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# JOHN F. KENNEDY AND CIVIL RIGHTS FOR BLACK AMERICANS

by

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Since his assassination in 1963, John F. Kennedy's Presidency has received frequent assessment.<sup>1</sup> Some of these assessments have touched upon Kennedy's record in the field of human rights or more specifically, his commitment to the cause of Black Americans. Published evaluations of Kennedy's record in this regard ran the gamut from the strongly positive to the generally negative. Among those positive, Theodore Sorensen wrote that Kennedy showed courage "in placing himself at the head of the [civil rights] revolution. . ."<sup>2</sup> while Harry Golden christened Kennedy "our second Emancipator President."<sup>3</sup> The critics include Bruce Miroff who wrote that ". . . John Kennedy's record on civil rights contained failures that ran far deeper than his successes"<sup>4</sup> and Thomas Bailey who suggested that Kennedy "favored civil rights but rather too quietly and too late. . ."<sup>5</sup>

The purpose of this study is to evaluate the Kennedy Administration's record in the area of civil rights, with the perspective that almost twenty years can provide. Executive actions in employment and housing will be evaluated as will John Kennedy's judicial appointments, recourse to litigation, implementation of court orders and legislative activity. A summary judgment will be offered then, citing both strong and weak points in the Kennedy record.

## **Presidential Persuasion**

Glimmerings of John Kennedy's attitude toward using executive power to achieve civil rights progress could be seen at almost the first moment he became President. As the new Chief Executive sat in the reviewing stand on January 20, 1961, watching his Inaugural parade, he reportedly noticed that there were no

Black cadets marching with the Coast Guard Academy. That evening he telephoned cabinet member C. Douglas Dillon, whose Treasury Department served as the bureaucratic home for the Coast Guard, and urged that vigorous recruiting efforts be instituted so that Black cadets would be admitted to the Academy.<sup>6</sup> In response to the new President's interest, it was during the Kennedy Administration that the Coast Guard Academy enrolled Black students for the first time since its founding in 1876 and even hired Black faculty members.<sup>7</sup>

Apart from this somewhat symbolic beginning, Kennedy took significant steps as "Chief Administrator" in the area of civil rights. Most visibly, he appointed a relatively large number of Blacks to major governmental positions. Among those, Robert Weaver was named Housing Administrator, Carl Rowan, Deputy Assistant Secretary of State, Clifton Wharton, Ambassador to Norway, Andrew Hatcher, Deputy Press Secretary, George Weaver, Assistant Secretary of Labor, Andrew Brimmer, the first Black member of the Federal Trade Commission and Leon Higginbotham, the first Black Postmaster of a major city. In addition, Kennedy named five Black lawyers to the Federal bench (a total of only three had been so named prior to the Kennedy Administration), including Thurgood Marshall who was to become the first Black Supreme Court Justice during Lyndon Johnson's Presidency. Dr. James Nabrit, then President of Howard University, responded to Kennedy's appointment of Blacks to high office by saying, "President Kennedy has done more in a few months to increase the respect and give prestige to Negroes than any President in my lifetime."<sup>8</sup> Also, legal scholar Alexander Bickel believed

that the record of appointing Blacks to high office was “one of the Kennedy Administration’s proudest boasts—and justly so.”<sup>9</sup>

On the more invisible, but also more important, level, Kennedy urged all Cabinet members, at the very beginning of his Administration, to look into the employment and advancement practices of their Departments, giving particular attention to the status of Black people.<sup>10</sup> In response, a number of executive departments engaged in vigorous recruiting campaigns designed to attract Blacks into government service. As an example, Attorney General Robert Kennedy, in May, 1961, sent letters to the Deans of forty-five law schools across the country, asking for the names of Black lawyers and promising Black law students who might be hired by the Justice Department.<sup>11</sup> As a result, of these “affirmative action” activities, the number of Blacks holding jobs in the highest grades of the civil service, where Presidential influence would be most pronounced, increased by 88.2 per cent from June, 1961 to June, 1963. The corresponding increases in the middle and lower grades were 36.6 and 3 per cent respectively.<sup>12</sup>

Two additional steps taken by the President came in his instructions to United States Employment Offices to refuse job orders which carried a “for whites only” specification and in his warnings to federal employee unions that those guilty of racial discrimination would not be recognized by the government.<sup>13</sup> Finally, the Administration encouraged J. Edgar Hoover to increase the number of Black agents within the F.B.I. and Navasky reports that “unofficial figures indicate that their number increased from two to twenty-eight by 1964.”<sup>14</sup>

#### **Executive Order: Employment**

One of the strongest actions taken by John Kennedy relative to civil rights came in the form of an Executive Order on Employment, issued shortly after his Inauguration as President. Executive Order 10925 directed all agencies and departments of the government to take positive action to eliminate racial discrimination

in their employment policies and established the President’s Committee on Equal Employment Opportunity.<sup>15</sup> This latter action by the President fused the already existing Committee on Government Contracts and the Committee on Government Employment into one unified group with new powers and an expanded jurisdiction. The primary responsibilities of the Committee were to review the employment practices of the federal government in terms of race, to make recommendations for improvement in those practices, and to establish anti-discrimination rules which all government contractors must follow.<sup>16</sup> Also, the Committee was to foster actively the creation of educational programs by civic, religious and other non-governmental groups to help eliminate or at least reduce the basic causes of racial discrimination in employment.<sup>17</sup>

The Committee on Equal Employment Opportunity, chaired by Vice President Lyndon Johnson, pursued its various tasks with vigor. Its jurisdiction extended to some twenty million workers and it adjudicated several hundred more cases in its first eighteen months of existence than its two predecessor committees had processed in six years.<sup>18</sup> Government agencies were prodded into accelerating recruitment efforts to attract Black job applicants and Fleming reported that the “military departments, which administer the great dollar volume of federal contracts, employed a number of fair employment specialists to assist their contract management personnel in enforcing the nondiscrimination requirements.”<sup>19</sup>

The Committee actually instituted a program of plant visitation for all government contractors to check on their annual affirmative action reports<sup>20</sup> and it carried out an annual survey of minority employment in the federal government itself. In the two latter years of Kennedy’s administration, these annual census reports disclosed an approximately seven percent increase in the employment status of Blacks.<sup>21</sup>

By 1963, the Committee on Equal Employment Opportunity had entered into “affirmative action” agreements with 115 companies which employed more than

five and one half million persons and with 117 AFL-CIO union affiliates which represented almost thirteen million workers.<sup>22</sup> Morgan notes that:

Labor leaders credited the Committee's success in securing changes both to its vigorous support by the President and to the assurance from Committee members that sanctions would be applied. The President's Committee on Equal Employment Opportunity reported in 1963, for the first time, that there has been a basic change in attitude on the part of most of the managers of American industry and the heads of our responsible labor unions. This was substantiated at a Senate Hearing in 1963 by witnesses who stated that they had been aware of a new attitude within the past year and felt it was due to the fact that Washington had been pressing harder.<sup>23</sup>

The Committee's efforts to alleviate problems of racial discrimination in employment were given more than token support by the President. Kennedy lent the aura and prestige of the Presidency to the drive for equal employment opportunity by calling frequent meetings at the White House to which prominent professional, business, labor, religious, and educational leaders were invited so that the President could solicit their support, particularly in their own local areas, for the cause of human rights. Fleming reports that "the dimensions of this effort were impressive: within a forty-day period, there were twenty-one such meetings, attended by some 1700 persons."<sup>24</sup> Kennedy's attempt to involve community leaders in the struggle constituted recognition of the fact that real progress depended on changes in the thought processes and behavior patterns of the population, changes that could not be brought about by the government acting alone.

In all, Executive Order 10925 was the most forceful step taken by the Executive branch up to that time to make equal employment opportunity a reality. It improved the employment status of Blacks so markedly that Roy Wilkins, late head of the NAACP, remarked "JFK's stamp

on employment is clearly visible."<sup>25</sup> The order still stands as a milestone in the quest for racial equality.

#### Executive Order: Housing

Kennedy's second executive order in the civil rights field pertained to racial discrimination in housing. One of John Kennedy's most explicit 1960 campaign pledges was his promise to sign an executive order ending racial discrimination in housing "with the stroke of a pen."<sup>26</sup> However, despite urgings by civil rights groups, Kennedy refused to sign such an order until November, 1962, more than two years after the initial promise was made. The principal reason for the delay was largely a political one. Early in his Administration, Kennedy had asked Congress to establish a Housing and Urban Affairs Department as one of the executive departments of the government and he planned to name as the nation's first Secretary of Housing, Robert Weaver, a Black. The President feared that if he issued a housing order before Congress acted on his request, his hopes for the establishment of a Department of Housing and Urban Affairs, and for the appointment of Weaver as the nation's first Black Cabinet member, would be dashed. Therefore, he delayed the issuance of such an order until a politically more propitious time. When it became clear that Congress was not likely to act favorably on his request, he issued the housing order on November 24, 1962.

Executive Order 11063 was designed to curtail racial discrimination in federally assisted housing. In it, Kennedy directed all departments and agencies in the executive branch of the Federal Government to take all action necessary and appropriate to prevent discrimination because of race, color, creed or national origin in the sale, leasing, or rental of residential property if such property was owned or financed either in whole or in part by the Federal Government.<sup>27</sup> The Order also established the President's Committee on Equal Opportunity in Housing<sup>28</sup> which had the responsibility of recommending procedures to implement the Order, studying progress reports submitted under its purview, and making at least one an-

nual report to the President which “shall include references to the actions taken and results achieved by departments and agencies subject to this order.”<sup>29</sup>

The Order, as it emerged from the White House, came as something of a disappointment to civil rights groups. Prior to issuing the Order, Kennedy had been advised by the Civil Rights Commission, by civil rights groups, by builders, and by Robert Weaver himself that his housing order should include not only federally assisted (Federal Housing Administration and Veterans Administration) housing, but also commercially financed (bank) housing. However, Burke Marshall, head of the Civil Rights Division of the Justice Department, reported that he had advised the President not to include commercially financed housing in his housing order. Marshall pointed out:

it was a pretty drastic step legally and constitutionally for a President to try to do that without, of course, any consent or approval from Congress. I . . . had and still have doubts about the President’s power to do it . . . The second problem was that the FDIC didn’t think that it could do that . . . and thirdly, we thought, and the President thought, that with a matter as emotional and difficult as housing integration that one bite was better than a whole meal on the first leg.<sup>30</sup>

For these reasons and also because of his fear that an all-inclusive order would have a deleterious effect on housing starts,<sup>31</sup> Kennedy decided to exclude commercially assisted housing from the purview of his order. Also, the President refused to broaden the scope of his housing order at any time during the life of his Administration. As late as a September 12, 1963 press conference, Kennedy was asked whether he was about to issue a more sweeping order on housing. He replied “No. The order we now have is the one we plan to stand on.”<sup>32</sup>

A second feature of the Order which disappointed civil rights activists was that it applied to housing built under federal assistance agreements executed *after* the Order’s date of issuance. Thus, it ex-

cluded federally assisted housing already built and this type of housing naturally comprised the lion’s share (approximately 80 per cent) of all federally assisted housing in the nation.<sup>33</sup> With reference to racial discrimination in already existing housing, Kennedy urged, in his Executive Order, that government agencies, including the Housing and Home Finance Agency, should use “their good offices” to promote and encourage the abandonment of discriminatory practices and to take appropriate action, including the institution of litigation,<sup>34</sup> to bring about this objective.

Because the Kennedy Order reached such a small proportion of the nation’s housing, it could not be particularly effective in curbing racial discrimination. Also, administrative interpretation further diluted the Order’s scope since housing that was not located in commercially developed neighborhoods came to be excluded.<sup>35</sup> So limited was the reach of the Kennedy Order that patterns of racial discrimination in housing were largely untouched by it. It was not until Lyndon B. Johnson signed the Federal Open Housing Law in April, 1968, that real change began to be realized.

While Kennedy has been faulted for refusing to issue a housing order for two years after his election, such delay was mandated by the political realities which the new President faced. The price paid at the hands of powerful members of Congress for an early issuance of a housing order might well have been prohibitively high. Nevertheless, Kennedy justifiably can be faulted for finally culminating his housing efforts in an order which was so limited in scope as to be essentially meaningless. Although Executive Order 11063 did pave the way for the much broader housing action taken by the government in 1968, it did not, in itself, alter deep-set patterns of racial discrimination in housing in any significant way.

#### Appointments to the Bench

One of the most controversial aspects of John Kennedy’s civil rights record lies in his appointments to the federal courts, particularly those of the Fifth Judicial

Circuit which includes much of the South. Miroff states that a quarter of Kennedy's Fifth Circuit appointments were segregationists<sup>36</sup> while Curzon puts the figure at a third.<sup>37</sup>

The President who nominated more Blacks to the federal bench than all of his predecessors combined also named five committed segregationists to the Bench in the judicial circuit which covers Mississippi, Georgia, Alabama, Louisiana, Florida and Texas. Judges William H. Cox of Mississippi, Robert Elliot of Georgia, E. Gordon West of Louisiana, and Clarence Allgood and Walter Gewin of Alabama<sup>38</sup> became rather notorious for the hostility they demonstrated towards Blacks and towards white civil rights advocates in proceedings before their courts. There has been much debate surrounding the appointment of these men by Kennedy since they stood at sharp cross purposes to those of the Administration. Navasky writes:

The Kennedy Justice Department was forced to devote thousands of man hours, hundreds of thousands of dollars, untold energy, imagination and brilliance, all to counter the obstructionist tactics of its own appointees.<sup>39</sup>

Several reasons have been offered to explain these Kennedy "mistakes" but none seems fully to justify them. However, these "reasons" are noted below since they may at least serve to put Kennedy's record somewhat into perspective. First, it is argued that each judge received the support of the American Bar Association, an important link in the appointment process. Judge Cox, for example, perhaps the most notorious appointee, was rated "Extremely Well-Qualified" by the A.B.A.<sup>40</sup> Second, some prominent Black leaders actually supported at least two of these appointments. Navasky reports that the local NAACP supported Elliot's appointment<sup>41</sup> and Black leaders in Birmingham backed that of Allgood.<sup>42</sup> Third, Kennedy confronted southern congressional power in the appointment process and bowed to it in these five instances. The Chairman of the Judiciary Committee, Senator James Eastland (D.-Mississippi) was important

to all of the Justice Department's sponsored legislation. Judge Cox was a close friend of Senator Eastland and the Judiciary Committee Chairman favored his appointment. In addition, Jacob suggests that "no candidate with more liberal views could win the support of Mississippi's two Senators."<sup>43</sup> Fourth, shortly after Kennedy became President, Congress created seventy-one new judgeships, giving Kennedy an inordinately large number of judicial posts to fill. Navasky points out that "the administrative burden of processing such an extraordinary volume of judgeships took its toll in a failure to focus on the damage these men might do . . ." <sup>44</sup> Fifth, the F.B.I. investigations of judicial appointees are not thorough in terms of the individual's racial views. Burke Marshall has termed such investigations "worthless."<sup>45</sup> Finally, the President normally plays a small role in the designation of judges at levels below that of the Supreme Court. Instead he relies primarily on the Attorney General's clearance for his lower federal court appointments and in that process, the advice of senators is very important.

Ironically, Judge Cox had met with Attorney General Robert Kennedy prior to his nomination and had assured the Attorney General that he intended to carry out faithfully the directives of the Supreme Court.<sup>46</sup> His assurances went for naught, however, and Cox became one of the most malignant of judicial obstructionists of civil rights, actually referring to Blacks in open courtroom as "niggers" and "chimpanzees."<sup>47</sup>

It is worth noting that Kennedy's worst judicial appointments relative to civil rights were made in the early months of his administration. As the Administration matured, the President's southern judicial appointments improved considerably. Curzon points out that in addition to his five segregationist appointments, Kennedy named eight integrationists to the Fifth Circuit federal bench as well as three moderates.<sup>48</sup> In her reckoning, fifty per cent of Kennedy's southern judicial appointees were clearly integrationists who used their powers to implement the Supreme Court's various civil rights rulings.

Although Kennedy made a number of excellent judicial appointments in the south, his total record there was not impressive. Kennedy's personal commitment to the Black cause was one which deepened over time. By 1963, his commitment was firm but the implementation of that commitment was being impeded in the South by several of the judges named by Kennedy himself to life-long positions on the federal bench. This was particularly troubling since the Kennedy Administration had decided initially to forego the legislative route to civil rights progress and rely instead on executive action and litigation. The stressing of litigation and the almost simultaneous appointing of segregationist judges to the southern bench is an anomaly which stands as a damaging indictment of the Kennedy Administration.

Senatorial politics undoubtedly played a role in the process of judicial appointment. James Eastland and his Judiciary Committee served as the board of first review for all of Kennedy's judicial appointments. But Burke Marshall has reported that contrary to common belief, ". . . Senator Eastland was not hard to deal with on judicial appointments."<sup>49</sup> Possibly Eastland's "easiness" can be attributed to the fact that so many of Kennedy's southern appointments were to his liking. Harold Cox, after all, had been his close friend since college days and both Eastland and Mississippi Governor Ross Barnett had recommended Cox to Kennedy for the federal bench.<sup>50</sup>

Nevertheless, senatorial politics had not operated to prevent eight Kennedy appointed integrationists from also taking their place on the southern courts. The processes of senatorial consultation and confirmation as well as that of senatorial courtesy allow a President a reasonable degree of leeway. None of these processes would justify fully the placing of five staunch segregationists on the federal bench by an Administration which had pledged progress on the civil rights front. It is the weakest link in the Kennedy civil rights record and, for that matter, possibly the entire Kennedy Presidency.

#### Litigation and the Implementation of Court Orders

The 1960 Democratic Party Platform, strongly endorsed by Kennedy during his presidential campaign, emphasized that ". . .the Attorney General should be empowered and directed to file civil injunctive suits in Federal Courts to prevent the denial of any civil rights on grounds of race, creed or color."<sup>51</sup> After its election, the Kennedy Administration was true to this platform pledge. Between the enactment of the civil rights legislation of 1957 and the time it left office on January 20, 1961, the Administration of Dwight Eisenhower had filed a total of ten civil rights suits of all kinds. By the summer of 1963, the Kennedy Administration had filed more than four times that number.<sup>52</sup> Also, the Justice Department under Attorney General Robert Kennedy filed amicus curiae briefs in several other cases. For example, a few months after the Inauguration, the Department of Justice filed friend of the court briefs in four Louisiana school desegregation suits. Fleming notes that this was the first such initiative ever taken by the federal government for the purpose of facilitating desegregation of the nation's schools.<sup>53</sup>

Another pressing concern of the Kennedy Administration was that of interstate travel. In addition to successfully petitioning the Interstate Commerce Commission for an order outlawing segregation on interstate buses and in bus and railroad terminals, the Justice Department went to court on two occasions in a successful effort to end racial discrimination at airports.<sup>54</sup> Voluntary integration took place at thirteen additional airports under Justice Department pressure. It was during the Kennedy Administration that interstate land and air carriers, as well as the terminals they used, including waiting rooms, rest rooms and restaurants, were successfully integrated for the first time.

President Kennedy had decided at the very outset of his Administration to forego requests to Congress for new civil rights legislation and use instead judicial avenues opened to the government by the civil rights legislation passed in 1957 and

1960. The Administration used these judicial avenues in bringing transportation and school desegregation suits to court and, with even greater vigor, in filing voting rights cases.

Kennedy was convinced that the vote was the key to Black progress in the south. If millions of southern Blacks could freely exercise the franchise, southern White politicians necessarily would become more solicitous of their welfare or else risk defeat at the polls. Using provisions of the Civil Rights Acts of 1957 and 1960, Kennedy's Justice Department brought thirty-seven voter registration suits in the south by mid-1963.<sup>55</sup> The bulk of these were filed in Mississippi with the remainder scattered throughout Alabama, Georgia, Louisiana, and Tennessee. This record far outstrips that of the immediately preceding Eisenhower Administration which had filed a total of only six voting rights suits under civil rights statutes.<sup>56</sup>

Although resorting frequently to litigation, Kennedy remained very conscious of political realities in the south. He was keenly aware of his need for southern votes in Congress and went out of his way to cultivate and even protect moderate southern Democrats such as Olin Johnston of South Carolina and John Sparkman and Lister Hill of Alabama. For example, in 1962 the Justice Department was prepared to file several voting rights suits in Alabama precisely at a time when Lister Hill, an Administration friend, was seeking re-election to the United States Senate. In an effort to protect Senator Hill, Attorney General Kennedy decided to postpone the filing of this litigation until after the Alabama Democrat had been safely re-elected.<sup>57</sup> The delay, however, was only temporary. As soon as Hill was returned to the Senate, the suits were filed.

In general, the Kennedy Administration took a positive stance toward the strategy of litigation as a remedy for racial inequality and its record in actually going to court as either a litigant or an *amicus curiae* was a strong one. Attorney General Robert Kennedy was particularly an activist in this regard. According to Burke Marshall, the Attorney General was al-

ways anxious to find appropriate suits that could be filed and pushed the staff of his civil rights division to come up with suitable court tests.<sup>58</sup> Additionally, the Justice Department, after each successful resolution of a suit, collected compliance reports which it then investigated for accuracy.<sup>59</sup>

Two of the most dramatic actions taken by the Kennedy Administration came in implementing court orders. Both involved the compelling of southern Governors and other State officials to obey the orders of federal courts to desegregate their state universities. In each instance, the Kennedy Administration acted forcefully, although with restraint, to carry out the dictates of the law.

In the fall of 1962, Mississippi Governor Ross Barnett, acting in defiance of federal court orders, attempted to block the enrollment of a Black student, James Meredith, at the University of Mississippi.<sup>60</sup> The Administration, faithful to the constitutional requirement that it "see to it that the laws be faithfully executed," refused to back down from its demand that Meredith be admitted. After a frustrating series of more than twenty telephone conversations between Barnett and Administration officials failed to produce a workable compromise, a confrontation became inevitable. Barnett delivered a televised speech to the people of Mississippi in which he attempted to interpose the power of his state over that of the federal government and in which he promised, "I shall do everything in my power to prevent integration in our schools."<sup>61</sup>

The Kennedy Administration met Governor Barnett's intransigence and open defiance of federal law firmly and with resolve. The President sent 550 federal marshalls to the Ole Miss campus to protect Meredith, federalized the Mississippi National Guard, delivered a televised speech to the nation promising to uphold the law of the land and the orders of the court and then, in the face of severe rioting on the campus which left two dead and hundreds injured, ordered 23,000 federal troops in to the state of Mississippi. The orders of the court were implemented and Meredith



registered at the University of Mississippi and began to attend classes.

The second, although less dramatic, enforcement of federal law occurred nine months later in the state of Alabama. In a court decision similar to that involving James Meredith the preceding year, the University of Alabama was ordered to admit two Black students and bring to an end its tradition of racial segregation.<sup>62</sup> The Governor of the state, George Wallace, had pledged that Alabama would never yield to integration in education and seemed ready to engage in a defiant charade similar to that played out by Governor Barnett some months before. President Kennedy made clear that disobedience of a federal court order would not be tolerated. At a press conference on May 22, 1963, Kennedy remarked:

I know there is great opposition in Alabama, and indeed in any state, to Federal marshalls and Federal troops. And I would be very reluctant to see us reach that point. But I am obligated to carry out the court order. That is part of our constitutional system. There is no choice in the matter. We are a people of laws and we have to obey them.<sup>63</sup>

Working behind the scenes, the Kennedy Administration tried to enlist the aid of leading citizens of Alabama in the struggle to peacefully integrate their state university. Burke Marshall reported:

I think there must have been about a hundred phone calls made by members of the cabinet to businessmen in Alabama during the two, three, four weeks before Tuscaloosa . . . It had an effect on Wallace at least in that I think he promised so many people that there wouldn't be any violence that we were fairly confident that he would do everything that he could to prevent it.<sup>64</sup>

Although Governor Wallace stood in the doorway of the university administration building on June 11, 1963, in a largely symbolic gesture, the Black students entered the campus without real incident. As an added show of resolve, the President federalized the Alabama National Guard

and Wallace capitulated completely. The court order was implemented and the University of Alabama became the fiftieth state university to become an integrated institution.

In all, the performance of the Kennedy Administration in successfully resorting to judicial remedies in the areas of voting rights, education, and interstate travel is an excellent one. Although the tenure of this President was rather brief, the accomplishments reached in each of these areas were due, in part, to his frequent recourse to litigation to further the goals of integration and to the firm implementation of federal court orders by the President, the Attorney General and the Civil Rights Division of the Department of Justice.

#### Legislation

During much of the Kennedy Administration, civil rights activity was concentrated in non-legislative areas. This strategy was a purposeful one marked out by the President at the very beginning of his Administration. At a press conference held six weeks after his Inauguration, Kennedy was asked whether he saw the need for new legislation in the area of civil rights. He replied, "When I feel that there is a necessity for a Congressional action, with a chance of getting that Congressional action, then I will recommend it to the Congress."<sup>65</sup> In fact, Kennedy did not make such a recommendation until the final months of his Administration, at a time when the first real brunt of the civil rights revolution was reaching fever pitch in many parts of the nation.

Kennedy's protracted reticence in going to Congress can be attributed to several important considerations. First, on the day that voters gave him a narrow victory for the Presidency, the Republican Party, although still in the minority, gained twenty-one seats in the House of Representatives and two in the Senate. This meant that the political opposition to Kennedy would be larger and that Congress would be more conservative. Congressman Richard Bolling (Democrat-Missouri) has estimated that the conservatives enjoyed a 224–213 numerical majori-

ty in the House during Kennedy's first two years in office. That majority would be increased to 227–208 in 1963.<sup>66</sup> The arithmetic of this situation posed grave difficulties for Kennedy in terms of civil rights since the more liberal eighty-sixth Congress had defeated civil rights legislation during the summer of 1960. According to Theodore Sorensen, the Congresses which Kennedy faced were so conservative that even Black leaders did not believe that a civil rights bill could pass.<sup>67</sup>

Second, in 1961 the Republican members of the House elected a new leader. Deposing the aging Joseph Martin of Massachusetts in part because he did not offer sufficiently vigorous leadership, Republicans chose conservative Charles Halleck of Indiana as their new minority leader. Halleck was an aggressive partisan who was known not only as a staunch conservative but also as a Republican gut-fighter who would lead a combative assault on Kennedy's legislative program. One study found that under Halleck, the Republicans gave Kennedy less support than any opposition party has given any President between 1954 and 1970.<sup>68</sup> This Indiana conservative proved to be such a strict taskmaster, even threatening to withhold Republican campaign funds from Republican members who might be unwilling to toe the party line,<sup>69</sup> that he was finally replaced in 1965 by the more genial Gerald Ford of Michigan. Nevertheless, Halleck was a formidable problem which Kennedy had to face throughout the three years of his Administration.

Third, the "revolution" which took place in Congress during the 1970s might make one forget how powerful the old south was in both Houses of Congress in the early 1960s. Of the twenty standing committees in the House during the Kennedy years, ten were chaired by southerners. The corresponding number in the Senate was nine out of sixteen. A potent alliance existed during Kennedy's tenure between southern Democrats and the Republican opposition. For example, in the January, 1961 battle to expand the size of the House Rules Committee, sixty-two out of ninety-eight southern Democrats joined hands with the overwhelming ma-

majority of Halleck-led Republicans in a narrowly unsuccessful attempt to block the change.<sup>71</sup>

Kennedy was keenly aware of the potency of this alliance and worked very diligently to dissipate it. In fact, he realized only too well that in order to get *any* of his major legislative proposals enacted, he would need the votes of approximately half the southern Democrats. To propose civil rights legislation early in his Administration, Kennedy would risk losing the votes of these southern Democrats on everything.

It is sometimes tempting to believe that Kennedy's difficulties with Congress were due, in part, to his weakness as a party leader and to the companion weakness of the Democratic leadership in Congress. In the early 1960s, Congressional Democrats in both Houses acquired new leadership and that leadership would prove to be much less potent than in the immediate past. In the Senate, the forceful Lyndon Johnson was succeeded by the able but easy-going Mike Mansfield of Montana and in the House, following the death of Sam Rayburn, the potentially formidable powers of Speaker of the House passed into the hands of John McCormack, an elderly Massachusetts Democrat who had long since passed his prime.

However, despite the ascent of Mansfield and McCormack, Kennedy scored well in terms of party support during his three years in the White House.<sup>72</sup> In fact, after comparing Kennedy's support levels among Congressional Democrats (1961–1963) with Lyndon Johnson's (1963–1969), Cooper and Bombardier concluded that "the critical variable in Johnson's success was the increase in the number of Democrats in general and northern Democrats in particular."<sup>73</sup>

Even Kennedy's attempts to entice southern Democrats away from their marriage with the Republican opposition seem to have encountered considerable success as the Administration matured. Brzezinski and Huntington wrote that:

In the struggle over the Rules Committee in 1963 the Administration picked up twelve more southern Democratic

votes than it had in 1961. In the 1963 vote concerning an urban affairs department, twenty more southern Democrats voted with the Administration than had sided with it on a comparable issue in 1962.<sup>74</sup>

Inept leadership of his own party in Congress was clearly not one of Kennedy's problems. Even Charles Halleck, his legislative nemesis, has admitted that Kennedy "was really effective with the Congress."<sup>75</sup> The problem, then, did not lie with the Democrats but rather with a vigorously led and unusually united opposition party. It was to plague Kennedy throughout his almost three years in the White House.

One final and very important element which made Kennedy reluctant to go to Congress for civil rights legislation was simply the state of the national public consciousness. The 1950s had been a time of quiet, a time when most potentially explosive problems lay dormant. In the early 1960s, President Kennedy confronted a nation that was largely asleep. Although events would eventually shake the nation from its slumber, those events would not be brought to a peak until well into the Kennedy years. Genuine equality would entail such a fundamental change in the American lifestyle that to push meaningful civil rights legislation at a time when most of the nation failed to see the need for that legislation would be only a hollow gesture. Therefore, Kennedy decided initially to forego requests for a civil rights legislation and to push instead for programs that would be indirectly of great benefit to Blacks, such as an increase in the minimum wage, medicare and federal aid to education.

By 1963, however, as a result of the publicity engendered by the Freedom Rides and the battle to successfully integrate the University of Mississippi, public notice began to be turned to the civil rights front. Taking advantage of this changing public climate, Kennedy sent his first civil rights message to Congress. In February, 1963, the President urged that Congress pass legislation designed particularly to enhance the right to vote. His

message called for the establishment of a minimum presumption of literacy, the expediting of voting litigation, and the prohibition of two standards of voter qualification, one for Blacks, the other for Whites. Also, it urged provision for the appointment of temporary voting referees while a federal suit was being adjudicated, advocated a strengthening of the Civil Rights Commission and held out technical and financial assistance to desegregating school districts.<sup>76</sup> This largely moderate proposal made scarcely a ripple in Congress and received scant notice throughout the country. However, events would soon occur that would allow the civil rights struggle to dominate the public consciousness. These same events would make Kennedy's February proposals outdated before they could be considered seriously by Congress.

In April, 1963, civil rights groups began a nonviolent assault on the segregated institutions of Birmingham, Alabama. Sit-ins at lunch counters were the first tactic, and these were followed by marches and mass demonstrations. Representatives of the news media poured into Alabama and the front pages of newspapers and television news programs began to give prominent coverage to the ensuing struggle. When arrest and imprisonment failed to stem the disturbances, the Birmingham police force turned to fire hoses and police dogs as an alternative. The result was profound. Theodore White writes:

The police dogs and the fire hoses of Birmingham have become the symbols of the American negro revolution—as the knout and the cossack were symbols of the Russian Revolution. When television showed dogs snapping at human beings, when the fire hoses thrashed and flailed at the women and children, whipping up skirts and pounding at bodies with high-pressure streams powerful enough to peel bark off a tree—the entire nation winced as the demonstrators winced.<sup>77</sup>

Sympathy demonstrations began to break out in many parts of the country. The Justice Department has estimated that within ten weeks of the Birmingham

crisis, almost 800 demonstrations took place across the nation and that during the summer of 1963, almost 14,000 demonstrators were arrested in the southern states alone.<sup>78</sup> Now, finally, the nation had been shaken out of its slumber. The civil rights movement had become a civil rights revolution. Public attention was riveted on the problem as never before. President Kennedy took advantage of these developments and placed himself in the forefront of this revolution.

On June 11, Kennedy addressed the nation, speaking of the civil rights question in moral, as well as legal, terms. In one of the most memorable addresses of his Presidency, he told the American people:

We are confronted primarily with a moral issue. It is as old as the scriptures and is as clear as the American Constitution. The heart of the question is whether . . . we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark, cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for public officials who represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place? Who among us would then be content with the counsels of patience and delay? . . . We preach freedom around the world, and we mean it, and we cherish our freedom here at home, but are we to say to the world, and much more importantly, to each other that this is a land of the free except for the Negroes, that we have no second class citizens except for the Negroes, that we have no class or caste system, no ghettos, no master race, except with respect to the Negroes? . . . Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this century to the proposition that race has no place in American life and law.<sup>79</sup>

Eight days later, President Kennedy sent to Congress a Civil Rights Bill that

dwarfed his legislative requests of the preceding February. This new legislation was designed to accomplish a broad range of objectives. It prohibited denial of the right to vote because of immaterial errors or omissions on voting application forms, prohibited the use of literacy tests unless such tests were administered to every individual and in writing, and made a sixth grade education in English presumption of literacy. In a key section, it guaranteed equal access to public accommodations such as hotels, motels, restaurants, and places of amusement.<sup>80</sup> The legislation also empowered the federal government to stop federal funding for programs which were being administered in a discriminatory manner, entitled the Justice Department to enter into any pending Civil Rights cases, extended the powers of the Civil Rights Commission, established a permanent Commission on Equal Employment Opportunity, and set up a Community Relations Service within the Department of Commerce to try to resolve disputes based on race, color, or national origin.<sup>81</sup>

One of the key tactics employed by civil rights groups to build support for the legislation consisted of a massive "March on Washington." Civil Rights leaders such as Martin Luther King and Bayard Rustin planned on leading a large, peaceful demonstration in the capital as a sign of biracial support for the legislation. At first Kennedy was wary of the plan, fearing that any incidents of violence would only endanger the bill's passage. But eventually, the Administration came to back it wholeheartedly with the Attorney General so fervently in support that the March's coordinator, Bayard Rustin, remarked, "He almost smothered us. We had to keep raising our demands to keep him from getting ahead of us."<sup>82</sup>

The March on Washington saw a quarter of a million persons of all races peacefully assemble in Washington on August 28, 1963 to demonstrate their support for the Civil Rights Bill and for an over-all improvement in the Black condition. Prior to the March, Kennedy had announced at a press conference that he would "be glad to see the leaders of the or-

ganizations who are participating on that day.”<sup>83</sup> The co-ordinators of the demonstration asked for a meeting with the President on the 28th and were warmly received by him at the White House.

On the Congressional front, however, events had not progressed as smoothly. Southern Democrats, as expected, were displeased by the legislation and in both the House and Senate, Republicans tended to be lukewarm. Minority leader Halleck proved to be particularly troublesome. It is reported that after one meeting with Halleck that had lasted almost two hours, the President remarked, “Trying to touch Charlie is like trying to pick up a greased pig.”<sup>84</sup> Shortly before his assassination, however, Kennedy assured the passage of his Civil Rights Bill when he won the Republican House leader’s promise of support.<sup>85</sup> In the Senate, Republican leader Everett Dirksen of Illinois had already joined forces with the Bill’s backers. The support of Dirksen and Halleck was vital because it meant that the southern Democrats would stand essentially alone when they launched their final assault on the legislation.

Kennedy, of course, did not live to see his civil rights bill become law. However, his actions during the summer and fall of 1963 paved the way to the Bill’s passage. While Lyndon Johnson commonly is credited with the enactment of the Civil Rights Law of 1964, that law undoubtedly would have been passed by Congress if Kennedy had lived. Mike Mansfield, former Senate majority leader, remarked, “The assassination made no real difference. Adoption of the tax bill and the Civil Rights Bill might have taken a little longer, but they would have been adopted.” Everett Dirksen, the late Senate Minority Leader, pointed out, “This program was on its way before November 22, 1963. Its time had come.” Charles Halleck agreed by saying, “The assassination made no difference. The program was already made.” And Carl Albert, Majority Leader of the House at the time, added, “The pressure behind this program had become so great that it would have been adopted in essentially the same form whether Kennedy lived or died.”<sup>86</sup>

In short, the Civil Rights Law of 1964 clearly bears the imprint of John Kennedy’s hand. It was he who sponsored the legislation initially, he who worked out necessary compromises with Congressional leaders, and he who contributed to a national climate which made passage of this major legislation possible. In a very real sense, the Civil Rights Act of 1964 was Kennedy’s own.

### Conclusion

After an investigation of the major criteria by which we proposed to judge the Kennedy Administration’s record in the area of civil rights, it must now be evident that the record contains both striking accomplishments and glaring weaknesses. The weak elements include the appointment of five racist judges to the federal bench and the issuance of a relatively meaningless housing desegregation order. Despite the fact that these weak elements cannot be overlooked in this evaluation, they seem rather overshadowed by the strong points in the Kennedy record. The accomplishments of the Kennedy Administration in civil rights include the President’s appointment of Blacks to high office, his Executive Order effectively dealing with the employment practices of the federal government and all its subcontractors, his vigorous institution of lawsuits to further the right of Black citizens to vote, to attend desegregated public schools and to travel freely in interstate commerce, his forceful implementation of federal court orders and his substantive civil rights proposals finally passed by Congress several months after his assassination. So powerful were Kennedy’s contributions in these areas that Brauer judges him to have “led the nation to its Second Reconstruction.”<sup>87</sup>

It is undoubtedly true that events in the early 1960s acquired a momentum all their own. The Freedom Rides, Sit-ins and Marches all called attention to the problem of racism and made some response by the Executive Branch mandatory. It is to John Kennedy’s credit that his response was so positive. Instead of trying to stem the tide of reform, he moved into a position of leadership in that tide. Instead of declining, as some

other Presidents have done, to take any positive action on civil rights, Kennedy clearly, even if belatedly, established himself as a strong supporter of equal justice, even though that support had a markedly negative impact on his popularity in the south. Considering his over-all civil rights record, John F. Kennedy emerges as an emancipator President and his rather brief administration stands as a potent force in the struggle for human freedom and equality.

### Notes

1. See for example, Arthur M. Schlesinger, Jr., *A Thousand Days*, Boston: Houghton-Mifflin, 1965; Theodore C. Sorensen, *Kennedy*, New York: Harper and Row, 1965; Bruce Miroff, *Pragmatic Illusions: The Presidential Politics of John F. Kennedy*, New York: David McKay Company, 1976; Henry Fairlie, *The Kennedy Promise*, Garden City, New York: Doubleday, 1973; Tom Wicker, *Kennedy Without Tears*, New York: Morrow, 1964.
2. Theodore Sorensen, *op. cit.*, p. 470.
3. Harry Golden, *Mr. Kennedy and the Negroes*, New York: World Publishing Co., 1964, p. 7.
4. Bruce Miroff, *op. cit.*, p. 269.
5. Thomas Bailey, *Presidential Greatness*, New York: Appleton-Century-Crofts, 1966, p. 330.
6. Sorensen, *op. cit.*, p. 473.
7. Burke Marshall, *Oral History*, May 29, 1964, p.3, John F. Kennedy Library, Boston, Mass.
8. Vance Hartke, *Inside the New Frontier*, New York: MacFadden Books, 1962, p. 146.
9. Alexander M. Bickel, "Civil Rights: A New Era Opens," *John F. Kennedy and the New Frontier*, ed. Aida Di Pace Donald, New York: Hill and Wang, 1966, p. 156.
10. Sorensen, *op. cit.*, p. 473.
11. *Personal Papers of Robert F. Kennedy*, Letters of May 9, 1961, John F. Kennedy Library, Boston, Massachusetts.
12. Arthur M. Ross and Herbert Hill, eds., *Employment, Race and Poverty*, New York: Harcourt, Brace and World, 1967, p. 362.
13. Sorensen, *op. cit.*, p. 477.
14. Victor Navasky, *Kennedy Justice*, New York: Atheneum, 1971, p. 108.
15. *Code of Federal Regulations, Title 3, The President*, Washington, D.C.: U.S. Government Printing Office, 1964, p. 448.
16. *Ibid.*, pp. 449-450.
17. *Ibid.*, p. 452.
18. Sorensen, *op. cit.*, p. 474
19. Harold Fleming, "Federal Executive and Civil Rights," *Daedalus*, Fall, 1965, p. 932.
20. Burke Marshall, *Papers*, Box 3, p. 3, John F. Kennedy Library, Boston, Massachusetts.
21. Ross and Hill, *op. cit.*, p. 362.
22. Ruth P. Morgan, *The President and Civil Rights*, New York: St. Martin's Press, 1970, p. 56.
23. *Ibid.*
24. Fleming, *op. cit.*, p. 943.
25. Roy Wilkins, *Oral History*, August 13, 1964, p. 28, John F. Kennedy Library, Boston, Mass.
26. Burke Marshall reports that Kennedy later joked ruefully about his "stroke of the pen" remark. He says "the President kept muttering the phrase" asking, "Who put those words in my mouth." (*Oral History*, p. 55.)
27. *Code of Federal Regulations, op. cit.*, p. 653.
28. The membership of the President's Committee on Equal Opportunity in Housing included the Secretaries of the Treasury, Defense, Agriculture, the Attorney General, the Housing and Home Finance Administrator, the Administrator of Veterans Affairs, the Chairman of the Home Loan Bank Board, a member of the staff of the Executive Office of the President and occasional members of the public appointed by the President.
29. *Code of Federal Regulations, op. cit.*, p. 655.
30. Burke Marshall, *Oral History*, p. 57.
31. Ruth Morgan reports that the National Association of Home Builders opposed any housing order. In July, 1962, the group sent a report to the President emphasizing that new building would be sharply reduced if an executive order were issued. The report indicated a minimum loss of three billion dollars on the gross national product, should racial discrimination in housing be prohibited. (Morgan, *op. cit.*, p. 66).
32. Harold W. Chase and Allen H. Lerman, eds., *Kennedy and the Press*, New York: T.Y. Crowell, 1965, p. 492.
33. Allan Wolk, *The Presidency and Black Civil Rights*, Rutherford, New Jersey: Fairleigh Dickinson University Press, 1971, p. 36n.
34. *Code of Federal Regulations, op. cit.*, p. 653.
35. Louis W. Koenig, *The Chief Executive*, New York: Harcourt, Brace and Jovanovich, 1975, p. 317.
36. Miroff, *op. cit.*, p. 240.
37. Mary H. Curzon, "A Case Study in the Selection of Federal Judges: The Fifth Circuit, 1953-1963," unpublished Ph.D. dissertation, Yale University, 1968.
38. For an understanding of the civil rights attitudes of these judges, see their opinions in such cases as: *Davis v. East Baton Rouge Parish School Board* (214 F. Supp. 624, 1963); *Armstrong v. Board of Education* (323 F. 2d. 333, 1963); *Congress of Racial Equality v. Douglas* (318 F. 2d. 95, 1963). Rather typical was this statement made by Judge Gordon West: "I personally regard the 1954 holding of the U.S. Supreme Court in the now famous Brown case as one of the truly regrettable decisions of all time. Its substitution of so-called 'sociological principles' for sound legal reasoning was almost unbelievable. . . ." (*Davis v. East Baton Rouge Parish School Board*, 214 F. Supp. 625, 1963).
39. Navasky, *op. cit.*, p. 245.
40. *Ibid.*, p. 250.
41. *Ibid.*, p. 257.

42. Burke Marshall, *Oral History*, p. 20.
43. Herbert Jacob, *Justice in America*, Boston, Little, Brown, 1972, p. 102.
44. Navasky, *op. cit.*, p. 259.
45. *Ibid.*, p. 112.
46. *Ibid.*, p. 250.
47. *Ibid.*, p. 245.
48. Curzon, *op. cit.*
49. Burke Marshall, *Oral History*, p. 16.
50. Ross Barnett, *Oral History*, May 6, 1969, p. 20, John F. Kennedy Library, Boston, Mass.
51. *National Party Platforms 1840-1972*, comp. David B. Johnson and Kirk H. Porter, Urbana: University of Illinois Press, 1973, p. 599.
52. Schlesinger, *op. cit.*, p. 935.
53. Fleming, *op. cit.*, p. 939.
54. Sorensen, *op. cit.*, p. 478.
55. Navasky, *op. cit.*, p. 204.
56. Bickel, *op. cit.*, p. 148.
57. Burke Marshall, *Oral History*, p. 15.
58. *Ibid.*, p. 14.
59. Bickel, *op. cit.*
60. *Meredith v. Fair*, 306 F. 2d. 374, 1962.
61. Ross Barnett, *Oral History*, pp. 15, 17.
62. *Lucy v. Adams*, 224 F. Supp. 79, 1963.
63. Chase and Lerman, *op. cit.*, p. 445.
64. Burke Marshall, *Oral History*, p. 108.
65. *Public Papers of the Presidents of the United States, John F. Kennedy, 1961*, Washington, D.C.: Government Printing Office, 1962, p. 157.
66. Randall B. Ripley, *Kennedy and Congress*, General Learning Press, 1972, p. 8.
67. Sorensen, *op. cit.*, p. 476.
68. Ripley, *op. cit.*, p. 23.
69. Tom Wicker, *J.F.K. and L.B.J.*, Baltimore: Penguin Books, 1968, p. 33; see, also, Robert L. Peabody, *The Ford-Halleck Minority Leadership Contest, 1965*, Eagleton Institute of Politics Studies in Practical Politics, 1966.
70. Probably the key element of this "revolution" is the reduction in the power of Congressional leaders. In the House, for example, Committee Chairpersons are now subject to removal by the party caucus for any number of reasons, including obstruction of the party will.
71. Ripley, *op. cit.*, p. 8.
72. *Ibid.*, p. 23.
73. Joseph Cooper and Gary Bombardier, "Presidential Leadership and Party Success," *Journal of Politics*, November, 1968, p. 1015.
74. Zbigniew Brzezinski and Samuel P. Huntington, *Political Power: U.S.A./U.S.S.R.*, New York: Viking Press, 1963, p. 286.
75. Charles A. Halleck, *Oral History*, March 22, 1965, John F. Kennedy Library, Boston, Mass.
76. *Public Papers of the Presidents of the United States, John F. Kennedy, 1963*, Washington, D.C.: Government Printing Office, 1964, pp. 221-230.
77. Theodore H. White, *The Making of the President, 1964*, New York: Atheneum, 1965, p. 170.
78. *Ibid.*, p. 171.
79. *Public papers of the Presidents of the United States, John F. Kennedy, 1963, op. cit.*, p. 469.
80. *Ibid.*, pp. 483-494.
81. *Ibid.*, pp. 487-494.
82. Navasky, *op. cit.*, p. 183.
83. Chase and Lerman, *op. cit.*, p. 475.
84. Benjamin Bradlee, *Conversations with Kennedy*, New York: W.W. Norton, 1975, p. 222.
85. Rowland Evans and Robert Novak, *Lyndon B. Johnson: The Exercise of Power*, New York: Signet Books, 1966, p. 399.
86. Schlesinger, *op. cit.*, p. 1030.
87. Carl M. Brauer, *John F. Kennedy and the Second Reconstruction*, New York: Columbia University Press, 1977, p. 320.