attachment that these people had gained for President Kennedy, in large part because of their real affection for his brother whom they worked for. You

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know, in the Department of Justice more strongly than anywhere else, there was that kind of emotional attachment, and there was no reason for them to have an emotional attachment at all to Mr. Johnson.

B: During that period, sir, did you contemplate resigning from the Justice Department?

M: Well, I suppose. I never would have resigned as long as Robert Kennedy was Attorney General. That's one thing. And then in addition, I don't think I ever really contemplated resigning until after the election was over.

B: Did Mr. Johnson see you personally or with a group of other Justice Department people and ask you to stay?

M: No. He didn't, but then on the other hand, I never suggested to him I didn't want to; he didn't have to ask me to. I did see him--I can't remember the first time I saw him--I saw him at a meeting in the Cabinet room, I can't remember what the meeting was about, but in any event--and therefore I can't remember why I was there. It might have been a meeting--he may have had the Negro leaders in or something or other. But in any event, he asked me to come see him in his office after the meeting was over and I did. And that was not too long after the President was killed. And all he asked me, he asked me how we were going to get the legislation through. Of course, I didn't have the foggiest idea how we were going to get it through the Senate, though I was sure, and I told him I was sure, we could get it through the House. But he was interested in the Senate.

B: And it was an expression of interest in the Civil Rights Bill generally?

M: Yes. I knew he had that interest. I'd never had any doubt about that.

B: And that led to what became the 1964 Civil Rights Bill. You said that by that time you were sure it was going to go through the House anyway?

M: I was sure. I had been sure even since October that it was going to go through the House, because I was just sure we had--once we got it through in Judiciary Committee, and [William N.] McCulloch and [Gerald] Ford, and all those Republicans--what's his name from Ohio, Charlie Halleck--all of these people were committed to it to President Kennedy, and I just didn't see that they could go back on it because he was dead. In fact, they'd be less apt to. And if the Republicans were that committed to it, I didn't see--I was just sure it would go through the House as it came out of the committee, and it did.

B: Did you have anything special to do with working in the Senate for passage?

M: Yes, I spent a lot of time with that.

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B: Do you recall whom specifically you spoke to? Which Senators?

M: I spoke to a lot of Senators. I spent a lot of time with Senator [Everett] Dirksen at the end; I spent a lot of time with Senator [Hubert] Humphrey. There were a number of Senators--Senator [Phillip] Hart and Senator [Edmund] Muskie; of course, Ted Kennedy; Senator [Birch] Bayh, and all of the Republicans. I met for hours with those--in Senator Dirksen's office going over that bill. Senator [Roman] Hruska was there most of the time; Senator [Leverett] Saltonstall was very, very helpful. Senator [George] Aiken; Senator [Mike] Mansfield, of course--I spent a lot of time with Senator Mansfield.

B: Were these meetings educational in the sense of you, again, repeating the need for the bill and what it would do, or had you gone beyond that stage by then; were these just working out the fine points of--

M: That was mainly drafting; that was drafting by that point to get Senator Dirksen--see, the bill couldn't get through without--or, at least, we didn't think--you never can tell how much you might overrate Senator Dirksen's influence; it obviously on occasion isn't as great as it is on other occasions. But our notion was, and I think it was probably correct, that we couldn't get cloture without the support of Senator Dirksen and the five or six or maybe ten Senators that he could bring with him on cloture.

B: Do you recall what finally convinced those men?

M: I think it was a combination of things obviously, and different things convince different people. I don't know what convinced Senator Dirksen really; I suppose the Presidential politics of 1964 were involved in it in some fashion. But I still believe that what convinced them was they thought there was a national need for it; that that was the single factor that convinced most of them. I'm sure that was true with Senator Saltonstall who was absolutely key; and I'm sure that was true with Senator Aiken. You know, those men don't have any reason--there are no other motivations basically that would push them on a thing like that.

B: Sir, I know this is a difficult question to answer. Was there any noticeable difference between the Kennedy Administration and the Johnson Administration in tone or atmosphere? I realize that's an intangible thing, but were the working conditions and the attitudes any different after the assassination?

M: Well, you see, for the people--President Johnson was always--there was nothing that he ever did with respect to me that was anything but kind and courteous. But you can't expect, and nobody can expect that a group of people that get, as I said of the lawyers in the Department of Justice, so emotionally attached to a man, a President, and in this case to his brother, as they did to the Kennedys that there isn't some sort of a change when someone replaces him. And so that was very noticeable all the time, and unavoidable and

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inevitable. And I think would have been true no matter who had succeeded him.

B: Is it fair to say, and please correct me if this is the slightest bit of wrong phrasing, is it fair to say that by and large the Justice Department gave its loyalty primarily to Robert Kennedy rather than to the President, or is that too extreme a statement

M: Well, it depends on what you mean by that. In terms of a personal attachment to a man, their attachment and emotions and affections, basic affections, were for Robert Kennedy; but that doesn't mean, you know, that people were sitting around trying to find ways of favoring something he wanted as against something the President wanted. There wasn't anything like that.

B: It did not affect in any way the actual work of the Justice Department?

M: No.

B: In the next two years while you were still Assistant Attorney General, on into '64 and '65, there were many more events like those of previous years-- in '64 Schwerner, Goodman and Cheney murders in Philadelphia. Do you recall Mr. Johnson's reaction to, say, that incident? Incident is not hardly the word, excuse me.

M: Again, I'm going to have to caution you that I get events mixed and everything. But in the summer of '64--that must be right--I went over to the White House several times, I think, in connection with Mississippi. Those murders were in '64, weren't they?

B: If I have it correct, they were, in I believe the spring or summer, but '64 is the correct year, I believe.

M: Well, on those and then we had a terrible Klan problem in the summer of 1964 in Mississippi. I mentioned once before that I thought the President maneuvered the Bureau into taking much more of an action role. It was on that occasion--that was when President Johnson, you know, he got Allen Dulles to go down there--

B: Allen Dulles to go to Mississippi?

M: Yes. It was sort of a silly idea in a way, but it was actually pretty effective.

B: For what purpose? To see whom?

M: Well, to look into the Klan. Allen Dulles went down there with Tom Finney. And I went down with them, but I didn't go in to see the governor with them. Then he came back, and he reported to the President how serious the situation was, and the President sort of used this publicly, and then used it to embarrass the FBI basically is what he was doing, I

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think, all along.

B: This was the maneuvering the FBI that you spoke of earlier?

M: Yes. I remember a phrase he used. He said, "There's three sovereignties involved--there's the United States and there's the State of Mississippi and there's J. Edgar Hoover." And he dealt with them separately, and he used Allen Dulles to do that, and it worked. It even ended up with Mr. Hoover going down there to Jackson himself to open up the FBI office. And the FBI did a hell of a job that summer, just excellent, which shows how good they can be if they really want to do it. They solved those murders which were very difficult to solve, and they got all sorts of information on the Klan. They really broke it. We would have had many murders down there if the Bureau hadn't been stimulated into doing that.

B: The situation was that bad by the summer of '64?

M: Yes, I think it was terrible.

B: Did you find the government in Mississippi any more cooperative by that time?

M: Well, Barnett was out and Paul Johnson was governor; he was certainly not my idea of the greatest governor in the country, but certainly compared to Barnett he was much better.

B: How about the local law enforcement agencies such as the Highway Patrol?

M: Well, they were better, too. I mean, they're full of very, very low-grade types of police officers, to put it mildly, but still they're better than a lot of sheriffs.

B: That was my next question. What about at that level, which is in Mississippi is pretty much the crucial level?

M: Well, the Highway Patrol did a lot of work, almost replacing the sheriffs in some counties, but the sheriffs--there's nothing you can do about the sheriffs. The sheriffs were as bad as ever.

B: Were you still in the Civil Rights Division at the time of the Selma-Montgomery march?

M: No, but President Johnson called me back, and I sort of became a part-time consultant to the Attorney General. And I went down to Selma, and I met with the President several times. I met with the President and George Wallace, as a matter of fact, at that time just a little bit before Selma.

B: Do you recall the circumstances of what went on at that meeting?

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- M: I can't remember whether the governor asked to see the President, I guess he did. Anyway, the President said yes. The governor came in with Seymour Trammell who is sort of his hatchet man down in Alabama; he's still working in the campaign now. And the President handled Wallace very well, very well. He really had Wallace impressed, sort of cowed and pliable. Of course, it didn't last more than two days; but he kept telling him we have to view ourselves and view this problem as history will view it in the future. Wallace ate all that stuff up, and it was very effective. It didn't last, but it was very effective for the time being.
- B: In that kind of conversation, is it a conversation; that is, did Wallace and Johnson mutually talk, or is it just President Johnson talking while Wallace listens?
- M: Wallace sat there and nodded his head basically, but he was very impressed, very impressed. And he made a press statement as he left the White House that for Wallace was extraordinarily calm and responsible. But as I say, when he got back down to Alabama, after three or four days he turned it all over.
- B: In the Selma-Montgomery affair, did you perform essentially the same sort of functions you had before--go to the area and seek out local contacts and report back to the President?
- M: Yes, I did some of that. I can't remember who I saw; I think it was principally Wilson Baker who was the local law enforcement fellow. Some of the people in Selma were impossible to talk to, and there was no point in trying to talk to them. But he was one that wasn't, and then I saw the Negroes and the students and the civil rights people, you know, I knew most of them. I don't really think I performed much of a function; I think the President wanted me there just to show he could call on me in a way; there was a great deal of public interest in that march. So I really think I didn't perform much, but I didn't mind doing it.
- B: Have you been called on for similar services since?
- M: No. I did spend some time after that march on the legislation; I helped particularly with the Senators, and with Senator Dirksen again.
- B: I was wondering if you had been called in on any of the big city riots that had occurred subsequently.
- M: No, not by the President. By the Attorney General somewhat, particularly when Nick Katzenbach was Attorney General.
- B: Mr. Katzenbach occasionally asked your advice?



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M: Yes.

B: Has Mr. Clark?

M: I don't recall. Oh, I've seen him sometimes; I guess he has maybe.

B: Sir, in connection with this dealing with the people involved in this, do you find difficulties in dealing with the Negro leaders, the civil rights leaders?

M: You mean now, or back then?

B: I was really going to ask if it has changed any in the period of your experience with it. Have their demands gotten more insistent?

M: They've changed. Who are the civil rights leaders? You tell me who the civil rights leaders are today, and I can answer the question. I don't know who they are. I don't think there are any civil rights leaders as that term is normally used. Back in '63, say, at the time of the march on Washington and to some extent after that, but say that was the high point. You could get in Whitney Young, Roy Wilkins, Dorothy Height, Martin Luther King, A. Philip Randolph; and there you had the civil rights leaders and nobody would question that you had the civil rights leaders, especially if you included John Lewis or some representative of the students. John Lewis was the one then, I guess, who was a fine fellow. But you can't do that now. It's just absolutely meaningless. I don't know whether President Johnson would agree with that, because sometimes he still does get those people in. But from the point of view of the black community, they wouldn't pay any more attention to Roy Wilkins than to George Wallace, maybe less.

B: This leads into the next question, sir. Is the problem soluble, and if so, is it soluble by federal action--the civil rights problem?

M: No. I suppose it would be rather discouraging for me to say that it isn't soluble at all, though I'm really not sure that it is. But it's certainly not soluble by federal activity alone, although it has to have presidential leadership and federal activity in a great deal of it. But that isn't going to solve it, but that's a necessary element. Frankly, with this election that's coming up now, Nixon getting elected President, I don't think--I think it'll get worse frankly.

B: You've been quoted as saying that laws can change men's mind, but it requires more than that.

M: Well, I said that, and it was correct. As applied to the problem in the South, which was a very specific, and now I can see, you know, a small part of the problem. But that remark which I used to make and there are other things that I've said are directed at eliminating

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the official legal caste system in the South. Now, the official legal caste system, segregation in schools and all of that business, has basically been eliminated. I don't mean it doesn't still exist, but it doesn't exist officially, and it doesn't exist as a--it's no longer considered a viable constitutionally-protected system of state government, which was untrue six years ago. In 1961 the entire policy of a number of states was official segregation. That is no longer true. So we changed that, and I think that change has basically been accepted. And that just doesn't happen to be very much of the problem any more.

B: Do you think now perhaps the problem is more in the area of economics, or is that too simple, too?

M: Well, I think that's too simple to say it's any one thing. I mean, all of these things happened, and they happened out of the caste system, but the movement of the people into the cities has created in the cities a complex of problems that can't be classified or solved under any single category. That includes housing, education, jobs, motivation, the welfare system; there are a whole complex of things, and I frankly have some doubt whether the existing institutions which are basically city, state, county, local, not federal, are adequate to deal with those problems. Now, there are some experiments, you know, in terms of creating new institutions that may have an effect.

B: What sort of institutions do you have reference to?

M: Well, development corporations. That's an obvious example. Bedford Stuyvesant Development Corporation. And this new housing act created a new kind of housing corporation. So those are new institutions.

B: Do you feel that private business, particularly the large ones such as International Business Machines, can do much in this area?

M: Well, we put a plant in Bedford Stuyvesant. We wouldn't have done it if it hadn't been for that development corporation. But now we've done that, and so I think the attitude of this company would be, "It has been done, and we're not going to do it everywhere." Therefore, that's not a solution; that's just a gesture. And business isn't going to solve these problems or do anything significant toward solving them in my judgment until they can make money out of it, because that's their motivation. And I think that's absolutely proper. Anything else is a waste of time. But most of the pressure on business now has been basically precatory, entreating them to do something, and they will do something, but what they do will be in the first place impermanent and in the second place quantitatively insignificant.

B: Incidentally, your group still stays together a little, I think--isn't Mr. Doar your former right-hand man with the Bedford Stuyvesant Development Corporation?

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M: Yes, he is.

B: To move into another area, you served as chairman of the committee studying the Selective Service System for Mr. Johnson, did you not?

M: Yes.

B: Do you recall the circumstances of your appointment to that? Is there any special reason why he chose you?

M: Only he could answer that. I don't know why. I suppose that partly it was this business which continues of having Kennedy people, people identified with Kennedy, and I'm a Kennedy person in those terms, and he may have wanted that. I mean, I think that was an advantage from his point of view in terms of someone to head a commission like that. I also think that the civil rights background with my identification with that problem was helpful to him. So I suppose there are those two reasons; he may have had other reasons.

B: Did you find the work of that committee effective; do you feel that the President adequately supported your recommendations?

M: Well, the work obviously wasn't effective because it didn't accomplish anything. Whether that was the commission's fault or the President's fault or nobody's fault, I don't know. I suppose that it was partly my fault; if I had had more time and had put more energy into lobbying myself, maybe I would have made a difference, though I doubt it. But it's hard to do that when you've got a job and a whole lot of other things to do. The President didn't help awfully much--I mean, the White House supported most of the commission's recommendation but didn't support us at all on two major ones, the two being the question of student deferments which we thought should be eliminated, and the reorganization of the Selective Service System which I think is still essential.

The reason that the President didn't do that--the President went further, I think, in supporting us on the student deferment than any of his staff advised him to. I know that Joe Califano advised him to have nothing to do with it; and George Reedy, who was on the commission, certainly urged him to have nothing to do with it. So he went further toward supporting it than I think his political advisers told him he should. The reason he didn't support us on the reorganization was that he had me down there before the commission's recommendations were made public and had me meet in the Cabinet room with the Senators most interested in this. Those were Senator [John] Stennis; Senator [Richard] Russell; Congressman Mendell Rivers; and I can't remember--. But I know General [Lewis B.] Hershey was there, too. Well, now, you can't get in a room with Senator Russell and Senator Stennis and General Hershey and make any headway; and so I would have to agree with the President that that would seem like a rather hopeless thing to accomplish.

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So, I'm not critical about it, but the answer is that the commission was ineffective.

B: Do you feel that that kind of commission in general is an effective device? Mr. Johnson has appointed a number of study commissions on everything from violence to riots, etc.

M: I suppose there are different reasons for appointing different commissions, and some are to delay a problem, put it off, and some are there to accomplish something. Now, what did he want to accomplish out of the Selective Service Commission? I think that what he wanted to accomplish basically, looking back on it, was simply to get this draft extended--not to reform it, but to extend it. And our commission was unanimous that it should be; I agreed with that. And I think, if I'm correct, that that's the main thing the President wanted, which was difficult without getting into a big debate over Viet Nam and everything. I think that that made the commission useful from his point of view. It made the commission members all frustrated because they wanted to reform the draft, but I really don't think that was the main purpose that the President had in mind. So, that was a skillful use of the commission.

B: Mr. Johnson has been charged with being devious. Do you suppose this would be an example of that kind of thing?

M: Well, I think that's fair for a President--I mean, to use a commission for that purpose. So I wouldn't use that word to describe that action. I try to separate out these things from personalities, and I always try to think would I have been mad if President Kennedy had done that. Well, if I'm not going to be mad at President Kennedy, I shouldn't be mad at President Johnson. So I wouldn't use that word for that one.

B: Sir, what do you feel are Mr. Johnson's greatest strengths as President?

M: Well I think he had a deep feeling and responsiveness personally to the domestic problems in this country. And I think that takes a real feel; that's why I'm afraid that Nixon and everything is going to be--I think it takes a personal reaction that I think President Johnson has. And particularly in his first speech after President Kennedy was killed, and in his Selma speech in terms of articulating that responsiveness to the black people. Now, much of this has been lost for other reasons, but I think that was showing great strength and great humanity and great sense of history. Then, also, I think that he understands people--individuals, and how to--this may not be the best way of putting it, but really how to make use of them, how to extract from them what he wants. So, I think that has been a great strength for him in terms of dealing--hardly anybody can go in, I think, and spend some time with him and not come away with some sense that he was a man to be reckoned with.

B: How about his weaknesses? What do you feel are his major weaknesses?

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- M: I think that probably the use of force is his greatest weakness. I think he turned to force. Even in the limited area that I dealt with, you know, we were terribly careful. I always used to be terribly careful. And Robert Kennedy was; and President Kennedy was, maybe for other reasons. But I always tried not to use federal force, you know, even symbolic federal force to accomplish things. And so we went way over--maybe too far over--in an effort to do that, but on the grounds of principle really. Now, President Johnson never felt that at all. He didn't have any real feeling against using troops in the civil rights areas in the South, I don't think. And many people would say that was right and strong, but I wouldn't. And I think in the international area, I'd say that same thing.
- B: Did you ever discuss with him the whys and wherefores of the use of troops in domestic affairs; for example, when you were called in on the Selma- Montgomery business in '65, did you ever--?
- M: No, I really never did, so I'm just speaking from the way he acted.
- B: Is there anything about Mr. Johnson's personality that tends to rub people the wrong way?
- M: I think his personality in personal situations, immediate situations, is very effective. Quite the opposite from rubbing people the wrong way, I think it attracts them. There appears to be something about it publicly that doesn't. I mean, that has become clear from the public reactions. It may be the war, but I don't think it's just the war. But I can't explain that, because his personality in immediate personal situations is very attractive.
- B: Sir, is there anything else you'd like to put in the record for this purpose?
- M: Can't think of anything.
- B: We certainly appreciate your time.

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

Gift of Personal Statement

By Burke Marshall

to the

Lyndon Baines Johnson Library

In accordance with Sec. 507 of the Federal Property and Administrative Services Act of 1949 , as amended (44 U. S. C. 397) and regulations issued thereunder (41 CFR 101-10), I, Burke Marshall, hereinafter referred to as the donor, hereby give, donate, and convey to the United States of America for eventual deposit in the proposed Lyndon Baines Johnson Library, and for administration therein by the authorities thereof, a tape and transcript of a personal statement approved by me and prepared for the purpose of deposit in the Lyndon Baines Johnson Library. The gift of this material is made subject to the following terms and conditions:

1. Title to the material transferred hereunder, and all literary property rights, will pass to the United States as of the date of the delivery of this material into the physical custody of the Archivist of the United States.

2. It is the donor's wish to make the material donated to the United States of America by the terms of the instrument available for research in the Lyndon Baines Johnson Library. At the same time, it is his wish to guard against the possibility of its contents being used to embarrass, damage, injure, or harass anyone. Therefore, in pursuance of this objective, and in accordance with the provisions of Sec. 507 (f) (3) of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. 397) this material shall not, for a period of 5 years, or until the donor's prior death, be available for examination by anyone except persons who have received my express written authorization to examine it.

3. A revision of this stipulation governing access to the material for research may be entered into between the donor and the Archivist of the United States, or his designee, if it appears desirable.

4. The material donated to the United States pursuant to the foregoing shall be kept intact permanently in the Lyndon Baines Johnson Library.

Signed by Burke Marshall on December 10, 1969

Accepted by Harry J. Middleton for Archivist of the United States on January 26, 1976

Original Deed of Gift on File at the Lyndon B. Johnson Library, 2313 Red River, Austin, TX 78705

ACCESSION NUMBER 74-215

Signed

## LYNDON BAINES JOHNSON LIBRARY ORAL HISTORY COLLECTION

Narrator: Burke Marshall

Biographical information: Educator; b. Plainfield, N.J., Oct. 1, 1922; grad. Phillips Exeter Acad., 1940; B.A., Yale, 1943, LL.B., 1951; admitted to D.C. bar, 1951; mem. firm Covington and Burling, Washington, 1951-61; asst. atty. gen. U.S. for civil rights div. Dept. Justice, 1961-65; v.p. gen. counsel IMB Corp., 1965-69, sr. v.p., 1969-70; prof. law dep. dean Yale Law Sch., 1970--. Chmn. Nat. Adv. Comm. on Selective Service; chmn. bd. Vera Inst. Justice

General topic of interview: Discusses his experiences in the Civil Rights Division of the Department of Justice under President Kennedy and President Johnson, Date Oct. 28, 1968