

Thurgood Marshall Oral History Interview – JFK#1, 04/07/1964
Administrative Information

Creator: Thurgood Marshall
Interviewer: Berl Bernhard
Date of Interview: April 7, 1964
Length: 24 pages

Biographical Note

Thurgood Marshall (1908-1983) was the Director of the National Association for the Advancement of Colored People Legal Defense and Education Fund from 1940 to 1961 and a judge on the United States Second Circuit Court of Appeals from 1961 to 1965. This interview focuses on civil rights issues that arose during the Kennedy administration, including voting rights and equal employment, and civil rights legislation, among other topics.

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Suggested Citation

Thurgood Marshall, recorded interview by Berl Bernhard, April 7, 1964, (page number),
John F. Kennedy Library Oral History Program.

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Thurgood Marshall
Thurgood Marshall

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INTERVIEW WITH THE HONORABLE THURGOOD MARSHALL,

UNITED STATES COURT OF APPEALS, APRIL 7, 1964

by BERL BERNHARDT

Mr. Bernhard: Judge Marshall, when did you have your first contact with President John Kennedy?

Judge Marshall: The first time I talked to President Kennedy was in the spring of 1960. When he was a senator, I visited him in the Senate Office Building, had lunch with him, and spent the afternoon.

Mr. Bernhard: What were you seeing him about?

Judge Marshall: I came there at his request to discuss the problem of civil rights and Negroes, and it was inevitable that we would get over into the field of politics and we had quite a frank discussion as to the possibility of his running for President.

Mr. Bernhard: Did he ask for your opinion in this?

Judge Marshall: He discussed it; I don't know, of course, whether he actually asked my opinion or not, but I do remember that I told him that it did not look too good.

Mr. Bernhard: In what respect? Were you in favor of his running?

Judge Marshall: I was in favor of his running, but I was not sure he could be elected. As a matter of fact, I seriously doubted it.

Mr. Bernhard: For what reason?

Judge Marshall: The main reason was that I had considerable information about the South, and I was convinced that the South would not support a Northern Catholic and a person outspoken on civil rights.

Mr. Bernhard: At that time were you convinced that John Kennedy had an emotional commitment, an intellectual commitment to civil rights, or what?

Judge Marshall: I had no doubt at all that he was committed to the general principles involving civil rights -- the equality of all Americans. I was also convinced that he would put that above normal political leanings of a candidate. And, possibly that was the main reason I was not too certain that he could be elected.

Mr. Bernhard: What lead you to the belief that he might put that above any other political consideration?

Judge Marshall: It would be pretty hard to talk to him and not get that impression. He had unbelievable familiarity with the problem and he understood it from both sides, and was quite convincing so far as I was concerned.

Mr. Bernhard: When was the next time that you talked to the president? Was it during the campaign or some subsequent period?

Judge Marshall: I don't believe that I talked to him personally until after he was elected. I might have talked to him over the telephone during the campaign. I did talk to his brother a couple of times during the campaign and other people on the staff.

Mr. Bernhard: Were you in a position during the campaign to come out formally for John Kennedy or did you serve at the time, with the National Association for the Advancement of Colored People, and conclude that it would be inappropriate?

Judge Marshall: We had a flat rule at the NAACP of not endorsing candidates and not speaking for candidates, and I observed the rule the whole time I was there. However, the rule did not prevent me from discussing privately with people and trying to prevail upon them to do what was best in the field of civil rights. On the other hand, as a Mason, and as an officer of the Supreme Council of Masons, I did have the task of making certain that our group did not participate in politics one way or the other -- and certainly not to condemn a man just because he was a Catholic and not a Mason.

Mr. Bernhard: About October of 1960, there was an incident involving the Reverend Dr. Martin Luther King and his being arrested, and taken to a rural jail in Atlanta at a time when his wife was pregnant. You may recall that President Kennedy made a phone call to Mrs. King. Do you attach any significance to this, other than political?

Judge Marshall: No, except for the fact that the president's brother, Robert Kennedy, knew Martin Luther King very well and I understand the president knew him too, and I believe that it was more personal than political. However, I think everyone will agree that it had considerable political effect. I would not say that that particular phone call was the call that made the Negroes vote for Kennedy at all. I don't believe that's true because there were other factors. For example, I remember that the other candidate, Vice President Nixon, made a speech in Columbia, South Carolina in which he said, "The South shall rise again." and I think that drove more Negroes away from the Republican ticket than the call to Martin Luther King drove Negroes to the Democratic ticket. That's a matter of conjecture.

Mr. Bernhard: Do you think there was any significance to the fact that Dr. King's father went from being a Nixon supporter to a Kennedy supporter after that incident of the call? Was there any particular effect of that on Negro voters?

Judge Marshall: I don't believe so. I believe the influence on the Negro voters was Martin Luther King, Jr.

Mr. Bernhard: Did you have any further contacts with the president prior to the time that he was elected in November?

Judge Marshall: No. No. None at all.

Mr. Bernhard: Subsequent to the election and inauguration did you have any discussions or contact with the president or the attorney general on civil rights?

Judge Marshall: All of the contacts were with the attorney general. I don't believe that I discussed civil rights with the president more than once, and I don't remember the date. But, I did have many conversations with the attorney general, and we had quite an understanding as to what could be done and what could not be done in the field.

Mr. Bernhard: Did you ever have a discussion with the attorney general, or with the president, about the effect of nominations of competent and qualified Negroes to high political office?

Judge Marshall: Well, the original understanding I had with the attorney general was very simple. That is, that he would appoint people that were qualified without regard to race or color, and yet at the same time, he insisted on a survey being made of the federal establishment to find out exactly how many Negroes were employed.

Mr. Bernhard: Do you think that the president was successful in this endeavor to find qualified people regardless of race or religion?

Judge Marshall: Not successful, because we still do not have the proportion we should have in governmental agencies. But I think that the attorney general, at the instruction of the president, did make considerable progress toward that end, and I know of no particular agency where people are being refused because of color. If so I don't know about it.

Mr. Bernhard: Do you think the appointment of qualified Negroes to high policy making positions in the government has had any additional impact beyond the mere appointment?

Judge Marshall: Well, I would hate to deal in personalities, but the appointment of Dr. Weaver and the efforts of the president to raise his position to Cabinet status certainly gave the impression to the average American that the president was determined to have qualified people in positions without regard to race or color. And there are others along the line. I was just thinking about Dr. Weaver because he was on top.

Mr. Bernhard: You may recall that early in the administration the effort in the civil rights area by the president and the attorney general were directed really to one field, and that was in the voting area.

Judge Marshall: Well, the Attorney General and I had quite a private argument in his office because I was of the impression that it would take too long to get Negroes registered and voting in practical numbers in states such as Alabama and Mississippi; yet the Attorney General was determined that the solution should be in the field of public elections. We never quite agreed on it.

Mr. Bernhard: Did the Attorney General give you the impression that he was speaking for the President, and for the President's position?

Judge Marshall: I'm convinced of it. He didn't say so. I never asked him because I assumed they were in perfect accord.

Mr. Bernhard: What did you understand the policy to be behind the emphasis on the procuring of voting rights?

Judge Marshall: As for the long range proposition, rather than having short term gains, it would be better to have the entire electorate voting, and, whereas the Negro in Mississippi is held down by certain governmental agencies, the real evil is the local, elected official. And until those officials are responsive to the Negro there would be no permanent gain and no one could argue against that as a general principle; but, in the meantime, Negroes were being killed and denied their rights.

Mr. Bernhard: Did you understand the policy to be of such emphasis upon voting that, it was in a sense, to be exclusive of attacks on discrimination in other areas?

Judge Marshall: I was afraid of that. And, indeed, I worried considerably about it and my mind was changed, of course as I imagine several other minds were changed when we ran head into Mississippi and the Meredith case.

Mr. Bernhard: What do you mean by that?

Judge Marshall: Well, when the chips were down and the state of Mississippi stood out against the federal government, the President of the United States used every weapon in his arsenal to protect the federal government.

Mr. Bernhard: Well, was that a response to a crises situation? Would we have sent them to initiate new policy, as you see it, on the part of the administration.

Judge Marshall: I believe that was the expression of policy that had been predetermined -- the policy being that, at any time that it would become necessary for the federal arm of the government to move, specifically the executive arm, that I was convinced that the President was determined to use the full force of his office, whenever it became necessary. But not to use it until it was necessary.

Mr. Bernhard: Do you think that the President's involvement in the Meredith case reflected a major change in moving from the voting area into other areas?

Judge Marshall: I am convinced of it. That historical mark is the change from using the other methods, namely the elective process and the raw truth by themselves to the use by the Executive Branch of other tools, specifically the armed services.

Mr. Bernhard: In any respect do you see a contradiction between what you said and the fact that in March of 1961 the President issued the executive order setting up the President's Committee on Equal Employment Opportunities which combined those two old committees and gave additional powers in the employment area?

Judge Marshall: Well, the employment area, of course, is a separate and distinct area. I'm not speaking -- because as far back as President Roosevelt we had the Fair Employment Practice Committee set up. That was not new. I think that the new action was the Executive moving in as Executive and using the Attorney General's office, and the armed services, to enforce the laws of the United States.

Mr. Bernhard: How would you distinguish that approach from the approach of President Eisenhower during the Little Rock crisis?

Judge Marshall: I think the difference was that in the Little Rock crisis President Eisenhower waited until the last moment. And in the Meredith case the President did not wait until the last moment, although we have some who said he did.

Mr. Bernhard: After the Meredith case, what other changes did you see in terms of the approach of the administration -- of President Kennedy's Administration to the civil rights problem?

Judge Marshall: Well, I think before you get to that you have to again pin-point the Attorney General's consistent drive to get Negroes voting in the south and to get them registered. There was a great slew of cases in Alabama and Mississippi and Louisiana to protect the right of Negroes to register and vote. At the same time the Attorney General's office was inaugurating the new campaign of enforcing court decisions in the school cases, and doing it on the initiative of the Attorney General rather than on the initiative of private organizations such as NACP. That was the change as I see it. But the voting ones were alive and being processed at the same time, so that you haven't abandoned it. I think to the everlasting credit --

Mr. Bernhard: What distinguished the approach taken in the voting area from the approach taken in the prior administration? Was it a qualitatively different approach or did it just "beef up" the effort?

Judge Marshall: Well, I would say quite frankly since I'm familiar with both administrations insofar as the Attorney General's office is concerned, it was really a beefing up. Of course, with the benefit of the civil rights statute it was a beefing up. I don't think that we can severely criticize the Eisenhower Administration for the voting efforts because the Attorney General did try. That I know.

Mr. Bernhard: Were you at all concerned at any time in the administration as to whether or not the President or people in high office were looking at the civil rights picture in a rather isolated way? I mean, separating it in terms of voting and education and employment, or did you think that they looked at the civil rights problem as a whole problem in all of its facets?

Judge Marshall: Well certainly when the Attorney General appointed Burke Marshall to the civil rights area there was a complete canvassing of all of the problems. And I would say that while I'm not familiar at all with the plan, I have no doubt that there was a time schedule involved there. I'm sure that the time schedule was upset, but ---

Mr. Bernhard: By what event?

Judge Marshall: By the Meredith case.

Mr. Bernhard: What effect do you think such incidents as the freedom rides might have had, along with the Meredith case?

Judge Marshall: Well, the sit-ins and the freedom rides upset everybody's chart and tables -- including our time table at the NAACP, so I guess that's the answer to that --

Mr. Bernhard: What changes do you think came about as a result of those direct action protest movements?

Judge Marshall: Everybody working in the field, government and otherwise, pushed to move faster than they had moved before.

Mr. Bernhard: You may recall, Judge Marshall, that during the campaign, President Kennedy tried his opponent, Mr. Nixon, by saying that if the prior administration had wanted to do something about discrimination in housing it could have resolved these issues with a stroke of the pen. President Eisenhower could have done this. Are you satisfied that President Kennedy did any effective work in the area of housing?

Judge Marshall; Well, the answer to that is very simple. That is, that President Kennedy took about a year or so to get his pen in hand.

Mr. Bernhard: Why do you think that occurred?

Judge Marshall: I haven't the slightest idea.

Mr. Bernhard: Do you think the order itself that he issued reflected an understanding of the housing dilemma?

Judge Marshall: Oh, I think that the order had been drafted before it was issued.

Mr. Bernhard: Have you noticed, as a result of it, any impact on discriminatory factors -- ?

Judge Marshall: I don't see any impact at all. I mean I don't know. I just don't have the information because here in New York it is controlled almost solely by the state laws we have.

Mr. Bernhard: Do you think he suffered any political detriment as a result of signing that order?

Judge Marshall: We'll find out this election year. (Chuckles)

Mr. Bernhard: There were a number of additional problems, I think, that President Kennedy and the Administration confronted that had not existed before, primarily because of this growth of the direct action protest movement. Did you think that the President ever reflected a clear comprehension of the strength behind the movement?

Judge Marshall: I have no doubt that the President knew of the strength behind the civil rights movement and that goes back to the talk we had in 1960 up until the last time I talked to him. Just as in foreign relations, or any other field, the President had a wealth of information tucked away in his head and he was always abreast of any movement and he knew the exact strength. I don't have any doubt about it.

Mr. Bernhard: You may recall that during the first year or so of the Administration the President on a number of occasions indicated that he did not feel that civil rights legislation was necessary, that many of these problems could be resolved through executive action. As late as May of 1961 the President made some comments about the lack of a need for civil rights legislation. At that time the NAACP attacked the President in regard to his failure to push civil rights legislation. Did you believe that this was of value or was there some other -- ?

Judge Marshall: I believe there was a time schedule -- which time schedule I do not know. But I am convinced that the President was sincere in his believe in the greatest good for the greatest number. He had certain key domestic proposals he would have preferred to get through before the inevitable filibuster on the civil rights bill. And, at that time, as a proponent of civil rights legislation, I disagreed.

Mr. Bernhard: Did you feel that there was any set-back to the civil rights movement by the failure of the President's push for legislation during 1961?

Judge Marshall: No, I don't believe there was any set-back because there is a good possibility that the events since that time insured the passage of the civil rights bill, as witness the fact of getting it through the House of Representatives within a reasonable time and in pretty good shape. It could have been done in '61. I imagine that quite a few of them would say, "no."

Mr. Bernhard: During the first year or so of the new administration in 1961, did you have many contacts with the President or primarily with the Attorney General?

Judge Marshall: With the Attorney General.

Mr. Bernhard: Now you were appointed to office, or nominated I believe in October of 1961?

Judge Marshall: '61. Yes.

Mr. Bernhard: Could you tell some of the events that lead up to that? How it came about and what significance you attach to it?

Judge Marshall: No. I was just, as scheduled.

Mr. Bernhard: During the period after you were nominated --

Judge Marshall: That will have to be taken up by the Attorney General.

Mr. Bernhard: And you wouldn't object if he agreed to have ---

Judge Marshall: Whatever he says I would be perfectly willing to let it be said. But I don't think it would be fair for me to say it.

Mr. Bernhard: I'll be glad to talk to him about it. During the period after you were nominated and before you were confirmed did you have an opportunity to talk with the President about any opposition to the nomination, or -- ?

Judge Marshall: That was all with the Attorney General.

Mr. Bernhard: It was with the Attorney General.

Judge Marshall: I did -- no, it's not true. On ~~one~~ one occasion I

was in the White House at some social affair and I told the President that the long seige was possibly taking its effect on my family -- and all he said was, "Forget about it -- it takes time." That's the only thing I remember about it.

Mr. Bernhard: How long did it take for you to receive your confirmation from the Senate?

Judge Marshall: Eleven months. And about five -- oh, I've lost count of the number of days.

Mr. Bernhard: What was the basis, at least, first, the stated basis of the opposition to your nomination?

Judge Marshall: Well, the main basis was -- the first objection was that I had been a member of the National Lawyers Guild at one time and that was about to be a big issue until I produced a letter of resignation from the Lawyers Guild. The second was that I had participated in cases for the NAACP and had been accused of practicing illegally in states like Texas and Virginia.

Mr. Bernhard: On what grounds?

Judge Marshall: On the grounds that a law court in Texas found the NAACP had violated some laws in Texas.

Mr. Bernhard: What was the stated basis of the opposition?

Judge Marshall: That's all there was.

Mr. Bernhard: But was the problem of juries, was that what delayed it?

Judge Marshall: Well, Senator Johnston was in charge of that committee and he would just hold hearings once in a while whenever he felt like it. Well, I think that's the prerogative of the United States Senate.

Mr. Bernhard: Do you --

Judge Marshall: I, at the same time, was sitting on the Court doing my regular share of work.

Mr. Bernhard: During this period of time, you were actually sitting. Is that --

Judge Marshall: I was. As an active jurist.

Mr. Bernhard: Did you still have any time during that interim period -- were you under any uncommon pressure, in terms of any cases that were pending before the court?

Judge Marshall: No. No, not at all. I had decided, of course, if a case came up involving the NAACP I would not sit on it. That would be true whether I were confirmed or not.

Mr. Bernhard: How do you evaluate the political significance of your nomination by President Kennedy?

Judge Marshall: I don't know. I really don't.

Mr. Bernhard: Do you think it took a particular act of courage to nominate you at the time, or, do you think it more or less a normal nomination?

Judge Marshall: No, no, I am convinced that when President Kennedy and the Attorney General could see something that should be done, they did it, not because I'm a NAACP official, but because of the fact that I had practiced a considerable time, probably all of it in the federal courts, including the Supreme Court.

Mr. Bernhard: Do you think that in any way it was an indication of support for the civil rights movement?

Judge Marshall: No - no. No, the Attorney General made that clear.

Mr. Bernhard: There was a great deal of discussion prior to this Administration that the civil rights issue had not been declared a moral issue, either by prior Presidents or church groups, themselves, in this country.

Judge Marshall: That's correct.

Mr. Bernhard: Do you believe that the President saw civil rights as a moral dilemma for the country?

Judge Marshall: Most certainly that's true. And both the President and the Attorney General made it clear at the first opportunity that they considered the 1954 decision a moral directive.

Mr. Bernhard: Judge Marshall, when you look back on the Kennedy Administration and its efforts in the civil rights area, what in fact do you see as the accomplishment in the area -- first, of voting?

Judge Marshall: Well, let's put this overall one first. As I mentioned earlier, the President was as well informed on civil rights matters as on any other governmental matter. He kept abreast of everything that was going on, what was going on, who was behind it. Secondly, he had the ability to put this problem into proper focus along with other domestic problems, in contrast to the foreign problems in foreign governments. It would be my opinion that the President looked to the whole problem and decided what should be done, how it should be done, and when. In the question you asked about voting and registration, I'm sure he was appalled by the fact that in 1960 there were Negroes in this country denied the right to register, denied the right to vote. That struck him as something that was entirely wrong and he decided to work on it first through the executive and then through the legislature.

Mr. Bernhard: You state that these efforts were crowned with a type of success in terms of actual numbers of people who achieved an opportunity to register and vote.

Judge Marshall: Well, number one, figures that have been dug out by governmental agencies, and civil rights agencies, show a sizable increase of Negro registration and voting in the south, but even more important than numbers themselves was the picture given to the United States, and the governments abroad, that in this country the executive branch of the government would not tolerate the discrimination. That was the important point, I think.

Mr. Bernhard: Turning to another area, when you look back what do you see as the high-light -- the legacy of the President -- in the area of employment, if there is any.

Judge Marshall: Well, in the area of employment, believe it or not, President Kennedy will go down in history as the President who actually put into effect the definite promise that Negroes were entitled to employment in the federal government on every single level without regard to race. Other Presidents have said that, but the record, whether you take numbers or positions, will show that it was the determination of President Kennedy to carry this out. That's what will go down. He will go down as the President who put action into the words that start with our Constitution and are mouthed by other Presidents.

Mr. Bernhard: Do you think that his actions have had a significant impact on, for example, the youth of America in terms of elevating their aspirations and their potentialities, their ambitions. Do you think that this has had any effect or isn't it noticeable?

Judge Marshall: The average youngster, it seems to me, will view the President as the example to them, what whatever stands in their way because of their race can be removed by the President of the United States. That will be the picture that the young person will get.

Mr. Bernhard: If you turn to some of the other areas that fall into, at least the acceptable definition, and you turn to such things as education, namely the problem of desegregation of both south and north, do you think that the Administration of President Kennedy has really had a significant impact, in view of the rather meager figures dealing with desegregation of schools in the south, even after almost a decade of the Brown decision?

Judge Marshall: Well, of course, he could not be held responsible for the small number of people. For example, he could not be held responsible for the fact that they have no Negroes in the University of Mississippi now. At least, the opening was made, and, whereas Negroes and others, will bemoan the fact that desegregation has proceeded at such a snail's pace, no one can put that blame on the President. Rather they looked to the President, President Kennedy I mean, as an example of what can be done by future Presidents.

Mr. Bernhard: Why don't individuals who still have not secured their rights in the area of desegregation put blame on the President for these matters?

Judge Marshall: Because -- well; the people I've talked to, especially young people, are convinced that President Kennedy did as much as he could, under the circumstances in our government.

Mr. Bernhard: You have indicated previously that you thought the admission of James Meredith to the University of Mississippi was a key point in the new approach, the standard approach of President Kennedy's Administration in the civil rights area. Were there any other landmarks that you can see, looking back over the three years, that were comparable?

Judge Marshall: Well, I would assume, from what I have read that the real cause in timing and introducing the civil rights bill was a accumulation of factors. One, the Meredith case in Mississippi, two, would be the disgraceful affair in Birmingham, Alabama, with the use of police dogs and cattle prodders, the bombing of the Negro Church, and shortly thereafter the murder of Medgar Evers in Jackson, Mississippi. I would say that the accumulation of all of these demonstrations of governmental action contrary to the federal constitution brought about the explained need for federal legislation.

Mr. Bernhard: What if these various incidents had not taken place. What type of legislative approach do you believe President Kennedy would have employed?

Judge Marshall: So far as I know, President Kennedy would have continued to use executive action and I would not have the slightest idea of the date he intended to introduce the civil rights bill. I'm sure, however, that the bill was ready and had been drafted and gone over several times.

Mr. Bernhard: In fact then, you think it was a response to a crisis, a series of crisis, which all formed to make it possible for him to do what he believed he would like to do in this area?

Judge Marshall: He did what he had to do in this area, in order to stop future actions of hostility to the federal government, in order to give assurance to a large segment of our population that they could get protection, and to give the legislative arm of the government the opportunity to move.

Mr. Bernhard: To what extent do you believe that 1963 as the Centennial of the Emancipation Proclamation, had anything to do with further emotion, the demands on the part of the American Negro?

Judge Marshall: Well, you must bear in mind that for a minimum of ten years civil rights organizations throughout the country had set 1963 as the target date for the removal of discrimination against Negroes. Civil rights leaders had been from one end of the country to the other over this ten year period preaching that. I would say that once 1963 arrived, each individual Negro realized that 100 years after the Emancipation Proclamation they were not, in fact, free; and I think this had an impact upon individuals, not necessarily on organizations.

Mr. Bernhard: Going back to an overview of this period, there were a number of criticisms that were made of the Kennedy Administration by key civil rights leaders. For example, Roy Wilkins, the Executive Secretary of the National Association of Advancement of Colored People, talked about the fact that the Kennedy Administration had been smart on several parts of the civil rights deal, but it had missed the boat completely on school desegregation. What do you think he had in mind about that? He made the comments in March of 1963.

Judge Marshall: Well, I would not know exactly what Roy meant on that particular occasion. It could be that that was the time that there was much discussion as to whether legislation was needed to speed up the program and the President had not included that in the civil rights bill at that time. I think that carries over to the statement that Roy Wilkins made as far back as November, '60 when the President had made clear he was not going to introduce the civil rights bill. Roy said then that the President was wrong. It was repeated in the summer of '61 by the entire NAACP Board.

Mr. Bernhard: To what extent did you find the President to be amenable to substantive criticism? How did he respond to it?

Judge Marshall: Well, the occasions that I talked to him - and the same would be true for the Attorney General - they would listen very carefully, but they would always be frank and give their objections. to what you were proposing, give their reasons for it, and very often end up by saying they remained unconvinced and would continue on the course they had set up. I think their frankness was the important factor in dealing with organizations and individuals.

Mr. Bernhard: At one point, Mr. Wilkins and Dr. Martin Luther King indicated that they had a very real dissatisfaction with some of the President's appointments of judges in the South. And, in response to a question about this, President Kennedy said, on March 7 of 1963, that some of the judges may not have ruled as I would have ruled, but there is always the possibility for an appeal, and on the whole the men who have been appointed to judgeships in the South, sharing as they do the general outlook of the South, have done a remarkable job in fulfilling their oath of office. Do you believe that is an accurate appraisal of the decisions, the comments, of the federal judges appointed by the President, himself?

Judge Marshall: Well, the best answer that I should make to that is that as a federal judge myself, I should not comment on other federal judges. But the truth of the matter is, I would not comment on other judges for fear that they might comment upon me. (chuckles from Judge Marshall and Mr. Bernhard.)

Mr. Bernhard: In terms of the future course of the nation, where do you think we are now, in terms of equal opportunity and equal rights for all Americans, that we might not have been had we had a different President in office?

Judge Marshall: Well, I am convinced that we, and I think of "we" as an American and as an American Negro, and I think that we have made more progress during the Kennedy Administration insofar as obtaining the basic civil right, the basic right as an American citizen, than we've made in the past. I think the tempo has been stepped up. And, if we look to the future, my fond hope as an American Citizen is, that this increased tempo would continue; and I would look for the future to have Presidents such as Kennedy and carry forward.

Mr. Bernhard: Judge Marshall, as you view the approach of the Administration in resolving civil rights and the civil rights issue, and we've talked about the initial emphasis on voting, and then the expansion, in response to demand by the American Negro - how do you see the overall plan that must have been around somewhere to meet all these problems?

Judge Marshall: Well, it would appear that from the executive side you'd have the voting campaign, and then the series of bills to be introduced in Congress aimed at removing poverty and giving the

working man a better chance to make a living, was the part of the program that the President conceived, of not only helping the Negro to raise his status, but at the same time to raise the status of the other poor people. And, I could imagine that the idea of the Administration at that time was to push that form of legislation and not to push on the civil rights one until possibly a few years later.

What

Mr. Bernhard: Would this really have done now? Would this really be a pilot move during an interim period or would this really set the ground work for further --?

Judge Marshall: All this goes back to people years ago, who believed that if Negroes were given the right to work, and given a decent education, it would solve all the problems. We found that's not true, because a Negro as well educated as anyone could be, take a Rhodes scholar, for example, with a PhD and president of a million dollar corporation, if he happened to be a Negro he would not be welcome in Jackson, Mississippi. That's so.

Mr. Bernhard: Well, how then would an approach attacking poverty have made any changes in this?

Judge Marshall: The idea is the same, I think, as the voting one. It's the long range proposition. That eventually once you get the right to vote, once you get a decent education, once you have a job that pays you sufficient money and you are adequately housed, the other problems will disappear. I do not agree.

Mr. Bernhard: When you say you don't agree, what is your position on this?

Judge Marshall: Well, I take the example of being perfectly personal: I sit as a circuit judge on the Appellate Court, but if I go to Mississippi I couldn't stay in any decent hotel, go to any restaurant, or go to any theatre. This is so because, in addition to the other problems I have, I am also a Negro.

Mr. Bernhard: You've mentioned this problem of being able to stay at certain hotels, motels, or even eat in certain restaurants when you're down in Mississippi. Do you think that this would have become a major problem area for the President during his Administration if it had not been for all the demonstrations that grew out of the student movement in 1959-60 period?

Judge Marshall: It would have been a problem.

Mr. Bernhard: Why?

Judge Marshall: Because the problem has been there all along and when I talked with the President back in 1960 he knew of all these problems. He knew of the voting and registration. He had figures to back it up. He knew of the school situation. I imagine it was his research on the old civil rights bill that gave him the picture. He knew the picture. The question is whether these demonstrations gave the necessary atmosphere for showing that it had to be done sooner than planned.

Mr. Bernhard: There is one other area which has been sometimes neglected that becomes more into focus and more under attack, and that is the role of the labor unions in the civil rights struggle. It was characteristic of the early part of the Administration that the President, while he was recognizing some of the deficiencies in union-employment practices -- apprenticeship training, and seniority system, etc., -- was not moving with any particular vigor to resolve it. Now do you see that as a legitimate statement of his approach?

Judge Marshall: Well, I would imagine that once the President combined his two committees on employment and left that in the hands of that committee, he was willing to give the committee a chance to work it out. And, I don't know whether too much criticism could be made of giving them a reasonable time to work it out. I assure that he checked on everything else in the government.

Mr. Bernhard: To what extent do you see the labor unions as being an aid in the cause of civil rights over the past few years and particularly during the Kennedy years?

Judge Marshall: When we think of labor we mean organized labor. Organized labor has been for civil rights by resolution and otherwise. Some of the individual labor leaders go even further and actively support all movements to secure civil rights. However,

we still recognize that there are certain craft unions that until this day deny Negroes employment. And that's not just in the South. It's the North as well as the South. And of course you could not expect support from those unions. I would say the major problem of cooperation from labor unions is that they have terrific programs of their own and they have in addition to the regular labor union problems such as hours at work, time off, fringe benefits, etc., they have problems within their own union on the question of race. And their cooperation has to be measured against the problems they have in their own house.

Mr. Bernhard: You mentioned the general problems of the unions and we all know that it has been more difficult for the unions to operate effectively in the past. Did it strike you that it was also true during the first part of the Kennedy Administration that civil rights was being treated essentially as a Southern problem? Do you think that is an accurate evaluation of the Kennedy view of civil rights during the early period?

Judge Marshall: I don't think that the Kennedy Administration viewed this as a Southern problem at all, because the Attorney General's office has been involved in matters of discrimination in the North from early days. They've always been involved. It hasn't been as well known or well publicised.

Mr. Bernhard: There's been much discussion that as a result of the Kennedy Administration concern with civil rights a certain resentment has been engendered in the white community, namely, there is vast unemployment that affects whites as well as Negroes, that many whites don't have decent housing, and many other issues have been raised. Do you think that this type of resentment can be traced to the strides and speed with which the Kennedy Administration attacked the civil rights problem?

Judge Marshall: No, I think its the contrary. The increased unemployment that grew up in the early years of the Kennedy Administration affects the labor field to this extent. That whenever large blocks of men become unemployed - white men - these unemployed white workers, and indeed the employed white workers resent any movement to secure equality of opportunity for Negroes because the unemployed white worker wants his own job back, he doesn't want a Negro to get it. And the employed white worker feels and misunderstands fair employment practice legislation by thinking that it means that they lose their jobs. It's the untruths that

are told that breeds this resentment. Then whenever the resentment grows up the people look around at somebody to blame and anybody in favor of the fair employment practices is therefore blamed.

Mr. Bernhard: Along the same lines, there has been criticism leveled against the President and the Attorney General that it was their blessing of direct action movement, of demonstrations, that has led to a state of what has been termed anarchy and lawlessness, and an atmosphere of crime and of lawlessness both in the North and in the South. Do you think that this is a legitimate criticism?

Judge Marshall: Well, certainly it's not true because the Kennedy Administration was not responsible for any of the disgraceful action of the Birmingham police force. The Kennedy Administration was not responsible for the Meredith situation. Indeed, the federal government hasn't been responsible for any of these situations; rather the federal government has moved in to stop them, but they get blamed for them of course. I remember during the Roosevelt Administration every racial matter that came up any place in the country was blamed on Mrs. Roosevelt.

Mr. Bernhard: If there had not been a public support for the Constitutional rights of those who had demonstrated, and this support coming from the White House or from the Justice Department, do you think that there would have been as much determined effort on the part of the Negro leadership to continue with these demonstrations?

Judge Marshall: Well, going back to the sit-ins - they started before the Kennedy Administration.

Mr. Bernhard: But they were of fairly narrow scope.

Judge Marshall: No, they were of pretty wide scope for a period of about six months and then they died down. The Birmingham situation, the Albany, Georgia situation, the Jackson, Mississippi situation all came under the Kennedy Administration.

I do not know. I assume from what I heard from Martin Luther King and others that they would demonstrate whether they got any protection or not. I have, however, noticed that whenever trouble comes up the telephone call is always made to the Attorney General for assistance, but maybe that is what is behind your question. That they knew that they could get protection from the federal government so long as they were, themselves, abiding by the law.

Mr. Bernhard: In terms of protection, Judge Marshall, there has been a certain degree of criticism of the Attorney General and of the President for failing to assure the physical security of individuals both those in organized demonstrations and ordinary Negroes living in rural communities predominately throughout the South. But there have been almost no cases brought during the Kennedy Administration under Section 242 dealing with unlawful conduct by police officers. There has been criticism that very little has been done to carry out the anti-bombing law which was passed a few years ago and that overall there's been very little assurance of protection to the Negro in the South. Do you see this as legitimate criticism?

Judge Marshall: Well, the best answer to that is, you'll remember last year in Africa we were constantly asked the question about the picture of the police dog attacking the Negro in Birmingham, Alabama, posing the question as to whether or not any action had been taken against that policemen with the dog and we were unable to do anything but frankly admit that nothing had been done. I think that the law is quite clear that the federal government is not the policing authority. Policing authority rests with the several states. That I can understand; some of us can understand, but the average layman cannot understand it. I think that is a criticism that is made but I have yet to see the existing law, other than the bombing law, and the present statute that has been passed, that will authorize this type of protection.

Mr. Bernhard: Well, the question's been raised that there appears to be an inherent contradiction between the Attorney General and the President (Kennedy) indicating their general support for demonstrations which reflect the disaffection of vast numbers of people because of the denial of their rights and the inability of the federal government to afford them real protection when they went ahead. And that, in view of the unwillingness of the President

and the Attorney General, it is alleged that they should not have lent the prestige of their offices to support the concept of the demonstration.

Judge Marshall: I've heard those criticisms repeatedly and my answer is very simple: the federal government has done what it could, and when what you call approval is given, its not approval for any particular demonstration, its not approval of what Dr. King wants to do, or what the NAACP wants to do, its approval of the guarantee of our Constitution of the right of protest. And, that right has to be protected and it can't be protected by the states. It has to be protected by the federal government. If by protection we do not mean that armed guards should be put between the police and the Negroes, the protection is that those who violate the laws shall be prosecuted.

Mr. Bernhard: There's something that is between protection though and no protection, and that involves the allegation that even though there may be some problems growing out of the relationships between the states and the federal government, that the minimum that the federal government could have been doing over the last few years would be to have the presence of deputy marshalls at places of registration, to have them in many more communities where there is desegregation ordered just to indicate the effectiveness of the orders, and -- .

Judge Marshall: Well, number one, they have been there in areas when things got out of hand at Mississippi, at the University of Alabama, -- .

Mr. Bernhard: But there were requests made for more than that. To have them there even when general registration offices -- .

Judge Marshall: Then we get into the question of running a police state and I don't know whether we want a federal police state.

Mr. Bernhard: It would be your opinion, then, that the decision not to have vast federal presence when there was no court order to be enforced, for example, would have been wisely taken on the part of the Administration.

Judge Marshall: I certainly do, and you left out the end to which some people wanted to go. They wanted the President to go down and take Meredith by his hand and lead him into the University of Mississippi.

Mr. Bernhard: You didn't support that a bit?

Judge Marshall: I did not because I don't think its his job.

Mr. Bernhard: Well, he was the chief executive -- to see that the laws are faithfully executed. Why would that be so inappropriate?

Judge Marshall: Well, should the governor of the state of New York come down to Harlem and see that I get my protection?

Mr. Bernhard: I didn't know that you needed any in Harlem.

Judge Marshall: Chuckles.