

Nicholas Katzenbach Oral History Interview – JFK #2, 11/29/1964
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Biographical Note

Katzenbach was the Assistant Attorney General (1961-1962), Deputy Attorney General (1962-1964), and Attorney General of the United States (1964-1966). In this interview Katzenbach discusses the appointment of Southern judges, James Meredith's entrance to the University of Mississippi, and the Civil Rights Act of 1964, among other issues.

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Nicholas Katzenbach
JFK #2

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Second Oral History Interview

with

NICHOLAS KATZENBACH

November 29, 1964
Washington, D.C.

By Anthony Lewis

For the John F. Kennedy Library

LEWIS: The Blanshard we talked toward the somewhat groggy end of the first tape was Paul Blanshard, B-l-a-n-s-h-a-r-d, the author of *American Freedom & Catholic Power*, and of *God & Man in Washington*.

Now, Nick, we ended the first tape with some discussion of the appointment of the two Supreme Court Justices whom President Kennedy [John F. Kennedy] appointed, and that leads to the subject of other judicial appointments which have had a good deal of attention. Can you tell us, focusing directly on the President rather than on the ordinary run of how these rather difficult appointments were made, what his role with, for example, the Southern appointments that have been so controversial, what that role was.

KATZENBACH: I don't think that on any of the appointments the President took a very active role. The process of appointment is so much dependent on the Senators that – the procedure was one that he approved.

Occasionally

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a person would be offensive to him. With respect to the Southern judges he was...

LEWIS: Let me interrupt you right there. "Occasionally a person would be

offensive to him.” Now can you give us an example so that would be an indication of how he operated? I think if we were concrete there....

KATZENBACH: Well, a person.... It’s difficult to call to mind a particular judge at the moment, but I know that in terms of dealing with Senators, if there was a person who had been strongly active with respect to President Kennedy, who had been offensive to him in the sense that he continued to be critical of him, this is a point that could be raised with the Senator as to why this was not the appointment that ought to be made. Actually, the President has very little to say about the District Court appointments except for the fact of possibly stopping one.

LEWIS: Doesn’t he ever say.... Well, I suppose it would depend on the President, but I can imagine a President with an interest in the law, a lawyer president, who would say, “I have a friend in Nevada, Nick,

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that I think would make an excellent district judge. I understand you have a vacancy out there.” That just didn’t happen?

KATZENBACH: I don’t think that has happened. It could happen in states where there were no Democratic Senators. You could appoint during his Administration anybody you wanted to from New York, for example. Without Democratic Senator in the Senate at that point, it would not be difficult to accomplish that.

LEWIS: What about the District Court in Boston where there was all that about Frank Morrissey [Francis X. Morrissey]? Did that subject ever come up between you and President Kennedy? That vacancy or Frank Morrissey’s pretensions for the seat?

KATZENBACH: I never talked to President Kennedy about that. I talked to the Attorney General [Robert F. Kennedy], Senator Ted Kennedy [Edward M. Kennedy], and Kenny O’Donnell [Kenneth P. O’Donnell], and a number of other interlopers, but never directly with the President.

LEWIS: And what was the subject of these other conversations, which doubtless reflected his views to some extent?

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KATZENBACH: I think there was and is at the moment I’m saying this a considerable interest in Morrissey for the District Court, and I

don't think that any of the people involved in this are totally persuaded of his qualifications for the job, but I think that Senator Kennedy felt strongly and still feels strongly that Morrissey ought to be made a judge.

LEWIS: Wasn't there a period when some other figure or figures – I recall someone with an Italian name as being considered, or was that all just a smoke screen?

KATZENBACH: Not really. I had pushed the position that, if they really wanted Morrissey for judge, then they ought to make another appointment first, and then wait for another vacancy for Morrissey.

LEWIS: That was Judge Wyzanski's [Charles E. Wyzanski] position as I recall. That doesn't necessarily condemn it, but....

KATZENBACH: No, just a presumption.

LEWIS: To get back to the – you started to say something about the Southern judges, which may be less fun but more interesting than this.

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KATZENBACH: No, well, the President was anxious to make Southern appointments that would not hurt the civil rights program, in his feelings about Negroes and constitutional rights and so forth, and was very anxious to do this. Actually, the effort was made to do this. We came out with some bad appointments in the South, but....

LEWIS: Those were primarily before you were Deputy Attorney General. Is that correct? The three worst ones.

KATZENBACH: They were all before. I don't think when I became Deputy, there have been any bad appointments in the South, mainly because...

LEWIS: There haven't been...

KATZENBACH: ...there haven't really been any appointments in the South.

LEWIS: You anticipated my saying that. Did you ever have any conversation with President Kennedy about the problem of dealing with Southern Senators on these appointments, the difficulty of finding a good judge from Mississippi and that sort of thing?

KATZENBACH: No.

LEWIS: You had no intimations of his views from his brother

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on anything of that kind that would be interesting here.

KATZENBACH: No, none specifically that I recall. The presumption was you were trying to get a judge that would be good on civil rights. And I know from things that I knew when Byron White was Deputy that this effort was made, with Harold Cox [William H. Cox], for example, first appointment of the new judges created by the new act.

LEWIS: The omnibus judgeship bill.

KATZENBACH: Omnibus judgeship bill. This created a vacancy in Mississippi in the southern District, and Senator Eastland [James O. Eastland] was anxious that this would be the first judge appointed, and he was anxious that Judge Cox be appointed. A really quite thorough investigation of Judge Cox was done. He was not on record in any way that you could find as being opposed to Negroes, and the Attorney General questioned him in his office. Judge Cox sat on that red sofa in the office and he assured the Attorney General that he would always follow the law of the land, and the constitution as laid down by the Supreme Court,

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so help him God.

LEWIS: He must have been talking about some other fellows. What about times when these appointees, like Cox and Ellis [Frank B. Ellis] and West [Elmer G. West], behaved badly? Do you know of any comment from the President's reaction to that rather unfortunate...

KATZENBACH: None from the President. The Attorney General was very upset with Cox upon that occasion. I think all of us were upset with Judge Gewin [Walter P. Gewin] on the Court of Appeals because on paper Judge Gewin looked like a very good appointment to the Court of Appeals and then did not become one. I know nothing about Judge West or Judge Ellis. I can't recall anything about their appointments or ever even talking about them.

LEWIS: As I recall, Judge Cox – I recall the Attorney General telling me about some letter that Judge Cox had written to a local official, a registrar or someone of that character, suggesting that the government voting suits were political and just sympathizing with this defendant in the voting suits.

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KATZENBACH: Well, I think that's true. I think he probably had written at least one letter. I just think he had very strong feelings on the subject much stronger than anybody knew when he was appointed. I think these have come out since.

LEWIS: Now what about – we might move on to Oxford and lead into it by asking whether the performance of Judge Mize [Sidney C. Mize], the very reluctant performance of Judge Mize in the Meredith [James H. Meredith] case, which required repeated invoking of the Fifth Circuit's power even down to the level of trying the contempt case and issuing injunctions, whether that invoked any comments about the difficulty of appointing judges in Mississippi, Mize, of course having been an earlier appointee, not a Kennedy appointee.

KATZENBACH: Mize was a Roosevelt [Franklin D. Roosevelt] appointee, I think, and an older man and a rather able judge. Some difficulties of an older judge who'd been brought up in a rather different tradition and to whom all this was new.

LEWIS: Instant injunctions, you mean, day by day.

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KATZENBACH: Yes. This is not a particularly happy innovation in the judicial process. Mize did not do badly on his orders. They were just – the Fifth Circuit was just sort of standing closely behind him and issuing, in many instances, parallel injunctions. And this, I suppose, was our caution in terms of not ever being able to get from Judge Mize quite what you wanted and not being sure you could get quite what you wanted, that there might not be delay, and so forth.

LEWIS: Well, now we're at Oxford, perhaps a little bit out of chronological order. Is it correct to say that you probably had as close association with President Kennedy in the Oxford situation as in any other situation, or were you there, again, working through the Attorney General pretty much?

KATZENBACH: I was certainly down there through the Attorney General really entirely. I didn't talk to the President before Oxford at all that I can recall.

LEWIS: You mean in relation to Oxford?

KATZENBACH: In relation to Oxford. I think Burke Marshall and the Attorney General did. I talked with the Attorney

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General at some length. I was involved in it, involved and knew what was going on; was asked for my views from time to time in these sort of conferences we had about it; was present when the Attorney General talked to the President on, I suppose, any number of occasions on this, but I think by and large when the discussion was face to face with the President...

LEWIS: Let me interrupt that. You say.... Would you say that again? You were present any number of occasions....

KATZENBACH: Any number of occasions when the President and Attorney General talked on the phone about it.

LEWIS: You were on the Attorney General's end of the telephone, not physically present.

KATZENBACH: I don't recall any time being physically present over in the White House with the President before going down there to Oxford. At night I talked with him on the phone at some considerable length from time to time and then subsequently.

LEWIS: Well, we'll get to that chronologically. Just before that I wonder if you could give us a picture, which may be hard to get otherwise (I hope the Attorney

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General will supply it; we can't be sure), of what phone conversations were like from the Attorney General's end. Were they rather cryptic? They didn't have to spell things out terribly fully, did they?

KATZENBACH: No, they were cordial phone conversations throughout and efforts to try to arrive at a method of enforcing it, enforcing the court order and acquiescing in the court order from the Governor's point of view, and the Attorney General generally bending over backwards to say, "The only thing I insist on is he got to school there. We'll work it out any way that you want to work it out, but he's got to be there, and register, and go to school."

LEWIS: This is a – you're talking now about a conversation which Barnett [Ross R. Barnett] was on the phone.

KATZENBACH: Yes.

LEWIS: I was talking about Kennedy – the conversations between the

Attorney General and the President.

KATZENBACH: These were usually reciting the latest conversation with either Governor Barnett or Tom Watkins or, on one or two occasions, Paul Johnson and then generally filling him in on this and then stating what we

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intended to do and getting the President's thoughts on what ought to be done, with a normal focus being, "Should the President call the Governor on this," and our general theory being that what we ought to do was to get an agreement with the Governor and then have it confirmed in a conversation with the President, which is what, in fact, was accomplished even though it later turned around.

LEWIS: But there was never any question of the President taking any course other than that which the Attorney General was following, namely to get Meredith into the University.

KATZENBACH: No, there was never any question about that, but there was a tremendous amount of concern on the part of the President and on the part of the Attorney General in terms of avoiding troops.

LEWIS: Right. They had in the back of their minds their criticism of Eisenhower's [Dwight D. Eisenhower] use of troops at Little Rock, I suppose, and the general reluctance to use troops.

KATZENBACH: They had that, plus the promise that President Kennedy had made in the campaign that troops would never be used in the South.

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LEWIS: Did he say that as a flat statement? I've forgotten.

KATZENBACH: Well, he said something very close to it, if not that, because it was very much on his mind and on the Attorney General's minds. There was criticism of Little Rock largely, I think, in terms of the fact that troops were sent in without notice, without negotiations, or anything else. I think in the campaign President Kennedy had criticized this and said, "I can assure you that I will never use federal troops in the way in which they were used at Little Rock" or something of that kind, which was very much on his mind and which was a very major objective in terms of resolving the problem, but in fairness, I mean having stated that, in fairness never any question but the fact that the court order was going to be enforced even if it involved the use of troops, but a very major effort to avoid using the Army.

LEWIS: Well, now tell us a little about how you got to Oxford that day.

KATZENBACH: Well, I had been involved in the various plans which kept shifting and changing in what, looking back on it, was a sort of unconscionable way. I mean, you

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had a plan at 2 o'clock, and at 3 o'clock, after a conversation with the Governor, this was changed. There were all these efforts: the going through the various symbols of Meredith, with one or two people, being denied admission and establishing that it was forcibly denied; and then the abortive trip down there on Saturday, I think, with a group of fifty marshals (this was after the phone conversation where the Governor said, "Well, they'll draw their guns and we'll stand aside," and then the Governor calling up frantically and saying, "Turn them around; turn them back. There will be trouble if they arrive here."); then followed by the Sunday plan, which we actually went in on.

Lou Oberdorfer [Louis F. Oberdorfer] was in Memphis with the marshals and all the people that had been deputized as marshals trying to run these plans. Transportation got all messed up because you didn't know how many people were going, when, and where you could put the transportation (we were trying to avoid moving any Army transportation into the State of Mississippi, keeping it all in Memphis), and all of the logistical problems which

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kept being changed in a maddening kind of way.

I went down there, was in the office on that Sunday, up in the Attorney General's office. There was a television program that morning, which one of the networks wanted to put on, on what the legal issues were. The Attorney General asked me to go out and appear on that program. I went out there, appeared on that, came back to the office. And he said, "Do you have any plans for this afternoon?" I said, no. He said, "Well, I'd like you to go down there and follow through on this plan, and be in charge of things, and get some people to go with you."

And other people were picked just about that casually. I suggested Ed Guthman [Edwin O. Guthman]. I said there'd be a lot of press; we'd need someone for public information. He suggested Dean Markham, who was an old friend and did a very able job of helping on a number of things. Harold Reis strolled down to the office, was saying good-bye, and ended up going with us on fifteen minutes notice. I've forgotten whether there was anybody else that went down with us at that time or not, but four of us went down and I think somebody

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else. We flew down there, and it was kind of amusing...

LEWIS: Jim McShane [James J. P. McShane]?

KATZENBACH: No, Jim was down there. McShane was down there. Dolan [Joseph F. Dolan] was down there. I think it was just the four of us but there may have been – oh, Norb Schlei [Norbert A. Schlei] went down, Norb Schlei and I think one other person. I can't think at the moment who it was. We got a Jetstar to go down there, and I had a big fight with Jeeb Halaby [Najeeb E. Halaby], the Director of the Federal Aviation Agency, because the only way I could get down there was for the Jetstar to land at the University of Mississippi airport, which had a 3,700 foot runway, which was 300 feet under the minimum for the Jetstar. Finally, Halaby said we could land there if we jettisoned all our fuel, so we flew down there and arrived down there, oh, 4 or 5 o'clock in the afternoon. There was a great crowd of people, mostly newspaper reporters. It was a very exciting landing.

LEWIS: You jettisoned your fuel, did you?

KATZENBACH: We jettisoned our fuel and then we went in. It was a tremendous crowd of about a thousand people all

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milling around the place and nobody knowing quite what was going on, a lot of marshals there and army trucks. The first thing I did was to put ten cents in the phone and call up the Attorney General and find out whether or not there was any change in the plans. He said no. So, I decided to take half the marshals down with me and leave half at the airport, because Meredith would be arriving later. So I worked that out through Jim McShane. As we started to go down there we were met by the Commander of the State Highway Patrol.

LEWIS: Bertsall? Birdsong?

KATZENBACH: Colonel Birdsong [T.B. Birdsong], yes, who arrived with Joe Dolan, and he said he had received instructions to escort us down there. So we had a State Highway Patrol escort down there. We arrived down there...

LEWIS: It was the understanding from the Governor, the agreement that the State Highway Patrol generally would assist you and maintain order and so forth.

KATZENBACH: And they did. And they did.

LEWIS: But not throughout the evening.

KATZENBACH: No, but they did at that point. Then we got down there – the plan that had been worked out, which had

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been worked out among any number of other plans, was that when we arrived down there the marshals would go to the Lyceum building, and they would surround the Lyceum building. This had been worked out really because that was the place of registration and sort of the only central place in the building. We arrive down there with two hundred marshals or so, and so they dispersed around the Lyceum building. Meredith was still not there, and the idea was to make the place secure and then bring Meredith in. That was the reason I'd left half the marshals at the airport.

We arrived down there, and the marshals surrounded the building. Then some students began to gather around and jeered and catcalled and called nasty names and so forth and so on, flipped cigarettes at these Army trucks which we had used to transport things, threw bottles – it gradually accelerated – threw some rocks. On the outside it was mostly just jeering. I went inside the Lyceum building, arranged for the key to Meredith's room and for his registration the next morning.

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The Governor had sent up his representative there, which was Senator Yarbrough [George Yarbrough], who was the speaker of the House, and he was accompanied by Senator McLaurin [John McLaurin], and we were in there with Colonel Birdsong. The marshals were there. There was a line of marshals around the Lyceum Building and there were sort of State Highway Patrols sort of outside the marshals, between the marshals and the crowd. I went inside and talked to Senator Yarbrough. Senator Yarbrough.... The gist of the conversation was that Senator Yarbrough said, well, now since we had taken control of the campus – and he was representing the Governor; he gave me some piece of paper that said he was representing the Governor – that he was going to order the State Highway Patrol to leave, that they could serve no other useful function, and that they would leave; that all he wanted in the world was to avoid violence, he wanted to remove the State Highway Patrol.

The gist of my argument was, if he removed the state Highway Patrol, that would lead to violence. I was confident that if that happened, something

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would occur that would be disastrous. The argument proceeded along those terms, both of us wanting to preserve order and each of us taking diametrically opposed methods of doing it.

I appealed to Colonel Birdsong in this respect. I said, "Well, this was not something that Senator Yarbrough or I could judge, that I wanted the views of a professional police officer as to which would be more likely to lead to violence and which would be more likely to avoid it. Colonel Birdsong responded, "For God's sakes don't put me in the middle." Then I said I did not believe, despite any pieces of paper he had, that he would or should or was even authorized to withdraw the State Highway Patrol without conferring with the Governor.

And I got one of the people with me, either Ed Guthman or Joe Dolan, to call the Attorney General to tell him that this was what Yarbrough was doing, so that they could get

on the phone to the Governor and have the Governor give orders not to withdraw the State Highway Patrol. Yarbrough refused to call the Governor, and while he was refusing the call the Governor, because he knew the Governor's views on this, the Governor called him. And

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following that, he said the Governor had spoken to him, they didn't want to have any violence, the State Highway Patrol would be withdrawn in an orderly kind of way. I objected to it being withdrawn at all. Then the subject became how long would they stay here, would they stay here until 8:00 or 8:30 or 9:00 or 9:30. I was saying they ought to stay here as long as possible, and he was saying they have to leave in thirty minutes, and we were sort of negotiating when they would leave. I was saying, "At least you can't take them out of here until long after Meredith arrives" and so forth and so on. But after the Governor's call, he said the State Highway Patrol would not leave, at least in the foreseeable future, that we had the reports that the crowd outside was getting more and more unruly, that he said he would go out and try to calm down the crowd.

LEWIS: I'm not quite clear on that. I thought you said before the Governor told him that there would be an orderly withdrawal of the highway patrol. You're saying now...

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KATZENBACH: The Governor obviously told him that the Highway Patrol was to keep order, I think, and he still wanted them to withdraw. I don't know what the Governor said. But after that, he got less anxious for them to withdraw in the next thirty minutes, he said that he wanted to work out an orderly withdrawal. We were still talking about that when we got reports that the crowd was getting more and more unruly. He said he would go out and do what he could with the crowd, did we have any loud speakers. I said, yes, we did, but we didn't. The loud speakers had been left with the half of the marshals that were out at the airport and weren't in with the half that were in the Lyceum building.

So then he went out into the crowd and did make an honest effort to try to disperse the crowd. Without any loud speaker facilities, this didn't work, and the crowd got more and more disorderly, and the state police got less and less enthusiastic about doing anything. Colonel Birdsong did – we put on our gas masks. I gave McShane authority to do that for the marshals and to have their guns at ready in the hope

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that this would have some effect. The crowd at this point got very disorderly. One of the trucks was on fire; they had thrown acid at some of the people; there were big rocks coming in, coke bottles loaded with gasoline coming in and exploding and...

LEWIS: In the Lyceum building?

KATZENBACH: Up around the steps around it in the front where I was. The crowd was worse in some places than it was in others. Colonel Birdsong said his people didn't have gas masks, he hoped he wouldn't fire gas at them. I said the situation was getting very difficult, but I would make every effort not to gas his state troopers. I just wanted his state troopers to move the crowd back. Well, they would, they moved the crowd back a foot or two feet, but the rocks and everything else would come in. It was getting dark, and things were getting kind of worse. I told Jim McShane that he could use the gas when and if it became necessary. We'd already waited too long when I told him.

LEWIS: Had you talked to anybody back in Washington at this point? Of course, Meredith hadn't arrived

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yet. Or had he arrived?

KATZENBACH: No, I've forgotten the whole arrival of Meredith here really.

LEWIS: In the meantime has he arrived?

KATZENBACH: Yes. Yes, I did speak to them. I said the situation was under control, it would be all right to bring Meredith in. I would have to look at notes, Tony, to be sure of the time sequence, which I'm sure will all be reproduced in a fine fat court record here....

LEWIS: Someday.

KATZENBACH: Someday. I went out, picked up Meredith, and escorted him in with the rest of the marshals, took him into his dormitory room, and put him in there, and left some forty marshals up there – my recollection is about forty; it may have been less; it may have been twenty – to guard him up there.

LEWIS: This would have been sometime after Senator Yarbrough had not had a microphone.

KATZENBACH: It was after dark, and it was – we still had orders at this point. I came back to the Lyceum building...

LEWIS: Things were getting worse.

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KATZENBACH: And things were getting worse. Then shortly thereafter the riot

broke out, and the second that we fired gas some of the state troopers were caught in the gas, as indeed a lot of us were. I was. The gas, when you fire it in this way and it starts with the one group, when Jim McShane gave the order to fire, you get other people firing it all the way around, so that it seemed to me entirely possible that you could have witnesses on one side of the building that said there was no great amount of disorder and yet gas was used, and you could have the other side of the building and people saying it was entirely out of control, because as they are lined up there, once the first squad fires gas, the others all the way around the building fire. So I would anticipate a lot of conflicting testimony as to how bad the riot was depending on where you were.

Then that started, and then the State Highway Patrol withdrew. They had withdrawn prior to the firing, but not all of them. We still had a group around. Some of the others were withdrawing. I think in accordance – but I don't know – with the, I don't know, 7:30, or whatever it was, deadline that

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Yarbrough had given earlier. And then the riot broke out.

LEWIS: You were saying that you had had a telephone conversation with President Kennedy. At what point?

KATZENBACH: Well, I put one phone through to the Department of Justice and one phone through to the White House, and actually the Attorney General was over, and Burke Marshall were over with the President. So the three of them were there. We kept that phone open.

LEWIS: Was this just an ordinary pay phone?

KATZENBACH: It was an ordinary pay phone. There was a series of them in the Lyceum and we could have used some other phones, but the time we opened this line we...

LEWIS: By opening it you mean put a dime in and made a collect call.

KATZENBACH: We put a dime in and made a collect call. But after getting it open, it was very important to keep it open because there were hundreds of newspaper people getting lines out of Oxford, Mississippi, and if you ever tried to switch to another phone, you would have lost your line to the White House.

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The whole evening, while it was tragic in ways, was amusing in other ways. We had some reporters trapped in the Lyceum building, and from time to time, because of the shortage of all of us and without really any very good command post, from time to time I or

somebody else – Dean Markham was on the phone most of the evening – would hand it to a newspaper reporter and say, “Here, hold this phone.” And the newspaper reporter would not know whether he was going to have the Attorney General or Burke Marshall or the President on the other end of the phone, and he was doing his reporting there, and a number of them were talking with the President that evening as well as us. And that conversation went on as we just reported.

LEWIS: What does that mean to say? He was waiting to go on the air, of course.

KATZENBACH: Well, he went on the air before we could stop him. I spoke to the Attorney General and told him that gas had been fired. He said, “I’ll do something to try to stop the President.”

LEWIS: But it was too late.

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KATZENBACH: But it was too late to do it. That had all kinds of repercussions throughout the evening, because when the troops were on ready at Memphis, heard the President’s speech and that everything was fine, they all relaxed, and we had trouble renewing that. We had set up a command post, a radio post, with Lou Oberdorfer down in the basement of the Post Office building in Oxford; we had people at the airport; we had people stationed around the campus; we had a walkie-talkie, two of them, in the Lyceum Building; so we had fairly good communications throughout. The communications were not hooked up with the pay phone. We had them in another room. We had to run back to the radio to find out what was going on then run back and report it to the President. But there were a number of very amusing things that happened that evening.

The first important thing, I guess, that happened was both Bob and the President wanted to know whether or not to start the troops.

LEWIS: This was after the President’s speech?

KATZENBACH: Yes, after the President’s speech, perhaps about 9 o’clock. The riot started at 8. I just didn’t

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want troops, but at the same time it was obvious we had a number of people wounded by gun fire, by buck shot, and by shot guns, and many of the marshals were saying we needed troops and pressing on needing troops. I wasn’t totally sure that we needed that at that point, and so I told the President he ought to start the troops on the way, but I was hopeful that he had control over them so he could call them off in case we could get the riot under control. I think I was probably over conservative on this, although it didn’t make much difference because they kept saying they would be here in fifty minutes, and I was saying

maybe we would have it under control by then, and actually they didn't arrive for three or four hours.

LEWIS: Why did it take so long?

KATZENBACH: Well, it took a long time for a variety of rather strange reasons. One, I think the Army had just simply underestimated the time that it would take. Secondly, the President's speech had hurt. They had gone off alert at that point. Then we had needed more gas, and we had desperately said we needed more gas, so they had sent us more gas from

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Memphis. The Army had arranged, in preparation for this had worked out a series of escalations, so that the thought was that the first group of people to arrive were to be unarmed, only night sticks. Then the next group would have guns and ammunition and gas and everything else. This was a sensible order of how you deal with a mob, but when we said we needed people, what the situation was, the first group to come off had no guns and no gas. So they stood out in the dark at Memphis, opening crates of guns and opening crates of gas, trying to equip themselves to get on the helicopters to come. They were doing all of this by flashlight, and it took a certain amount of time to do it.

LEWIS: When they finally arrived it was like Custer or something?

KATZENBACH: When they arrived they arrived in helicopters and instead of coming straight in from the airport – they were not the first to arrive; the first to arrive were National Guard units.

LEWIS: National Guardsmen from...

KATZENBACH: From Mississippi, locally. The first group – there were two groups. The first group to arrive was the

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local Oxford group, and they came through over the bridge, through the riot, and by the time they got there their commanding officer, who was Captain – what was the name of the great American writer from...

LEWIS: Faulkner [William Faulkner].

KATZENBACH: Faulkner. This was Captain Faulkner [James Murry Faulkner], a nephew of the writer. He arrived with a broken arm and half of his people pretty much out of the commission from rocks and stones...

LEWIS: You mean his arm was broken in the riot?

KATZENBACH: His arm was broken in the riot, yes. He's a good officer. I had called him myself directly on the phone because the other troops were not arriving. I called him, and he was alerted – they weren't prepared. I told him to come down immediately, and he asked me who I was, and I told him. And he said, "Well, whose order is it?" And I said, "The President of the United States wants you to get here directly. I am transmitting his order." He was hesitant. He called up his commanding officer, who was a colonel, and said, "What do I do?" The Colonel said, "Well, if I were you, Captain, and the President of the United States told me to get down

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there, I'd get down there." So he arrived, without ammunition, ill-trained, ill-equipped, and half of his people injured, but that was some help.

LEWIS: Were they all just at home or how many...

KATZENBACH: No, they were in the Armory. They were in the Armory.

LEWIS: You had put them in the Armory?

KATZENBACH: We had put them in the Armory. And then another group arrived, better equipped, under a Colonel. They wanted to land the helicopters on the campus, and I tried to get him to go down there with his group and circle the place down there with headlights on the truck so the helicopters could land, but he said he'd never been in this kind of an operation and he wasn't sure he could do it, so they never got it done.

LEWIS: Then they had to drive in from the airport.

KATZENBACH: So they had to come in at the airport. When they came into the airport, General Billingslea [Charles Billingslea] thought he first ought to run a reconnaissance of the situation before he came on in, and so that delayed things somewhat. Then he got into his jeep and one of our Border Patrol people went out there and said to him, "General, if I were you I wouldn't

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ride in an open jeep like that." So he got into one of our ordinary sedans for which – he said it probably saved his life because when they went under the railroad bridge, somebody dumped the trestle off the top of it right onto the top of that sedan, and if that had come into the middle of an open jeep, I think it would have been somewhat more serious.

But throughout we had these great communications because we knew exactly where troops weren't, and the Army did not have communications of that kind. So we would talk to

the President and he would say, "I don't know where they are." "Are they at the airport?" And we would say, no, no, they are not because we would talk on the radio to our people at the airport and they'd say, "There's nobody here." He would then call up Secretary Vance [Cyrus R. Vance] over in the Army and say, "Where are the troops?" Secretary Vance would look at his watch, according to their planning, and say, "They arrived at the airport twenty-five minutes ago." Then the President would say, "The hell they

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are. I've just talked with people at the airport, and they're not there."

LEWIS: Didn't they have any communications, these troops. That's ridiculous.

KATZENBACH: No, they didn't have adequate communications.

LEWIS: I gather that the experience – somebody said the experience of the ineptitude of the troop transfer worried the President quite apart from the civil rights issue.

KATZENBACH: Well, I think that it did, and at the time it worried him a good deal. Then there was rather an overcompensation on his part or on the Pentagon's part or both, because before we were finished that evening we had just about the total striking force of the United States headed for the state of Mississippi. From 3 o'clock on that evening I spent all of my time, for three hours, trying to get people to stop people from coming. There were twenty-two thousand troops headed there. We needed a good bit, we needed a couple of thousand to put it under control; we did not need twenty-two thousand.

LEWIS: What would have happened if the troops had not arrived? Would you all have been killed? What

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literally would have happened? What happens when the rioters win?

KATZENBACH: That's a very good question, Tony. I don't know what would have happened. I never had any particular fears for my own life, outside of the fact that you could walk outside, and I frequently did, and one of these stray bullets could hit you or something of that kind, or a rock, or acid. The acid all came from the chemistry building which was located right next door to the Lyceum Building, which was one of those things the students knew and we didn't, I guess. I don't think there would have been anything to be worried about to that extent. I think if the troops had not come you would have found the town ransacked, as it was to some degree anyhow. You'd have had a lot more people hurt and killed just in the course of rioting. You might have had,

instead of two people killed, thirty people killed. And I think most difficult and most important, Meredith might have been killed.

LEWIS: I suppose so; for sooner or later the mob would have found out where he was in terms of the dormitories,

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and if the marshals would have stayed they wouldn't had any ammunition.

KATZENBACH: They had ammunition.

LEWIS: They had live ammunition?

KATZENBACH: Every single marshal had live ammunition.

LEWIS: Well, they would have had to shoot people eventually.

KATZENBACH: I told them – half of the evening, too, I spent on the radio telling them they were not authorized to fire, and I told the group at the Lyceum building that as a last resort to protect Meredith's life they could use live ammunition.

LEWIS: Not at the Lyceum building, but at the dormitory.

KATZENBACH: At the dormitory. Then they were instructed to do that. They had six people with him and those six were given authority...

LEWIS: Just those six.

KATZENBACH: ...just those six, to use live ammunition.

LEWIS: What kind of guns did they have?

KATZENBACH: Most of them had 38's.

LEWIS: Pistols, you mean. No machine guns or anything like that.

KATZENBACH: No, but in a dormitory of that kind probably six trained guys with 38's could have done a pretty good

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job of holding off a whole lot of people in a narrow area.

LEWIS: Depending on how much ammunition they had.

KATZENBACH: No, I think people get discouraged when people are genuinely shot, but they also get angry. But I think they would not have attacked it that way. They would have tried to find some dynamite and thrown that and blown up the building, that sort of thing, rather than go up and get Meredith.

LEWIS: Yeah. Bizarre, wasn't it. My gosh, to think of that at all.

KATZENBACH: Daylight might have resolved a lot of these problems. And then there's always the question of what the state Highway Patrol would have done if we hadn't called in the troops. Perhaps they would have come back and helped.

LEWIS: Do you think they would? Didn't they come back at some point?

KATZENBACH: They came back and kind of observed. Then they did go out on the highways quite a distance away and help.

LEWIS: Well, Claude Sitton wrote that some of the state highway patrolmen were just kind of helping the rioters or laughing.

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KATZENBACH: Well they had some sympathies that way, but it's a long, sort of confused kind of evening.

LEWIS: And then did you talk to the President the next day?

KATZENBACH: I talked to him the next day about it mainly to tell him to please get the troops out of there as quickly as possible. We had two other conversations, I guess, on Tuesday, and then one again later on, about Thursday or Friday. The one on Tuesday was, well, he called me after I talked to the law students there, and he asked me generally how things were. At that time I told him that the major problem I say, that I had already spoken of to both Bob Kennedy and Secretary of the Army Vance, was that they had pulled all the Negro troops off and only white troops were operating on this, and I thought this was wrong and serious, and....

LEWIS: Hadn't you got anywhere with Bob Kennedy and Vance?

KATZENBACH: Bob Kennedy agreed with me. He spoke to Vance. Vance recognized the problem, said that he had been over this, as I had

been over it, with the General. I had given the same opinion to the commanding General down there in quite strong terms, and he had noted my opinion quite fairly in his cable back.

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LEWIS: But held to the views.

KATZENBACH: But held to the view.

LEWIS: On the ground that it would be dangerous for them, or what?

KATZENBACH: On the grounds that this would be inciting to people, which was correct. I think it would have been. I still think it could have been worked out, it should have been worked out not to do this because you have – from the point of view of the situation in Oxford he was dead right. From the point of view of the situation throughout the country he was absolutely wrong. And then finally that broke and then they quickly put these people back into action. The President called me early that morning and asked me whether or not the troops had been integrated, because he had ordered it done and he wanted to know whether in fact it had happened.

LEWIS: Very interesting. Did you know?

KATZENBACH: I said I did not know whether in fact it had happened. I said all I had seen was two jeeps patrols come by and both of these had been all white. And that was my sole source of information. I had suggested sort of a compromise in this: you have

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three-men jeep patrols come out and if you had a Negro driver and two white people, soldiers, in the car, that this would be accepted, because the idea of the Negro driving was a quite acceptable idea, but from the point of view of the three in the jeep, they were a crew and they had been trained as such. While one or the other might drive, if you did it that way, you would accomplish both purposes. And I said if you had a mixed group stationed on the road, that there was no reason for the Negro troops stationed there to be the ones to go up and question any white people that were coming through, that they could simply be standing there as guards, and that that would satisfy as a compromise to both sides of it. But even that was not satisfactory to the Army.

LEWIS: Then when the President asked you this that morning, in fact the troops were integrated to this extent, some, immediately.

KATZENBACH: In fact they were, although they were a little slow. I must say the other side of the question, which the Army was perfectly aware of,

was that this was very, very difficult, to segregate your troops when they'd been trained as mixed units. This is

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what surprised me so much, that they wanted to do this, because, you know, you had no squads. You had sometimes five Negroes and three whites on a squad, sometimes six whites two Negroes, and you got these completely inefficient units working, but nonetheless that was the way it was done. Thereafter, it was desegregated.

LEWIS: And did you ever see – surely you saw the President when you came back from Oxford, what did he ever say about the whole thing? Did he make any general comment, observations on the whole affair, Barnett....

KATZENBACH: I don't remember anything. I didn't see him when I came back. Immediately after that I saw the Attorney General. I came back late on night and saw the Attorney General, went back the next morning early and stayed down there for almost two weeks. I didn't see the President during that time. I don't remember. I perhaps didn't see him for a month. I don't remember.

LEWIS: Tuscaloosa is, of course, another episode, but you have some feeling about that.

KATZENBACH: Well, I think that the movie film and recoding that was made throughout that, all of which is going

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to be in the Kennedy Library, really covers that just about completely as far as all the planning that went into it and what actually happened.

LEWIS: That leaves us with the monumental topic of the Civil Rights Act of 1964.

KATZENBACH: Well, that was a long process of legislation which really started immediately following the incident in Tuscaloosa because...

LEWIS: Really started when Burke came back from Birmingham.

KATZENBACH: It really started when Burke came back from Birmingham, and at that point we started trying to think what kind of legislation would it be possible to enact that would be helpful in a resolution of the kinds of problems we'd been facing and which at that time seemed to be getting worse, more difficult to face. [Interruption]

LEWIS: We were saying, when the phone rang, that the process of considering legislation began when Burke got back from Birmingham, and I've discussed that with Burke on another tape and am generally aware of the meetings at the White House, etc. Do you recall the first time you were brought into or were aware of the fact that there would have to be legislation,

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that the President wanted legislation.

KATZENBACH: Well, I think pretty much at the outset of it, and then we went through a series of meetings, that I'm sure Burke has discussed, with the Attorney General, with other people present, with a lot of people from the Department of Justice present. Louis Martin was very helpful.

LEWIS: Well, I hadn't heard about Louis Martin or at least I don't recall it. What was he helpful about...

KATZENBACH: Well, he was helpful when we began to get some ideas in testing them. We never did talk the legislation over, really, with any of the civil rights leaders. We did use Louis Martin as a kind of a sounding board for how serious the situation was and... [Interruption]

LEWIS: You were saying about Louis Martin, whom we should identify as himself a Negro and an official of the Democratic National Committee.

KATZENBACH: Well, in the early stages we used him to try to help focus. There was a good deal of agitation for a piece of legislation that would allow the Department of Justice and the federal government to deal

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directly with street riots and that kind of situation. Our feeling was (I think Burke Marshall primarily really is the architect of the idea) we should attempt to deal with the causes of this rather than with the manifestations of the difficulties. One of the things we didn't know was really what the attitude of the Negro groups, civil rights groups, would be if we didn't deal with that directly, and this point we brought Louis Martin into a number of discussions as to whether or not a public accommodation thing, public accommodations provisions of the kind that were finally enacted into law, would satisfy this rather than dealing with the sort of situation of Birmingham directly. He felt that they would, and he felt that was terribly important.

LEWIS: I find it amazing that anyone should doubt that a federal statute

prohibiting racial discrimination in virtually all significant places of public accommodation would not satisfy the Negro leadership. It strikes me as a pretty...

KATZENBACH: It does now but I don't think then. The whole thought was on the federal government coming in to deal with demonstrations, with all those problems, rather

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than with the underlying difficulties. And while we knew the Negro groups would like a public accommodations provision, the question was can we get by with that without putting the other in as well. And that was something that came up later...

LEWIS: Of course, it was one of the crucial issues in the House Judiciary Committee and that was later. Is that what you refer to?

KATZENBACH: Yes. So there was a lot of pressure. Louis was very helpful on that. I think, just sort of to run through some of the meetings very briefly.... The President was anxious to put it all together in an omnibus bill. We were all conscious of the fact that some kind of provisions with respect to fair employment were terribly important and also in the almost, I think actually unanimous opinion of everyone who was involved in this, impossible to enact.

LEWIS: You were already talking about legislation which you had previously not envisaged because the emotional situation of Birmingham had made the possibility of legislation come alive, but you didn't think it had gone so far as an FEPC [Fair Employment Practices Commission], which was the most difficult.

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KATZENBACH: That's right. That was the opinion of every single one of the legislative people and of President Kennedy. I think of all of us – I think nobody thought that we could enact that. Everybody thought it was important to say something about it, and so the result was a message which proposed an omnibus civil rights bill which endorsed FEP [Fair Employment Practices] legislation, which was presently before the Labor Committee in the House, but at that point there was no real thought of adding that onto the civil rights legislation.

LEWIS: It was pretty much window dressing the message.

KATZENBACH: It was window dressing, although everybody sincerely believes that this was perhaps as important as anything else. It was window

KATZENBACH: Yes.

LEWIS: We're still speaking now in terms of public accommodations title, which was the symbolic, important title?

KATZENBACH: Yes. Primarily, yes. Primarily in terms of that.

LEWIS: What led you, speaking of you in the plural, to put in Title VII, if I remember – it might have been Title VI; I've forgotten the number – the number, about withholding of federal assistance.

KATZENBACH: Well, this was largely put in – it was put in rather badly at the outset and modified considerably thereafter, but it was put in primarily because of the Powell [Adam Clayton Powell, Jr.] amendment that kept coming up in the House. The idea was to find a formula which you could point to in the future with respect to all other kinds of social legislation which would enable

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you to say, "It's not necessary; we already have it enacted into law."

LEWIS: Whose idea was that? Of course, the Civil Rights Commission had spoken of it in a rather awkward way, very unclear.

KATZENBACH: I don't really recall whose idea it was. It was sort of part of the package that everybody accepted that ought to be done for this purpose and was always one of the things that I thought would, frankly, would be traded away. It was one of the things I was most willing to give because I thought it had the most symbolic significance to the South and the least practical significance of anything in the bill.

LEWIS: In other words, really, what your saying is that the curious thing is that as the legislative fight developed, despite all the publicity at the end about the compromising with Dirksen [Everett McKinley Dirksen] and so forth, the bill really ended up with much more in it than you would have anticipated back in June of 1963

KATZENBACH: Yes. It actually had a little more in it than the President put down.

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LEWIS: Well, that's true. It had the FEPC, a rather diluted variety.

KATZENBACH: Some of our tactics – I think initially we thought in terms somewhat similar to the '57 and '60 tactics. I think Vice President Johnson thought in terms of what can you give away as you move through. I think President Kennedy thought in these terms. All of us thought in these terms. The initial monkey wrench in that was thrown by Mr. McCulloch [William M. McCulloch] and by others.

LEWIS: What do you mean by that?

KATZENBACH: Because when we went down and talked with him about the bill, the first thing that he asked was an absolute, unequivocal assurance that the Administration would support and fight for what was passed in the House of Representatives. This was not a partisan position. A good many people had been burned in 1960 by supporting a – '57 too, I think, but '60 in particular – by supporting a stronger bill in the House and then having most of it given away in the Senate to get the Senate to go along without cloture. McCulloch was very strong on the fact that, if that was our tactics, he was going to

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be opposed to us. He wanted an unequivocal assurance that would not occur. That was true from the first time he talked to us.

LEWIS: This was long before the squabbling arose in the Committee.

KATZENBACH: Long before. We were just discussing...

LEWIS: You had no doubt of his sincerity on that point.

KATZENBACH: No doubt at all and...

LEWIS: And of his good will towards civil rights.

KATZENBACH: ...and you could not get any help from him unless you gave that assurance, that you would fight for the full bill and you had no plans of giving something away. I suppose at the time we gave the assurance, or up to the time that we gave that assurance to him, we had thought in terms of giving something away. Then it was very clear that we were not going to get anything to the House of Representatives unless we were prepared to fight for it in the Senate, at which point we began to think more seriously of cloture than we ever had before.

LEWIS: In other words, the problem then became, as you put the bill through the House, of what could you put through the Senate?

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KATZENBACH: Yes. Actually we worked the bill in the Senate before we worked it in the House in the effort to find out what provisions were most difficult for Senators to take in the hope that we could get a bill enacted in the House that the Senate would accept.

LEWIS: You had an awkward situation there. You're speaking of the Commerce Committee and its hearings...

KATZENBACH: No, I'm speaking of all one hundred Senators.

LEWIS: Oh, I thought you meant hearings. You mean you actually talked to the Senators?

KATZENBACH: We talked to every single Senator.

LEWIS: By we meaning you, Joe Dolan or....

KATZENBACH: Me, Joe Dolan, Burke Marshall, I guess the three of us. I say every single Senator – that's not entirely true because at that point we did not talk to those Senators who we were confident would support, we did not talk to those Senators whom we were confident would oppose. So that perhaps that was forty, forty-five Senators that we talked to.

LEWIS: You didn't need to talk to Joe Clark [Joseph S. Clark], Jim Eastland?

KATZENBACH: No. We had to talk to Joe Clark a considerable amount of the time subsequently.

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LEWIS: Oh, I understand. I mean at this point you were not in any doubt about his willingness to support any bill that came out of the House.

KATZENBACH: No, we talked to the, by and large, the....

LEWIS: Senator Hruska [Roman L. Hruska] possibly?

KATZENBACH: Senator Hruska, Senator Jordan [Leonard B. Jordan] from....

LEWIS: Idaho.

KATZENBACH: ...Idaho, Senator Anderson [Clinton P. Anderson], Senator

Symington [William Stuart Symington], Senator Long [Edward V. Long] from Missouri, Senator Dirksen, a number of others.

LEWIS: This is at what period?

KATZENBACH: This was before the hearings started. It's immediately after...

LEWIS: June.

KATZENBACH: June or July.

LEWIS: Immediately after your talk with McCulloch. What did you find with these Senators?

KATZENBACH: Well, we got some idea of what the points of difficulty with them were, and I got some idea of the cloture situation with these people, who were the crucial people on the cloture.

LEWIS: At that time did you feel that you could get cloture

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for a bill with – let's just take one at a time – for a bill with a strong public accommodations title?

KATZENBACH: Yes.

LEWIS: You did feel you could.

KATZENBACH: That's not quite right. I felt that it was not impossible that we could even at that time. I thought that we needed 67 votes, and I thought that we could get 58, 59, or 60 votes, and that there were a possible 74 votes on cloture.

LEWIS: I've forgotten. What was the end? Was it 71?

KATZENBACH: We needed 67, and it ended up 71 or 72.

LEWIS: Of course, at that time you were not envisaging a fair employment provision at all, I suppose.

KATZENBACH: No.

LEWIS: That wasn't even in the discussion.

KATZENBACH: Although – yes, we did discuss that, and they were all opposed to it.

LEWIS: The Senators were opposed.

KATZENBACH: Yes, all of the people who were on the line on this were opposed to it.

LEWIS: And then the hearings began. If you can recall anything at this point about – did you report back to President Kennedy after these soundings? Did

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you tell President Kennedy about McCulloch's reaction?

KATZENBACH: Yes. Well, I told Larry O'Brien [Lawrence F. O'Brien]. Larry accepted that and accepted the tactics and at that point – and this was discussed with President Kennedy.

LEWIS: It was?

KATZENBACH: Yes. At that point we decided the only possible way of getting the bill through was to get a bill that on our soundings seemed acceptable in the Senate; that we could get through the House Judiciary Committee; could get through the House; McCulloch and therefore Halleck [Charles A. Halleck] would support; and then would go through relatively unamended in the Senate; and it would go through the Senate because we got cloture, because we could make cloture in the Senate. Really, very early in the game, and I couldn't pinpoint the date, August perhaps, we decided that that was our strategy. We then got in the Democratic Study Group in the House, the leaders of it, who took the view, the sort of historical view, insofar as there was history, that you passed the strongest possible bill in the House

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and dealt it away to the Senate for what you could get.

LEWIS: Was Bolling [Richard W. Bolling] in this group?

KATZENBACH: Yes, Bolling was in that group, and very much to his credit, because he was very much disagreed with this whole strategy, he said, "If you really mean that, and you're really prepared to stick with it, then I don't think it's impossible that it could succeed." He was thereafter always willing to work with us, and I think Bob Kennedy had the leaders of this group into his office. I think one of the crucial meetings was when he persuaded them that we really mean this...

LEWIS: You were not politicking.

KATZENBACH: ...that we were not politicking, that we would do it in this way, and it was the only way. In view of McCulloch's attitude, it was the only way we could get it through.

LEWIS: Who were the leaders, some of them, of the Study Group who would have been there?

KATZENBACH: Dick Bolling was there; Frank Thompson was there; oh there were eight or nine there.

LEWIS: John Blatnik.

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KATZENBACH: John Blatnik was there. From Pennsylvania....

LEWIS: Bill Moorhead [William S. Moorhead].

KATZENBACH: Bill Moorhead.

LEWIS: That's enough. I just wanted to get the picture. But no Kastenmeier [Robert W. Kastenmeier], none of these people who were the ravenous types on the committee.

KATZENBACH: Jimmy Roosevelt [James Roosevelt] was there insisting on an FEP provision, as he always did. He turned out to be quite right.

LEWIS: Well, that takes us to August. Meanwhile, the hearings were being held in the House committee, and I've forgotten the exact date when the fight began in the subcommittee and everything went wrong, things got out of control. How did that happen?

KATZENBACH: Well, we worked through the bill in the House subcommittee there and day by day...

LEWIS: Had you.... Had you.... We have to have one question first, and that is: When did you apprise Mr. Celler [Emanuel Celler] of the strategy. Of course, he was...

KATZENBACH: Very early in the game, very early.

LEWIS: What was his reaction to that?

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KATZENBACH: He thought that was fine and he wanted that. He thought that was a good strategy. He was all for it and was very helpful on the subcommittee in terms of holding people down and trying to work out something with McCulloch. McCulloch was trying to please both George Meader from Michigan and Congressman Cramer [William C. Cramer] from Florida, who told us he was opposed to anything but he just wanted to help us draft a better bill, and spent hours in the process of doing so.

LEWIS: You were in the subcommittee.

KATZENBACH: We were doing this in the subcommittee. What really went wrong in this I will never understand in its entirety. I had expressed the rather conservative views that we had at this point for these obvious reasons, that we had to stay with McCulloch, keep McCulloch coming along. I took two days to go down to Latin America, and when I came back the subcommittee had voted out a rather impossible bill.

LEWIS: Kastenmeier type bill. I've forgotten whose bill it really was. What was the role of the Leadership Conference and Clarence Mitchell in producing this expressively broad bill?

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KATZENBACH: They pressed very hard for the broader bill because we could not get into agreement on tactics of how to do it with them. They were insistent upon following the tactics of: a strong bill, in the subcommittee weakened, in the full committee, weakened in the House, then weakened further in the Senate. Then, therefore, it was what you started with that was important. We simply could not convince them to the contrary, nor could we convince Walter Reuther. I had one very interesting conference at the White House with Larry O'Brien and some others and Walter Reuther, who was absolutely insistent, as the labor groups were, on the FEP, and that was understandable, while I was opposed to it because McCulloch was opposed to it.

LEWIS: He was definitely opposed to it.

KATZENBACH: Absolutely. He wanted nothing of that kind, and Reuther was insistent that we didn't appreciate the times and the pressure, and so forth.

LEWIS: Well, he turned out to have been right on that, in a sense.

KATZENBACH: Yes, he was right about that. I was insistent to him. It was a rather

amusing conversation because

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he accused me of being a professor and not close to any of the realities, that he thought in terms of the mood of the country, and I said "I don't understand what votes you have on that committee." So the realism and idealism were rather reversed in this particular conversation. This was rather a hot discussion. I said, "Alright, I can count up votes in the committee and I can count up votes in the House of Representatives. What have you got?" He said, "I haven't been into the specifics but I know the mood of this country."

LEWIS: Well, what went wrong with Manny Celler, in line of what you say about him? What went on in the subcommittee while you were in Latin America? Why did this happen?

KATZENBACH: Well, Manny was pressured by all the people he respected and from when he's had support throughout the years and he was at that point perfectly persuaded it was perfectly alright for the subcommittee to report this bill out and that it would be straightened out in the full committee.

LEWIS: And the bill, as it came out, just to refresh it,

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the clauses that were difficult were: first of all, and FEPC; second of all, a general power to the Attorney General to bring injunction suits to stop any violation of anybody's asserted civil rights...

KATZENBACH: Anywhere on anything.

LEWIS: ...anywhere, not tied to civil rights, with I suppose, the aim of what you are speaking of, the demonstration, protection of the demonstration being the principal aim there. What other provisions were in that that were objectionable to McCulloch?

KATZENBACH: Well, those were the.... The scope of the public accommodations was broader and we had worked out with McCulloch a narrower version, working with him, which Mr. Celler knew about, and which is, I guess, virtually identical with what was passed in the House of Representatives, but he had not gone along and agreed with it because he could not get Mr. Halleck to go along with it. He was not prepared to agree until he could get leadership agreement. That carried on for a long period.

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LEWIS: So, in other words, the blame is not entirely on what might be called the Leadership Conference group, because McCulloch wasn't really in a position to agree to any public accommodations title so that he bears very little blame.

KATZENBACH: That's right. That's right. And I think part of it was frustration on Celler's part and on the others' in terms of not being able to get agreement about this one.

LEWIS: I see. I thought you had agreed on a public accommodations title. With him, but not with Halleck.

KATZENBACH: With him, but he had not committed himself to it.

LEWIS: So there you were. At that point, Attorney General Kennedy went up and testified about the dangers of fooling around with this.

KATZENBACH: Yes. We had another very interesting meeting on that which never – one of the few things the press ever missed entirely on this was a meeting with Larry O'Brien, myself, Mr. Celler, Mr. McCulloch, Mr. Halleck, and the Speaker [John W. McCormack], which occurred at about that time...

LEWIS: After the subcommittee. And what did that do?

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KATZENBACH: ...in which we tried to arrive at agreement among all of them and in which the Speaker came out with a strong pitch for FEP, which I think worked out alright. Actually, both Larry and I felt that the meeting had been a disaster, but if you were to interview Speaker McCormack he would say this was probably the key to achieving the civil rights bill as it finally came out, and he might be right.

LEWIS: Halleck was sore about it, was he? You were annoyed because Halleck and McCulloch were put off?

KATZENBACH: Well, I was annoyed because we had Halleck agreeing to everything except FEP, and he was just about to agree to that right in that room, which would have satisfied me and Larry and Celler and McCulloch, everybody except the Speaker. So the Speaker turned out to be right. The Speaker said, "Well, we can't take that. We've got to have an FEP." And Halleck walked out angry. But I think that probably did result in getting an FEP. It was one of those rather lucky things. I'm delighted that he did it, although at the time I could have shot him.

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LEWIS: Why did he do it? Why do you suppose he did it?

KATZENBACH: I think he thought of his own constituency in Massachusetts. I think he thought of it, and I think he believes in FEP. And he was not aware of, while he was aware of a lot of it, he wasn't aware of all the problems and all of the discussions and everything else that had been had. I don't think that he knew what dangerous waters he was treading on when he did this, but he turned out – because he had superior instinct or because he had less knowledge – being very key in getting that provision.

LEWIS: Well, where did things stand at that point? You left that meeting, you were...

KATZENBACH: Trying to get an agreement on a bill that the full committee would pass.

LEWIS: What I'm asking is how did you get from that meeting where Halleck, as anybody would know, didn't want FEP, how did you get to the point where he agreed to it?

KATZENBACH: I went back to McCulloch with the Republican version of an FEP. I tried to put, to sick the Republican members who had voted for this on him

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to support that much FEP.

LEWIS: Meaning who? Lindsay [John V. Lindsay] and ...

KATZENBACH: No, no, no. Over in the....

LEWIS: Oh, in the Labor Committee.

KATZENBACH: ...in the Labor Committee and primarily Taft [Robert Taft, Jr.] and senior Republican on the House Labor Committee.

LEWIS: Frelinghuysen [Peter Frelinghuysen, Jr.]?

KATZENBACH: No, not Frelinghuysen.

LEWIS: Well, we'll get it in a moment.

KATZENBACH: His name is on several bills.

LEWIS: The senior Republican is Frelinghuysen, and Ayers [William H. Ayers] is next, and Griffin [Robert P. Griffin] is the man who introduced the bill.

KATZENBACH: Griffin is the man I'm thinking of, getting Griffin with it.

LEWIS: And you think that had an effect?

KATZENBACH: Oh, I think that did, because we sicked Griffin on McCulloch and on Halleck to get their bill. Really this was a bill that had been voted out at the time the Republicans had a majority, way back, and it was their FEP and their modifications.

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It was very hard for them to oppose it.

LEWIS: Whose idea was that? Was that your idea to do that? It was a good idea.

KATZENBACH: I don't really know whose idea – it may well have been. I looked at McCulloch's bill on the labor, I was trying to find something on the labor that would work, and I think that came off a discussion primarily with Frank Thompson, who said, "Why don't you do this?" He said, "That's not a very good bill, but it could be lived with." He's one of the, Frank Thompson is one of the people who, while he did not do very much except at particular times, was a very good observer and advisor on this process.

LEWIS: So then you were back in the full committee with nothing happening day after day, and debate in the committee, and nearing a vote for the subcommittee bill.

KATZENBACH: Well, the vote really came up because of Congressman Moore [Arch A. Moore, Jr.] moving for the full committee to adopt the subcommittee's bill, and for that having very damn close to a majority or having a majority, I guess, and then the question

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was trying to turn that around on a compromise version. This has been well reported in terms of trying to work out the compromise version, which ended up with what we agreed to with McCulloch weeks and weeks before.

One of the key people was John Lindsay, who had been on the other side, and whom McCulloch persuaded to come over to this compromise version. It's generally been reported

as a long drafting session with Lindsay. Actually there was nothing drafted at that time with John Lindsay, substantially nothing. I don't think fifteen words changed anywhere in the bill. But he was very key in coming with McCulloch to give us some votes on the Republican side. Then the question was how many on the Democratic side could we get for putting in some compromise bill which nobody had seen. At that point President Kennedy called the Democrats over because it was absolutely crucial. We had – I've forgotten the figures now – seven or eight Republicans, nine perhaps, that we could be sure of on a thirty-five man committee, so we had to have the rest of them made up. We had to have eighteen, seventeen or eighteen

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votes on the Democratic side to get this, and we were not sure at all we had them at that point. The President asked all the Democrats whom we had any hope of getting, not including the Democrats who were going to...

LEWIS: Southerners.

KATZENBACH: ...Southerners who were going to join in on this Republican motion, and had them over to the White House, and asked them to vote with him. We had a discussion of it, and there were several who did not believe that McCulloch and Halleck would, in fact, support this bill and it would be passed in the House, which they did. They simply could not accept that, that Halleck would ever agree to a bill as good as this, and therefore they thought we were being conned into something that should not be done.

LEWIS: What did the President say to that?

KATZENBACH: The President largely called on me, and I said I had the assurance, and he said he would get that assurance before he asked them to do this.

LEWIS: Was this meeting with – I have just forgotten, of course; they were all reported – was this meeting

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with the Democratic members before the publicized meeting of the President and Halleck?

KATZENBACH: That was at 4 or 5 o'clock in the afternoon before the 9 o'clock or 8 o'clock, or whatever it was, meeting the next day.

LEWIS: With Halleck?

KATZENBACH: With Halleck. The President assured them he would get Halleck's assurance on this before he asked them to vote that way. Still, we didn't get all of them; they were so absolutely persuaded, some of them. There were some who went along with the President because he made this appeal and some who did not. We felt we had the votes. We could be one or two votes off on the Republican side when they had the other meeting. Before that the President asked me to firm up the agreement with McCulloch, and I did. I talked to him on the phone, and he said, "Do you mind if I have my secretary take down this conversation," and I said, no. I don't know what the conversation said to this day. I made my own notes on it. We went through it, title by title, as to

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what the agreement was, and I was assured that Halleck agreed as well. I was able to tell the President as to the whole bill what the agreement was the next day quite firmly.

We had the meeting and during that meeting Halleck suddenly surprised the President by saying that he was not at all sure about the fair employment provision of the bill, and the rest of it was all right, but he was not at all sure and wouldn't commit himself on this. The President handled this by saying, "Well, let's go out there. It's almost time to get the votes. Let's get the votes and get this thing out." After Halleck had left, he turned to me and he said, "I thought you told me that Charlie Halleck was committed to the fair employment section of the bill." And I said, "I did, and he is. Don't worry about it."

And throughout the whole period thereafter I told the President not to put any pressure on Halleck, he was committed, he would vote for this part of the bill. When the President was assassinated, I told President Johnson the same thing, not to put any pressure on Halleck, that he would come through on that section

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of the bill, and he did.

And this was not only greatly to his credit, but about a week ago I looked at my notes and found out that my notes indicated that Halleck was not committed to that section of the bill.

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I preserved that section of paper.

LEWIS: Incredible. How?

KATZENBACH: My notes are clear that Halleck was not committed. This was the one section he was not committed to. I went in immediately thereafter and I assured two Presidents not to worry about this, that he was. I was absolutely right, and my own handwritten notes indicate Halleck not committed to this, McCulloch committed, Halleck not committed.

LEWIS: How do you explain it?

KATZENBACH: I have no explanation except that I never looked at my notes until I found them in my bureau drawer, and I had that card preserved where I wrote my notes. It's a rather interesting thing.

LEWIS: Well, I remember it very clearly because the day of the President's meeting with Halleck and the vote which immediately followed in the Judiciary Committee, when the people came back from the Hill, our chief correspondent at the Capitol, Jack Morris [John D. Morris], said to me that Halleck was walking around the cloak room saying he was not committed on the FEPC. And I called you and said, "How

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about that?" And you said, "Don't worry, he is committed. It doesn't matter what he said, He's going to vote for it." So I.... [Laughter]

KATZENBACH: I was absolutely convinced of this, and I was right, only he was not committed.

LEWIS: I guess you were right because that's just the way the currents were flowing, and that it would have been too difficult for him to break with McCulloch.

KATZENBACH: I can't recall why on earth I made this mistake.

LEWIS: As a matter of strategy, even had you known it, even if you had looked at your notes, it probably would have been better for both Presidents not to press Halleck.

KATZENBACH: Oh, yes, there's no question about that. I think I did put to President Kennedy a given assurance that he wouldn't go along with this unless Halleck was committed all the way. Halleck indicated he wasn't committed all the way, and he took my assurance that Halleck was, to gain these other votes. If I had looked at my notes, we might never have an FEP, I guess.

LEWIS: We haven't really bridged the reason why all of you who had assumed there wouldn't be an FEPC –

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and, after all, even when the Attorney General testified before the full committee after the subcommittee fiasco he was of mixed mind on the FEPC, said he'd like it

if it could be gotten. The facts seemed to have been that in order to get the votes of the more liberal members of the committee you had to have it. They wouldn't take the bill without it.

KATZENBACH: That's right, but it was all subject to the McCulloch thing that you can't trade it away in the Senate.

LEWIS: Well, McCulloch apparently changed his view on the FEPC because of that.

KATZENBACH: Well, he really changed it because he realized that we had not wanted an FEP put in in these prejudicial circumstances, and I think it was a great act of statesmanship on his part because he realized we'd been caught by the subcommittee, we now had to put something in. It could not be abandoned in its entirety and have the civil rights bill. It was both statesmanship and politics too, because the Republicans would have been blamed for this. And if we had – I think McCulloch

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would have told us to go to hell if he had thought that we had maneuvered it in that way, but realizing we had been sort of innocently caught, he was willing to help bail us out.

LEWIS: Just a note for the custodians for the Kennedy Library, it would be interesting to get the transcript of the conversation that you had with Mr. McCulloch, which presumably Mr. McCulloch has, if his secretary every transcribed it. I think it's worth asking him. He probably will give it to the Library. Nick, let me ask you one just rather generalized question: Would the Civil Rights Act of 1964 have been passed in approximately the form that now exists if President Kennedy had lived?

KATZENBACH: I think it would have. I think the same pressures would have been present. I think the same things would have happened. I think if there was an effect on this from the President's death it was largely in terms of the debate in the Senate. I think the debate was less bitter than it would have been if President Kennedy had been alive. I think the votes would have come out exactly the

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same way.

LEWIS: He did, as you've told me before, he did anticipate all along that Dirksen would be the key figure.

KATZENBACH: Yes, and may I put one interesting thing on that in there? It is: At the time of the Army-Air Force football game, President Kennedy

invited me to go out in the plane with him to Chicago to see the game. He did not go because this was the moment of the change of the government in Viet Nam, but I went. I rode out all the way with Senator Dirksen, and I talked the civil rights bill all the way out with Senator Dirksen.

Charlie Halleck came into the conversation on the way back. I told the President after that that I had absolutely no doubt that this bill would pass in both the House and the Senate, because the House matters were largely straightened out with Halleck on that occasion and, while Dirksen was noncommittal about particular provisions, he said to me then, "Don't worry. This bill will come to a vote in the Senate."

LEWIS: Very interesting. Did the President make any comment?

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KATZENBACH: I think the President was pleased.

LEWIS: It must have been when, within a week or two....

KATZENBACH: It was October. It was about, oh, I suppose it was five weeks, six weeks before his assassination. And I never had any doubt from that moment on because I was dealing with two people in whom I have complete confidence. When they say something to actually do it. This is equally true of Halleck and Dirksen. While Halleck is more difficult to get a commitment out of, when he makes one, he keeps it.

LEWIS: I should have said at the start that this tape is being recorded on November 28 – pardon me, November 29, 1964, and that ends tape number II with Mr. Katzenbach.

[END OF INTERVIEW]

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