

“To Change the Face of America”

Father Theodore M. Hesburgh and the Civil Rights Commission

PAUL T. MURRAY

When President Dwight Eisenhower named Father Theodore Hesburgh to the United States Commission on Civil Rights in 1957, troops of the 101st Airborne Division patrolled the halls of Little Rock's Central High School to quell the furor surrounding a federal court order to admit nine black students. Arkansas's defiance of the Supreme Court's 1954 *Brown v. Board of Education* decision provoked African American leaders to demand federal support in enforcing the groundbreaking ruling. At the same time, southern segregationists embarked on a campaign of massive resistance to preserve the Jim Crow system. These heightened racial tensions were undoubtedly on Eisenhower's mind as he appointed the new commission's members. The president expressed the hope that the commission would have an “ameliorating effect” on the “aroused feelings, prejudices, [and] passions” generated by the struggle for civil

Paul T. Murray is Professor of Sociology at Siena College, Loudonville, New York. His research focuses on Catholic involvement in the modern civil rights movement. This research was supported by a grant from the Cushwa Center for the Study of American Catholicism. The author is grateful to Father Theodore Hesburgh, Harris Wofford, and Berl Bernhard for their willingness to be interviewed and for the helpful comments on an earlier draft of this article by an anonymous reviewer. Nicholas Comproski assisted this research as a summer intern.

rights.¹ With the selection of Father Hesburgh, the president got more than he expected. The Notre Dame president overcame his inexperience with civil rights to emerge as a strong advocate for African American equality.

Over the next fifteen years, African Americans won dramatic victories in their struggle for equal legal status. Many factors converged to produce these gains: innovative nonviolent strategies employed by grassroots activists; favorable media coverage of their protests; more tolerant attitudes among white Americans; affirmative court decisions; and, on occasion, executive leadership. By listening to those who suffered racial discrimination and translating their complaints into proposals for congressional and presidential action, Father Hesburgh and his colleagues on the Civil Rights Commission contributed significantly to the success of the movement for equal rights.

As the head of a university that had excluded African Americans for a century and enrolled only a handful of black students when he assumed Notre Dame's presidency in 1952, Father Hesburgh would have struck few observers as a leading activist for racial equality. During his decade and a half on the commission, however, Father Hesburgh became its most articulate spokesperson. He defined the denial of civil rights as a moral issue, a position that many political leaders and people of faith later embraced. In his writings and speeches, he expounded the commission's mission and fought to preserve its independence. Father Hesburgh teamed with John A. Hannah, the commission's first chair, to overcome sectional and partisan divisions among the six commissioners. Together they forged the Civil Rights Commission into an effective voice for enlightened government policy. Named chairman of the commission following Hannah's departure in 1969, Father Hesburgh fought the Nixon administration's efforts to slow the pace of school desegregation and criticized persistent racial bias in government agencies—a stance that ultimately caused his ouster from the commission.

While Father Hesburgh was an outspoken champion of equal rights on the commission, he was slow to recognize institutional racism at his university. The number of black students, black employees, and even black football players on the Notre Dame campus remained at token levels until the late 1960s. Not until angry African American students began

¹*Public Papers of the Presidents of the United States, Dwight D. Eisenhower, 1957: Containing the Public Messages, Speeches, and Statements of the President, January 1 to December 31, 1957* (Washington, D.C., 1958), 781.

demonstrating and threatening to disrupt high-profile athletic contests did Father Hesburgh address their grievances. Once he recognized the problem, however, he acted with decisive energy to remedy racial disparities at Notre Dame.

ORIGINS OF THE CIVIL RIGHTS COMMISSION

In his 1956 State of the Union address, President Eisenhower proposed a bipartisan commission to investigate “disturbing” allegations that “in some localities ... Negro citizens are being deprived of their right to vote.”² This was not the first time such a body had been suggested. At the end of World War II, returning African American veterans declared that it was time for the United States to live up to its promise of liberty and justice for all citizens. Widely publicized incidents such as the police attack that blinded recently discharged Army Sergeant Isaac Woodard—who was still in uniform at the time of the assault—raised a popular outcry for government action to curb blatant racial violence. Responding to intense lobbying from the National Association for the Advancement of Colored People (NAACP), President Harry Truman named a panel of fifteen prominent citizens to investigate the denial of civil rights and to suggest steps to “safeguard the civil rights of the people of the United States.” In its 1947 report, the Committee on Civil Rights advised creation of “an agency charged with the continuous appraisal of the status of civil rights, and the efficiency of the machinery with which we hope to improve that status.”³ Truman included this recommendation among the bills he sent to Congress, but opposition by southern lawmakers blocked its adoption. It would be another decade before Congress acted on the idea.

When Eisenhower revived the committee’s proposal, the *Brown* decision had unleashed powerful forces resisting discriminatory treatment and pushing for the elimination of racial segregation. The modern civil rights movement was in its infancy, developing the strategies that would win popular support for its objectives. Thurgood Marshall directed NAACP lawyers pressing for equal rights in the courts, while in Montgomery, Alabama, a young Martin Luther King Jr. was spearheading an historic

²*Public Papers of the Presidents of the United States, Dwight D. Eisenhower, 1956: Containing the Public Messages, Speeches, and Statements of the President, January 1 to December 31, 1956* (Washington, D.C., 1958), 25.

³*To Secure These Rights: The Report of the President’s Committee on Civil Rights* (New York, 1947), 154.

boycott of segregated buses. Meanwhile, southern whites rallied behind the Citizens' Councils to punish those who dared challenge the Jim Crow system. It was amidst this turmoil that Eisenhower instructed Attorney General Herbert Brownell to draft a civil rights bill. One provision called for a commission to investigate violations of civil rights, collect information on legal developments regarding equal protection, and make recommendations to the president and Congress.⁴ In congressional testimony, Brownell explained that investigations and hearings conducted by the commission "will bring into sharper focus the areas of responsibility of the Federal Government and of the States under our constitutional system. Through greater public understanding, therefore, the Commission may chart a course of progress to guide us in the years ahead."⁵ His words proved to be a prescient description of the commission's first fifteen years.

Overcoming congressional opposition to the civil rights bill took more than a year. Its most vociferous critic was South Carolina senator Strom Thurmond, who saw "no need or reason for the establishment of such a commission." Thurmond objected to the "virtually unlimited powers of inquiry" that would be invested in the commission. "I do not believe the people want such a totalitarian type of persuasion imposed on them," he protested.⁶ When the bill came for a vote on the Senate floor, Thurmond filibustered against it nonstop for a record twenty-four hours and eighteen minutes. Under the skillful guidance of Senate Majority Leader Lyndon Johnson, however, Congress eventually passed its first civil rights bill since Reconstruction.⁷

Compromises crafted during the lengthy debate weakened the legislation to the point that some of its sponsors complained it had been stripped of its most potent provisions. Illinois senator Paul Douglas grumbled that the new civil rights law had as much substance as "soup made from the shadow of a crow which had been starved to death."⁸ Former secretary of state Dean Acheson took a more positive view, praising the bill as "among

⁴Civil Rights Act of 1957, Pub. L. No. 85-315, 71 Stat., <http://www.law.umaryland.edu/marshall/usccr/documents/civriac.pdf>.

⁵Jocelyn C. Frye, Robert S. Gerber, Robert H. Pees, and Arthur W. Richardson, "The Rise and Fall of the United States Commission on Civil Rights," *Harvard Civil Rights-Civil Liberties Law Review* 22 (Spring 1987), 454.

⁶Frye, et al., "The Rise and Fall of the United States Commission on Civil Rights," 456.

⁷For a full account of Johnson's role in passing this bill see Robert A. Caro, *Master of the Senate: The Years of Lyndon Johnson* (New York, 2002).

⁸Michael O'Brien, *Hesburgh: A Biography* (Washington, D.C., 1998), 71.

the greatest achievements since the war, and, in the field of civil rights, the greatest since the Thirteenth Amendment.” Lyndon Johnson, who knew its limitations better than anyone, was more modest. “It’s just a beginning,” he said. “We’ve shown that we can do it. We’ll do it again in a couple of years.”⁹ Indeed, the act did little to change the racial status quo.

Father Hesburgh acknowledged that the bill reflected a desire to “salve the national conscience without taking any substantial action.”¹⁰ He recognized that presidential commissions often substituted for action on difficult problems: “It is standard practice for decision-makers to set up a study commission when they are not ready to act,” he wrote.¹¹ Such bodies produced lengthy reports laden with well-intentioned recommendations that were sometimes passed, but, more often than not, ignored.

The Civil Rights Commission proved exceptional in several respects. Asked what qualities he sought in its members, Eisenhower replied, “they ought to be men of national reputation ... people of thoughtful mien and type whose reputation is that of being of a judicial turn of mind.”¹² The commission did not disappear after its initial two-year term, but was renewed by Congress and continued as an influential voice for more than two decades.¹³ More importantly, it accomplished far more than skeptical observers originally predicted. The landmark civil rights legislation of the 1960s was shaped by the commission’s recommendations. Its success was due in large part to the integrity and persistence of the commissioners.

FATHER HESBURGH APPOINTED TO THE COMMISSION

At forty years old, Father Hesburgh was the most junior of the commission’s six members. He had been president of the University of Notre Dame since 1952 and had begun transforming the school—once primarily known as a football powerhouse—into a nationally respected institution of higher learning. He initiated an ambitious campus building program and was substantially expanding the university’s endowment.

⁹Harris Wofford, *Of Kennedys and Kings: Making Sense of the Sixties* (Pittsburgh, Pa., 1992), 462.

¹⁰*Ibid.*, 292.

¹¹Theodore Hesburgh, “The Commission on Civil Rights—and Human Rights,” *The Review of Politics* 34 (July 1972), 291.

¹²*Public Papers of ... Dwight D. Eisenhower, 1957*, 783.

¹³Frye and associates concluded that by the early 1980s the commission had become little more than “a public relations firm” for the Reagan administration’s efforts “to roll back advances in civil rights.” “The Rise and Fall of the United States Commission on Civil Rights,” 505.

He already had experience serving on prestigious advisory panels, including the National Science Board and the International Atomic Energy Agency. In 1957, however, he was not known as a leader in the field of civil rights.

As a boy growing up in Syracuse, New York, Ted Hesburgh had no contact with racial minorities. There were few blacks in upstate New York and none in his mostly Protestant middle-class neighborhood. His seminary training and early years as a theology professor and administrator at Notre Dame did little to prepare him for his eventual role as a spokesman for racial equality. For one hundred years, Notre Dame had operated as an all-white institution. During World War II, Father Louis Putz, a German-born Holy Cross priest, sought to change the university's exclusionary admission policy. He was told by administrators that "Notre Dame had some 400 students from the South, and that if 'Negroes' were allowed to come in, the Southern students would leave." Students working with Father Putz surveyed dormitory residents and found only two who objected to integration, but the administration refused to budge.¹⁴

Frazier L. Thompson, the first African American student enrolled at Notre Dame, entered in 1944 as part of the Navy's V-12 officer training program. Father Hesburgh later claimed that Thompson's presence had been due to a clerical error: "[The Navy] thought he was white when they invited him to the program, and when they swore him in, they found out he was black—which didn't take a genius; he looked black to me."¹⁵ The editors of *Ebony* magazine considered the presence of black students under the Golden Dome noteworthy enough to make it the cover story of their February 1950 issue. "Negroes at Notre Dame" profiled each of the newcomers—two undergraduates and five graduate students—and reported how "today men of the Blue and Gold eat, sleep, study, pray, and play together without regard for color."¹⁶ The experience of these pioneers, however, was not nearly as welcoming as the magazine depicted. Clyde Jupiter, a graduate student in physics, lived a mile off campus in an African American rooming house. He described the head of his department as "cordial, but distant." He felt isolated from his fellow students: "I

¹⁴Louis J. Putz, C. S. C., "Reflections on Specialized Catholic Action," *U. S. Catholic Historian* 9 (Fall 1990), 435-36.

¹⁵Stephanie Capparell, "A Veteran of the Fighting Irish on a Lifetime of Big Social Battles," *Wall Street Journal*, September 30, 2008. Two more black students were accepted soon after Thompson, who graduated from Notre Dame in 1947.

¹⁶"Negroes at Notre Dame," *Ebony*, February 1950, 21.

was not part of a study group, and we did not socialize off campus.” The most important rule governing the social lives of the black students was “thou shall not date a white woman.” When Jupiter was refused entry to a whites-only South Bend dance hall, university authorities pressured him to withdraw his legal complaint, rather than working to correct this problem.¹⁷ Tokenism characterized Notre Dame’s approach to racial integration well after Father Hesburgh assumed the university’s presidency. It would be two decades before the chilly campus climate warmed appreciably for African American students.

THE EISENHOWER YEARS

President Eisenhower weighed competing interests when selecting members of the Civil Rights Commission. Three were southerners and three hailed from the North. Three were Democrats, two were Republicans, and another—Father Hesburgh—was unaffiliated with either party. One was African American and all were men.¹⁸ Former Virginia governor John Battle was a confirmed segregationist, and the other southern members accepted the racial norms of their region. All three southerners had grandfathers who had fought for the Confederacy. John A. Hannah, a former Defense Department official and president of Michigan State University, was named commission chairman. Although he claimed not to know much about civil rights when appointed, his record as university president demonstrated a consistent commitment to racial equality. In 1941, he had integrated all dormitories on the East Lansing campus; later, he removed racial identification from student records. He also directed the athletic department not to schedule games against schools that insisted MSU’s black athletes be barred from competition.¹⁹ Despite the fifteen-year difference in their ages, Hannah and Hesburgh developed a close working relationship. As presidents of rapidly growing midwestern universities with rival football programs, they shared many interests and common problems. They would serve together for a dozen years, long after the other initial appointees had left the commission.

¹⁷Don Wycliff and David Krashna, eds., *Black Domers: Seventy Years at Notre Dame* (Notre Dame, Ind., 2014), 19.

¹⁸The first female commissioner, Frankie Muse Freeman, was appointed in 1964 by President Lyndon Johnson.

¹⁹John Matthew Smith, “‘Breaking the Plane’: Integration and Black Protest in Michigan State University Football during the 1960s,” *Michigan Historical Review* 33 (Fall 2007), 109.

Many pundits believed that the commission's carefully balanced composition was a recipe for stalemate. Presidential aide Frederick Morrow, the lone African American on Eisenhower's White House staff, noted that crucial decisions regarding civil rights would be made "by men who have had little or no experience with Negroes." *The Nation* magazine pointed out that commission members were "deliberately chosen for their devotion to the cause of moderation," and would be unlikely "to break many lances crusading for civil rights."²⁰ That the commission was able to function effectively and reach consensus on many controversial issues surprised observers and was a testament to its members' integrity, the urgency of their mission, and their willingness to objectively consider evidence.

On January 3, 1958, with their Senate confirmation still pending, the commissioners arrived at the White House to be sworn. Speaking privately after a brief ceremony, Eisenhower emphasized how America's racial problems embarrassed the nation internationally: "It's rather ridiculous to take a world posture on the meaning of democracy and equality and equal opportunity and not to practice it at home."²¹ The commissioners then gathered in their sparsely furnished office to consider how to proceed. They decided to limit their focus to three areas: education, housing, and voting—with voting receiving the greatest emphasis. Because the franchise was guaranteed by the Fifteenth Amendment, they reasoned, protecting this right was the issue on which northern and southern commission members were most likely to agree. Unlike integrating schools, restaurants, or movie theaters, allowing blacks to vote required no racial mixing. Only the most rabid bigots argued that qualified black citizens should be denied the vote.

Each commissioner could hire a legal aide to function as his eyes and ears in Washington, reporting on problems and proposals while representing his sponsor's interests at staff meetings and planning sessions. Father Hesburgh chose Harris Wofford, a young lawyer from the high-profile firm of Covington and Burling. Wofford had been the first white male to earn a law degree from Howard University, the nation's leading center of civil rights law. His personal contacts with Martin Luther King Jr. and other leaders of the emergent civil rights movement were unique qualifications that helped Father Hesburgh influence the direction of the Civil Rights Commission.

²⁰Quoted in O'Brien, *Hesburgh*, 72.

²¹Theodore Hesburgh, "Every Man Has a Right to Vote," *Catholic Digest* (August 1960), 27.



Civil Rights Commission Swearing-In Ceremony, 1957. Commission members included (left to right) J. Ernest Wilkins (assistant secretary of labor), Father Theodore Hesburgh, John S. Battle (former governor of Virginia), Doyle E. Carlton (former governor of Florida), Robert G. Storey (dean of Southern Methodist University Law School), and John R. Hannah (president of Michigan State University). President Dwight D. Eisenhower (second from right) looks on.

Courtesy, Eisenhower Presidential Library & Museum

Unlike those who were dubious about the commission's prospects, Wofford sensed an opportunity for change. He outlined his views in a brief that the White House forwarded to the commissioners. Father Hesburgh read it and invited Wofford to chat about his memorandum. The two sat on a bench in Washington's Lafayette Park discussing whether the commission might "do something important."²² Wofford was impressed by the Notre Dame president, whom he found to be "a man of curiosity, compassion, conviction, and courage." Although he "seemed quite conservative," the lawyer also observed that he was "open-minded, warm, and direct."²³ Working as Hesburgh's legal assistant, Wofford formed an enduring friendship with

²²Author's interview with Harris Wofford, August 8, 2013; Wofford, *Of Kennedys and Kings*, 46.

²³Wofford, *Of Kennedys and Kings*, 463.

the university president. The young lawyer sent lengthy dispatches to South Bend, briefing Hesburgh on developments in Washington.

As commissioners and staff worked to define their mission and develop a plan of action, two strategies emerged. One involved “hard-hitting” investigations of discrimination against African American voters in the Deep South. “If well done,” Wofford suggested, research and hearings on this issue “would encourage Negro registration, perhaps on a substantial scale.” The other, more conciliatory strategy was to act as a “mediator, educator, and illuminator of this problem.”²⁴ The commissioners’ decision to pursue the former option had far-reaching consequences.

An early problem with the investigative approach was the lack of formal complaints. The 1957 act required sworn affidavits alleging discrimination before the commission could investigate. For ten months none arrived. Wofford worked to correct this situation. In talks with King, Roy Wilkins of the NAACP, and other civil rights leaders, he pleaded, “Why not give the Commission a chance?” “You are willing to lead people into jail,” he told King. “Why can’t you get them to file an affidavit?”²⁵ Finally, when Emmet J. Bashful of Gadsden County, Florida, submitted a sworn statement describing obstacles that African Americans had encountered trying to vote, the commissioners agreed to look into his complaint. Their action sent “a signal to the Civil Rights Movement that the Commission might really act.”²⁶ In the next months, similar documents arrived from twenty-nine counties in eight southern states.

Because the largest number of affidavits came from Alabama, the commissioners chose Montgomery as the site of their first public hearing. Wofford cautioned Hesburgh, “The possible legal complexities in this hearing are immense, including a clash between federal and state authority.” He predicted that “this may well be the most important and difficult thing the Commission does in its whole life. It will certainly shape the future course of the Commission.”²⁷ Even the commission’s attempts to find lodging and food foreshadowed the difficulty of which Wofford spoke. Because no hotel would rent a room to Ernest Wilkins, the sole African American commissioner, the visitors had to lodge at Maxwell Air Force

²⁴Harris Wofford to Theodore Hesburgh, April 17, 1958, folder 10, box 17, Theodore Martin Hesburgh Papers, University of Notre Dame Archives, Notre Dame, Indiana (hereafter cited as Hesburgh Papers).

²⁵Wofford, *Of Kennedys and Kings*, 466.

²⁶Author’s interview with Wofford, August 8, 2013.

²⁷Wofford to Hesburgh, November 30, 1958, folder 12, box 17, Hesburgh Papers.

Base outside the city. In addition, chairman John Hannah had to request White House intervention before the biracial group was permitted to dine in the officers' club, although the club was on government property.²⁸

The hearings opened on December 8, 1958, with commission vice-chairman Robert G. Storey, dean of Southern Methodist University Law School and former president of the American Bar Association, questioning African American witnesses. Some were professionals employed by Tuskegee Institute and the nearby Veterans' Administration hospital; others were unsophisticated cotton farmers. All told of the obstacles posed by Alabama's byzantine voter registration requirements, limited hours for registration, long delays, or disqualifications for trivial spelling or grammatical errors on their applications. A few successfully registered, but only after repeated attempts. Staff investigators found that not one black person was registered to vote in Lowndes and Wilcox Counties, despite large African American majorities in both.

Some commissioners followed Storey's interrogation with questions of their own. When Mrs. Robert Lightfoot, a registered nurse, told of being rejected after having waited seven hours to register, Father Hesburgh inquired why she wanted to vote. "I would like to be a voter because it is a right of all citizens and I feel that all citizens should have a part in this United States government," she replied. Dr. Eugene Adams, a Tuskegee Institute veterinary professor, testified that he had failed the registration test despite his advanced degrees. Father Hesburgh asked if he knew the saying, "taxation without representation is tyranny." Adams answered that he was familiar with the Revolutionary slogan, adding that he faithfully paid his taxes. Hesburgh stopped short of advocating revolution, but left no doubt where his sympathies lay.²⁹

On the second day, the commission called county registrars to testify. Some refused to answer any questions; others professed ignorance of discrimination, claiming that they treated white and black applicants identically. Future governor George C. Wallace, then a circuit judge, refused to hand over registration records. The recalcitrant officials repeatedly objected to what they saw as an unwarranted federal intrusion into their affairs. Berl Bernhard, head of the commission's voting section, recalled

²⁸Father Theodore Hesburgh, December 6, 2000, Michigan State University Sesquicentennial Oral History interview, University Archives and Historical Collections, Michigan State University, East Lansing, Michigan (hereafter cited as MSU Oral History interview).

²⁹U. S. Commission on Civil Rights, Transcript of Hearings Held in Montgomery, Alabama, December 8, 1958, folder 3, box 26, Hesburgh Papers.



Hesburgh and other commission members talk with an African American woman during one of their investigative tours of the South, 1962.

Courtesy, University of Notre Dame Archives

how Father Hesburgh's questioning of evasive witnesses showed "that this was no one to be fooled with—do not try to play games—because he may appear to be a fatherly figure and a priest do not assume, don't try to lie to him, and don't try to mislead him."³⁰

A second hearing was slated for Shreveport, Louisiana, in July 1959. When the commissioners arrived, however, they were served with an injunction barring them from taking testimony. The group faced a looming deadline—their final report was due in two months. The noisy air base where they were housed was hardly conducive to calm deliberation. Father Hesburgh arranged for a Notre Dame benefactor to fly the commissioners and staff to serene Land O' Lakes in northern Wisconsin, where the university maintained a lakeside retreat. After cocktails and

³⁰Author's interview with Berl Bernhard, August 29, 2013.

a steak dinner, their host asked, "Anyone want to go fishing?" In later years, Father Hesburgh never tired of recounting the commissioners' delight at "catching great big bass and pike and muskellunge." Later that evening, he continued, "we got them out on the front porch, screened in, the moon coming up across the lake, pine-scented air." There they reviewed thirteen proposals and endorsed twelve without objection. The one non-unanimous recommendation called on the president to send federal registrars to counties where African Americans were disenfranchised. Commissioner Battle could not bring himself to vote in favor for fear of displeasing his political benefactor, Senator Harry Byrd of Virginia. "I can't vote my conscience. I've got to vote the wrong way," he confessed to Father Hesburgh.³¹ The next day Bernhard overheard the southern commissioners good-naturedly remark, "I think we were had last night." He agreed, "They had been had. But they were not mad at Father Ted."³² Another staffer credited Father Hesburgh with engineering their consensus. This accord "could not have been reached at any other place or under other conditions," he wrote.³³ Responding to the commission's deliberations, Eisenhower expressed amazement that this group, with its members' widely dissimilar backgrounds, agreed on so many strong recommendations. Hesburgh told him, "You didn't just appoint three Republicans and three Democrats; you appointed six fishermen."³⁴

Father Hesburgh's diplomatic skills, combined with his religious convictions, set the tone for his approach to dealing with racism. In an appendix to the commission's 1959 report, he outlined the values that provided the basis of his position:

I believe that civil rights were not created, but only recognized and formulated, by our Federal and State constitutions and charters. Civil rights are important corollaries of the great proposition, at the heart of Western civilization, that every human person is a *res sacra*, a sacred reality, and as such is entitled to the opportunity of fulfilling those great human potentials with which God has endowed every man.³⁵

³¹Hesburgh, December 6, 2000, MSU Oral History interview.

³²Author's interview with Bernhard, August 29, 2013.

³³Howard Rogerson to Theodore Hesburgh, July 28, 1959, folder 4, box 19, Hesburgh Papers.

³⁴Hesburgh, December 6, 2000, MSU Oral History interview.

³⁵*Report of the U. S. Commission on Civil Rights, 1959* (Washington, D. C., 1959), 551.

As Berl Bernhard noted, this statement revealed both Father Hesburgh's intellectual depth and his unique ability "to weave together much of what the Judeo-Christian standards of conduct and belief required."³⁶

In September 1960, the commissioners returned to Louisiana to hold the hearings cancelled the previous year. A parade of witnesses described how, at the urging of the segregationist Citizens' Council, the state had systematically purged blacks from Louisiana's voting rolls. Listening to these tales of racially motivated abuse, Father Hesburgh could not remain silent. When Eugene Williams, a black farmer from Bossier Parish, testified that he had tried to register seven times without success, Hesburgh urged him to persevere. "I hope you make it one of these times," he added. The day's most articulate witness, Dr. John L. Reddix, an African American dentist from Monroe, described how his name was removed from Ouachitta Parish's list of registered voters. After listening with rising anger, Father Hesburgh took over the questioning:

Hesburgh: You are an American citizen who has served in the armed forces, who is a law abiding man, married with three children, and a professional man and a college graduate, and you are not able to vote for the next president of the United States, is that correct?

Reddix: Yes, sir.

Hesburgh: You still pay taxes.

Reddix: Yes, sir.

Hesburgh: I think you ought to go back and try to vote again, and I would like to hear how you make out. I would like to report this directly and in person to the president of the United States.³⁷

Reporters seized on Hesburgh's comments. The *Shreveport Times* called him the "most outspoken of the Commission members in urging the witnesses to repeat efforts to register."³⁸ Reflecting on these early hearings, Hesburgh remembered them as "a long unpleasant activity for all of

³⁶Author's interview with Bernhard, August 29, 2013.

³⁷USCCR Hearings New Orleans, Morning, September 27, 1960, folder 10, box 27, Hesburgh Papers.

³⁸Clippings, folder 13, box 149, Hesburgh Papers.

us involved in it.” It was not “very much fun going around to all of the deprivation of human rights around the country,” he recalled.³⁹

Hesburgh believed that the commission’s most important early work was educating the nation on civil rights abuses. In a 1966 interview, he commented:

We brought out a whole range of factual information that said that the situation in America as regards equality of opportunity, especially for Negroes, was very bad, and in some parts of the nation it was outrageous; that the following actions should be taken by way of legislation to at least establish that this is what the United States stands for, that this is what the federal government is going to uphold, this specifically is our ideal as a nation, this is our conscience nationally.⁴⁰

With its reports and recommendations, the Civil Rights Commission helped shape America’s growing awareness of civil rights as a crucial moral and political issue.

THE KENNEDY YEARS

John F. Kennedy’s election raised hopes that the new president would take a more active stance on civil rights than his Republican predecessor had. Harris Wofford had campaigned for Kennedy and was rewarded with a post as presidential advisor on race relations. He sent his former boss positive reports on the new administration. “A lot of little things that happened in the early days of his presidency ... gave us hope,” Father Hesburgh said. But in less than a year his optimism had faded. “Not much had happened ... as far as civil rights legislation went,” he observed.⁴¹ One galling example was Kennedy’s failure to issue an executive order banning discrimination in federal housing programs—something he had promised during the campaign, but would not deliver for two years. When the commissioners met with Kennedy in 1962 they

³⁹Theodore M. Hesburgh, recorded interview with Joseph E. O’Connor, March 27, 1966, Oral History Interview: JFK #1, 3/27/1966, p. 5, John F. Kennedy Oral History Collection, John F. Kennedy Library, Boston (hereafter cited as JFK Library Oral History Collection).

⁴⁰*Ibid.*, 26.

⁴¹*Ibid.*, 4.

told him, "In your campaign you constantly said that President Eisenhower could have solved this housing thing with the stroke of a pen. You've been president for over a year and you haven't made that stroke of the pen." Commission members also urged Kennedy to pressure Alabama to integrate its National Guard units, but the president declined, saying "he wasn't about to complicate the situation of the Guard if he suddenly had to mobilize and send it to Berlin."⁴²

Seeking to push civil rights higher on Kennedy's agenda, Hesburgh appended a statement to the commission's 1961 report. It was not a dissent, but rather a heartfelt testament intended to draw attention to the report's recommendations. He stressed that equal opportunity for all citizens was an essential part of "the splendor of the American dream" and "the promise of the American Constitution." His most widely quoted passage challenged the president's priorities:

I don't care if the United States gets the first man on the moon, if while this is happening on a crash basis, we dawdle along here on our corner of the earth, nursing our prejudices, flouting our magnificent Constitution, ignoring the central moral problem of our times, and appearing hypocrites to all the world.⁴³

Obviously, Father Hesburgh did not shy away from controversial pronouncements. He was proud of the commission's forthright stands and saw its role as being keeper of the nation's conscience with respect to civil rights. If fulfilling that role meant acting as "a kind of burr under the saddle of the Administration," so be it.⁴⁴ Criticism of the nation's first Catholic president by one of its best-known priests only enhanced Hesburgh's reputation as a straight-talking independent thinker.

The commission was soon embroiled in disputes with the Kennedy administration. One ongoing feud concerned the commission's desire to hold hearings in Mississippi, where reports of intimidation and brutality

⁴²Transcript, Theodore Hesburgh oral history interview, by Paige E. Mulholland, February 1, 1971, p. 6, LBJ Presidential Library, Austin, Texas (hereafter cited as LBJ Library Oral History).

⁴³"Statement by Commissioner Hesburgh," *U. S. Commission on Civil Rights Report, Book 5: Justice* (Washington, D.C., 1961), 167-68. Available online from Thurgood Marshall Law Library, University of Maryland Law School, <http://www.law.umaryland.edu/marshall/usccr/documents/cr11961bk5.pdf>.

⁴⁴Hesburgh interview, March 27, 1966, JFK Library Oral History Collection, p. 26.



President John F. Kennedy meets with Hesburgh and other commission members at the White House, 1961.

Courtesy, Religion News Service

against African Americans were increasing at an alarming rate. Attorney General Robert Kennedy tried to delay the hearings, claiming they would further complicate the Justice Department's effort to prosecute Governor Ross Barnett for interfering with the desegregation of the University of Mississippi. In December 1962, the Attorney General wrote chairman Hannah: "The work of the Department of Justice might be severely hampered by hearings held by the commission in Mississippi at this time."⁴⁵ Three months later he repeated his argument that, while the case against Barnett was still pending, "a public hearing in Mississippi by the Civil Rights Commission would not be appropriate."⁴⁶ The commissioners reluctantly complied with Robert Kennedy's request, despite Father Hesburgh's belief

⁴⁵Robert F. Kennedy to John Hannah, December 15, 1962, folder 17, box 17, Hesburgh Papers.

⁴⁶Robert F. Kennedy to John Hannah, March 26, 1963, folder 18, box 17, Hesburgh Papers.

that Mississippi “was obviously the worst state in the Union.”⁴⁷ He speculated that the president’s brother considered the commission an “obstacle” to his department’s civil rights efforts.⁴⁸

The commission again locked horns with the chief executive when it recommended that the president consider withholding federal funds from Mississippi, where citizens had “been shot, set upon by vicious dogs, beaten and otherwise terrorized because they sought to vote.”⁴⁹ Hesburgh described the president as being “very irate with us for this suggestion ... he told us we ought to reconsider.”⁵⁰ Kennedy insisted that publication of the commission’s interim report on Mississippi “will make a lot of people mad up there and may make my own efforts more difficult.” When the commissioners refused to back down, he muttered, “I think they are off track on this one, but I wouldn’t try to suppress it.”⁵¹ Kennedy publicly distanced himself from their proposal, asserting at a press conference that he lacked authority for such a move and thought it “would probably be unwise to give the President of the United States that kind of power.”⁵²

Father Hesburgh, blaming Kennedy’s inaction on “political expediency,” understood the president’s fear of alienating powerful southern congressmen whose votes he needed to pass critical legislation. Hesburgh described Kennedy’s attitude on civil rights as, “Don’t do anything until you absolutely have to.”⁵³ He also believed that Kennedy’s desire to secure southern electoral votes in a possible bid for a second term dampened his enthusiasm for fighting racial bias. Father Hesburgh understood Kennedy’s difficult political position. If he took a strong stand on civil rights “you could be darn sure he would lose the solid South and he would have only one term in the White House.” Instead, Hesburgh believed, he had decided to “hold off for four years and then [if reelected] ... he could get tougher.”⁵⁴ Father Hesburgh considered

⁴⁷Hesburgh interview, February 1, 1971, LBJ Library Oral History, p 12.

⁴⁸Foster Rhea Dulles, *The Civil Rights Commission, 1957-1965* (East Lansing, Mich., 1968), 185.

⁴⁹Quoted in Dulles, *The Civil Rights Commission*, 182.

⁵⁰Hesburgh interview, February 1, 1971, LBJ Library Oral History, p. 5.

⁵¹Quoted in Arthur M. Schlesinger Jr., *A Thousand Days: John F. Kennedy in the White House* (Boston, 1965), 953.

⁵²*Public Papers of the Presidents of the United States, John F. Kennedy, 1963: Containing the Public Messages, Speeches, and Statements of the President, January 20 to November 22, 1963* (Washington, D.C., 1964), 333.

⁵³Hesburgh interview, February 1, 1971, LBJ Library Oral History, p. 6.

⁵⁴Hesburgh, December 6, 2000, MSU Oral History interview.

Kennedy's record on civil rights "rather miserable." "There was no legislation passed during that era," he noted.⁵⁵ By March 1963, Hesburgh had grown so disheartened at the lack of progress that he contemplated resigning. "I have enjoyed being a member of the Commission during the years when it was effective," he wrote Berl Bernhard, "but now I see that effectiveness coming to an end."⁵⁶

THE JOHNSON YEARS

Upon taking the reins as president following Kennedy's assassination, Lyndon Johnson appeared to be an unlikely advocate of civil rights. As a young congressman, he had a record of voting against civil rights bills. Yet, when it came to passing legislation protecting the rights of African Americans, President Johnson had no equal. Father Hesburgh praised Johnson for being "forthright in his statement on civil rights in a way that none of his predecessors were."⁵⁷ Two months after taking office Johnson met with commission members. "We were told beforehand, 'You won't get a word in edgewise,'" Father Hesburgh recalled. But on this evening a subdued Johnson asked the members "to tell him what we thought the situation was in civil rights and what he should do about it."⁵⁸ Unlike Kennedy, he offered no vague promises or excuses for inaction. In Father Hesburgh's opinion, Johnson's civil rights record far exceeded Kennedy's.

Johnson included the commission's proposal to withhold federal funds from discriminatory programs—the same idea that President Kennedy had rejected—in Title VI of the 1964 Civil Rights Act. Father Hesburgh applauded Johnson's genius in steering the act through Congress despite the fierce opposition that it faced from southern lawmakers. "There's no president before or since who could have got that bill through except Lyndon Johnson [who] did it by sheer force, and pushing, and even bullying," he observed.⁵⁹

⁵⁵Hesburgh interview, February 1, 1971, LBJ Library Oral History, p. 5. Harris Wofford differs with Father Hesburgh's assessment of Kennedy's civil rights record. "All of the ten points [on civil rights] I had down for Kennedy that needed to be done when I left [as White House advisor on civil rights], by the time he died, he had either done them all or they were under way." Author's interview with Wofford, August 8, 2013.

⁵⁶Theodore Hesburgh to Berl Bernhard, March 18, 1963, folder 18, box 17, Hesburgh Papers.

⁵⁷Hesburgh interview, February 1, 1971, LBJ Library Oral History, p. 11.

⁵⁸*Ibid.*, 8.

⁵⁹Hesburgh, December 6, 2000, MSU Oral History interview.

Justice Department lawyers again drew on the Civil Rights Commission's reports when drafting the 1965 Voting Rights Act. Section 3 authorized the government to send examiners to enroll voters in counties where few African Americans were registered—an idea the commission had first advanced in 1959. Father Hesburgh testified before a subcommittee of the House Judiciary Committee in favor of the voting rights law. He pointed out that earlier acts had done little to remedy discrimination against blacks trying to become voters. In fact, no issue generated such complete agreement among commission members as did black enfranchisement. "For the past six years we have recommended such legislation," he told the representatives. "We have done so in the belief that nothing less will suffice to root out the evil of discrimination in voting."⁶⁰ Passage of the Voting Rights Act was a major victory for Johnson. In a 1972 interview, Father Hesburgh reflected, "It took a lot of courage for a Southerner to stand up before both houses of Congress and say 'We shall overcome' [as Johnson had in his speech introducing the Voting Rights Act]. And I don't think he was doing it for play acting. I think he really meant it." He credited Johnson's civil rights commitment with "changing the face of America."⁶¹

Despite Johnson's strong backing for anti-discrimination legislation, his administration's relations with the commission were not always harmonious. During the summer of 1964, as white supremacists attacked Mississippi civil rights activists, the commissioners felt increased pressure to hold hearings to expose the dire conditions in the Magnolia State. Julius Hobson of the Congress of Racial Equality wrote that he was shocked that the commission had not honored its promise to conduct hearings there.⁶² Dr. Albert Britton, chairman of the commission's Mississippi advisory committee, urged commissioners to "delay hearings no longer."⁶³ The Justice Department again opposed the Mississippi venture. In January 1965, acting Attorney General Nicholas Katzenbach met with the commissioners and, according to former member Erwin Griswold, "more or less demanded that we not go ahead with the plans for hearings in Mississippi."⁶⁴ Katzenbach claimed that publicity generated by the hearing would prejudice

⁶⁰Dulles, *The Civil Rights Commission*, 245.

⁶¹Hesburgh interview, February 1, 1971, LBJ Library Oral History, p. 11.

⁶²Julius Hobson to H. Rogerson, April 24, 1964, folder 19, box 17, Hesburgh Papers.

⁶³Albert Britton to John Hannah, June 25, 1964, folder 19, box 17, Hesburgh Papers.

⁶⁴Erwin Griswold to Theodore Hesburgh, September 4, 1973, appended to Hesburgh interview, February 1, 1971, LBJ Library Oral History.

the department's prosecution of Ku Klux Klansmen responsible for the 1964 murder of three civil rights workers in Neshoba County. Father Hesburgh countered that Mississippi segregationists already despised the federal government and holding hearings would not worsen that opinion. The commissioners, feeling that they had delayed long enough, voted unanimously to go ahead.⁶⁵

The frequently postponed inquiry opened on February 10, 1965. Witnesses described receiving death threats, suffering beatings, getting arrested on trumped up charges, and facing economic reprisals for trying to register to vote. Alfred Whitley of Adams County related that he had been stopped in the middle of the night by two hooded white men, tied up, stripped of his clothes, and whipped. A white voter-registration worker told of being beaten and shot at.⁶⁶ The commissioners interrogated white officials about their ineffectual response to repeated attacks on civil rights backers. In one of the rare instances of prosecution of such perpetrators, five white men from Pike County found guilty of a series of racially motivated bombings received just five years' probation. Sarcastically noting that the presiding judge was "all very understanding," Father Hesburgh wondered why he did not "throw them in the pokey."⁶⁷ Aaron Henry, president of the state NAACP, pointedly urged the commissioners, "Give us a Federal registrar bill in 1965 and the Civil Rights Commission won't have to worry about Mississippi no more."⁶⁸ The commissioners' report on Mississippi endorsed Henry's request and recommended three additional measures to lower barriers to African American voting: suspension of literacy tests, abolition of the poll tax, and use of federal poll watchers in counties with a history of discrimination. Within a year, each of these suggestions had been enacted.⁶⁹

For the most part, Father Hesburgh tried to maintain his impartiality and independence by refraining from active participation in civil rights demonstrations. He did not appear at the 1963 March on Washington,

⁶⁵Dulles, *The Civil Rights Commission*, 234-35.

⁶⁶Roy Reed, "Whites and Negroes Disagree on Rights Gains in Mississippi," *New York Times*, February 19, 1965.

⁶⁷Handwritten notes, February 1965, folder 11, box 158, Hesburgh Papers.

⁶⁸Dulles, *The Civil Rights Commission*, 236.

⁶⁹USCCR, Reports, Folder 12, box 147, Hesburgh Papers. Suspension of literacy tests and the poll watcher provision were included in the Voting Rights Act. Requiring poll taxes to vote in federal elections was banned by the 24th Amendment (1964), and a 1966 Supreme Court decision barred their use in state and local elections.

nor did he join his mentor, former Notre Dame president Father John J. Cavanaugh, at the 1965 protests in Selma, Alabama. But on one memorable occasion he shed his detached posture to link hands with Martin Luther King Jr. On July 21, 1964, King launched the northern phase of his crusade for equal rights with an epic Chicago rally. Early that morning, Father Hesburgh learned that Mayor Richard Daley and Cardinal John Cody had declined invitations to participate; fearing that no official would welcome King to the Windy City, he drove the ninety miles from South Bend to Soldier Field.⁷⁰ King's aides spotted the Notre Dame leader standing in front of the speaker's platform and pulled him up on stage. He gave an impromptu address, telling the crowd, "Be proud to be a Negro. We want to strive for dignity with you." At the rally's conclusion, Father Hesburgh joined hands with King to sing the civil rights anthem "We Shall Overcome."⁷¹

Johnson had limited direct dealings with the commission following passage of the Voting Rights Act, but the president gave Father Hesburgh and his colleagues a new mandate—to examine patterns of racial isolation in public schools. The commissioners embarked on a year-long analysis of *de facto* school segregation at a time when white support for government efforts to promote racial equality was waning. Early in 1967, they released a comprehensive report, but both the White House and Congress ignored its proposals for combating racial isolation.

The commission next concentrated on the crucial task of monitoring civil rights compliance among federal agencies. Already, its 1964 investigation of the United States Department of Agriculture (USDA) had concluded that "Federal and State as well as local agriculture officials have participated and acquiesced in ... discriminatory practices."⁷² When USDA officials objected, claiming their compliance was "improving," Father Hesburgh retorted that a black farmer denied government benefits could not "get greatly excited about progress that is made after he is dead."⁷³

⁷⁰Author's interview with Hesburgh, June 12, 2013.

⁷¹Richard Conklin, "The Picture of Purpose," *Notre Dame Magazine* (Winter 2007-2008), 42. For many years Father Hesburgh proudly displayed this photo in his university office.

⁷²United States Commission on Civil Rights, *Equal Opportunity in Farm Programs: An Appraisal of Services Rendered by the Agencies of the United States Department of Agriculture* (Washington, D.C., 1965), 106.

⁷³Pete Daniel, *Dispossession: Discrimination against African American Farmers in the Age of Civil Rights* (Chapel Hill, N. C., 2013), 243.



Father Hesburgh delivering an impromptu speech at Martin Luther King Jr.'s Chicago rally, July 21, 1964 (above). At the rally's end, Hesburgh locked hands with King and other leaders and sang, "We Shall Overcome" (below).



BEYOND TOKENISM AT NOTRE DAME

While Father Hesburgh was winning plaudits for his work on the Civil Rights Commission, his record as university president drew increasing scrutiny. Among the 1,600 freshmen entering Notre Dame in 1964, only four were African American, and two of them would soon transfer. Ronald Homer, one of the new students, found an institution devoid of black faces: "As far as I could tell, the faculty, dining hall workers, maids in the dorms, landscaping crews, librarians, and administrators were all white."⁷⁴ Little had changed since *Ebony* profiled the black pioneers under the Golden Dome fifteen years earlier. A. J. Cooper, who came to South Bend from Alabama, noticed that bars and barbershops in South Bend remained segregated, much like those in his home state, and that the university tolerated this state of affairs. As he began planning his post-graduate career, Cooper discovered that Notre Dame's law school had never enrolled a black student. He took these matters up with Father Hesburgh who, when he was not out of town, maintained an open-door policy. On nights when his office light shone, students were welcome to drop in and chat with the university president. Cooper took advantage of this opportunity on several occasions. The priest and the aspiring lawyer discussed politics and civil rights, the lack of minorities in the student body, on the faculty and staff, and "what Notre Dame was doing to help blacks in South Bend." Cooper found Father Hesburgh to be "a conundrum." He was disconcerted by the gap between the liberal policies the priest espoused on the Civil Rights Commission and Notre Dame's lack of racial diversity.⁷⁵ Cooper was not alone. Arthur McFarland, who arrived on campus two years after Cooper, was also troubled by the "clear disconnect between Father Hesburgh's work on the U. S. Civil Rights Commission and racial sensitivity on the Notre Dame campus."⁷⁶

Notre Dame's dearth of African Americans was most visible whenever the school's famed football team took the field. Historian John Matthew Smith observed that for many years "Notre Dame was arguably the most successful football program in the North without black players."⁷⁷ This

⁷⁴Wycliff and Krashna, *Black Domers*, 96.

⁷⁵*Ibid.*, 90.

⁷⁶*Ibid.*, 134.

⁷⁷Smith, "Breaking the Plane," 121. The Notre Dame football roster was not entirely white in these years, but seldom did more than one black athlete take the field for the Irish at the same time. As late as the 1968 season, the varsity team included only three black players.

problem was highlighted in November 1966, when Notre Dame faced Michigan State in a highly awaited contest. Both teams were undefeated. The Irish ranked first in national polls; the Spartans were second. The winner would be acknowledged as the national champion. MSU's roster listed eighteen black athletes, twelve of them starters. The Irish, by contrast, started only one black player. Terrance Moore, an African American sports writer who grew up in South Bend, found it hard to root for the home team: "Michigan State had a black quarterback. Most of its starting defense was made up of black guys. Notre Dame had [All-American lineman] Alan Page and that was it. So essentially ... it was the white boys at Notre Dame against the black Michigan State team."⁷⁸

Apologists for the university cited the small number of black Catholics and Notre Dame's high academic standards to justify the near absence of African American students. But, as subsequent events revealed, the university was not trying very hard to diversify its student body. Hesburgh biographer Michael O'Brien has conceded as much, writing that "university officials had not ranked black recruitment as a high priority until the late 1960s."⁷⁹

As national civil rights leaders became more strident in their demands for equal treatment, Notre Dame's handful of African American undergraduates began speaking out. Frustrated by the "miserably low" number of African Americans at the university, black students in the university's Afro-American Society pressed for increased minority admissions and more support for black-themed initiatives. In September 1968, they picketed a campus speech by Strom Thurmond. On November 16, 1968, forty members of the society paraded around the Notre Dame Stadium prior to the Georgia Tech game amid jeers and catcalls from students and alumni. One sign blasted Irish head coach Ara Parseghian for the lack of black athletes on his squad: "Ara, the day of lily-white backfields is past." Another placard singled out the university's president: "Hesburgh of the Civil Rights Commission: Check on your own backyard."⁸⁰ Protests continued into the winter. When the Afro-American Society threatened to disrupt the nationally televised Notre Dame-UCLA basketball game and black players—three of them starters—hinted at a boycott, Father Hesburgh "hastily appointed a student-faculty

⁷⁸Steve Delsohn, *Talking Irish: An Oral History of Notre Dame Football* (New York, 1998), 141.

⁷⁹O'Brien, *Hesburgh*, 102.

⁸⁰"Blacks Demonstrate at Game," *The Observer* [Notre Dame student newspaper], November 18, 1968.

committee to study minority grievances, and the demonstration was called off.”⁸¹ The committee urged reforms including creation of a black studies program, hiring more minority faculty and counselors, and funding for minority cultural and social programs.

Father Hesburgh acted promptly to remedy the problems identified by the committee. He ordered increased minority employment; in four years Notre Dame’s minority work force went from 45 to 345. In 1969, he allocated \$18,000 for a Black Culture Week organized by the Afro-American Society and launched an aggressive recruiting campaign—including flying black undergraduates around the country—to interest promising African American high school students in attending Notre Dame. Coach Par-seghian, who also got the message, signed more black players to his team. Perhaps Father Hesburgh’s most important contribution was persuading the university’s trustees to end their forty-year ban on postseason bowl game appearances, with the resulting revenue earmarked for minority scholarships. In 1970, the Fighting Irish faced the University of Texas in the Cotton Bowl; the game raised \$300,000 for the scholarship fund.⁸²

THE NIXON YEARS

When Richard Nixon was elected in November 1968, Father Hesburgh and John Hannah were the only original members remaining on the commission. Both had served eleven years and had expressed their desire to move on to other challenges. When Hannah resigned to become head of the Agency for International Development, Nixon offered the commission chairmanship to Father Hesburgh. The president and the priest had enjoyed a cordial relationship since Nixon was a young California congressman. However, many observers concluded that Father Hesburgh’s appointment was motivated less by friendship than by his widely publicized response to student protestors.

As demonstrations against the Vietnam War spread across American college campuses, Father Hesburgh sent an eight-page letter to Notre Dame students, warning that those who violated the rights of others or disrupted normal operations of the university would “be given fifteen minutes of meditation to cease and desist.” If they failed to disperse they would be suspended; if they still refused to depart they would be expelled. His no-

⁸¹Joel R. Connelly and Howard J. Dooley, *Hesburgh’s Notre Dame: Triumph in Transition* (New York, 1972), 255.

⁸²O’Brien, *Hesburgh*, 116-17.

nonsense policy won overwhelming public support. Two hundred and fifty newspapers carried editorials about Father Hesburgh's "fifteen-minute rule," nearly all of them favorable.⁸³ President Nixon sent a four-page telegram, praising his stand against the "irresponsible minority" who showed contempt for "legitimate authority, and a 'com[pl]ete disregard for the rights of others.'"⁸⁴ Two weeks later, Nixon tapped Hesburgh to take over as chairman of the commission. Although Father Hesburgh expressed a desire to "work closely" with Nixon and to assist him "in every way possible in identifying and resolving the problems of civil rights," these good feelings did not last.⁸⁵ During the next three-and-a-half years, Father Hesburgh and the commission repeatedly clashed with the Nixon administration.

Their first public disagreement focused on the president's "go slow" policy on school desegregation. During the 1968 campaign, candidate Nixon voiced his opposition to busing school children for racial integration. When members of Nixon's cabinet signaled that they were backing away from aggressive implementation of school desegregation plans, Father Hesburgh objected, urging the administration to continue pushing for integration. In April, he wrote Health, Education, and Welfare Secretary Robert Finch, expressing concern that HEW planned to "de-emphasize its [civil rights] enforcement activities."⁸⁶ In June, Father Hesburgh wired the White House, declaring that "we are very concerned about reports that the school desegregation guidelines are about to be weakened."⁸⁷ The feud escalated on September 12, when Father Hesburgh released a commission position paper stating that "we are deeply concerned over the directions recently being taken in Federal efforts to desegregate elementary and secondary schools." The document continued, "this is certainly no time to create the impression that we are turning back [from desegregation], but a time for pressing forward with vigor."⁸⁸

⁸³*Ibid.*, 110.

⁸⁴Nan Robertson, "Nixon Hails Notre Dame for Tough Stand on Disruption," *New York Times*, February 25, 1969. In an interview soon after his letter was published, Hesburgh insisted that many people praised his policy for "the wrong reasons. They make me out to be anti-kids and a superhawk, and I'm not." "Father Hesburgh," *New York Post*, March 22, 1969.

⁸⁵Theodore Hesburgh to Richard Nixon, March 6, 1969, folder 30, box 17, Hesburgh Papers.

⁸⁶Theodore Hesburgh to Robert Finch, April 1, 1969, folder 31, box 17, Hesburgh Papers.

⁸⁷Theodore Hesburgh to Richard Nixon, June 26, 1969, folder 31, box 17, Hesburgh Papers.

⁸⁸"Text of Civil Rights Commission Statement on School Desegregation," *New York Times*, September 13, 1969.

Father Hesburgh absorbed public reaction to the commission's critical statement. One letter writer offered his "heartfelt thanks and appreciation for your courageous leadership," but negative messages far outnumbered the positive.⁸⁹ Several Catholics expressed dismay that a man of the cloth would take a position at odds with their own convictions. G. J. Papas of Roslyn Heights, New York, called Father Hesburgh's opposition to Nixon's policy "a tragic mistake."⁹⁰ This issue, especially the use of busing to achieve racial integration, remained a bone of contention throughout Father Hesburgh's tenure as chairman.

Despite abundant criticism, Father Hesburgh remained firm. In a 1969 interview he pulled no punches: "If this nation truly respected the rule of law; if it truly cherished each of its children, the last vestiges of segregation would have disappeared years ago." He charged the Nixon administration with promoting "an overly optimistic, misleading, and inaccurate picture of the scope of desegregation actually achieved." His concluding comments revealed how completely he embraced the African American cause: "Every kid in the country stands up and says, 'One Nation under God, indivisible, with liberty and justice for all.' But for the Negro, there's neither liberty nor justice."⁹¹

The issue of busing to promote school integration resurfaced in 1971. On August 3, the president announced that the attorney general would appeal a federal court order requiring busing in Austin, Texas. Nixon also ordered the HEW secretary to work with local school districts "to hold busing to the minimum required by law" and to prepare legislation to "expressly prohibit" the use of federal funds for busing.⁹² Nine days later, the Civil Rights Commission issued a strong rejoinder, accusing Nixon of "undermining the desegregation effort."⁹³

With characteristic candor, Father Hesburgh insisted that opposition to busing was the "most phony issue in America." What people had to keep in mind, he argued, was not how children arrived at school, but "what kind of education is waiting for the kids at the end of the bus ride."⁹⁴ He declared

⁸⁹Norman F. Smith to Theodore Hesburgh, September 13, 1969, folder 01, box 18, Hesburgh Papers.

⁹⁰G. J. Papas to Theodore Hesburgh, September 13, 1969, folder 01, box 18, Hesburgh Papers.

⁹¹John O'Connor, "Hesburgh Fights," *Look*, November 1969, 42-43.

⁹²James M. Naughton, "Nixon Disavows H. E. W. Proposal on School Busing," *New York Times*, August 4, 1971.

⁹³Paul Delaney, "U. S. Rights Panel Criticizes Nixon on School Busing," *New York Times*, August 13, 1971.

⁹⁴"Busing Issue Decried by Notre Dame Head," *Cleveland Plain Dealer*, February 26, 1972.

that Nixon's statements "could only give aid and comfort to those who opposed the desegregation of schools." Busing had been widely employed to preserve segregation, he noted, and it "never aroused emotions when it was done for all the wrong reasons." Only when black students were transported to previously all-white schools did white parents complain.⁹⁵

School desegregation was not the commission's only concern. Another contentious issue was the renewal of the Voting Rights Act, which was slated to expire in 1970. As that deadline approached, civil rights organizations pressed for its extension without alteration. The Nixon administration, however, proposed an amendment nullifying the provision requiring southern states and municipalities to obtain Justice Department approval before making changes to their election procedures. Father Hesburgh wrote Attorney General John Mitchell, calling the amendment "a distinct retreat ... in the protection of the voting rights of American citizens."⁹⁶ In a letter to the House of Representatives, he advocated renewing the act "with all of its protective provisions intact," describing the administration's version as "a much weaker bill."⁹⁷

Dismayed with weak governmental support of civil rights efforts, Father Hesburgh released a 1,115-page study of federal civil rights enforcement efforts on October 12, 1970. *New York Times* reporter Jon Nordheimer summarized its findings: "The march toward full equality has bogged down in a morass of bureaucracy, lassitude and indifferent leadership at the very highest levels of American Government."⁹⁸ Father Hesburgh stated that this failure "weaken[s] the fabric of the nation." He urged Nixon to demonstrate the "courageous moral leadership" needed to inspire federal officials and the American people.⁹⁹ His suggestion was met with silence from the White House.

Near the end of the 1972 election campaign, Father Hesburgh published a statement in the *New York Times Magazine* spotlighting the troubling drop-off in white support for civil rights. He warned that the

⁹⁵Theodore M. Hesburgh, "It's the End of the Bus Ride That Matters," *New York Times*, September 15, 1971.

⁹⁶Theodore Hesburgh to John Mitchell, June 28, 1969, folder 31, box 17, Hesburgh Papers. This provision was ruled unconstitutional in the Supreme Court's 2013 *Shelby County v. Holder* decision.

⁹⁷Theodore Hesburgh to members of the House of Representatives, November 26, 1969, folder 02, box 18, Hesburgh Papers.

⁹⁸Jon Nordheimer, "A Highly Critical View of Progress on Rights," *New York Times*, October 18, 1970.

⁹⁹"Excerpts from Father Hesburgh's Statement on Rights Enforcement," *New York Times*, October 13, 1970.

“enormous progress” made by African Americans “may be reversed in the days ahead” and cited white resistance to busing as the leading example of this trend. “Unless black children are given a chance to get out of, and away from, these [inferior segregated] schools,” he concluded, “then we have destroyed the last bridge out of the ghetto.”¹⁰⁰

Three weeks later, the White House announced Father Hesburgh’s departure as chairman of the commission. The move was not voluntary; Nixon’s aides had demanded his resignation. The *New York Times* termed Father Hesburgh’s dismissal “distressing.”¹⁰¹ The *Washington Post* called his termination “sad news.”¹⁰² The *Chicago Daily News* was more blunt, praising Hesburgh’s honesty and dedication while characterizing Nixon’s action as “small and vindictive.”¹⁰³ But not all comment was critical. The *Montgomery Advertiser* rejoiced at his removal, describing Father Hesburgh as “a dogmatist on the subject of forced integration and forced busing.”¹⁰⁴ J. W. Nottingham of Anderson, Indiana, wrote to Notre Dame’s president, “If I had been President Nixon, you would have been long gone as an intellectual pain in the ass.”¹⁰⁵

Hesburgh cited the commission’s report on government minority hiring as the primary reason for his dismissal. “I got fired because we were really leaning on the administration pretty hard, especially on employment,” he recalled. He marked his ouster as “kind of a badge of honor.”¹⁰⁶

FATHER HESBURGH’S CONTRIBUTIONS

Father Hesburgh served on the Civil Rights Commission for fifteen years under four presidents. No other commissioner matched his longevity or contributed more to the commission’s success; one of the smallest federal agencies, its influence greatly exceeded its size. The commission acted as “the conscience of the nation” with respect to civil rights and Father Hesburgh was “the conscience of the Commission.”

¹⁰⁰Theodore Hesburgh, “Father Hesburgh’s Program For Racial Justice,” *New York Times Magazine*, October 29, 1972.

¹⁰¹“First Out,” *New York Times*, November 18, 1972.

¹⁰²“The Future of the Civil Rights Commission,” *Washington Post*, November 20, 1972.

¹⁰³“Father Hesburgh is fired,” *Chicago Daily News*, November 20, 1972.

¹⁰⁴“Good Riddance to Father Hesburgh,” *Montgomery Advertiser*, November 21, 1972.

¹⁰⁵J. W. Nottingham to Theodore Hesburgh, November 27, 1972, folder 5, box 28, Hesburgh Papers.

¹⁰⁶Hesburgh, December 6, 2000, MSU Oral History interview.

From his earliest days on the commission, Father Hesburgh had insisted that civil rights was fundamentally a moral issue. The theological roots of his position sprang from the Catholic doctrine of the Mystical Body of Christ. He believed that all people are “created equal in the same image of God” and are all “equally redeemed.”¹⁰⁷ Accepting this belief led to the conclusion that “if human beings of all races and colors are good enough for Christ, they should be good enough for all of us who profess to be Christians.”¹⁰⁸ Drawing upon this credo, Hesburgh found the courage to take a principled stand against prejudice and racism.

Father Hesburgh’s clerical status enabled him to address the immorality of racism with greater authority than other members. An unnamed commissioner described the qualities that made the Holy Cross priest an effective leader:

As chairman we really feel his strength, his personality, his philosophy. He takes over. And when he speaks as a priest about conscience—about how we should be the conscience of the country in the matter of civil rights—then you feel he really knows what he is talking about. He is a priest who carries weight.¹⁰⁹

Few secular leaders could have uttered Father Hesburgh’s unequivocal moral pronouncements. In 1969, as the nation reeled from a wave of racial rioting, he declared:

Our moral blindness has given us a divided America, an ugly America complete with black ghettos. We can spend \$24 billion to get a man on the moon where no life exists, and yet we continue to condemn millions of human beings to substandard, unsanitary and dilapidated housing. We allow children to grow up in city jungles, to attend disgraceful schools, to be surrounded with every kind of physical and moral ugliness, and then we are surprised if they are low in aspiration and accomplishment.¹¹⁰

¹⁰⁷“The Moral Dimensions of the Civil Rights Movement,” in *Rhetoric, Religion and the Civil Rights Movement, 1954-1965*, eds. Davis W. Houck and David E. Dixon (Waco, Tex., 2006), 803.

¹⁰⁸O’Brien, *Hesburgh*, 77.

¹⁰⁹O’Connor, “Hesburgh Fights,” 44.

¹¹⁰*Ibid.*

Social scientists studying organizational dynamics have found that successful groups require two kinds of leadership—instrumental and expressive. The instrumental leader articulates organizational goals and formulates strategies for their achievement. The expressive leader builds relationships among team members, mediates disputes, seeks consensus, and ensures that all feel valued and included.¹¹¹ Dr. John Hannah was the commission's instrumental leader. Harris Wofford described the Michigan State president as "a very solid, earnest, responsible fellow ... who tried to make sure everything was done soundly."¹¹² Father Hesburgh filled the expressive leadership role. He cultivated cordial relations with fellow commissioners, but did not sacrifice his principles for the sake of harmony. Berl Bernhard worked on the commission with him for six years and observed that beneath his amiable exterior was a core of steel. Father Hesburgh "seemed to be so open and welcoming and articulate, that sometimes you didn't realize and didn't appreciate how tough he was. But he knew how to be tough in a winning way."¹¹³

Hesburgh provided the emotional glue that held the commission together. His unique interpersonal skills enabled him to form strong relationships with members who held differing political philosophies. During his first term, Father Hesburgh befriended John Battle, the conservative former governor of Virginia. Battle was proud of his southern heritage and a staunch defender of segregation. Despite their divergent views, the two men enjoyed wide-ranging conversations, often sharing a bottle of bourbon in the evening after commission meetings. According to Bernhard,

[Battle] looked upon Father Hesburgh as a man of just plain honesty and caring. With the warmth that Father Hesburgh exuded all the time I think that Battle just felt comfortable with him. I think Battle felt, "This is a man who would never mislead me."¹¹⁴

Wofford considered the Notre Dame president "the wisest and most creative of the commissioners" and "the person who most held

¹¹¹See Robert D. Rossel, "Instrumental and Expressive Leadership in Complex Organizations," *Administrative Science Quarterly* 15 (September 1970), 301-16.

¹¹²Author's interview with Wofford, August 8, 2013.

¹¹³Author's interview with Bernhard, August 29, 2013.

¹¹⁴*Ibid.*

the Commission together as a team,” providing leadership for his fellow members.¹¹⁵

More than any other member, Father Hesburgh was the commission’s public face. He wrote prolifically, explaining its mission, interpreting its findings, and defending its recommendations, all in an effort to educate the public about the commission’s purpose and the state of civil rights in America. Testifying before congressional committees, he supported new laws and fought efforts to roll back progressive policies. As commission chairman he defended its controversial positions, providing cogent and forceful explanations of its findings. Father Hesburgh denounced policies he considered antithetical to civil rights, especially during the Nixon years. Some commissioners avoided the press, but the Notre Dame president’s office was open to reporters, who knew they would leave their interviews with newsworthy quotes.

Hesburgh’s sterling record as a commission member makes his lack of action to correct racial inequities at Notre Dame particularly puzzling. This was the arena where, by the force of his personality and his years at the helm, he had almost complete control. Why was he so slow to correct the glaring inequities on his home campus? He knew that racism was not confined to the South; numerous commission hearings and reports had exposed pervasive patterns of northern *de facto* segregation. Some have suggested that Father Hesburgh was reluctant to disrupt the smoothly running university operation he had built. He had spent his adult life transforming Notre Dame into one of the nation’s leading universities—an accomplishment that earned him praise from faculty, alumni, and national media. The men he picked to administer Notre Dame were devout Christians who never expressed racial bias. He could not imagine that they would be guilty of discrimination. Like many white liberals, however, Father Hesburgh was blind to the institutional racism in his own backyard. He did not recognize how long-standing college policies and practices unintentionally produced unequal outcomes. Only when militant black students dared challenge their president did he begin to see that changes were needed. To his credit, once he began to comprehend the dimensions of the problem, he took decisive action. Notre Dame in the 1970s was a much more diverse university than it had been ten years earlier. Nevertheless, Father Hesburgh’s belated efforts to deal with inequalities in his own backyard tarnish his many accomplishments on the Civil Rights Commission.

¹¹⁵ Author’s interview with Wofford, August 8, 2013.

During his fifteen years on the commission, Father Hesburgh grew both in public stature and personal commitment to the cause of civil rights. Despite his insistence that his views on racial justice remained unchanged since his seminary days, colleagues on the commission thought otherwise. “Father Hesburgh was, in the beginning, far more cautious,” Wofford observed. “As the 60s went on he became far bolder and more all out for action. ... His agenda was much more focused, not on how you bring people together, but how you get action done.” He also “became convinced that he had to go far beyond what the Civil Rights Commission reported.”¹¹⁶ Father Hesburgh concluded that solving America’s racial ills required embracing human rights, not just civil rights. As Bernhard recalled, Father Hesburgh began to ask, “What good are voting rights if you can’t get food for your family and you don’t live in a decent house and you don’t have health insurance and you continue to go to inferior schools?”¹¹⁷

Countless Americans supported the civil rights cause during the 1950s and 1960s, but most operated far from the corridors of power. Father Hesburgh spoke from a secure position within “the establishment.” Writers described him as “the mandatory Catholic whenever foundation executives and government power brokers gather to study national problems.”¹¹⁸ He used his status as one of the nation’s most respected clergymen to communicate the urgent need for civil rights legislation to his fellow Catholics and people of all denominations. He employed his formidable interpersonal and administrative skills to mold the Civil Rights Commission into a cohesive and effective agency. While African Americans sat in at lunch counters and marched in the streets for equal rights, the Notre Dame president pressed for needed changes inside government chambers. While others pounded on the doors of opportunity from the outside, Father Hesburgh helped unlock them from within.



¹¹⁶Author’s interview with Wofford, August 8, 2013.

¹¹⁷Author’s interview with Bernhard, August 29, 2013.

¹¹⁸Joel R. Connelly and Howard J. Dooley, “Hesburgh of Notre Dame: The Necessary Catholic,” *The Nation*, March 6, 1972, p. 300.