

**Burke Marshall Oral History Interview – JFK#3, 6/13/1964**  
Administrative Information

**Creator:** Burke Marshall  
**Interviewer:** Anthony Lewis  
**Date of Interview:** June 13, 1964  
**Place of Interview:** Washington D.C.  
**Length:** 29 pages

**Biographical Note**

Marshall served as Assistant Attorney General in the Civil Rights Division of the Department of Justice (1961-1964); general counsel of International Business Machines Corp. (1965-1969); and as an adviser to Robert F. Kennedy. In this interview, he discusses the Freedom Rides, school desegregation, the executive order to end discrimination in federally funded housing, attempts at civil rights legislation, and the 1962 Albany, Georgia crisis, among other issues.

**Access Restrictions**

Open.

**Usage Restrictions**

According to the deed of gift signed March 27, 1972, copyright of these materials has passed to the United States Government upon the death of the interviewee. Users of these materials are advised to determine the copyright status of any document from which they wish to publish.

**Copyright**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excesses of “fair use,” that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law. The copyright law extends its protection to unpublished works from the moment of creation in a tangible form. Direct your questions concerning copyright to the reference staff.

**Transcript of Oral History Interview**

These electronic documents were created from transcripts available in the research room of the John F. Kennedy Library. The transcripts were scanned using optical character recognition and the resulting text files were proofread against the original transcripts. Some formatting changes were made. Page numbers are noted where they would have occurred at the bottoms of the pages of the original transcripts. If researchers have any

concerns about accuracy, they are encouraged to visit the library and consult the transcripts and the interview recordings.

**Suggested Citation**

Burke Marshall, recorded interview by Anthony Lewis, June 13, 1964, (page number), John F. Kennedy Library Oral History Program.

JFK dead

GENERAL SERVICES ADMINISTRATION  
NATIONAL ARCHIVES AND RECORDS SERVICE

Amendment to the Gift of Personal Statement

By Burke Marshall


to the


John F. Kennedy Library

In accordance with #6 of the statement signed by me on March 6, 1972 and by James B. Rhoads, the Archivist of the United States, on March 27, 1972, the gift of personal statement is hereby amended as follows:

1. The following portions of the interviews conducted on May 29, 1964; June 13, 1964; June 14, 1964 and June 20, 1964 are to be closed to general research until 1987:

1. page 52 line 42 - page 53 line 32
2. page 74 line 20 - line 32
3. page 81 line 22 - line 38
4. page 88 line 42 - page 93 line 16
5. page 98 line 42 - page 99 line 6
6. page 100 line 16 - line 29
7. page 108 line 42 - page 109 line 12
8. page 111 line 42 - line 45
9. page 112 line 20 - line 26

  
\_\_\_\_\_  
Burke Marshall

  
\_\_\_\_\_  
Date

RFK doc

GENERAL SERVICES ADMINISTRATION  
NATIONAL ARCHIVES AND RECORDS SERVICE

Gift of Personal Statement

By Burke Marshall

to the

JOHN F. KENNEDY LIBRARY

I, Burke Marshall of Newtown, Connecticut, do hereby give to the John F. Kennedy Library, for use and administration therein, all my rights, title and interest, except as hereinafter provided, to the tape recording and transcript of the interview conducted at Bedford, New York on January 19 and 20, 1970 for the John F. Kennedy Library. The gift of this material is made subject to the following terms and conditions:

1. Researchers shall not be granted access to the following portions of the transcript for a period of fifteen (15) years from this date:

- Page 9 line 26 through Page 10 line 3
- Page 10 line 11 through line 13
- Page 17 line 25 through line 36
- Page 18 line 16 through line 18
- Page 19 line 31 through line 41
- Page 20 line 27 through line 33
- Page 21 line 6 through line 20
- Page 22 line 22 through line 33
- Page 24 line 15 through line 16
- Page 33 line 35 through line 38
- Page 34 line 40 through page 35 line 7
- Page 40 line 17 through line 21
- Page 42 line 17 through line 24
- Page 43 line 15 through line 25
- Page 48 line 19 through page 49 line 1
- Page 49 line 15 through line 20
- Page 50 line 32 through line 39
- Page 51 line 2 through line 5

2. Researchers shall not be granted access to the following portions of the transcript for a period of fifty (50) years from this date:

- Page 64 line 16 through page 65 line 6
- Page 70 line 10 through page 74 line 17

3. Researchers may not listen to the tape of the interview for fifty (50) years.

4. I retain literary property rights to the interview during my lifetime after which the literary property rights shall be assigned to the United States Government.

5. Copies of the interview transcript may be provided upon request to any researcher.

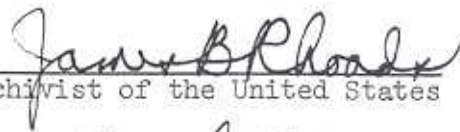
6. This agreement may be revised or amended by mutual consent of the parties undersigned.



Burke Marshall

March 6, 1972

Date



Archivist of the United States

March 27, 1972

Date

Burke Marshall—JFK#3

Table of Contents

<u>Page</u>	<u>Topic</u>
42	Appointment as assistant attorney general for civil rights
44	February 1961 desegregation of schools in New Orleans, Louisiana
45	Robert F. Kennedy's relationship with John F. Kennedy
46	Civil rights division under Lyndon B. Johnson's presidency
46, 50	Freedom Rides
49	Autherine J. Lucy's 1956 expulsion from the University of Alabama
51	Montgomery, Alabama mob threatening Martin Luther King, Jr. in May, 1961
52	Interstate Commerce Commission order to desegregate bus stations
53	Executive order to end discrimination in federally funded housing
60, 66	Civil rights bill
62	Plans for Progress and the President's Committee on Equal Employment Opportunity
64	1962 bill to eliminate literacy tests for voters
67	School desegregation
69	Albany, Georgia in the summer of 1962

Third of Five Oral History Interviews

with

Burke Marshall

June 13, 1964  
Washington D.C.

By Anthony Lewis

For the John F. Kennedy Presidential Library

LEWIS: How did you, back in 1961 or perhaps it was the end of 1960, get into this job? How did it all happen to you?

MARSHALL: I think that probably as far as I know about it, it would have been Byron White [Byron R. White] recommending people to the Attorney General [Robert F. Kennedy]. I didn't know the Attorney General. I didn't know Byron for that matter, but he must have gotten my name off some list.

LEWIS: I think Harris Wofford [Harris L. Wofford, Jr.] had put it on the list, hadn't he?

MARSHALL: That's right. That's probably right. Tony, you know more about that than I do. I read about appointments in the *New York Times*.

LEWIS: But then you met him, you met Robert Kennedy at some point. When was that?

MARSHALL: It was after he had been named as attorney general, but it was before the change in administration, therefore it was before—sometime in January

1961 before January 20. The Attorney General at that time had an office here in the Department of Justice, and I came down at the request of Byron White to meet him. And I guess at that time he wanted to meet me. I guess he was considering whether to give me this job or not at that time.

LEWIS: He didn't say that to you in the conversation?

MARSHALL: I don't recall him saying anything much to me in

[-42-]

the conversation.

LEWIS: Well, that was a famous story that the two of you sat there sort of looking at each other, and nobody said anything. Is that correct?

MARSHALL: I can't remember his saying anything, and I don't remember what I said, but I must have said something, at least "hello."

LEWIS: And it was apparently on the strength of the strong impression you made in that wordless conversation that he offered you the job.

MARSHALL: I guess so. I think that Byron's recommendation probably had a good deal to do with it.

LEWIS: How did you just literally find out that you were being offered the job? Who called you up?

MARSHALL: The Attorney General.

LEWIS: This was after January 20th?

MARSHALL: I think it—I'm just not sure. I think it was after January 20th. Yes, I'm sure it must have been.

LEWIS: When did you have a conversation with Bob Kennedy in which you felt you had some idea of his attitude toward the racial question? You had thought about it a lot as a private citizen, and as a lawyer you had been interested in it. I remember his saying to me that when he came to this job he hadn't been lying awake nights thinking racial issues. It was rather a new subject to him. When did you first feel you had some idea of his attitudes?

MARSHALL: Well, right at the outset when we talked about—I had a meeting with him and we went over this problem, and it was apparent within five minutes



after you got in this office there hadn't been any effort made to enforce the voting laws by that time.

LEWIS: Even under H. Tyler [Harold R. Tyler, Jr.].

MARSHALL: Well, it just started, but it wasn't a productive effort yet. So we discussed that, and he clearly wanted to do that, and he clearly wanted a major program, and he wanted a lot of effort into it, and he asked whether we had enough people and so forth. So you could tell

[-43-]

right from the outset that he had recognized it as one of the major responsibilities of the Attorney General in the year 1961. But then the first specific thing that happened, which was before I was confirmed, that came up, I think, in which I really felt that we were going to get along very well, was in connection of New Orleans schools.

LEWIS: Which was when, February 1961?

MARSHALL: Yes. And I'm a little hazy on the details, but the issue was some efforts by the Louisiana legislature to fire the school board in New Orleans and cut off funds from the desegregated schools, and particularly if there was a question of whether we would have to proceed in contempt action against the state superintendent of schools.

LEWIS: Shelby Jackson [Shelby M. Jackson], was that his name?

MARSHALL: Shelby Jackson. Yeah. That was a major political issue in Louisiana. It was an issue in which a lot of politicians with whom the Attorney General had had many dealings in the past felt very strongly. It was an issue on which there had been a lot of indecision before in the Department of Justice in 1960. I know Judge Wright [James Skelly Wright] told me that when he first asked for assistance from the Department of Justice the response that he got was a message from the Attorney General, Rogers [William P. Rogers] at the time, that he should just postpone the whole thing. So it was a major thing. The Attorney General, Bob Kennedy, just didn't show any hesitation at all about it, about the enforcement of the court orders. He faced up to it squarely. At the same time he tried to give the people in Louisiana a chance to bring themselves in compliance. And so that, I would say, was something we dealt with in a pattern by talking to people down there, and then when that didn't work, by proceeding in court in a way in which many things were done later. That was the first time.

LEWIS: Now let me bring you right back to President Kennedy [John F. Kennedy]. At the time the two things you've now mentioned—the very first conversation when you had the impression he wanted a major effort on voting and then this New Orleans situation—did he say that related to his brother's attitude

toward these same questions, or did you have any impression that this was a policy of the President, any direct impression? You had not yet met the President at that time.

MARSHALL: I think not. I mean if I had, it wasn't significant. But I don't remember discussing at all, I don't remember his referring to the President's attitude at all. So I would say no.

[-44-]

LEWIS: Your assumption was that he had—at least it had to be your assumption—that he had a complete go-ahead from the President to do what seemed right on, for example, the two issues you have mentioned, voting and...

MARSHALL: Yes.

LEWIS: There was never any hesitation on his part?

MARSHALL: No, there was never any hesitation, and in the case of the school situation in New Orleans, it was a very public matter. I mean, in fact, it came up at my confirmation hearings. I remember a discussion with Jack Gremillion [Jack J.P. Gremillion], the attorney general of Louisiana, up in the Attorney General's office. And stories came out in the Louisiana newspapers after that meeting, that I suppose came from Gremillion, that Bob Kennedy had agreed that nothing would go on in Louisiana for a year or two years or something like that, which was a lot of nonsense. But in any event, it was a matter of a lot of public discussion not only in Louisiana, but up here in Washington at the time, and so he must have discussed it with the President. In any event he didn't hesitate, and therefore I assumed, and I'm sure rightly, that the President didn't have any hesitation about what should be done. [Interruption]

LEWIS: My purpose in asking the question about the impression you had of the Attorney General's backing from the President was whether, even at that early state, you felt that their relationship put him in a special position different from other cabinet officers to carry out programs of this kind. Was it your impression that if it had been another person, he would have had to say to each of these issues, "Well, now I'll have to discuss it with the President?"

MARSHALL: Yes, I think that's very true. It may well be, I just don't remember it. He may have called the President while I was there on one of these things. That happened many times during the years, the past three and a half years, you know, that he'd pick up the phone to call the President about something while I was there. I think it was essential in this area, one of the essential ingredients of what's been done in this area of the past three and a half years, was the fact that the President and the Attorney General were so close that the Attorney General did not have to worry, as another Attorney General might have had to do, about checking everything out with the President and dealing with this immensely difficult, politically difficult, emotionally difficult problem, with

complete confidence that he'd be backed by the White House. Of course that filtered down to me all the time that I felt I

[-45-]

had the complete confidence of the Attorney General, and therefore there was no question at all ever, ever about the White House's attitude over something. And that made a lot of difference, obviously.

LEWIS: Let me go out of time sequence here because you've really raised the question. In the last six months what has the effect of the different president being in the White House been on this very feeling that you say you had? In bringing suits, in taking actions over the last six months, have you felt a new constraint, a different kind of situation?

MARSHALL: No. No, I haven't because President Johnson [Lyndon B. Johnson] has so plainly, deliberately, purposely, left to the Department of Justice and to the discretion of the Department of Justice those matters that were already there. Now, if it had started out, you know, if President Johnson hadn't come into office as a result of the assassination, I think it might have been different. But he has.... Right from the beginning, President Johnson, he had issues, you know, within a month after he took office—of possible use of military down in Alabama on a court order—and President Johnson's instructions at the time were just to do whatever is necessary, and so he's taken that attitude. So it hasn't made any difference—but it would have, I'm sure, or if someone other than Bob Kennedy had been attorney general. I'm sure that whoever it would have been would have probably been more concerned, necessarily less confident of the President's reaction.

LEWIS: Returning to 1961, will you describe the first time you had what could be called a substantive meeting with the President, a meeting on civil rights issue? I understand that was in connection with the Freedom Rides in the spring of 1961 when white and Negro persons tested their rights declared by the Supreme Court to use facilities in interstate terminals, bus terminals particularly, without discrimination, tested it by riding buses through Alabama and Mississippi.

MARSHALL: That's right. After the riot, the burning of the bus in Anniston and the riot in Birmingham, there was no movement of buses, at least with biracial groups on them, from Birmingham to Montgomery for a week. And during that week, in the middle of that week, I went with the Attorney General and the deputy attorney general, Byron White, and met with the President on that. That was the first major problem in which presidential action was probably going to be required—that is as apart from what the Department of Justice could do, that the President himself would have to do.

[-46-]

LEWIS: Where was the meeting?

MARSHALL: The meeting was in the sitting room in the mansion. It was a breakfast meeting. The President was in his pajamas. He'd just gotten up.

LEWIS: Was there anyone from the White House staff there or just the President alone?

MARSHALL: No staff. Just four people.

LEWIS: Three of you and the President. And what was the particular issue under discussion? What were you proposing to the President or...

MARSHALL: We were telling the President what it looked like was going to happen, and what did finally happen was that at that time we didn't know—we couldn't get hold of Governor Patterson [John Malcolm Patterson], couldn't get any commitment from Governor Patterson, no one could move a bus from Birmingham to Montgomery.

LEWIS: That was because the bus companies wouldn't take the risk of doing it, is that correct?

MARSHALL: Yes, and you couldn't blame them because Governor Patterson had issued a statement about it being impossible to protect agitators in the state of Alabama. So there was no law and order functioning in Alabama at that time for interstate passengers. That was an intolerable situation, and we had decided—I say we: the Attorney General, the Deputy, and me—on a course of action which was to be proposed to the President, and that was the purpose of the meeting. The course of action which was finally taken was that the President himself make an effort to get Governor Patterson to assume the responsibility on behalf of the state of Alabama. And if that was unsuccessful that then we would file a suit in federal court seeking to prevent interference with travelers moving interstate, and that upon the basis of that suit we would use direct, federal law enforcement officers to protect interstate travelers. And that finally was done. Governor Patterson did give them assurance in the meantime but for one reason or another it wasn't effective.

LEWIS: Now in connection with that assurance, am I right in recalling that the President personally telephoned Governor Patterson?

MARSHALL: The President tried to, and Governor Patterson wouldn't

[-47-]

return his call for about twenty-four hours. Then Patterson, without calling

the President, sent word that he would meet with a representative of the President. And John Seigenthaler, the Attorney General's administrative assistant, was down there. So he was picked as the President's representative, and he went down to Montgomery and met with Governor Patterson. That was on, I think, a Thursday evening. It would have been about May 18th to 19th, 1961.

LEWIS: As I recall, Governor Patterson had been one of the few politicians in the South who had endorsed John F. Kennedy for president in the nominating phase. Is that correct?

MARSHALL: That's right.

LEWIS: Did that issue ever come up at the breakfast meeting? Was there any discussion of the fact that this did involve one Southern politician who had been for Kennedy before wherever it was, Los Angeles?

MARSHALL: No. No, it did not. It did not. That fact—it's strange I suppose in a way, but it wasn't discussed. The President and the Attorney General—the whole matter was discussed as something which the President, he really just had a constitutional responsibility to fulfill and he accepted it. He just accepted it. That was, as I say, the first time I had any substantive discussion with the President about anything. This was clearly going to be a very unpopular thing in the South, involved a governor, as you say, that had supported him. But he just accepted it—no complaining, no nothing, just accepted it.

LEWIS: No exploration—quite apart from any narrow political sense—was there any exploration in the meeting raising of the question possible of political ways out of the situation in Alabama? Discussions with Senators Sparkman [John J. Sparkman] and Hill [Lister Hill]? Things of that kind.

MARSHALL: Well, I can't remember.... I know that was discussed at some point. We did.... The Attorney General at least talked to the senators. But the senators couldn't do anything about it and they didn't try to really. We did follow another political route at the time. Governor Patterson was brought to the support of President Kennedy in 1960 by Charley Meriwether [Charles M. Meriwether], who was an Alabama political figure. He was not an office seeker, but he was very active in Alabama political circles. We discussed this with Charley Meriwether and asked him to go see Governor Patterson, try to persuade Governor Patterson that there was

[-48-]

just no choice—he had to protect these people or else someone else would have to. We couldn't, in the United States, couldn't permit buses to be stopped by terror and just leave the situation like that. So we did.... But Charlie Meriwether was unable to accomplish anything.

LEWIS: Now, did anyone mention in this meeting—the President or anyone else—the not too dissimilar happenings, I believe it was five years earlier, just about exactly five years earlier, in the Lucy [Autherine J. Lucy] case in which a terror or mob had forced Autherine Lucy out of the University of Alabama, and at that time the federal government had done nothing?

MARSHALL: Well, we had discussed that over here, and it may well be, I think it probably was mentioned at the meeting with the President as one of the reasons. But the President didn't have to be persuaded of his responsibility for doing something about the situation. As I say, he just accepted it. But I know that often it was in my mind—and I remember I'm sure I talked to Bob Kennedy about it and Byron about it—that one of the things that really set things back in Alabama a great deal was the fact that the mob had been permitted to thwart constitutional rights in the Autherine Lucy situation and no one had done anything about it. That was also in the minds of the Negroes. You know, after the first batch of Freedom Riders had gotten badly beaten in Birmingham, they in fact gave up. Some of them were hospitalized; the others went down to New Orleans. They were replaced by other groups, student groups, that had come from Nashville and took up the journey. And if you talked to any of those people at the time, that's what was in all of their minds, that Autherine Lucy had been driven off by the mob, and that shouldn't be permitted to happen again.

LEWIS: And there was no discussion in this breakfast meeting by the President or anyone else along the lines of, "Well, its true that it is our responsibility in this country if no one else takes it up to prevent rule by terror," but there was no discussion of, "Why couldn't these fellows stay home for a while," or, "Why are they sort of rocking the boat?"

MARSHALL: No. The President was very impressive to me. He didn't complain about this situation that he hadn't sought. I think a lot of people—I mean if you listen and talk to Governor Patterson or a great many other people, they complained: they complained about the Freedom Riders; they complained about the Klan [Ku Klux Klan]; they complained

[-49-]

about a lot of people. But President Kennedy accepted what had come about as having come about. He didn't say, "I wish it hadn't come about," or anything like that; he accepted it. And all of the discussion was not on how terrible it was or how too bad it was, or, "Why don't they all stay home and stop stirring things up?" but on what he should do about it.

LEWIS: Now perhaps we ought to move on from the breakfast meeting and discuss what happened next in that episode, and particularly with reference to the President. The buses did eventually go to Montgomery, and there was a serious threat to the peace there. And I recall that marshals were sent under Byron White's

command. Now what was the President's role in that? As I recall it was the Attorney General who actually sent the marshals or other law enforcement personnel.

MARSHALL: Well, they were sent by the Attorney General. The Attorney General... The legal situation was this: It took a presidential act under Title X, sections 333 and 334. It did not take presidential proclamation because these were civilians rather than troops. If it had been troops he would have been required to issue a proclamation as he did a year and a half later at Oxford. But in Montgomery he acted under a statute which permitted him to use "other means," is the word. "By use of troops or by any other means." And the means he chose was to direct the Attorney General to take such action as the Attorney General thought was appropriate and necessary to restore the situation.

LEWIS: Let me interrupt here. Had that been agreed on at the breakfast meeting so there was no need for further going back to the President for authority from day to day?

MARSHALL: Well, there was no need to go back to the President. When the marshals were sent down there, we saw to it that there was an official order by the President to the Attorney General in writing—a memorandum, or telegram, or something like that—which would be there for the record, but as far as what action was to be taken in the eventuality that the state of Alabama didn't itself preserve law and order, that was decided at the breakfast meeting, and we just proceeded on that basis. After, the Governor did give them assurance, as I say, Friday, and the bus went down there on Saturday. And whether it was the Governor or the Governor was himself let down by the people, I don't know, but in any event there was a riot, and a very bad riot, and the police made no effort to control it.

[-50-]

LEWIS: I recall Byron White telephoning—or perhaps it was Byron White or it may have been Dr. King [Martin Luther King, Jr.]—telephoning from inside the church to the Attorney General while it was being besieged, and the Attorney General assuring him that help was on the way or that Byron White would take care of it.

MARSHALL: It was Dr. King. He was in the church. Now, I was with the Attorney General so I heard that whole conversation. Dr. King was scared. There was a big mob outside, and they had just overturned a car, it was on fire, they were throwing rocks, the church was full of people. Some of the crowd were yelling about firing the church, putting it on fire. I think they would have. The Attorney General said, "The marshals are coming, the marshals are coming." And while he was still talking to Dr. King the first ones did arrive, put themselves between this mob and the church. That was on a Sunday, the day after the riot at the bus station.

LEWIS: Then was the President—at this stage did he get into it in terms of any telephone conversations with Patterson or in your presence with the Attorney General or anything of that kind?

MARSHALL: Well, the Attorney General told him by telephone what was going on. I'm sure I was present at times at which the Attorney General called the President and told him what was happening. But that was all. There wasn't anything the President could do about it.

LEWIS: But you didn't have another meeting with the President in connection with the Freedom Ride episode?

MARSHALL: No. No, not that I remember.

LEWIS: So that that might perhaps end our discussion of the President's role on that. I had thought of one other matter that was probably earlier and that was the desegregation of the University of Georgia, which, if I recall, may have occurred just before the new administration took office, or during the period it was taking office. Did you have any involvement?

MARSHALL: It was before I was here. I think it was before January 20th.

LEWIS: I believe it was. I believe it was. My question was going to be, I recall that Governor Vandiver [S. Ernest Vandiver, Jr.] was very interested in a federal position at that

[-51-]

time and I just wondered what possible discussions there might have been with him with the incoming administration. But I'll have to ask that elsewhere.

MARSHALL: You'll have to ask that elsewhere. As far as I know there weren't any. Governor Vandiver was advised at the time—a good deal of his advice came from Griffin Bell [Griffin B. Bell], who was subsequently appointed by President Kennedy to Fifth Circuit. And Griffin Bell has told me same of that. But I've never heard any suggestion that President-elect Kennedy talked to the Governor about that. I don't know. He may have, but I don't know. [Interruption]

LEWIS: We might discuss the postscript of the Freedom Rider episode, that is, that the Justice Department filed a petition with the Interstate Commerce Commission as a result of the deprivation of federal rights that had gone on that spring and summer and asked the commission to issue an order specifically requiring buses and terminals to serve all interstate travelers and others without discrimination. And eventually the commission did issue such an order, in fact, quite promptly. What can you tell us about how that was accomplished?



MARSHALL: The records of the commission reflect all the legal proceedings, but it was.... The commission was established in 1887 and it's been a pretty stuffy organization, and the fact of the matter is that after the oral argument...

LEWIS: Did you participate in the oral argument?

MARSHALL: No. I did not.

LEWIS: But there was a representative of the Justice Department?

MARSHALL: There was a representative. But it was on technical points, and I didn't argue it. There was someone who was more acquainted with the statute and the commission rules, and so forth. But a good number of the commissioners, some of the commissioners at least, were the Southerners. This was a much more imaginative and controversial step than the commission was used to taking. And it was our judgment, my judgment, after we heard the oral argument, that there was a good chance the commission wouldn't issue any rules, or that if it did issue rules they would cut way back and they wouldn't be effective and the commission wouldn't deal with the problem. And so we discussed that—the Attorney General and I

[-52-]

discussed it—and then we discussed it with the White House. Now I say “the White House,” I can't remember exactly who. It may have been Larry O'Brien [Lawrence F. O'Brien], or Ted Sorensen [Theodore C. Sorensen]. I didn't hear any discussion with the President, but I think the Attorney General must have discussed it with the President.

It was determined as a result of that we should make some informal and unofficial efforts with the commission as well as the formal and official ones. Of course, that commission is a quasi-judicial body so that they were very informal indeed. The White House suggested—as I say, the President I'm sure knew about it at least—that the person on the commission that would have to help us was Commissioner Tucker [William H. Tucker]. So I met with him several times and we discussed this in terms of the politics, political situation on the commission. One of the commissioners, I think, wanted to be considered, in the future at least, for a position on the court, and Commissioner Tucker indicated he'd have some support from the commissioner, from Tucker at least, and Tucker was a friend of the Attorney General and an appointment of the President, a political supporter of the President in Massachusetts. Another commissioner, I think, his appointment was up very shortly and he wanted to be reappointed. And Commissioner Tucker, I don't know everything that he did within the commission, but he did work on it in this fashion with the commission.

I think in the whole it was really rather incredible for anyone that had experience with the commission that the commission came out unanimously with the rules that were suggested by the Department of Justice which was a very explosive.... It was not done just

by the force of argument in the situation. There was a good deal of unofficial, informal effort with individual commissioners and that sort through Commissioner Tucker.

LEWIS: Now, proceeding on in the year of 1961, you had your second major substantive discussion involving the President sometime around Thanksgiving. Is that correct?

MARSHALL: That's correct. At Thanksgiving—the day after Thanksgiving or the day before—I flew up to Hyannis Port where the President was spending the holiday to meet with him, mainly about the promulgation of the housing order which he'd committed himself to in 1960, and also about what thinking he should do about legislation for the next year. It was coming close to the time when he would have prepared his state of the union message, and so forth. And I flew up there. The Attorney General was up there and we had a meeting

[-53-]

with the President and I think Ted Sorensen, Kenny O'Donnell [Kenneth P. O'Donnell]. I think, probably Larry O'Brien.

LEWIS: Taking the issues one at a time—they're both rather large—what was the status of the work on the housing order at that time? Had somebody been drafting an order? In other words, what stage were you at when you raised the matter with the President?

MARSHALL: There had been some newspaper speculation about it. I think the *New York Times*.... I'm sure it was the *New York Times*. It wasn't Anthony Lewis.

LEWIS: Peter Braestrup.

MARSHALL: Peter Braestrup, that's it. Peter Braestrup had written a story saying the President was about to issue a housing order. Now, where that story came from I have no idea. It did not come from the Department of Justice. I don't see how it could have come from anyone in the White House, because the fact is he wasn't particularly contemplating issuing an order there. It might have come from the Civil Rights Commission or someone over in the housing—Bob Weaver's [Robert C. Weaver] office.

LEWIS: There was no draft of any order to issue, I take it, at that point.

MARSHALL: Well, I don't think so. I don't think so. There may have been a draft, but if there was it wasn't under consideration really. But the President did have to decide about it. There was this story in the *Times* and it was picked up. And at that time Harris Wofford was in the White House, and he was there sort of as a civil rights advisor, and he was getting a great deal of heat on this from some civil rights groups.

LEWIS: People who were remembering the campaign pledge.

MARSHALL: Well, the President made a speech during the campaign in which he said Eisenhower [Dwight D. Eisenhower] could have ended discrimination in federally assisted housing with “a stroke of the pen.” There was a great deal of humor, witticisms, about who wrote that speech at that meeting at Thanksgiving, I remember.

LEWIS: Tell us about that.

MARSHALL: Well, I can’t remember the words. But in any event,

[-54-]

the President kidded Ted Sorensen about writing the speech. Ted Sorensen claimed he didn’t have anything to do with the speech, and the President remarked that nobody wrote it or something like that. But “the stroke of a pen,” the President kept muttering that phrase: “Who put those words in my mouth,” or something, “a stroke of the pen.”

LEWIS: Did he by then realize.... Had he thought about the issue of a housing order sufficiently to realize it was not so easy, that the stroke of a pen was going to be a pretty elaborate stroke?

MARSHALL: Well, we discussed it with him at that meeting. I don’t know how much he had discussed it in its details before, but actually it was a very complex matter. The scope of the order and the enforcement of the order were very complex. In addition, of course, housing, integration of housing, was a very emotional subject. It wasn’t easy. The President in another remark I remember—I met with him towards the evening in the late afternoon, and he’d been meeting with Dave Bell [David E. Bell] on a budget and Secretary McNamara [Robert S. McNamara] was up there, and he’d had a whole series of meetings. And his remark was, “Nothing but tough ones today.” As I said, he never complained about anything but he just had had a day of difficult decisions. He said, “Why doesn’t someone bring me an easy one?”

But he decided the issue was whether—there wasn’t any decision to be made as to whether or not he would issue a housing order. He’d said he was and he was committed to it, and so that wasn’t.... The question was when. He decided not to do it then.

LEWIS: “Then” meaning the fall of 1961.

MARSHALL: The fall of 1961. And the reason—there were reasons which I’ll give you. But he decided that and of course he took a good deal of, or he took some criticism for that decision. The *New York Times* was out on a limb because they had said he was going to issue a housing order, and there were a lot of civil rights

groups that had taken this up and the President's about to issue a housing order, and then he didn't. Well, he couldn't explain very well publicly why he was not doing it then so he had to just take that heat. People started sending him pens in the mail, you know. "The stroke of the pen," he muttered about that phrase.

The reasons that he didn't were really congressional. In the first place he wanted Bob Weaver in the cabinet. He wanted an urban affairs department in the cabinet, and he wanted to

[-55-]

put Weaver in it, and he thought both of those things would be much more difficult if he issued a housing order and Weaver was put into the position of, in addition to being a Negro, having to enforce integration. So he was looking ahead really to Congress in 1962 and the chances of getting an urban affairs department. And what he decided was that he would try to get the urban affairs department created and then appoint Weaver to run it, and then issue a housing order after that sometime in the middle of 1962 or after Congress had adjourned, but before the 1962 elections. That's what he decided at the time.

LEWIS: That position was maintained in fact.

MARSHALL: Well, actually he didn't issue the housing order until Thanksgiving of 1962. It was just about a full year later.

LEWIS: But Congress had gone on quite late in the year, so it was after Congress adjourned.

MARSHALL: But after the election. As it came, I remember in 1962, when it was clear that he wasn't going to get an urban affairs department and that Weaver wasn't going into the cabinet, there was no reason not to issue an order. By that time it was late August or September, and then he felt that it was too close to the election, that people would think he was doing it just because of the elections. Well, he was caught either way. I can't remember the occasion, but I remember being present at a discussion of it in the early fall of 1962. And that was it. He didn't want it to appear to be a political move so he put it off again until after the election.

LEWIS: Was there any discussion at this Thanksgiving 1961 meeting or subsequently with the President himself, at which you were present, about the substantive scope of the order and what it should be?

MARSHALL: Yes. That was discussed then and it was discussed a year later when he came right down to it on whether or not. . . . A particular issue was whether or not it should cover commercial banking—commercially financed housing, which the suggestion was, which came from the Civil Rights Commission, that could be done by ordering the FDIC [Federal Deposit Insurance Corporation] to require banks not to make loans to builders who didn't agree not to discriminate. Well, the

recommendation of Dr. Weaver and the housing people and the builders, a lot of builders, and all the civil rights groups, and the Civil Rights Commission, and a great many of his advisors, were that he should do that.

[-56-]

LEWIS: That he *should* do that.

MARSHALL: That he should. That he should. Our recommendation was to the contrary, and he finally followed that.

LEWIS: And the reason for that was?

MARSHALL: In the first place his commitment—we met on this and went through it, but in the first place his commitment in 1960 was on federally assisted housing, and that meant FHA [Federal Housing Administration] housing principally and Veterans Administration housing and it didn't mean commercially financed housing. That came up afterwards at the recommendation of the Civil Rights Commission.

LEWIS: There's no real assistance to housing. The FDIC connection is not in the way of assistance of housing, really. It's on another subject.

MARSHALL: It's assistance to credit, to the banks, but not housing as such. I thought that it was pretty far afield and it was a pretty drastic step legally and constitutionally for a president to try to do that without, of course, any consent or approval from Congress. I personally had and still have doubts about the president's power to do it. The people in the Department of Justice that are responsible for making these decisions said that they could defend it. Norb Schlei [Norbert A. Schlei], who is the assistant attorney general in charge of the office of legal counsel at the time, and Nick Katzenbach [Nicholas deB. Katzenbach] thought that the President had the power to do it. I don't know that he does at all. But whatever the legality of it, it would be a very, very far-reaching thing for the President to do. And it isn't withdrawing assistance from banks that discriminate, but requiring banks in order to get insurance on their deposits, requiring them to require in builders that borrow from them to agree not to discriminate. And I thought that was an awful far reach of presidential power, in the first place. So that was one problem.

The second problem was that the FDIC didn't think that it could do that. Now, maybe the President could overrule the FDIC, but there's a good possibility that the President would order the FDIC to do it, and the FDIC would say—"Sorry, Mr. President." It's an independent agency, it's a separate corporation, and there's a question of whether the President had the authority to order them to do anything.

And thirdly, we thought, and the President thought, that with a matter as emotional and difficult as housing integration

[-57-]

that one bite was better than a whole meal on the first leg. So we recommended against it. Well, that went against the wishes of Dr. Weaver and a great many people. There was a question of whether Dr. Weaver would leave or resign over it. The President asked the Attorney General to inform Dr. Weaver of this decision—this was in November of 1962—so he and I did that. And Dr. Weaver was alright; he accepted the situation.

LEWIS:           What about the question of enforcement on this? You've mentioned three reasons for your advice and for the decision that was taken not to include the FDIC connection. What about the problem of realistic enforcement of any order without any congressional statute, without any legislative machinery of enforcement? Was that a consideration?

MARSHALL:      Yes. There's a limit to the budget available to any committee, interdepartmental committee, that the President established. Now, we had experience with that with the Equal Employment Opportunity Committee [President's Committee on Equal Employment Opportunity] which the Vice President headed. It's always been limited in its staff. The same was obviously going to be true of the housing committee, and so there was really a question of doing something that would be more of an illusion than anything else. I frankly think—and I think we discussed it in these terms—I think that there was a serious question whether it was enforceable at all as a practical matter.

LEWIS:           You mean any order or just an order extended to the FDIC?

MARSHALL:      An order extended to the FDIC. Because an order—and this was the reason, this was the argument in favor of doing it too—an order that did not include commercially financed housing gave builders an out. And that was a reason for extending it, but it was also a reason against extending it that in the portions of the country where it was factually unenforceable, there was another way of still building houses.

The President was very concerned about the economic effects of the housing order. Dr. Weaver gave him his view on it, but you know there were.... A lot of people thought it would have an effect on housing starts, and I think if it had been broader and included, in effect, all housing it would necessarily have had some effect. So that was a major consideration, the economics of it. The President was already at that time talking of the fact that the economy wasn't moving fast enough for him. He was already thinking in terms of asking for a tax cut.

[-58-]

LEWIS:           This was Thanksgiving 1961, way back there, or a year later when the order was issued?

MARSHALL:      It was when the order was issued he was thinking about the tax cut, but even in November of 1961 he was concerned about the economy and how

to spur the economy. As I said, one of the people that was up there at Hyannis, met with the President before I did, was Dave Bell, who was director of the Bureau of the Budget, and they had been discussing this, and it was very much on the President's mind. By November of 1962, he was talking a good deal about the fact that this was the longest or was about to become one of the longest upswings in the history of the country in the economy without a recession, and he was concerned about that and he wanted to keep the economy moving ahead.

LEWIS: Was there any discussion at that time of what since has become so evident, and that is the connection between the state of economy and the situation of Negroes in this country: the fact that the Negro really suffers immensely from recession, from any lag in the economy, unemployment, anything of this kind.

MARSHALL: Well, I don't remember that being discussed then, but it was something the President was always aware of. You know, every speech he made on this subject, going back to the election campaign and the moral crisis speech, his messages to Congress—both messages in 1963—referred to that, and it was always in his mind. In fact, I've heard him say—I can't remember whether it was on this occasion, but I've always heard him say the Negro's lot in this country depended on the economy. They'd be the first ones to be hurt if there was a recession, cutback.

LEWIS: In the discussion of the housing order during that year between the meeting at Hyannis Port, Thanksgiving '61, and the issuance of the order, was there a talk about the political effect of such an order in the North? I'm not using the word political here in some narrow partisan sense, but in the sense of the white backlash, the sense of—was there any foresight there? Was there any perception of the kind of reaction that we've had within the last six months or so in the North, reaction to aggressive Negro demonstrations, not theoretical civil rights, but actual civil rights?

MARSHALL: Well, yes. I'm trying to think of that in terms of the President personally. I know in the fall of 1962 when we were discussing the scope of it—when I say we.... I, just at the moment—my mind—I can't

[-59-]

separate out the discussions with the President from discussions I had with the Attorney General separately—we talked about it a good deal for a period of about a week. There was more than one meeting with President Kennedy about it during that time, just before the order was issued, over the scope of it, which was of importance. And I know that it was on all of our minds, really, that it sounded.... It was again this phrase, "stroke of the pen," that made it sound so easy, what was a very, very difficult problem for the President in terms of reaction of the country, the acceptance of the need to better the position of the Negro in the country. It was important to have the country accept that, the country be united on that issue. and this problem of homes and Negroes moving into neighborhoods was a very difficult

problem. So that was one of the reasons, I suppose, that certainly lay behind our recommendation, the Department of Justice's recommendation, to the President on the scope of the order. And it was a factor which we took into account, which I'm sure that he took into account, but I can't remember any specific...

LEWIS: Specifically the North. The fact that you all envisioned this a national not a southern problem.

MARSHALL: Yes. Very much.

LEWIS: Perhaps we should turn now to the other topic of that Thanksgiving 1961 meeting, which was civil rights legislation. Did you bring up a proposal? Had the President asked the Justice Department for proposals? How did that topic arise?

MARSHALL: It arose.... I didn't have any proposals. I was just asked to come up there. I didn't really know what we were going to talk about so I didn't bring proposals. For all I knew we were going to play touch football. The Attorney General, in fact, was playing touch football all day in the rain. He'd go out and play touch football and the President would yell, "Hey, Bobby," out the window, and then he would come into one of these meetings, give whatever remarks he had on whatever we were talking about, and then he would go out back with his children in the cold rain.

LEWIS: You didn't play?

MARSHALL: No, sir. No, sir. I suppose it was one of the few times the President got advised, any president got advised, by an attorney general on an important matter like this when the Attorney General was just dripping wet in an old sweater, coming in from playing touch football

[-60-]

in the rain. But the matter of legislation came up because of the way the President thought about the housing order. He thought about the housing order in connection with the urban affairs department and putting Weaver in the cabinet. That required congressional action, one of the things, so that the discussion of the housing order led into the discussion of how he should try to get an urban affairs department. There were two routes to it. One was to ask for legislation, one was to create it by order and then ask for congressional approval of it under the Reorganization Act. And that also led into the discussion of whether or not he was going to ask for any civil rights legislation. Of course the view that the President had and continued to have—and I think was an accurate view really—was that asking for civil rights legislation would be a gesture that wouldn't result in any legislation. It would be a question of whether he wanted to make the gesture. That was the opinion of all the congressional leaders, it was the opinion of Larry O'Brien at that time in 1961 and 1962.



LEWIS: You say congressional leaders. Had they been canvassed before the meeting, or this was just in the air all the time?

MARSHALL: In the air all the time. I remember discussing and talking with Senator Mansfield [Mike J. Mansfield] after the literacy test bill failed in 1962, and he told me that we would never pass civil rights legislation.

LEWIS: Never again?

MARSHALL: Never. Ever. He said the Democratic—the President spoke of the difficulty, the additional difficulty a Democratic president had of passing legislation with a need for a cloture vote. And I think that—I have no doubts myself that that assessment was right, that the mood of the country, the Negro and his problems were still pretty invisible to the country as a whole.

LEWIS: Even after the Freedom Rides.

MARSHALL: Even after the Freedom Rides, I think. Less so but.... Well, you see, until mass demonstrations of the Birmingham type, I think that's correct; they were largely invisible.

LEWIS: Now, despite that judgment about legislation, in fact the literacy bill was offered, was proposed, and I recall your expressing continued confidence to me, doubtless pulling my leg, that the bill certainly was going to pass.

[-61-]

MARSHALL: It was not.... It was proposed. It was proposed, but it wasn't decided on at that meeting. It wasn't decided on at the meeting as a part of the President's program.

LEWIS: What was decided at the meeting in terms of legislation, before we go on? Was it just left up that there probably wouldn't be any?

MARSHALL: It was just left that there probably wouldn't be any, that we should continue the efforts of the employment committee. I think we discussed that. There were a number of times when we discussed the wisdom of the "Plans for Progress" program on the employment committee; and appointments, raising the participation, the level of participation by the Negroes in their government, high appointments, medium appointments—the President was always interested in that; and the executive action.

LEWIS: Well, let me interrupt at that point. You mention "Plans for Progress," which were an aspect of the Government Contracts Committee headed by

the Vice President. The Vice President wasn't at this meeting in Thanksgiving 1961?

MARSHALL: No.

LEWIS: Well, what was the discussion, if I may, on this subject? What was the discussion about the effectiveness of the committee and the plans for progress?

MARSHALL: I can't tie it to that particular meeting, Tony, but there were at least two or three times when I was present with the Attorney General—and maybe other people, maybe not other people, but that's all I remember—where we discussed the “Plans for Progress.” There was a lot of...

LEWIS: With the President?

MARSHALL: With the President. Not the Vice President, with the President. And there was a lot of criticism of “Plans for Progress” by the civil rights groups. They called them voluntary and so forth. In fact, you know, there was a lot of misunderstanding about them. But the President was concerned about the effectiveness of the Equal Employment Opportunity Committee. It was a matter of deep interest to him. You know, it was one of the things that first came up. He had a cabinet meeting on it. It's hard to have cabinet meetings on anything, but he did have a cabinet meeting on that early in 1961.

[-62-]

LEWIS: Were you present at that?

MARSHALL: No. He'd read these things about it and hear about them indirectly, and he was always very careful of not interfering with the Vice President. That worked both ways. And the Vice President wanted to run the committee, he was chairman of the committee, he felt his own responsibility very deeply. Well, the President didn't want to interfere with him. On the other hand the President would worry from time to time whether the committee was doing a good job. He'd hear these criticisms of “Plans for Progress” and so we discussed it. I am sure we discussed it to some extent at that meeting that I mentioned up in Hyannis Port. I don't remember specifically what was said.

LEWIS: Well, was there a feeling that he would like to change things on the committee, but that because of the rather special and formal relationship with the Vice President that it was unwise for him to intervene?

MARSHALL: Yes. His feeling, I think, is this—and I know after one of the meetings he discussed it with the Vice President, because the Vice President called me and asked me to come over and talk to him about it, and I did do that. That was later. That was at least a year and a half later. That was in the spring of 1963. But I think

the President's concern was that he had rather formal relations with the Vice President, this committee was important to him. There would be announcements for "Plans for Progress," signing ceremonies, President participating in them. And then he was afraid it would turn out to be a fraud or a delusion or an illusion, that there were a lot of plans signed and then no Negroes would be hired. That's what the President was concerned about. The statistical follow-up for a long time wasn't satisfactory.

LEWIS: You think he said that...

MARSHALL: Secretary Goldberg [Arthur J. Goldberg] and then Secretary Wirtz [W. Willard Wirtz] had some doubts about it. They didn't really know what the committees were doing. You know, the President was interested in facts and statistics, and the Attorney General was the same way. They'd ask questions and no one would be able to answer the questions about numbers. You know, they'd get percentages. Well, you can hire two Negroes, and if you have two at first then you hire two then you have a 100% increase. Percentages didn't mean much. So that was a matter of concern.

LEWIS: We should follow out how we did arrive at the literacy

[-63-]

bill in 1962 since the general feeling at this meeting was that it was a fruitless enterprise. When did it or how did it arise?

MARSHALL: Well, in 1962, if you remember, the literacy bill was not sent down from the White House.

LEWIS: No, I didn't recall that.

MARSHALL: It was not. It was introduced by Senator Mansfield, as an administration measure. It was decided on because... The Attorney General and I had a conversation one day, and he thought...

LEWIS: This was early 1962?

MARSHALL: In 1962. It was, I think, after the State of the Union message. We just thought that we really should have the bill in there and see if we couldn't get... I was frustrated at the time of the voting suits, I think, so we decided that we should have the bill in there and so he created this bill down here in the Civil Rights Division, the Attorney General. Senator Mansfield thought it was a good bill, so it was introduced as an administration measure. And I would say that the President's view of it, I would say it was tolerant, that he was tolerant of letting the Attorney General try this. And I don't think he ever had too much confidence that it would work, but he was just tolerant of it.

In fact, as I remember, the President called me up the day after it was introduced and said, "What's this bill of yours and Bobby's?" something like that.

LEWIS: He hadn't really discussed it before?

MARSHALL: Well, he knew about it, but, as I say, it was more that he was tolerant of it than...

LEWIS: What did he say after the cloture failed to even a majority?

MARSHALL: I don't remember him saying anything. He didn't say anything to me. He might have said something to the Attorney General. But it was after that, as I said, I went down and we talked to Senator Mansfield. I didn't know much about the Senate, and I asked Senator Mansfield whether there was any chance of getting cloture and he said no. And I said...

LEWIS: This was when you first introduced the bill?

[-64-]

MARSHALL: No. No, this was after the first cloture vote. And he said no, and I asked him what we should tell people that were interested in civil rights legislation, and he said, "Tell them the truth." And I said, "What is the truth?" And he said, "That you'll never get a civil rights bill with a Democratic president."

LEWIS: You'll have to explain that a little more simply I think. Why is it that a Democratic president, he thought...

MARSHALL: Well, his view of it was I think that he needed somewhere around twenty-five Republican votes in order to get cloture and that a Democratic president could never claim or never persuade that many Republican senators to vote for cloture. Of course, as it developed this week, that doesn't turn out to be true, but it was considered to be true. There was no public pressure for that bill. We couldn't create any. We could hardly create any interest in it.

LEWIS: I remember.

MARSHALL: And the senators that had a civil rights constituency, you know, Senators Javits [Jacob K. Javits] and Keatings [Kenneth B. Keating] on the Republican side, Senator Douglas [Paul H. Douglas] and Senator Clark [Joseph S. Clark] and so forth, they went through the motions and everybody went through the motions, but there was no public support really for civil rights legislation. Nobody cared. Nobody cared on the bill that really shouldn't have been controversial at all. They cared, I guess, more about keeping friends with Southern senators or something else, but there was no public support for it. That was the main trouble.

LEWIS: And yet we now have just had cloture voted on a bill in which a provision similar to the literacy bill of 1962 is an almost invisibly minor feature.

MARSHALL: That's right, Tony. But, as I said, in my judgment, as before, even after the Freedom Rides with all the sit-ins and other kinds of protests going on, the Negro and the problem of the Negro was still invisible to the country at large until the spring of 1963, and the President's moral crisis speech at that time and the results of the President's meetings in June, early July, 1963. There were some repercussions from those meetings which brought this to the attention of the country and the country responded to it. But at that time it wasn't.

LEWIS: Now, that leads me to my next question. Despite the

[-65-]

failure of the literacy bill in 1962 and the lack of interest in the country in the Negro problem until, as you say, the Birmingham riots in the spring of 1963, President Kennedy did, as I recall, propose rather limited legislation in the winter of 1963, before these events. What was that legislation and why, again, did that come about in light of the earlier failure?

MARSHALL: The legislation that was proposed in the State of the Union message which was sent by the White House in 1963 was a repeat of the literacy test bill modified so as to meet the objection...

LEWIS: Token.

MARSHALL: Yes. And a school desegregation bill which was simply a technical and financial assistance bill. Those were the two things. Why did he do it? Well, in the literacy bill in '62, we had put in late, didn't come from the White House, it was sort of an afterthought, it was really the Attorney General and my bill, and it was an administration bill because of the character of the Attorney General. Senator Mansfield described it as an administration bill, but it wasn't in the President's announced legislative program. So we wanted to try again to see whether Senator Mansfield was right, because the President was interested and he wanted some legislation in 1963.

LEWIS: Now, what chances...

MARSHALL: And that's what we thought was the most we could get really. He wanted something on schools. As you know, President Kennedy—the education of children was one of the things he believed in most strongly. And he felt that way about all children and Negro children as well, the school situation. I suppose that one thing that may have changed his view somewhat was Oxford. I think that had an effect on the President, as it did on everyone.

LEWIS: Of course neither of these two bills really would deal with an Oxford situation.

MARSHALL: No, it didn't.

LEWIS: You're just saying psychologically. Just you have to try harder even if the chances didn't look too good.

MARSHALL: Yes.

LEWIS: Were you present at any of the discussions with

[-66-]

congressional leaders before the State of the Union message or afterward in which Mansfield or others gave their appraisal at that time of the chances for legislation?

MARSHALL: No. No, I was not. I did talk to Senator Mansfield about this area generally after this literacy test bill of 1962. I wasn't present at any of the discussions with congressional leaders in 1963 until the President decided to put in a comprehensive bill in June. At that time I, with the Attorney General and with the President afterwards, was present at a discussions with congressional leaders, and a great many senators.

LEWIS: But still back in the period before the comprehensive bill, earlier in 1963, can you describe any meetings with the President on that earlier proposal, what his attitude was then on the political possibilities? He was the person that sensed those things best. Did he think there was any realistic chance in January 1963 of Congress passing a civil rights bill even as limited as this?

MARSHALL: I think he was dubious about it in early '63, but he thought he should try. And I don't know what he was advised by the congressional leaders on it. [Interruption]

LEWIS: Now, during the summer of 1961, you traveled a good deal in the South, and John Seigenthaler did, the Attorney General was on the phone, really preparing the way for peaceful desegregation in the schools in the fall of 1961. What do you recall about the President's attitude toward that effort, his involvement in it?

MARSHALL: Well, I don't know whether he suggested it or what but I do know that he was interested in seeing it done, because he'd made a speech in the

campaign, and he felt it. I mean it was one of the things he felt about—in everything that he did you know, looking ahead, meeting problems ahead of time. And he was critical in the campaign of President Eisenhower just sitting back and letting Little Rock turn into a crisis, and he wanted to avoid that as much as possible. So the traveling that John Seigenthaler and I did in the summer of '61 was the school districts that might have a problem in the fall, the work the Attorney General did in talking to people that he knew down there on the same thing, was all directed at that, at the President's desires, as I say, to get the country a little ahead of its problems and not just letting them build up. He made a statement on the Atlanta schools when they were desegregated in the fall of '61, which

[-67-]

I remember working on. He made it at the outset of a press conference, the day that the Atlanta schools were desegregated, congratulating them and calling the attention of the country to the difference in the way they dealt with it and the way it had been dealt with in Little Rock and New Orleans the previous year. And then I think a week later when there had been other school districts that had been desegregated successfully in places that we had visited—New Orleans did it successfully for the first time in '61. In '60 it really never worked. It worked in '61. Dallas was another. Memphis was a very important place. And those were the ones I remember. The President referred to them, and I remember discussing that with him in the fall of '61 in his office.

LEWIS: Do you recall any conversation with the President or overhearing him in conversation with the Attorney General on what might be called the reality of the effect of segregated schools in the South or in general the kind of inferior education that Negroes got in the South—that is not tactical maneuvers about opening the schools, but what was behind this, the real issue?

MARSHALL: Yes. As I say, the legislation that he did ask for in 1963 first, was the literacy test bill and assistance to desegregated schools. He was interested in that because of the educational lag. It wasn't just the legal problem, it was.... It was not really a legal problem to him, it was an educational problem. That's what he was interested in, as he was for all.... That was one of his major sources of concern. Of course it kept getting tied up with the church issue, which was a problem for him as a Catholic, and as a Catholic president. But I would say when you talked about schools and segregated schools with him, that was his frame of reference for it, was the educational lag and the disadvantages these children had when they got out of school.

LEWIS: You've just said something that leads me to ask you a wholly unrelated question. It wasn't so much the law he was interested in or the legal question. In fact he didn't think of a lot of these questions as you would or I would—or maybe I'll just limit it to myself—in terms of legal rights or law, did he?

MARSHALL: I think that's right.

LEWIS: Can you say more about that? I mean was he....

MARSHALL: Well, he.... The different parts of it, you see, he thought.... These statistics that he kept referring to about the Negroes...

[-68-]

LEWIS: How much poorer they were, less chance to live.

MARSHALL: How much poorer they were, how much less chance they had to live, their babies, you know, death rate at birth. He felt very strongly about children. You remember the Attorney General tells about the time of the Cuba missile crisis, the thing that he thought of and the President thought of all the time was about the children that would never have the chance to grow up. And I think the President thought of the race problems a great deal in terms of children and future generations not having the same disadvantages that their parents have now. And he talked that way, I remember, at those White House meetings in June and July in 1963 to the church men and educators. He was the one who suggested the meeting of the educators, and educational programs. And that's the way he thought about the school issue, really, was in terms of an educational problem rather than a legal problem but really a problem of segregation.

The public accommodations section, that just made him mad really. He thought it was just outrageous to refuse to serve people because of their race. And I remember once meeting—we met.... I was the only one from the administration area besides the President with a group of five men from Birmingham who came up to see him after those children were killed in the church. One of them brought up the question of public accommodations—of course, the bill was already in there and this was a major issue—brought up the question about how we were interfering with private property rights or something. And the President just stared at him and said, “Well, that's nothing, nothing.” He couldn't see why that was a big issue. He couldn't understand why anyone would want to refuse service to a Negro.

LEWIS: You wanted to say a word about the situation in Albany, Georgia, I think, during the summer of 1962.

MARSHALL: Yes, I remember just this one situation I remember talking to the President about several times. I went over and talked to him about it at the request of the Attorney General, once before a press conference that summer. There were people going to jail, you know. That was another thing. The President couldn't really understand. These ministers went and prayed for about two minutes or a minute in front of city hall and they were all taken away and put in jail. And the President couldn't understand that. But at the time the issue was that whites wouldn't meet with the Negroes. And he made the comment at the press conference after that, after I discussed it with him that, after all, he sat down and met with communists and unfriendly nations all the time, and he couldn't understand the attitude of the city fathers in refusing to meet with some of their citizens because they



were Negroes.

I remember that, and I remember talking to him one weekend several times when there were some others that had gone to jail and they were going on a hunger strike and he had gotten a telegram about it. He was worried about it, and he didn't know what to do about it. It was a terribly frustrating situation. He asked me often why we couldn't do anything. I told him there wasn't really anything we could do, that it had to be done by the community, there wasn't any legal action to cure the situation.

LEWIS: How did he feel in general about the topic of your lectures: federalisms and the limitations on the power of not only the President, but the whole federal government to deal with a really rancid situation like Albany? Was it very frustrating to him?

MARSHALL: It was frustrating to him. I think it was to a lot of citizens in the summer of 1962—the Albany situation. They were imposing very rigid restraints on free speech. People were arrested as soon as they appeared on the streets with a picketing sign or anything. It was not only that they wouldn't let them speak, but they wouldn't talk to them. So they were—as I think the President said on one occasion, it was not only they didn't give them any rights to any fair treatment, but they wouldn't even let them complain about not having it. And I would say that the President, you know, he accepted things, but he found it difficult to believe that there wasn't something the Department of Justice should do about Albany.

LEWIS: And there never was anything that could be done through the political institutions of Georgia, through the Governor? You never felt there was anything apart from lawsuits?

MARSHALL: Well, we talked constantly. I mean on the weekend I met with the.... I was up fishing in the Poconos and the President was in Hyannis Port. Somehow he just got it in his head that he was going to worry about Albany that weekend, and so he called me several times. And we discussed it over the telephone. He called me, and I would call down to the Mayor or the city police.

LEWIS: Pritchett [Laurie Pritchett], or whatever his name was?

MARSHALL: Or Mayor Kelley, Asa Kelley, and try to get something accomplished, you know. But they wouldn't meet with the Negroes and the Mayor was a nice enough man,

polite man, courteous, a gentleman, but he said he was only one of ten people. They had a newspaper editor down there who's from Massachusetts originally named Jimmy Gray

[James H. Gray]. He kept beating it. And it turned out that every time I called the Mayor he'd call in the reporters and tell them, the reporters, about our conversation. So it was all in the newspapers down there next day.

LEWIS:           And in fact to this day there hasn't been any real alleviation of the situation in Albany, has there?

MARSHALL:      No, although there's a school order for the fall of this year, and Laurie Pritchett was up here for the Attorney General's bail conference last week. He came in to see me, and he's.... I think, like all those situations, there's some movement even when you can't see it immediately.

[END OF INTERVIEW #3]

[-71-]

Burke Marshall Oral History Transcript – JFK #3  
Name Index

**B**

Bell, David E., 55, 59  
Bell, Griffin B., 52  
Braestrup, Peter, 54

**C**

Clark, Joseph S., 65

**D**

Douglas, Paul H., 65

**E**

Eisenhower, Dwight D., 54, 67

**G**

Goldberg, Arthur J., 63  
Gray, James H., 71  
Gremillion, Jack J.P., 45

**H**

Hill, Lister, 48

**J**

Jackson, Shelby M., 44  
Javits, Jacob K., 65  
Johnson, Lyndon B., 46, 58, 62, 63

**K**

Katzenbach, Nicholas deB., 57  
Keating, Kenneth B., 65  
Kelley, Asa, 70, 71  
Kennedy, John F., 44, 45, 46, 47, 48, 49, 50, 51,  
52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62,  
63, 64, 65, 66, 67, 68, 69, 70  
Kennedy, Robert F., 42, 43, 44, 45, 46, 47, 48, 49,  
50, 51, 52, 53, 58, 60, 62, 63, 64, 66, 67,  
68, 69, 71  
King, Martin Luther, Jr., 51

**L**

Lewis, Anthony, 54  
Lucy, Autherine J., 49

**M**

Mansfield, Mike, 61, 64, 66, 67  
McNamara, Robert S., 55  
Meriwether, Charles M., 48, 49

**O**

O'Brien, Lawrence F., 53, 54, 61  
O'Donnell, Kenneth P., 54

**P**

Patterson, John Malcolm, 47, 48, 49, 50  
Pritchett, Laurie, 70, 71

**R**

Rogers, William P., 44

**S**

Schlei, Nobert A., 57  
Seigenthaler, John, 48, 67  
Sorensen, Theodore C., 53, 54, 55  
Sparkman, John J., 48

**T**

Tucker, William H., 53  
Tyler, Harold R., Jr., 43

**V**

Vandiver, S. Ernest, Jr., 51, 52, 70

**W**

Weaver, Robert C., 54, 55, 56, 58, 61  
White, Byron R., 42, 43, 46, 47, 49, 50, 51  
Wirtz, W. Willard, 63  
Wofford, Harris L., Jr., 42, 54  
Wright, James Skelly, 44