

**Berl I. Bernhard, Oral History Interview – JFK#2, 7/23/1968**  
Administrative Information

**Creator:** Berl I. Bernhard

**Interviewer:** John F. Stewart

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**Biographical Note**

Bernhard, staff director of the U.S. Commission on Civil Rights from 1958 to 1963, discusses committees on equal employment, discrimination in housing, and the discrimination in the military, as well as his relations with the Reverend Dr. Martin Luther King, Jr., and the FBI's attempts to discredit King, among other issues.

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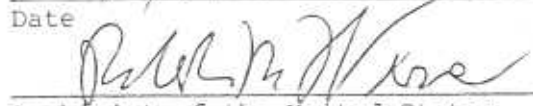
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of Berl Bernhard

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Second of Two Oral History Interviews

with

Berl I. Bernhard

July 23, 1968  
Washington, D.C.

By John F. Stewart

For the John F. Kennedy Library

STEWART: Why don't we start by my asking you in a general way how you were involved with the President's Committee on Equal Employment Opportunity in the beginning, and then what kind of a changing relationship did you have as the administration went on?

BERNHARD: In 1959, when the Commission first came out with its set of reports, employment was touched upon but not in great depth, and so the Commission determined to go into employment as one major area. And it did so. By the time President Kennedy [John F. Kennedy] came in, we were well toward completing a major study on employment, and particularly federal employment—both employment directly created by the federal government and that indirectly created through federal contracts and grants in aid.

I knew from preliminary studies we had under way that there was vast discrimination in the federal government, and particularly among the higher level jobs in the government, and that there was very little upward mobility as far as the Negro was concerned. It was also true from our studies that there were great problems among those who received some protection from the federal government, such as the large labor unions and the trade unions particularly.

So during the early months of the Kennedy administration, I attended a series of meetings that were held under the direction of varying people at the White House. They

included at times John Macy [John W. Macy, Jr.], Harris Wofford [Harris L. Wofford, Jr.], Fred Dutton [Frederick G. Dutton], and some others who were interested in this area. There was a question about the existing President's Committee. There were really two for some period of time, one

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dealing with the civil service and one dealing with federal contracts. And they were brought together, and the Vice President [Lyndon Baines Johnson] was made chairman of that committee, and I think Willard Wirtz was made executive vice chairman—or whatever arrangement was created.

STEWART: But you weren't in on the actual creation of this new agency?

BERNHARD: I was in on discussions leading toward it. And I think the main part was the question of how much could really be done by bringing together these committees into one committee and giving it increased power as opposed to the passage of legislation which would be essentially federal fair employment practice legislation. And I was in on a series of discussions about that, and the decision was—and it was very clearly that—that legislation was not in order in 1961, that we ought to exhaust the powers that the President had at his command and know whether that would succeed in overcoming the employment block before pressing for legislation. So the decision was to bring them all together, and I was in a number of meetings looking toward that single committee.

Then, after it was created, there were questions about what kinds of regulations it would put out. I participated in many meetings on either legislation, again in terms of regulatory authority with the Congress.... What I'm really talking about is there were questions about how far the regulations could go without having to go back to the Congress for new legislation. But getting back to the specifics of it, there was a growing feeling, particularly toward the end of 1961, that there wasn't enough being done, much more had to be done.

And during this period of time, Herbert Hill, who was one of the more vocal labor civil rights leaders, connected with the NAACP [National Association for the Advancement of Colored People], was attacking the Committee regularly. Roy Wilkins was upset that there hadn't been more progress made, particularly in federal employment, which he thought the President could control. And we were receiving a great number of complaints. But we also had issued our report on employment by late 1961 calling for all kinds of legislative changes. And that became a rallying point as to what major qualitative steps could be taken to achieve what they thought they could achieve with this amalgamation.

There was a split in theory within the Committee itself, the President's Committee. I don't really know how real it was, but I know to some of the people at the White House, and I think to the President, it seemed real—at least in terms of reactions. There was a fellow named Troutman [Robert B. Troutman, Jr.] who was a friend, I guess, of the President's, who was very active....

STEWART: From Atlanta.

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BERNHARD: That's right. Who was very active in promoting the concept of voluntary compliance and was working actively on the idea of the so-called Plans for Progress. There were some other people who felt that while Plans for Progress was a helpful tool, and an interesting one, they weren't going to get anywhere unless they used, to the utmost, whatever muscle they had—so that it was kind of the stick and the carrot, that there was a way to achieve this without any orders or dictates, but there was also latent power.

Well, in any event, this became quite a public squabble. John Feild [John G. Feild] in the public eye came to represent tough enforcement; Hobart Taylor came to represent Plans for Progress along with Bob Troutman. I had the feeling that the President was not really fully aware of this split in a meaningful way. I don't think he thought it was a significant split, and I think he was relying very heavily on the capacity of the Vice President to use his considerable bargaining power with industry to overcome some of these problems. And I think that a good deal could have been done had there been less of a public fracas about it.

But I would say that toward the end of 1962, there was a growing feeling of despair on the part of many of the Negroes in terms of employment. There was more and more attention focused on this. And I remember it came to an absolute head when a report was sought, I think it came through the Attorney General, Bob Kennedy [Robert F. Kennedy], and Burke Marshall, to find out, after the Birmingham riots, just how many Negroes were employed by the federal agencies down there. When Burke was down negotiating, he was told that, "Don't come down here and tell us about U.S. Steel and the Bessemer works and how few Negroes we have here because the fact is that the federal government doesn't have any more and may have even less."

And there was a meeting called—I think Ted Sorensen [Theodore C. Sorensen] called it first, and it was in his office—to try to get everybody who had any information on Birmingham together, and particularly in the employment area. We discussed a number of things in addition to employment ideas for what ought to be done in Birmingham. Then John Macy had a meeting in which he explicitly went over agency by agency and asked for reports from anybody who had any information and particularly from the President's Committee on Equal Employment Opportunity. And it was a very bleak report. It showed .001 percent in all these agencies. It was as bad or worse than private industry, and the Attorney General was extremely upset. And Burke was upset, and John Macy was upset and wondered what in God's name we'd been doing for the last two years or so. Why hadn't more progress been made, particularly in federal government?

There was a meeting held over at the State Department of the President's Committee chaired by the then Vice President in which

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he was going over some of these figures and the efforts being made. I was there, I guess as an observer more than anything else.

STEWART: That's something I wanted to ask you. Just what was the basis for your involvement in any of these? Was it purely an informal arrangement because you knew these people so well, or was there something official or recognized as far as the Commission was concerned?

BERNHARD: I think it was more the former. During this period of time, I had been doing a good deal of work with Lee White [Lee C. White] and some with Ted Sorensen. I had been doing a considerable amount with John Macy. And I think there was a feeling that maybe I could contribute something of what we knew from our own studies to give some direction and that it might be helpful to know what was going on. So I think more than anything else, though I went because I knew them and not because the Commission was formally involved, although we were, as everybody knew, preparing a report on the President's Committee.

But, in any event, at this meeting—I can't really recall the date the Vice President was reporting to the group about some of the facts and figures that he'd uncovered through the Committee. Suddenly, the Attorney General and Burke appeared, and I think it would be fair to say that the Attorney General read the riot act to the Committee and read off the figures that he'd secured himself. I think he indicated his great disappointment that so little had been done and wondered what they'd been doing. Burke said a few things about the position that he'd been in and placed in in Birmingham because of this. The Vice President was about to say his piece on it. And just as he was getting under way, both the Attorney General and Burke disappeared. It was a rather difficult moment, I think, for everybody.

STEWART: The whole Committee was there?

BERNHARD: It wasn't full attendance, but there were quite a few people there. I recall that, I think, Walter Reuther [Walter P. Reuther] was there, and I think Bishop Moore.

STEWART: Dean Sayre [Francis B. Sayre].

BERNHARD: Dean Sayre, that's who it was. Dean Sayre was there. That's who it was. But, in any event, it symbolized some of the problems. I think there's been a good deal of criticism of that Committee and of the Vice President's handling of it. I think some of it had been, quite honestly, generated by the columnists as a.... And it was disturbing to me because I think there was a genuine effort to do something, but there was, I think, a lack of understanding of the dimensions of the problem and a lack of appreciation of the difficulties of resolution. And there was

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insufficient power in the President's Committee, and I think there was a genuine split in approach within the staff—all of which came together to create a tough situation between the President and the Vice President on this issue.



But I think it became relatively clear, and I think it became clear to the President as it was going along that existing reliance on executive action wasn't going to be the answer. And I think they were beginning, even toward the middle of 1963, to look toward legislation, and I think maybe the experiment of the final effort through executive action in the employment area was worthwhile because of what it led to finally.

STEWART: You say you people were preparing a report on the Committee?

BERNHARD: Yes. Well, not just a report on the Committee, but in the whole employment area. And we did issue a report. We issued one in '61 and another one in '63 on employment and we did go into the President's Committee and the history of it. And based on what we knew, we recommended legislation. So I had the feeling that the turmoil and travail of the President's Committee probably, you know, like a lot of the early efforts in the civil rights area, turned out to be a worthwhile one. It pointed up, I think, a problem which was bugging the administration then—and I think this was another transitional thing which the President then had to confront which was brand new—and it was the vexing problem of how do you know what progress you make without keeping racial statistics. And of course, the old tradition was don't keep racial statistics because they can be misused later.

I remember Secretary Wirtz was leaning all the time toward the view of finding some anonymous way of maintaining racial statistics. And John Macy was. It was very controversial at the time. I know President Kennedy was under pressure from the civil rights groups initially not to keep racial statistics under any circumstances. And that issue became a big one because of the reporting factor. How were you going to check on the corporations and on the labor unions and in the federal government without statistics? The question was, how do you know what the employment picture really is? I think that reflected, it reflects in my mind, the embryonic nature of that early period of the Kennedy administration and how far we've come since then.

STEWART: What about the Committee on Housing that David Lawrence [David Leo Lawrence] headed? Did you have much to do with that, or was that so non-functioning that you never would have gotten into it?

BERNHARD: Well, as you know, one of the major areas of the Commission was housing. In '59 it was a major area; in '61 we

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published a whole volume on housing. We had been pressing for the President to issue an executive order which would go beyond the federal programs, or the direct federal programs, to the federally assisted programs and grants. When the President finally did issue his order, it was a limited order. We asked for more. When he set up this committee, I don't think anybody at the Commission believed that there was enough authority behind it to make a very significant dent, and that it overlooked the problems of the housing inventory itself.

The Commission had been saying for a long time that discrimination was one facet of it, but that the other facet was the lack of housing, low income housing, and that you couldn't separate the two. And we had had the feeling, and we'd said so, that it wasn't enough to just issue antidiscrimination orders, but that you had to also provide the housing. And the other thing we'd been saying was that it wasn't enough to issue antidiscrimination orders affecting FHA [Federal Housing Administration] or the federal government directly: you had to worry about the money lenders because they could either make or break an individual's attempt to get a mortgage on a house. So no one really thought that that Committee was going to do much, and it didn't do very much. I guess it's still in existence, as far as I know.

STEWART: Really? Yes, I guess it is.

BERNHARD: I don't think it's been disbanded. But it's been, I think, a very insignificant contributor, and I had very little to do with it after it got started. I met with the people a few times.

STEWART: Did everyone generally recognize that it was so insignificant that it.

BERNHARD: I forget, John, the year it was set up.

STEWART: Well, it was '62, right after the Executive Order.

BERNHARD: ...the order came out to try to carry out nondiscrimination. It would be hard for me to say whether everybody recognized it as amounting to anything. I think there was a genuine feeling of disappointment about the President's Order. The civil rights leaders were asked to support it, and they did give it an ostensible type of support. They didn't think it really went to the issue. They had thought when the President spoke of a "stroke of a pen" during the '60 campaign that they were talking about the broadest possible order and not just one of directly affecting federal programs. But I don't think anybody expected much of the Committee.

STEWART: On the other hand, I would assume that there was some fear that the setting up of such an innocuous group might backfire and really point out the inadequacies.

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BERNHARD: Well, the problems—and the President faced a political problem. I did meet Lee White and others about the Executive Order that came out. Quite honestly, the Commission was asked by the White House to prepare an analysis of what it wanted and a legal basis for what it wanted, and we did. I discussed the Executive Order. I remember meeting any number of times with Norb Schlei [Norbert A. Schlei] and Nick Katzenbach [Nicholas deB. Katzenbach] about it. They had a feeling—and they may have been right to some extent, I think—that they couldn't advise the President to go as far as prohibiting discrimination by banking and savings and loan

institutions which were insured by the federal government. This was a major issue, whether the President had that power. And that was a legitimate issue.

But in terms of what kind of committee you have, the White House was facing very, very heavy pressure from the National Association of Home Builders at the time. They were pressuring the President and the White House. There was concern about a decline in new starts for housing, particularly because there was a general decline in home building around 1962 and '63, and they felt that this might aggravate it. In fact, Secretary Weaver [Robert C. Weaver], Bob Weaver, was concerned about this at the time. I think what the President tried to do was to jockey these forces by creating a commission which had some respectability to the home builders to get some forward motion going under a limited Executive Order to see if it could work at all and to hope that there'd be an upswing in the market at some later date before he extended the Order and to also get the home builders and the other business people acquainted and used to the idea of antidiscrimination regulation. And so that's what came out of it. But I think that committee was probably a political necessity in terms of the other side of the problem, accommodating the business interests.

STEWART: Are there any other agencies that you were heavily involved with? For example, the Department of Labor or the military.

BERNHARD: Well, the military we were very much involved with because we decided at some point because of complaints—and Fred Dutton, I must say, was involved in this—that.... I don't know if you recall the story about the President watching the inaugural parade and seeing all white representatives from the military academies. Fred talked to me about that shortly after inauguration. And we never began to move into the military area until, oh, a few years after the President was in, and I had some meetings with Adam Yarmolinsky about it. He was then executive assistant to Secretary McNamara [Robert S. McNamara]. And they were rather loath to have the Commission get into the whole defense establishment.

The result was that the President appointed the Committee on Equal Opportunity in the Armed Forces with Gery Gesell [Gerhard Alden Gesell] as

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chairman. Quite honestly, there was a feeling that they could get more done if they had a military committee, a committee just worrying about the establishment. They didn't have staff, and the result was that we reached agreement—all very quiet, and I don't think anybody even knows about it to this day—that we did all of the staff work for this President's Committee, did their fact finding at the military bases, helped them prepare questionnaires, helped them draft reports, and helped them draft their final report. We thought it was very important to keep it quiet because we knew that it was going to be a good report. I remember Abe Fortas [Abraham Fortas] was a member of that Committee, too, and they were working very hard on it, but they didn't have staff help. So I'm quite sure that the President knew that this was going on because it had been talked about and I had talked it over with Lee. So we were very much involved in that operation. But I guess no one knows about it till right now.

STEWART: Did this or any of your other activities with people in the administration ever cause any problems with the Commission? Let me ask it this way: was the Commission fully aware of the role that you were playing with the administration?

BERNHARD: Yes, I think the members were. I think their feeling was that we could achieve more direct results of our fact finding and our efforts if we were trying to put ourselves in a cooperative working relationship with the administration. The only thing that I was always cautioned about was that we could not compromise our integrity as a critic. And whenever I worked with the people at the White House or in the administration generally, they always understood that, and there were areas where I did not participate because they didn't want me to know all of these things to turn around and report on them.

There were things that I participated in where I knew I couldn't report because it was really privileged matter. But basically the Commission knew this, and they respected it. They thought it was fine. The only thing they wanted to be sure about was that we weren't giving anything away. But it was very delicate.

It became quite difficult at times in testifying in support of legislation because quite often we were the people who were criticizing the Labor Department or Justice Department or Defense Department and at the same time we were trying to work with them. And there was a little—you know, I felt like a juggler sometimes. But I felt it was helpful.

We had the same kind of problems when President Kennedy asked us to run the Emancipation Proclamation Year, all the commemorative events of that year. This ran into some administration problems. But I think it came off well. But the Commission was a rather peculiar animal.

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STEWART: Let's get into this legislation. In 1961 the Commission expired, and there was a bill to extend it. I think it was extended for two years at that time, and the discussion that came up again was whether to extend it indefinitely or just for the two years. Was there any real dispute within the Commission as to whether to go for the two years or the indefinite?

BERNHARD: The Commissioners took the attitude that if the Congress in its wisdom didn't see fit to extend the life of the Commission, they weren't going to fight for it. Their attitude was "The Commission's going to do its job: its going to generate criticism. If the Congress doesn't want it and the people don't want it, let it die. We're not going up to lobby for its life." And they never did. There was a feeling also (which started right after we issued our report) that something more than a fact-finding body was needed, that what you needed was an agency which may have the fact finding ingredient, but more as an informational center, a clearing house, on factual material and approaches that could be taken, and also to perform the role of mediator and conciliator.

STEWART: And this was in the '63 legislation.

BERNHARD: Later on. But we were first talking about it in 1961. We did talk with the administration. I know that there was disappointment on the part of some of our commissioners that the administration really didn't push very hard for an early extension of the Commission. It was kind of a cliff hanger, and we lost a number of good staff people, and there was a feeling of unhappiness at the Commission with the administration having let the game roll on that long. I never had any question in '61 but that it was going to be extended, but they felt that the administration should have been much more affirmative about having it go on. But, of course, we were kind of a burr and a critic. As the Attorney General once said to me of the Commission's roll, "Nobody likes a second-guesser." But I don't think anybody ever said, "Let's have a permanent Commission, or a Commission..." [Interruption]

STEWART: Never any talk of extending it indefinitely? There was in '63, I think.

BERNHARD: There was in '63, but I'm saying as far as the Commission was concerned, the Commission's position on it was concerned. No, there was growing talk about giving the agency the type of permanency that it would need to have long-range planning. It was very, very difficult. I don't think anybody can understand how difficult it really is to have a two year life and to plan the areas of investigation and then to carry out those investigations. [Interruption]

STEWART: You were talking about the difficulty of planning.

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BERNHARD: Well, this was a very severe burden. It was a problem of taking a few months to figure out what areas required immediate investigation and then tooling up to do it. And then there are, obviously, in this kind of thing, going to be areas that you think will be fruitful, and when you get into them, they turn out to be wasteful. And there isn't much time to make up. So I'd had the feeling for a long time that either the Commission should have four years or ten years or something which would allow it to explore very broadly. And I think this is what the Congress really wanted—or some of the people in the Congress. But the Commission never took a formal position on that in '61. I think in response to questions in '63, they indicated something more was needed than we had, but again they said that it was up to the wisdom of the Congress.

But during the period, in '61, I remember Senator Hart [Philip A. Hart] was one of the strongest supporters of the idea of a longer range Commission. Senator Javits [Jacob K. Javits] participated in that, too. But it wasn't until '63 that there was a very great effort made to get a longer life for the Commission. The President did not participate, as far as I knew, in pushing very hard for the Commission's extension, either for the two year period or for more. I think there was a feeling of inevitability about it, that the Commission would continue, that it wasn't, therefore, a high priority item to worry about, and it was, therefore, always left until after our appropriations or even our statutory life had run out to extend it. There was unhappiness on the part of the Commission about that.

STEWART: Well, in the '63 legislation, the administration asked for four years...

BERNHARD: The clearing-house function.

STEWART: Right, and then some of the members of the Commission argued that a two year extension without any real change in function wouldn't be that meaningful.

BERNHARD: Well, I testified in that year, too. I told the Senate and the House committees that, as far as I was concerned, just a simple extension of the Commission wasn't going to meet the problems of the day, that we were beyond simple fact finding, that the problems were too severe, that there was a terrible need at that time for information and new approaches—and I mean information that cities were requesting of the Commission, that organizations were seeking, that states were seeking, that even some of the labor unions and corporations were inquiring of the Commission how you do certain things, how you attain better employment practices and better housing. All these things were coming up and coming up, and I thought to continue to have an agency just going around to find out what's wrong and making long-term recommendations wasn't enough and the

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Department of Justice approach of litigation after some conciliation whenever they could was the other end of it. Something in between was needed, both on an informational basis and on a conciliation basis.

So my feeling was, give the Commission something more. And the problem that was discussed at the White House in the summer—it was early summer of '63, and I think maybe it was because of the Birmingham crisis and the other crises of that year—and also in the early fall of that '63, was whether or not the Commission could be turned into an agency of conciliation so long as it still had its objective fact finding mission. Could it be a critic and a conciliator at the same time? I think the feeling was not. And I'm not sure it was a bad decision. It may have been the right decision.

But there was a feeling on the part of many people—and I was one of them—that just extending the Commission all the time without changing its authority was a waste of time. But I must say I said that with tongue in cheek sometimes because I thought that it was of continuing value to use the power of embarrassment, which the Commission had and I think used very effectively during the administration. You have no idea how quickly things got done when people would see a draft of our reports. We usually showed it to the responsible authorities before we issued them so that they knew what we were going to say. A great deal was done that way.

STEWART: Well, the administration never publicly took this position, did they, as far as the extension only with this additional function was concerned?

Wasn't their position always that they wanted just the four year extension the same way?

BERNHARD: That's right. Just as is. I think there was, as you know, some continuing unhappiness between the Commission and the Department of Justice. The result of that was that since a lot of the legislation had to be cleared at the Department of Justice, we were getting pretty badly cut up over there. There was a relationship between the Department of Justice and the White House, and that little battle spilled over into our relations at the White House. I think this was one of the reasons why we got relatively little public support for the work that was done and relatively little support on the Hill for the life of the Commission as opposed to some of its recommendations.

I know one of the things that used to be a continual source of consternation and delight at the same time was the way we'd have these fights with the Department of Justice and we'd be criticized by them both publicly and privately and up on the Hill. And yet when the Department of Justice would go up to testify, they would bring our reports and our books and use them as a basis for needed legislation. We always used to get a great kick out of all that.

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STEWART: Did you have any role in the preparation of the other administration legislation in '63?

BERNHARD: Yes, I participated in a number of meetings with the people from the Department of Justice, and we were asked to draft legislation. And we were asked subsequently—as always seemed to be the case—by the Bureau of the Budget to comment on the administration's legislative package.

What really happened in '63 as far as the Commission's role was concerned was that the department, I think pretty much Burke and the Attorney General, and I think Nick Katzenbach as well, had the view that the Commission's views were very clearly known. They knew what legislative package we wanted and that there wasn't very much need to have us in the meetings because we were a biased source. But we did make suggestions for actual drafting of legislation, particularly in the employment area and in the housing area. Well, that's not entirely true; we also submitted some material on the administration of justice, on jury reform, and on an improved voting bill. We were also subsequently asked to comment on the administration program, and we were rather critical about some of it. And this resulted in a series of meetings that I had and Bill Taylor [William L. Taylor] had with Katzenbach and Norb Schlei and Sorensen and some other people on the drafting. So we did participate in it. And I guess I participated more informally because of my relationship with administration people later on.

STEWART: You didn't get involved, I assume, in any of the negotiations with congressional leaders on....

BERNHARD: No, we did agree, and I agreed during some of these discussions, that we would support various provisions of it, and I did testify in favor of three or four of the provisions both in the Senate and in the House. But we did not get in any of the negotiations except on an informal basis. And the informal basis was discussions with senators or congressmen that we had worked with and knew. But it wasn't part of a formal approach. It was felt that the Commission shouldn't make it formal.

It was really an outshoot of the New Frontier Club—well, you know, the group that used to meet all the time. Dick Donahue [Richard K. Donahue] was very active in it. At one point he wanted me to come up with a list of the people that I could take a personal responsibility for on the civil rights legislation. And I did. I gave him a list of people, and I took about seven or eight of them, I guess, to work on. So there were a number of people that had met one night when we were discussing this legislation and they took responsibility on it. But it was a very informal kind of thing.

STEWART: There's, of course, a real interesting story on the whole

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passage of the legislation and the whole strategy as to whether they would propose measures in the House and then water them down in the Senate or whether they would try to keep whatever they passed in the House and so forth. Obviously, there were other people.... Let's see. Is there anything else on that '63 legislation that you think is significant?

BERNHARD: Well, there were a great number of arguments in the voting area that I don't think are very important historically now. They seemed very important at the time. But you remember there was all the problem of how far the federal government could go in essentially taking over the machinery of the states and what would trigger the federal involvement. And we had great battles on statistics about showing lack of registration in certain places and whether this would trigger federal involvement or something else would, and what kind of complaint you had to have, how many affidavits. You know, it all seems rather miniscule and ridiculous right now, but it was a major area of dispute.

STEWART: With the Justice Department.

BERNHARD: With the Department of Justice. Their feeling was that the federal machinery shouldn't become involved until it was absolutely clear that there was an impasse and that the state wouldn't protect the right to register and to vote. So they were trying to set up a machinery that would recognize that reality. And historically, I think it was a very good position in terms of putting responsibility where it belonged. But there was this question of exigency, I guess, emergency of the situation which I think impelled the Commission to want something which would make it possible for the federal government to move in quicker. This was the dispute. And it was both a conceptual and, I think, a pragmatic dispute. But it seems small right now.



STEWART: Was the whole Commission always in agreement on this whole matter of the future of the Commission—whether it would be two years, four years, or the expanded functions?

BERNHARD: Well, I think they all felt two years was unrealistic. I mean, you're talking about things that you have to draw a distinction between what was privately said and what was publicly said. Privately, I think all the commissioners recognized that two years was unworkable in terms of getting quality work planned and implemented.

STEWART: And they would just as soon have the thing fold up?

BERNHARD: I think they would have thought it was a tragedy if it had happened, but they did not feel publicly that they could go before the Congress and ask to be perpetuated. And what

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really grieved them was they felt that they had been quite selfless in their contribution to this area because it was a rather thankless job. There's no question about it. They had been kicked around rather liberally by the administration; they had gotten no thanks from anybody, really. I don't think they were the kind of people basically who wanted kudos, except occasionally they needed thanks to do the job.

But I think that they really felt the burden of having a better Commission and the responsibility of getting a better civil rights bill was that of the administration and not of the Commission. And so there was unhappiness that the administration seemed to care so little for the Commission's work that it never labored to bring forth a quick passage or a longer life or a change in responsibility. So there was a feeling that they weren't going to do it, and if the administration wanted to let it go down the tube, it would have to pay the burden and the price. But, you know, I think the administration recognized that they couldn't let it die, and a lot of the Congress wouldn't let it die. Just the name itself, regardless of what it did, they couldn't let it go down. But by not doing it quickly, the Commission did suffer badly in quality because it meant every second year you were getting new staff people and to get disciplined fact finding is the hardest thing in the world. And you can't just pick up anybody and say, "Go write a report."

I think the greatest pride I have in the Commission is out of maybe ten thousand pages of reports there have been two factual errors that have ever been brought to light. And I think this was really the effort to do quality work. Whether people agreed or disagreed with the Commission's recommendations, the approach we tried was report the way it is; don't exaggerate, don't underplay it. As to our recommendations anybody could disagree, but not on the facts. This is what we had great pride in, yet I think there was a feeling that this accomplishment was being ignored by the administration and they weren't pushing to get it through and they didn't realize how difficult quality reporting was and is.

STEWART: Specifically the people at the White House?

BERNHARD: Yes. I think that's right. I think there was, you know, a feeling that... They might have appreciated the Commission. I mean, Arthur Schlesinger [Arthur M. Schlesinger, Jr.] used to say the Commission's work was great, and we always got along with him fine. I even showed him reports in advance for his editorial comment on some things. But the feeling was that if the Commission's doing a good job, get it extended early. But it always seemed to fall between the stools of other priorities. And there were a lot of other issues that the President was confronting, I think everybody recognized this, but you know when it's your own little bailiwick, you have an exaggerated notion of where it fits into the scheme of national events.

STEWART: Well, in 1961 there was an amendment tacked on to an appropriations bill or something in November, I think, that actually extended it, and that took some working out between Dirksen [Everett M. Dirksen] and...

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BERNHARD: That's right. That was also the one where they passed what got to be known as the Bernhard Amendment. My statutory salary under the thing was twenty-two thousand five hundred dollars, and then they tacked this on because some southern senators were unhappy with my performance. Senators Eastland [James O. Eastland] and—I forget who it was—Ervin [Sam J. Ervin, Jr.] tacked the thing on and reduced my salary by two thousand dollars and said that they couldn't appropriate more than twenty thousand five hundred dollars for any member of the Commission. That's funny because I got along with Senator Ervin very well, but he's a...

STEWART: What about Dirksen? Did you have any direct dealings with him?

BERNHARD: Very, very little. I spoke to him a few times about very small things. I spoke to him before we appointed our Illinois advisory committee. I just had very few dealings with him.

STEWART: What type of formal relationships did you have with various civil rights groups, specifically with Wilkins, King [Martin Luther King, Jr.], and people at CORE [Congress on Racial Equality]?

BERNHARD: Well, we had the feeling—and this was, I might say, shockingly controversial. You know, when I think back on this one, too, it was part of the times and maybe a reflection of the difficulties President Kennedy had with the whole issue at the time. We believed that if the Commission were to be objective, it could not get into a formal relationship with any group; it could not rely on the recommendations or the factual analyses or findings of any group; it had to run a very sensitive course of noninvolvement.

The result was that for a while I found it difficult to have an idea of what these groups were going to do. It seemed to me that if we knew that the Southern Christian Leadership Conference were planning massive demonstrations or the freedom rides, if we knew that there were going to be demonstrations in some areas of public accommodations, we could be more prepared to get ourselves tooled up to give the Congress and the President the right kind of report on these events. You know, I found it very difficult to treat Dr. King or Roy Wilkins as distinct from what we were doing.

And, frankly, the first time I met Dr. King was when I was head of the voting section at the end of 1958 when we determined to have our first hearings the Commission ever had in Montgomery, Alabama, on voting. I met him in someone's living room at 10:30 at night with all the lights out. I mean, he wasn't sure he should talk with me, and I wasn't sure I should talk with him, and it was all arranged in a very surreptitious manner.

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Subsequent to that meeting, I did see Dr. King rather frequently—I mean, once every few months. I'd see him if he came to town, or I'd go down to Atlanta, or I'd see him in New York at foundation meetings. And I did begin to find out, and he did begin to tell us what his plans were. And he did at times call me and ask for observers. And if I thought it were legitimate, we'd send observers down.

Roy Wilkins was particularly helpful because he was willing to sit down at great length and discuss what he thought their plans might be and what needed to be done. We had some idea of their shift into the employment area and into the housing area, and this was very helpful to the Commission. We also talked to him about legislation: where they felt there was a need for legislation; where they felt there was a need for legislation; what they really thought the limits of executive action were.

And so I had a continuing dialogue with Martin King and with Roy Wilkins. They had the same feeling of not wanting to get overly involved with us because they didn't want to be tied to what we were doing any more than we wanted to be tied to what they were doing. So a lot of this became a very informal thing where I'd just personally see Roy or Martin or someone like that, and that would be it.

We had lesser dealings with CORE. I did have some personal dealings with John Lewis [John R. Lewis], with SNCC [Student Nonviolent Coordinating Committee], but there was just much less. We became more involved when we got into the public accommodations area, with SNCC particularly. But all this was very informal, and the Commission was chary about overextending ourselves. They were concerned about our staff people becoming kind of handmaidens of the groups. But we did have continuous relations with them. Of course, they had on-going operations with the administration. They dealt with everybody whom they thought would help the cause, and I never believed that they relied on us any more than they relied on anyone else. It's who could help at a particular time.

STEWART:           There were certain rumors, and I assume problems, accusations, regarding some of the people around Martin Luther King during that period, particularly in 1963. Did you get involved in that at all?

BERNHARD: Yes, I did get involved in it. [Interruption]

STEWART: I was asking you about your relationship with Dr. Martin Luther King and your knowledge of any of the difficulties and the accusations that have been made about him and some of his associates.

BERNHARD: Well, let me back up and just say this, that because of my relationship with Harris Wofford—and Harris is a very close friend of mine.... Harris was very close to Martin Luther

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King, had worked with him during the Montgomery bus boycotts and a number of other things. I got to know Martin informally with Harris, too, and I think we struck up a fine relationship. I think he thought very highly of what the Commission was doing. And I saw him from time to time. This relates to the fact that, as I stated earlier, during the latter part of 1961 after we issued our report on justice—and I mean “Justice” in quotes was the name of the fifth volume on the administration of justice—there was some criticism of us by the FBI because we had criticized them. We subsequently had an FBI man serve as the Bureau liaison to us.

STEWART: Do you want to mention his name?

BERNHARD: No, I don't think so. And he used to see me once, twice, three times a week to ascertain if there was anything that they could do for us and wanted to know generally what we were doing. And I think it just struck me that this was an opportunity for us to get help from the Bureau. There was no need for us to be fighting about things which were not related to the substance of our own responsibility or of theirs. So we began to deal forthrightly about problems we had in investigations and/or with their investigations or their reports, or what we believed were their reports.

And it was during this same period of time that Dr. King was criticizing the Bureau quite roundly for having Southern agents doing all the investigation of police brutality in southern communities. At one point I received a memo from the director of the Bureau pointing out to me that the statements that Dr. King had been making were untrue, and he gave me the details of how many agents there were in the South and where they were from. And he indicated, if I recall it correctly, that it might be helpful if I could talk to my friend Dr. King and straighten this factual issue out. And I did talk to Dr. King, and I said, “Look, these are the facts as I understand them.”

I remember Dr. King's position was, “Well, they may be the facts now, but you don't know when these people were hired. I don't know what they've been told. I still think that the Bureau's in bed with all of the southern police chiefs, and we're not getting adequate investigations.” He was really quite bitter about it, and I asked him whether I could tell the Bureau about his position, and he said it was fine with him. He said he'd tell it himself if he could get a chance to do it.

So I reported back to my liaison man, and he reported back to Mr. Hoover [J. Edgar Hoover], and Mr. Hoover reported back to me. And this kind of thing went on for some time. And things developed. Then...I forget when Mr. Hoover first called King a liar publicly—it may have been around this time. He called him “one of the most notorious liars in the United States” or something. It had to do with this kind

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of thing. And I, I remember, got into this thing though I didn't understand why there had to be so much vehemence and disagreement between King and the director of the Bureau. I felt that they ought to be trying to work together.

I didn't hear from him for a while, and then I heard back from my man again wanting to know if I had any idea of Dr. King's sexual proclivities, I think was the word that was used. And I said I didn't know; that was none of my business; and I really didn't give much of a damn. He said it was involved in the basic problem, and that since I took the position that he was a great American, referring to me, and that their position was that he might be a great American, but he was sexually perverted. I said I didn't believe all that, and I didn't think they ought to believe it. And they said they had full documentation and that was one of the basic problems they were having, that he not only—and it went beyond this—he not only was a switch hitter, but that he had inclinations of, and actually engaged in sexual orgies with more than one woman, and that he also cavorted with people who were of doubtful loyalty to the United States. I don't know how that all related, but it seemed to relate in the whole thing.

STEWART: Did they show you any.... They never showed you any of their actual reports, did they?

BERNHARD: Well, yes, I did see one report, and that was the only one I ever saw. And it purported to document what had been said. Now, I don't know whether it was all accurate or not accurate since it had references to information from this or that “informer of known reliability”—without using names. And I know that it came up again at a subsequent date about Dr. King's security. It came up under the category of his security and his reliability and whether or not he was trying to do the best thing for the country. And I saw the same report, which was fairly thick, I must say, a second time. I never did anything about it, and I never talked to anybody about it, till right now. I do think that the President was aware of it, and I know damn well that some people in the administration were aware of it. I don't know if this ever affected their relationship with Dr. King, really, in terms of working on the issues and on the problems. But it did raise problems.

STEWART: Is there anything more you want to say?

BERNHARD: No.

STEWART: Just let me ask you one further question, and this has some relevance. As far as the files of the Commission, were there many reports or

papers in there that would have been of value or assistance to people in the FBI or elsewhere?

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BERNHARD: Yes.

STEWART: Let me ask it this way: did the Commission formally and regularly gather information of this type?

BERNHARD: Oh, no. No, not at all. We just didn't get in.... The only time we got into this was when, at an early stage in the Commission, we felt that our operation was so delicate that we didn't want to put on as witnesses people who were just out-and-out communists. And so we did and got an agreement initially, but this was abandoned later. Mr. Hoover cut it off. We did get name checks on witnesses. And that was finally abandoned later. The only other way we'd ever find out is if we just happened to run across it. But we didn't have this kind of information. We did pick it up occasionally, but we'd store it away somewhere. But it wasn't anything that we did on a regular basis.

STEWART: This information that you would pick up, or members of the Commission would pick up, in an informal way, did this often or frequently get written down and stored away some place?

BERNHARD: Occasionally it would. I, quite honestly, made a policy that if staff people reported information of that kind to me that I thought could, if it were put in the wrong hand, be extremely derogatory, I'd get rid of it, just destroy it. I just didn't think it was necessary for our work and that it had the potential for great harm, and I didn't think it was our responsibility to be gathering in this kind of information. So I'd get rid of it. I did not think this general kind of information required that it be sent over to the Bureau or to any other place. You know, if we came across someone who looked to us to be potentially dangerous or there was really a question of association with communists or something, I might talk it over with my liaison man from the Bureau. But I never gave them written information about anyone.

[BEGIN SIDE II, TAPE II]

STEWART: Let me ask you in general about—what was it called? The Emancipation Proclamation Year?

BERNHARD: The Centennial of the Emancipation Proclamation. It had been decided sometime in '62 that there should be serious consideration given to how the federal government commemorates the Emancipation Proclamation. And Louis Martin, who was very active in all of these things, thought that it

was a great idea. And no one wanted to do it. It was just considered to be a big burden, and we all thought the White House ought to do it.

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Like a lot of these things, you have big policy discussions and don't hear about it again but in this case I got a letter, a personal letter, from the President asking the Commission to please take the responsibility for planning the year's commemorative celebration of the Emancipation Proclamation. And I groaned and said all right, I guess we'd do it. And the Commission said, "Obviously, if the President asks, you do it."

We didn't know really what to do, so we finally decided that the way to do it would be to try to stimulate, all over the country, various ceremonies rededicating people to goodness and to advancing civil rights and all that kind of thing. And we ended up having commemorative events, I remember, in Chicago with Governor Kerner [Otto Kerner, Jr.] and Mayor Daley [Richard J. Daley]; I went to one with Bob Kennedy in Kentucky where he spoke; we had another one at the Archives where I spoke and Bob Kennedy spoke and Charles Wesley [Charles H. Wesley], who's president of the Negro Historical Association, spoke.

The Commission was asked by the President at a special meeting to prepare a report on one hundred years of civil rights. This turned out to be one of the most aggravating things that ever happened because you try to get any two people to agree about history—they don't exist. So we hired some consultants, and we had John Hope Franklin and Allan Nevins as key consultants on the thing and worked like blazes on it. We finally published and got ready for the 1960....When was that thing at the White House?

STEWART: February of '63.

BERNHARD: February of '63, Lincoln's [Abraham Lincoln] Birthday. And we prepared a book entitled *Freedom to the Free*, which was a hundred years of civil rights. It turned out to be reasonably.... Well, we accommodated and compromised, and all the historians were moderately unhappy. That book was to be presented to the President before this reception.

The reception was kind of funny anyway. It was always a big Lincoln Day address business on the part of the Republicans, and we had gotten, I guess, every civil rights leader and entertainer into the White House, so there was no one for these people, the Republicans, to use or speak to, and that was an irony to it all. The session itself was kind of crazy. I remember Sammy Davis, Jr., was sitting autographing all of our *Freedom to the Free* booklets as everybody was leaving and saying good-bye to everybody.

The problem of making up the guest list for this affair was just about as absurd as anything I've ever seen. We had so many names to consider that we used to have afternoon sessions up in the White House

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in the West Wing up on the second floor. The group included myself and Tish Baldrige [Letitia Baldrige] and Arthur Schlesinger and Louis Martin and Lee White. And these went on for days and days and days.

STEWART: For the guest list?

BERNHARD: Yes, because, you know, this whole civil rights issue was becoming so aggravating, controversial that if you missed key people, they were going to be so offended that no one knew what they might do. And they wanted the right mixture. It was rather hilarious. But we carried it all out. We also had a commemorative event at the Lincoln monument, and Adlai Stevenson [Adlai E. Stevenson] spoke. We had a little difficulty with it because Bob Kennedy was unhappy about various aspects of it and was mad at me about it.

STEWART: Because of Stevenson? Or....

BERNHARD: Well, no. It was more complicated than that. The crux of the unhappiness was the question of how it ought to be done, and the facts got in the middle of Nelson Rockefeller's [Nelson A. Rockefeller] offer to give us the original Emancipation Proclamation for a year, loan it to the federal government. (He has it. I don't know where he got it.) So if he was going to do it, he wanted to present it and give a speech at the Lincoln Memorial. And Bob Kennedy had the feeling he was going to use it for outright political purposes. So he wasn't happy about the whole bloody mess. He finally simmered down a bit, but he never was an active participant in that one. In fact, he came kind of late. He didn't look happy about the whole affair.

But it was one of those little side burdens that the Commission took on, which I must say I thought to be a very unpleasant and onerous undertaking, and I don't know how much good it did. But we did get this book out, and I think it's probably a fairly good history and quite usable. But there really isn't much more than that. I mean, looking back, it seems like kind of a pimple in the whole affair.

STEWART: You left in, what, October '63?

BERNHARD: I left in October of '63. I had told the Commission for a long time that I'd about had enough. It may not sound like that difficult a job, but it was really extremely difficult because I had part-time commissioners—they weren't there except for meetings; I was always in the middle of carrying forward policies which were controversial; there was a constant balancing with the administration and the White House and the Justice Department and the Hill; people all over the country were telling us we were either doing the wrong thing or not doing enough of the right thing or what we were doing was being done improperly.



I realized that the year before, in 1962, I was away from home 66-67 percent of the time. And I finally got to the point of view that I'd been there—I'd done what I'd come to do. We'd published a lot of reports, and there were other things I wanted to do, and I didn't want to only stay in civil rights my whole life. And I was beginning to feel that I would necessarily wear out my welcome with the administration because if the Commission were to keep going the way it was going, then it had to become more and more critical, rather than less critical, because while efforts were being made, they weren't in proportion to the growth of the problems as I was seeing them.

I was also somewhat unhappy about the lack of focus on the northern problems. The last whole year I was there, I think almost all my speeches were on the northern problems and on the failure of the administration to cope with them. And I could just see enormous problems of educating the nation about the northern variety. All in all I felt I'd done what I wanted to do and this was a good time to get out. I could get out and feel I'd done something and was in moderately good grace with the administration. It was time to do something else. That was about it.

STEWART: Storey [Robert Storey] and Robinson [Spottswood W. Robinson, Jr.] left about the same time. Robinson was appointed...

BERNHARD: To the court, the district court. And Storey was just tired of it. You know his wife had died of cancer and his son had died of cancer. He'd taken much abuse. You know, he'd come a long way. I mean, you talk about what education can do for people. Storey had come from a very, very, very conservative position to one of, really, not only moderation, in certain areas liberalism. And he'd taken abuse. He put in a good deal of time, and I think, you know, he felt it was time to move.

STEWART: But, I mean, there was no...

BERNHARD: No, I don't think there was any. I think if you were to look back on the history of it, John Hannah [John A. Hannah] had done a remarkable job on welding into a moderate unity people with very different ideas.

STEWART: That's about all I have.

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