

The Art of the Possible: Everett Dirksen's Role in Civil Rights Legislation of the 1950s and 1960s

Unable to secure enfranchisement and equality for African Americans through the executive and judicial branches, civil rights proponents turned to the legislative branch in the 1950s and 1960s. The Civil Rights Act of 1957 is often criticized as a weak compromise that lacked definitive power but it was very important because it demonstrated that it was possible to pass civil rights legislation. Southern congressmen and senators prevented any legislation from passing for decades due to their domination of powerful committees and their use of the filibuster. The 1957 act showed cracks in the system. There was another civil rights act in 1960 but southern opponents restricted its scope through the use of the filibuster. Civil rights proponents in Congress learned through these experiences that if they intended to pass meaningful legislation, they had to overcome the filibuster.

The tool chosen to defeat the filibuster was cloture. The Senate adopted cloture, also known as Rule 22, in 1917. It allowed sixteen or more senators to file a petition and after a set amount of debate, senators voted and if two-thirds of the members present approved it, the filibuster stopped. The rules changed in 1949 to require two-thirds of the entire Senate. Cloture was difficult to invoke because many senators felt the filibuster was the only tool they had to oppose legislation introduced by a majority. Conservatives and senators from small states were especially wary of cutting off debate. In order to achieve cloture, and ultimately meaningful civil rights legislation, supporters had to assemble bipartisan coalition for a bill. The key to delivering that coalition was Republican Everett Dirksen of Illinois.

Dirksen was an unlikely candidate to champion civil rights legislation. A conservative Republican from downstate Pekin Illinois, he did not draw much support from blacks in Chicago's urban centers and occasionally commented on his resentment about that. However, he took pride in his support of civil rights legislation and had his staff keep a current list of all the civil rights legislation he had introduced, co-sponsored, or amended dating back to when he was first elected to the House of Representatives in 1933. He was elected to the Senate in 1951 and throughout the decade introduced or co-sponsored bills to create a Federal Commission on Civil Rights to study and develop programs to eliminate poll taxes and lynching, to increase federal funds to the Negro College Fund, and to establish February 12-19 as National Negro History Week. He carried the banner for the Eisenhower administrations civil rights bills and played an important role in passing civil rights legislation from 1957 through 1968.¹

In order to get cloture necessary to stifle the southern filibuster, Dirksen was critical in delivering the Republican votes necessary to pass the Civil Rights Acts of 1964 and 1968 as well as the Voting Rights Act of 1965. However, his acquiescence was not assured. Dirksen was a fundamental conservative that abided by the Constitution and the Supreme Court, studiously analyzed legislation, and took delight in offering amendments that he felt assured a bill's constitutionality. The senator did not offer his support for a proposed civil rights bill in 1966 because of his objection to an open housing title that he deemed unconstitutional and the bill failed to become law. The political climate of 1966 was another reason that Dirksen and others did not support the bill.

The Civil Rights Acts of 1957 and 1960 are often downplayed in relation to more substantive legislation of the mid to late 1960s. Although they did not match the scope of the

¹ Frank Mackaman, *The Long, Hard Furrow: Everett Dirksen's Part in the Civil Rights Act of 1964* (Pekin, IL: Dirksen Congressional Center, 2006), 47-59.

later acts and their passage was less dramatic, they were important building blocks in civil rights legislation that were heavily influenced by the events that surrounded them. Interest in civil rights activities was growing in the mid 1950s due to a series of events. Southern governments and school boards had their own interpretation of the “with all deliberate speed” phrase that appeared in the implementation order of the Supreme Court’s *Brown* decision. The landmark case was the result of years of litigation by the NAACP lawyers. President Eisenhower refused to comment publicly on the court’s decision, a choice that impacted polls in black communities where residents felt that he was not doing enough to fulfill his 1952 campaign promises. The 1955 lynching of 14-year-old Chicagoan Emmett Till in Mississippi for allegedly making an inappropriate remark to a white woman shocked the nation. The Montgomery bus boycott began in December 1955 and lasted throughout 1956 as thousands of black citizens showed their displeasure over decades of humiliation and segregation with their feet. It launched the civil rights career of a young preacher named Martin Luther King, Jr. and offered further proof to politicians that blacks would no longer tolerate Jim Crow.

Herbert Brownell, Eisenhower’s politically astute attorney general, was frustrated by his office’s lack of power in protecting blacks in the South. In looking ahead to the 1956 election, he devised the proposal of a civil rights bill that would attract black voters to the Republican Party. In the event that it failed, Eisenhower would still get credit for proposing it.² Brownell crafted a four-part omnibus civil rights bill in 1956 that focused primarily on the protection of voting rights. The bill called for the appointment of a Civil Rights Commission to investigate charges of voter discrimination, to subpoena witnesses over such charges, and to protect the right to vote in federal elections. It would create a civil rights division within the Justice Department headed by

² Robert Mann, *When Freedom Would Triumph: The Civil Rights Struggle in Congress, 1954-1968* (Baton Rouge: Louisiana State University Press, 2007), 15-16. David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon and Schuster, 2007), 112-119.

an assistant attorney general and increase the authority of the attorney general to initiate civil suits to protect voting rights. Eisenhower was looking for a way to protect civil rights that would garner black support but fall short of sending federal troops into the South. He defended Brownell's proposal in a cabinet meeting by stating, "I think this is such a moderate approach—especially the emphasis on civil recourse rather than criminal—that it will ameliorate the situation in the South."³

Eisenhower endorsed civil rights legislation in his 1956 State of the Union Address, a move that Democratic Senator Richard Russell of Georgia characterized as "cheap politics" aimed at gaining black votes. Everett Dirksen introduced the civil rights bill on behalf of the administration and assumed the leadership in moving the bill through the Senate.⁴ The legislation passed the House of Representatives on July 23 by a vote of 276 to 126, but the Senate was eager to adjourn in an election year and did not consider the bill.⁵

Pending civil rights legislation was a major focus of the presidential and congressional campaigns of 1956. Eisenhower campaigned heavily to get the black vote by taking credit for integrating the Armed Forces and for his proposed civil rights bill; he also utilized New York Senator Adam Clayton Powell Jr. to vouch for him on the campaign trail. Considerable debate occurred over the Republicans' convention platform, especially with regard to the *Brown* decision and civil rights. Dirksen chaired the party's subcommittee on civil rights and agreed with Eisenhower to include wording that supported the decision.⁶ Dirksen characterized the Democratic Party's plank on civil rights as "serpentine weaseling" intended to placate southern members, so he wanted a simple statement in the Republican plank supporting the Supreme

³ Steven F. Lawson, *Running for Freedom: Civil Rights and Black Politics in America Since 1941* 2nd Ed. (New York: McGraw-Hill Companies, Inc., 1997), 53. Nichols, 121-127.

⁴ Neil MacNeil, *Dirksen: Portrait of a Public Man* (New York: The World Publishing Col., 1970), 141.

⁵ Nichols, 133-134.

⁶ Nichols, 135-141.

Court's decision. Dirksen was also running for reelection and trumpeted his own contributions toward civil rights. "In fact I'm a fundamentalist as far as the court is concerned," he told reporters. "Since 1945 I have been introducing bills for civil rights." However, there was considerable pressure from southern Republicans to utilize moderate language because they feared reprisals at the voting booths. Dirksen prevailed in winning support for *Brown* but the language was weakened.⁷

Eisenhower easily defeated Democratic candidate Adlai Stevenson in the Electoral College, improved on his vote count in the South from 1952, and received a considerable portion of black votes. As a whole, the Democratic Party was punished for the intransigence of those senators who repeatedly blocked civil rights legislation. The election served as a wake-up call to majority leader Lyndon Johnson as well as liberal northern Democrats.⁸ Despite this wake-up call, Johnson knew that his party was violently split in regard to civil rights and preferred executive and court action instead of a bloody congressional battle. The Democratic Party was comprised of liberals from the northern states who generally supported civil rights and conservatives in the South who opposed all civil rights legislation. He counseled civil rights proponents that if they did not have the votes for a particular bill, time should not be wasted trying to force through legislation.⁹ Eisenhower spared little time after the election in informing Republican congressional leaders that he would attempt to resurrect the failed civil rights bill in the next session of Congress. He went one-step further in his 1957 State of the Union speech, in which he discussed the civil rights bill and described all four parts of the bill in detail.¹⁰

⁷ *Chicago Daily Tribune*. 15, 16, 20 August 1956.

⁸ Mann, 31-32. Nichols, 140. Denton L. Watson, *Lion in the Lobby: Clarence Mitchell, Jr.'s Struggle for the Passage of Civil Rights Law* (New York: William Morrow and Company, Inc., 1990), 354-357.

⁹ Transcript, Clarence Mitchell Oral History Interview I, 4/30/69 by Thomas H. Baker, page 2-3, Internet Copy, LBJ Library.

¹⁰ Nichols, 143.

Dirksen again presented a civil rights bill, which had changed little from the administration's previous bill, in the Senate in 1957. The major fight developed over Part Three, which gave the attorney general broad power to protect and enforce voting rights. Southern Democrats railed against this provision and argued that it could be used to send federal troops into the South to enforce school desegregation. Senator Russell called the bill a "deceptive piece of legislation" and compared it to the force acts that existed during the Reconstruction Era.¹¹ In a two-hour speech before Congress, Dirksen denounced those assertions and gave no indication that he would accept a compromise. He argued that the president already had the power to use federal troops, but that aside from a period of civil war, military deployment had been unnecessary.¹² Opponents of the bill proposed an amendment to Part Four that would require a jury trial for anyone cited for contempt for violating an individual's voting rights. Civil rights proponents opposed this because of the virtual impossibility of an all-white jury convicting a white person for blocking black enfranchisement in the South. After considerable wrangling, Johnson met with Eisenhower and told him that he had the votes to kill the entire bill if Part Three was not removed. According to NAACP lobbyist Clarence Mitchell, if the southern delegation agreed to forgo an extensive filibuster, then Johnson would eliminate Part Three and add the jury trial amendment to Part Four. The president threatened to veto the bill over his opposition to the jury trial amendment before a last minute compromise settled the issue. The Justice Department's plan stipulated that an individual charged with contempt would be tried by a judge as long as the penalty did not exceed a \$300 fine and ninety days in jail; Johnson countered with a \$300 fine and forty-five 45 days in jail. He received national attention for the compromise despite a desperate 24-hour filibuster by Democratic Senator Strom Thurmond of

¹¹ Mann, 42-44. Nichols, 155.

¹² *Chicago Daily Tribune*. 11, 18 July 1957.

South Carolina. The first civil rights act since 1875 passed the Senate on August 29 by a comfortable margin of 60-15.¹³

The relative ease of the passage of the 1957 Civil Rights Act would not be repeated again. Less than a week after passage of the bill, Arkansas Governor Orval Faubus went on television to announce that he was ordering the National Guard to prevent desegregation at Central High School in Little Rock. The nation watched the standoff during the next few weeks as Eisenhower attempted to broker an agreement with the southern governor. The president was eventually forced to federalize the National Guard and send in a thousand troops from the 101st Airborne Division to restore peace and oversee desegregation. Southern congressmen and governors were outraged at the incident and vowed to block any attempts at further civil rights legislation.¹⁴

Civil rights proponents subsequently attempted to augment the 1957 Civil Right Act with further legislation but were thwarted by an unmotivated Congress. The year 1960 proved to be different, as potential suitors for the respective political parties' presidential nominations sought to capture the liberal and black vote. Politicians were further motivated by the outbreak of sit-ins by southern college students, which guaranteed that civil rights would remain a political focus. The largely spontaneous movement grasped national headlines, as the students were often arrested or savagely beaten by local whites determined to protect Jim Crow. The movement also helped birth the Student Nonviolent Coordinating Committee (SNCC).¹⁵

The newly formed Civil Rights Commission studied voting rights violations and proposed that complaints of citizens who were denied registration go directly to the president,

¹³ Nichols, 159-167. Lawson, 53-55. Mann, 52-58. Transcript, Clarence Mitchell Oral History Interview I, 4/30/69 by Thomas H. Baker, page 5-6, Internet Copy, LBJ Library.

¹⁴ Harvard Sitkoff, *The Struggle for Black Equality: 1954-1992* (New York: Hill and Wang, 1993), 28-31.

¹⁵ Sitkoff, 61-87.

who could then marshal federal registrars to ensure compliance. This procedure was problematic because the volume of reports would be too great for the president to process, and opponents viewed the idea as the executive branch's violation of states' rights. Attorney General Brownell developed a substitute plan that relied on the federal judiciary. Complaints regarding registration would be routed through federal courts, and if the courts found evidence of discrimination, then a referee would investigate and report to the court. Election officials refusing to comply would be subject to contempt of court proceedings. In February 1960, Everett Dirksen was called upon once again to introduce the administration's seven-part civil rights bill that included Brownell's provision for federal referees. The proposed bill made it a crime to obstruct court orders in school desegregation or to flee across a state line to avoid prosecution for bombing or setting fire to a church or other private property. It required the preservation of voting records for two years and provided federal referees for the investigation of claims of discrimination in regard to voter registration. It also made the president's committee on equal job opportunities a permanent body and provided limited federal aid to communities planning for school integration.¹⁶

Lyndon Johnson and Dirksen stated publicly at the conclusion of the 1959 congressional session that they intended to introduce and pass meaningful civil rights legislation during the following congressional session. Johnson had his sights set on the presidency, while Dirksen looked to increase his influence within the Republican Party. Both men agreed that they did not want the bill to languish in the Judiciary Committee, then controlled by Democratic Senator James Eastland of Mississippi. Johnson pulled a surprising move on February 15 when he requested and received unanimous consent to have the Senate directly consider a minor House bill that was unrelated to civil rights. He then acted on his promise from the previous session and

¹⁶ Nichols, 247-250. Mann, 75. *Chicago Daily Tribune*. 9 February, 1960. Everett Dirksen to Jacob Javits, February 9, 1960, Everett McKinley Dirksen Papers, Working Papers, folder 231.

invited any amendments relating to civil rights. Dirksen had been waiting and attached the administration's bill on February 17. Senator Russell lashed out at the parliamentary trick employed by Johnson and Dirksen, to which Dirksen responded, "In order to get the job done, I am willing to accept any castigation or blame for invoking an extraordinary procedure."¹⁷

Southern opponents were determined to use the filibuster to its fullest extent. Passage of the 1957 Civil Rights Act and the subsequent presence of federal troops in Little Rock stiffened their resolve to resist further legislation. Johnson and Dirksen were determined to defeat a likely filibuster. They announced that on February 29, the Senate would begin twenty-four hour, around-the-clock sessions to force opponents into a full-fledged filibuster.¹⁸ Unfortunately for civil rights proponents, eighteen southern Democrats under the guidance of Russell split into six, three-person platoons that were available twenty-four hours per day to maintain the filibuster. They also made quorum calls at all times of the night, forcing the Senate into a roll call of two-thirds in order to continue the business of the Senate.¹⁹

By March 5, southern Democrats had filibustered for over 125 hours. Johnson relented and announced that he would recess the Senate for a "Saturday night bath." This decision signaled victory for the southerners and indicated that perhaps a compromise was possible. When he spoke with reporters, Dirksen alluded to the possibility of compromise. "I am still carrying the flag for the administration bill. I will not lower it except at orders from high command. But it might get shot out of my hands."²⁰ He met with Republican leadership on March 5 who agreed that the House version of the bill would likely pass without the sections on desegregation grants and legal status for the committee on contracts. Dirksen said that if he dropped the

¹⁷ Mann, 75-77. Nichols, 252.

¹⁸ Mann, 78-79. Nichols, 252.

¹⁹ Mann, 80-81.

²⁰ Mann, 82. *Chicago Daily Tribune*, 9 March 1960.

administration's bill and fought for the House bill, the filibuster could be defeated. Johnson cancelled the continuous sessions on March 8, when a bipartisan group filed a petition for cloture. Johnson and Dirksen opposed the cloture vote, and it subsequently failed when the liberal group of Democrats and Republicans were not able to muster a majority supporting the measure. These events effectively killed any chance of the administration's bill getting passed in its original form because liberal supporters of civil rights, unable to halt the filibuster, were forced to bargain with the recalcitrant southerners.²¹

On March 24, the House voted 311 to 109 to send a weaker version of the bill to the Senate. It included a provision for appointing voting referees, but only in areas where a federal judge found discrimination in registering black citizens. It also eliminated the controversial school desegregation and employment discrimination provisions that offended southern opponents. The bill passed the Senate on April 8 and the House approved the Senate amendments on April 21. Republicans were blamed by civil rights proponents for emasculating the bill, while Johnson received credit for the bill's passage. Johnson hoped these events would catapult him into the presidency, but he could not overcome the lure of Massachusetts Democrat John F. Kennedy.²²

John F. Kennedy was accompanied into office by a flux of newly elected liberals in the Senate on whom he intended to rely for his legislative proposals. However, the most powerful committees in the Senate were chaired by southerners, and the president feared that pushing a strong civil rights bill would be disastrous for his administration's other domestic programs. Southerners chaired twelve of eighteen committees in the Senate and twelve of twenty-one in the House. This circumstance severely restricted Kennedy's actions with regard to civil rights

²¹ Mann, 83. Ibid.

²² Mann, 84-85. Nichols, 254. *Congressional Quarterly Almanac*, 86th Congress, Vol. XVI,

because southerners could filibuster a bill and prevent any other legislation from consideration. According to historian Robert Mann, the Kennedy administration's approach to civil rights was to wait until a fire broke out before taking any action, although Kennedy finally determined that the only way to curb discrimination was through meaningful legislation. "There was simply not enough assistant attorney generals to shuttle between cities and disarm brewing racial violence, not enough troops to keep or restore the peace in dozens of southern locales. Executive action and military coercion were weak substitutes for strong, enforceable civil rights statutes."²³

Civil rights legislation had a tepid start in 1963. Democratic Senator Clinton Anderson of New Mexico introduced legislation in the Senate in January that would have lowered the ratio needed for cloture from two-thirds three-fifths. Southerners launched a twenty-four day filibuster on whether or not to consider changing the rules before a cloture vote taken to end the filibuster lost 54 to 42. This was surely a loss for liberals, even though it was the first time that a cloture vote taken on a civil rights bill had received a majority. Kennedy responded by introducing a mild civil rights bill in February that was primarily concerned with voting rights and correcting the weaknesses in the 1957 and 1960 bills. Kennedy was counseled by liberal Minnesota Senator Hubert Humphrey that the country needed strong civil rights legislation in order to get out in front of growing crises and demonstrations. "The leadership for civil rights either has to take place in the White House or it is going to take place in the streets," warned the senator.²⁴

Humphrey's prescient comment about leadership coming from the streets proved true in Birmingham, Alabama, which was a bastion of segregation and terror. Its black citizens had witnessed eighteen bombings and more than fifty cross-burning incidents between 1957 and 1963. The city was targeted by Southern Christian Leadership Conference (SCLC) strategist

²³ Mann, 108, 136. Charles and Barbara Whalen, *The Longest Debate: A legislative history of the 1964 Civil Rights Act* (Washington, D.C.: Seven Locks Press, 1985), 19.

²⁴ Mann, 136-140.

Wyatt Tee Walker, along with activist Bayard Rustin as a place to demonstrate the need for strong legislation and illustrate the deplorable conditions that black people endured in the South. The SCLC's "Project C," which stood for confrontation, targeted the white business community and police commissioner Eugene "Bull" Connor. Connor unleashed firehoses, police dogs, and billy clubs on peaceful demonstrators as the nation watched on television. The high point of the drama was the "children's crusade" that featured local student demonstrators who were met with the same violence as their elders. Project C ended when the local white businesses brokered a deal with several civil rights leaders.²⁵

Kennedy addressed the nation in a televised speech on June 11 to announce his intent to introduce a strong civil rights bill to the Congress. The president's speech was overshadowed by the news of the shooting death of NAACP Mississippi field secretary Medgar Evers as he returned to his home in Jackson, Mississippi that same evening. Kennedy introduced his bill on June 26; it contained seven titles that were concerned mostly with voting rights, prohibiting discrimination in public facilities, and desegregating schools. The administration's bill would restore the controversial Part III of the 1957 bill which allowed the attorney general to initiate and file desegregation suits in public schools and colleges. The Justice Department attempted to get around potential constitutional challenges of the public accommodations title by basing it on the commerce clause of the constitution.²⁶

Emanuel Celler, a liberal Democrat from New York, introduced Kennedy's bill to the House. On October 2, Celler reported a bill out of committee that was stronger than the original administration bill. His plan, which he kept from the Kennedy administration and Republican supporters, had been to eventually trade away some of the more offensive titles to conservatives

²⁵ Sitkoff, 118-137. Mann, 141-148.

²⁶ Mann, 156-160. Whalen, 1-2, 19.

and southern Democrats. This angered administration officials and Republicans like Representative William McCulloch from Ohio, who did not want to be scapegoated for weakening the bill. Many Republicans felt wrongly accused of doing the same thing to the 1960 civil rights bill, while Democrats like Lyndon Johnson received undue credit. Kennedy helped negotiate a compromise between his bill and a separate one written by McCulloch and a fellow Republican, Charles Halleck from Indiana. The compromise bill was then sent to the Rules Committee, which was chaired by civil rights opponent Judge Howard Smith, a Democrat from Virginia.²⁷

The assassination of John Kennedy on November 22, 1963 dramatically changed the context of the battle over civil rights legislation. The outpouring of grief for the slain president provided fresh impetus for his struggling bill. Lyndon Johnson took the oath of office in Dallas and immediately began to work the phones to gather support for the Kennedy's legislative programs. Johnson addressed a joint session of Congress on November 27 in a speech that was televised. "No memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest passage of the civil rights bill for which he fought so long," remarked Johnson. Many civil rights proponents thought that the shock of assassination might push the Senate into moving forward on Kennedy's programs because many linked his murder with the resistance to desegregation. According to historian Francis Valeo, "Kennedy's death took on the appearance of a blood sacrifice in the cause of justice."²⁸

The House bill remained in Judge Smith's committee until public opinion appeared to demand consideration. The congressional session ended on Christmas Eve after 356 days with few concrete accomplishments. As they returned to their home districts for the holidays, they

²⁷ Whalen, 37-70.

²⁸ Francis R. Valeo, *Mike Mansfield, Majority Leader: A Different Kind of Senate, 1961-1976* (Armonk, NY: M.E. Sharpe, 1999), 69-102. Whalen, 79.

heard from constituents who expressed little confidence in Congress and especially with the southern Democrats and committee chairs that blocked Kennedy's legislation. The committee began hearings on January 9. Smith realized that the bill would probably pass, but he wanted to stage a public fight to ensure that all parties were heard. On January 30, the committee voted to send the bill directly to the House floor for consideration. The bill passed the House on February 10 by a vote of 290 to 130; 152 Democrats joined 138 Republicans in voting for the bill. The fight then moved to the Senate.²⁹

Congenial Montana Democrat Mike Mansfield was now the majority leader in the Senate and he chose Hubert Humphrey to be the floor leader for the Kennedy civil rights bill. Civil rights proponents were determined to avoid many of the mistakes that had been made during the battle over the 1960 bill which resulted in weaker legislation. Humphrey was very aggressive and assigned specific senators to debate each title of the bill with southerners and to win appropriate press coverage of their positions. Dirksen assigned California Republican Thomas Kuchel to manage the bill for the minority, and together with Humphrey, they met with Justice Department officials every morning to discuss the day's action. Lobbyists Joseph Rauh and Clarence Mitchell regularly joined the group. Each morning, a bipartisan newsletter was generated that detailed specific arguments and positions of legislators. The senators agreed to share potential amendments with McCulloch and Celler to ease confirmation of a Senate bill when it returned to the House.³⁰

The Senate divided into three groups: pro-civil rights Republicans and Democrats, anti-civil rights southern Democrats, and moderate to conservative Republicans who hailed from midwestern and western states. There were enough supporters of civil rights to get the necessary

²⁹ Mann, 172. Whalen, 89-121.

³⁰ Mann, 177. Whalen, 138-144. Hubert Humphrey and Norman Sherman, *The Education of a Public Man: My Life and Politics* (New York: Doubleday and Company, Inc., 1976), 275-280.

fifty-one votes needed to pass a bill, but in order to stop the southern filibuster, proponents would need to secure approximately sixteen votes from the midwestern Republicans. Administration officials quickly identified Everett Dirksen as the key to delivering those votes.³¹

Johnson was an old ally of Dirksen, and the two had worked together many times, including the last two civil rights bills. Johnson assigned Humphrey the task of winning Dirksen's support. "You and I are going to get Ev. It is going to take him. We're going to get him. You make up your mind now that you've got to spend time with Ev Dirksen. You've got to play to Ev Dirksen. You've got to let him have a piece of the action. He's got to look good all the time," advised the president. Humphrey knew that courting Dirksen would be a challenge because the minority leader was conservative, closely allied with business interests that opposed the bill, and he disliked the idea of cutting federal funds where discrimination was alleged. Humphrey described Dirksen as "loving the legislative game, manipulating language, cadging a vote for an amendment. Laws to him were organic, growing, flowering, like the marigolds on which he lavished such care and affection in his yard." Mansfield was also vital in courting Dirksen. They had a solid relationship, and Mansfield would often credit Dirksen for legislation that they had worked on together. Mansfield chose the minority leader's office as the principal venue for working on the bill and directed members of the Justice Department to make themselves available to Dirksen. Katzenbach attended late evening cocktail hours at Dirksen's office to spread goodwill and negotiate, sometimes to his detriment. "I would get Everett Dirksen's agreement in the evening over bourbon, but the next morning he had forgotten it. I almost ruined my liver in the process."³²

³¹ Mann, 173.

³² Transcript, Hubert H. Humphrey Oral History Interview III, 6/21/77 by Michael L. Gillette, page 5-6, Internet Copy, LBJ Library. Humphrey and Sherman, 276-277. Valeo, 110-124. Whalen, 192-193.

As he had in 1960, Richard Russell once again led southern opposition to the bill and planned to defeat it through filibuster. Southerners began their filibuster on March 9 on whether to make the bill the pending business of the Senate, and this stalemate continued until a vote to consider the bill easily passed on March 26. Russell commented on the opening salvo, “A battle has been lost. We shall now begin to fight the war.”³³

Although the Johnson administration went to great lengths to woo Dirksen and other Republicans, the GOP had little leeway with regard to civil rights. Public opinion polls supported the House bill as an appropriate memorial to a slain president, and in an election year, Republicans could not afford to be viewed as obstructionists or racists. They were also under threat from Representative William McCulloch and other House Republicans not to weaken the bill. However, Dirksen was a conservative and had constitutional reservations about the titles dealing with public accommodations and fair employment. He defended his views on ABC’s *Issues and Answers*, when asked if opposition to equal access in public accommodations meant he was putting commercial interests above human rights. He said that his job as a legislator was not to think about one segment over another but to think about the interests of all people. About public accommodations, he argued, “You are dealing with the whole property structure, and don’t forget the framers of the Constitution made it abundantly clear that neither life nor liberty nor property shall be taken without due process of law.”³⁴ Most of Dirksen’s objections with certain titles of the bill related to their technical language. He wanted to make sure that adequate understanding and legal coverage existed in the bill, and he sought further explanation for certain terms used in the language of the titles.³⁵

³³ Whalen, 142-147.

³⁴ “ABC’s Issues and Answers”, September 29, 1963, Everett McKinley Dirksen Papers, Remarks and Releases, folder 216.

³⁵ “Observations”, February 26, 1964, Everett McKinley Dirksen Papers, Working Papers, folder 256.

Dirksen chaired a Republican Congressional caucus in early April and introduced forty possible amendments to the fair employment title. They prohibited the proposed Equal Employment Opportunity Commission from seeking court injunctions to end discrimination in hiring and allowed state fair employment agencies to preempt the federal EEOC. Illinois had its own state agency, a fact that was not lost to Dirksen.³⁶

Dirksen's tough stance worried many civil rights proponents who were not sure whether the minority leader was intent on weakening the bill or was just taking a public relations stance. He explained that he was attempting to save the bill on an April 14 episode of *Face the Nation*. "I have a fixed polestar to which I am pointed, and this is: first to get a bill, second to get an acceptable bill, third to get a workable bill, and finally to get an equitable bill." Dirksen formally proposed ten amendments to Title VII on April 16; they were minor modifications, as he backed off eliminating EEOC injunctive powers and having states trump federal power.³⁷

The battle in the Senate took a turn a week later when Georgia Democrat Herman Talmadge presented an amendment that required jury trials in criminal contempt cases, a controversial portion of the 1957 bill. Mansfield and Dirksen responded by proposing a substitute amendment that limited penalties for contempt to no more than thirty days in jail or a \$300 fine. This proposal was significant because it marked the first occasion when Dirksen cooperated with civil rights proponents. He defended his stance in a radio and television speech titled "The Jury Trial Amendment to the Civil Rights Act." He said that those who argued that a person held in contempt has a right to jury trial according to the Constitution were wrong. He cited a recent Supreme Court ruling against the governor of Mississippi as evidence and argued that the court needed a weapon to fight discrimination and that contempt was the weapon.

³⁶ Mann, 188-189.

³⁷ Mann, 189. Whalen, 156-163.

However, Dirksen was still looking for a compromise regarding public accommodations that would rely on voluntary compliance, and he informed the press that he would attempt to negotiate during an April 29 meeting with Johnson at the White House. Dirksen informed the president that if a compromise could be worked out, he could deliver 22 to 25 votes for cloture. On the previous day, Humphrey had urged Johnson to take an all or nothing stance on the legislation, and the president informed Dirksen that he would not discuss any type of compromise.³⁸

On May 5, Dirksen began serious negotiations with Mansfield, Humphrey, Attorney General Robert Kennedy, Deputy Attorney General Nicholas Katzenbach, and other justice department officials. Dirksen proposed several amendments but mostly wanted alterations to the public accommodations and fair employment titles that he could take back to his Republican colleagues as proof of compromise. According to Katzenbach, Dirksen did not demand any substantive changes but rewrote it to show rhetorical differences in the language.³⁹ Many Senators were unaware of Dirksen's behind-the-scenes role for the bill and felt he opposed it due to his statements to the press. Dirksen was able to get conservatives to support the bill without emasculating it by making most enforcement take place at the local or state level before the federal government became involved; this altercation placated the states' rights crowd of the GOP. Twenty states already had public accommodations and fair employment laws, while others had one or the other. The language was altered to provide for federal intervention in the case of discrimination only if local and state remedies had been exhausted. On May 26, Dirksen, Mansfield, Humphrey and Kuchel co-sponsored a 74-page substitute bill. Humphrey let Dirksen

³⁸ Mann, 192-194. Whalen, 171-172. "The Jury Trial Amendment to the Civil Rights Act", May 5, 1964, Everett McKinley Dirksen Papers, Remarks and Releases, folder 216.

³⁹ Transcript, Nicholas D. Katzenbach Oral History Interview I, 11/12/68 by Paige E. Mulhollan, pages 14-17, Internet Copy, LBJ Library.

introduce the compromise, so that he could be lauded as the champion of the bill. Cloture was attained on June 12. The so-called "Dirksen substitute" passed on June 19, with 46 Democrats and 27 Republicans voting for the bill after 106 roll call votes on southern amendments had taken place. The House confirmed the Senate version, and Johnson signed the 1964 Civil Rights Act into law on July 2.⁴⁰

As with the passage of the previous civil rights acts, the Civil Rights Act of 1964 did not occur in a vacuum. Events of the summer and following winter influenced the passage of another landmark piece of civil rights legislation. As the battle over the civil rights bill raged in the Senate, a battle for black enfranchisement was fought in Mississippi under the banner of Freedom Summer. In Mississippi, black citizens were banned from participating in the nominating of delegates to represent the Democratic Party, so SNCC and the Council of Federated Organizations (COFO) used grassroots mobilization to enroll over 80,000 voters into the Mississippi Freedom Democratic Party. Mississippi was still a dangerous, segregationist stronghold where student volunteers encountered violence, intimidation, and murder. The Freedom Summer in Mississippi showed the inability of the federal courts and FBI to register and protect blacks in the South, and President Johnson commissioned Attorney General Katzenbach immediately after the passage of the 1964 bill to begin crafting a strong voting rights act. Johnson wanted Congress to focus on his Great Society programs in the next session but wanted to have legislation ready if needed.⁴¹

Unfortunately for Johnson, who wanted to focus on his poverty programs, Katzenbach's legislation was needed the following year based on events in Selma, Alabama. Blacks comprised

⁴⁰ Mann, 195-204. Whalen, 201 -226. Edward L. Schapsmeier and Frederick H. Schapsmeier, *Dirksen of Illinois: Senatorial Statesman* (Urbana: University of Illinois Press, 1985), 157-159.

⁴¹ John Dittmer, *Local People: The Struggle for Civil Rights in Mississippi* (Urbana, IL: University of Illinois Press, 1995), 286. Sitkoff, 155-170. Mann, 221.

a majority of Selma residents, but only three percent of eligible black voters were registered. Added to this was the intransigence of Dallas County Sheriff James Clark. Clark was well known for his violence toward civil rights activists as well as for wearing a large button on his uniform that stated “Never.” SCLC activists James Bevel and Diane Nash targeted Selma the same way that Birmingham had been targeted two years earlier. They hoped a confrontation between a violent police force and peaceful protesters would result in national attention and support for voting rights legislation. Demonstrations proceeded throughout January and February before a planned march from Selma to the state capital of Montgomery was averted in a violent showdown on the Edmund Pettis Bridge on March 7. The violent clash received national attention and pressured the Johnson administration to protect the demonstrators and institute voting rights legislation.⁴²

The voting rights bill written by Katzenbach was different from previous legislation in that it did not rely on federal courts for enforcement. Instead, Congress would set uniform voting and registration standards in states with the worst histories, and federal registrars could assume responsibility for registering voters. It also abolished the poll tax, literacy tests and other similar qualifications in states where less than half of voting age citizens had voted or been registered for the 1964 general election. Katzenbach felt a change was needed because under the previous system, if an individual was denied the right to vote, they had to personally file a lawsuit. This requirement offered an extremely slow remedy, and this difficulty was compounded by the threat of intimidation and the subsequent financial burden to the individual. Johnson addressed a joint session of Congress on March 15 to argue the merits and necessity of the new law.⁴³

⁴² Sitkoff, 173-183.

⁴³ Mann, 233. Transcript, Nicholas D. Katzenbach Oral History Interview I, 11/12/68 by Paige E. Mulhollan, page 21, Internet Copy, LBJ Library.

The battle over what became the 1965 Voting Rights Act took on a much different character than previous civil rights battles. The patriarch of southern resistance, Richard Russell, was battling emphysema, and other recalcitrant southern senators had little ammunition left after they had lost the battle over cloture the previous year. Senator Harry Byrd, a Democrat from Virginia and opponent of civil rights legislation, was asked if he planned to filibuster the upcoming bill. "Yes, I'll have to do my part, but you know you can't stop this bill. We can't deny the Negroes a basic constitutional right to vote," explained the senator. Byrd perhaps unknowingly summarized the difficulty of any strong position against the voting rights act. Public accommodations and employment discrimination were one thing, but politicians were hard pressed to present a legitimate argument for denying an American citizen the right to vote.⁴⁴

Dirksen had felt that the protection for voting offered by the 1964 act was sufficient, but after watching events unfold in Selma, he was convinced of the need for revolutionary legislation. "I thought perhaps that the Act would be something of a remedy, but on the basis of experience it has proved to be inadequate to solve the problem that still faces the country," the minority leader explained. Similar to 1964, he was prized by the administration as the key to cloture and would negotiate with both Democrats and the Justice Department. His main concern with Katzenbach's bill was the dispatching of federal registrars in the South and the constitutionality of eliminating the poll tax. The Justice Department generally agreed with him on the poll tax because the Supreme Court had previously ruled in 1937 and 1951 that poll taxes were not de facto violations of the 15th Amendment. Dirksen was willing to concede several items in the bill but not poll taxes, and he was joined in his opposition by the president, who said that he was advised by constitutional lawyers that they would have a tough time repealing it. Dirksen compromised by changing the language that banned the poll tax only in states that were

⁴⁴ Mann, 237-238.

using it to prevent blacks from voting. In this manner, he avoided alienating states' rights conservatives from the Midwest and West on whom he depended for support. Dirksen agreed to federal registrars, although they were called "examiners," and they would work in the seven southern states with the worst records on voting and registration.⁴⁵

Mansfield filed a cloture petition, which passed by a comfortable margin on May 25, with Dirksen delivering 23 Republican votes. The bill, approved by the Senate on the following day, stalled in the House for over a month, giving time for Republicans Gerald Ford and William McCulloch to offer a weaker bill that was summarily rejected. On July 9, the House passed a bill that was stronger than the Senate version and included a ban on the poll tax. Both houses met and agreed to pass a conference report that included a qualified application of poll taxes. The final product was the Voting Rights Act of 1965.⁴⁶

The celebration over the Voting Rights Act was short-lived. Five days after the signing, a riot broke out in Watts, a Los Angeles ghetto with a long history of tension between black residents and the mostly white police force. The riot in Watts was similar to a growing number of urban riots that were occurring since 1964 in places such as Chicago, Newark, Buffalo and Cleveland. These disturbances corresponded with the formation of the militant Black Panther Party, a radical alternative to traditional civil rights groups. Slogans like "Black Power" and "Burn, Baby, Burn" appeared to replace "We Shall Overcome" in the nomenclature of the time. Many supporters of civil rights had trouble understanding urban turmoil because they felt they had accomplished so much for blacks over the previous decade.

⁴⁵ Mann, 240-243. Schapsmeier, 183. *Congressional Record*, 5/26/65 Vol. 3. No. 95, Everett McKinley Dirksen Papers, Working Papers, folder 270. Neil MacNeil, *Dirksen: Portrait of a Public Man* (New York: The World Publishing Co., 1970), 253-254.

⁴⁶ Mann, 244-247. Schapsmeier, 184.

Lyndon Johnson attempted to remedy this by introducing yet another civil rights bill in 1966. Its most controversial title involved ending discrimination in access to housing. "We must give the Negro the right to live in freedom among his fellow Americans," Johnson declared in his State of the Union address. He called on Congress to "declare resoundingly that discrimination in housing and all the evils it breeds are a denial of justice and a threat to the development of our growing urban areas." Civil rights leaders desired a fair-housing executive order but Johnson's legal aides doubted its constitutionality. Many administration officials felt housing legislation was unwise at the time because it would not pass due to the social unrest in urban areas. Attorney General Katzenbach was not confident in its passage because there were many in Congress that felt they would lose their seats if they voted for open housing. Everett Dirksen, whom the Johnson administration had depended on for passing previous legislation, declared he would could support the bill because he felt the housing provision was unconstitutional and an invasion of property rights.⁴⁷

Dirksen's qualms about the constitutionality of open housing were influenced by a well-publicized battle over a fair housing law in California that he followed closely. The California state legislature considered a fair housing law in 1958, when the Democratic Party gained a majority. Governor Pat Brown commissioned studies that looked at discrimination in housing, not just against blacks but against all minorities in the state, and the assembly enacted legislation that prohibited discrimination by all business establishments and any publicly assisted housing accommodations. Assemblyman W. Byron Rumford introduced a fair housing bill on February

⁴⁷ James R. Ralph, Jr., *Northern Protest: Martin Luther King, Jr., Chicago, and the Civil Rights Movement* (Cambridge: Harvard University Press, 1993), 174. Stephen Grant Meyer, *As Long as They Don't Move Next Door* (Lanham: Rowman & Littlefield Publishers, 2000), 204. Transcript, Ramsey Clark Oral History Interview IV, 4/16/69 by Harri Baker, Page 1, Internet Copy, LBJ Library. Transcript, Nicholas D. Katzenbach Interview I, 11/12/68 by Paige E. Mulhollan, Page 22, Internet Copy, LBJ Library.

14, 1963 that quickly became known as the Rumford Act.⁴⁸ The act prohibited racial discrimination by realtors and owners of apartments and houses constructed with public assistance.⁴⁹

A month prior to the introduction of the Rumford Act, the Berkeley City Council passed a fair housing ordinance that met immediate opposition in the form of an April referendum. The vote on the Berkeley fair housing referendum was regarded as a test of the larger housing bill that was being debated in the state legislature. The California Real Estate Association wanted to defeat the ordinance and felt that if they could win in Berkeley, then they could surely defeat the bill in the legislature. The ordinance was defeated in Berkeley 52 to 47 percent with 83 percent of registered voters participating.⁵⁰ Despite this result, the general assembly passed the Rumford Act on April 25 and sent it to the state senate, where lobbyists from the NAACP pressed for its passage and CORE coordinated sit-ins in the capitol rotunda. After contentious debate and negotiations, the bill passed the senate and was confirmed by the assembly.⁵¹

The California Real Estate Association opposed the bill but decided against a referendum because the legislature could override it with another bill. Instead, the association chose to support an amendment to the state constitution. They joined forces with the California Apartment Owner's Association to form the Committee for Home Protection and sponsored a constitutional amendment that became Proposition 14. It appeared on the ballot of the 1964 general election, and the campaign was emotional and bitter. Opponents framed their argument that a "no" vote was a vote against prejudice and discrimination, while a "yes" vote was a vote for property rights

⁴⁸ Thomas W. Casstevens, *Politics, Housing and Race Relations: California's Rumford Act and Proposition 14* (Berkeley: Institute of Governmental Studies, University of California, Berkeley, 1967), 3-20.

⁴⁹ Raymond E. Wolfinger and Fred I. Greenstein, "The Repeal of Fair Housing in California: An Analysis on Referendum Voting," *The American Political Science Review* Vol. 62, No. 3 (Sep., 1968): 753.

⁵⁰ Casstevens, 21-22.

⁵¹ *Ibid*, 31-37.

and non-compulsion.⁵² Eighty-four percent of registered voters in California weighed in on the measure which passed by a margin of 65 to 35 percent.⁵³

The California State Supreme Court considered the bill in June 1966 and ruled in a 5-2 decision that Proposition 14 was unconstitutional. However, they reversed a decision regarding the case of Clifton Hill, a black man who had filed an injunction against his landlord for evicting his family on account of their race. The court found that since the property was privately owned and comprised less than four units, the owner was not liable. In the court's opinion, "the 14th Amendment does not impose upon the state the duty to take positive action to prohibit a private discrimination of the nature alleged here." An article in the *San Francisco Examiner* explained how the "justices said that the state may by action of the Legislature make private acts of discrimination unlawful, but has not done so."⁵⁴

Dirksen corresponded during this period with a representative from a public relations and campaign management firm in San Francisco who kept him up to date on the California Supreme Court's movements on open housing. Dirksen referenced the court's decision in a press conference in June 1966, when he stated that there was no constitutional ban against racial discrimination by one individual against another; only discrimination by the state was considered unconstitutional.⁵⁵ He also addressed the decision in one of his weekly radio and television programs titled "The Civil Rights Story Thus Far." He began the report by cataloging the previous civil rights acts and his part in them and then arrived at the proposed 1966 bill and housing. "Heretofore there was a belief that the Fourteenth Amendment provided not only against discrimination so far as states were concerned, but individuals as well. The high tribunal

⁵² Ibid, 40-53. Wolfinger and Greenstein, 764.

⁵³ Casstevens, 68.

⁵⁴ James Dorais to Everett Dirksen, 14 June 1966, Everett McKinley Dirksen Papers, Working Papers, folder 325. James Dorais to Clyde Flynn, June 1966, Everett McKinley Dirksen Papers, Working Papers, folder 328.

⁵⁵ *Chicago Tribune*. 17 June 1966.

of the State of California has a wholly different idea so you see the controversy begins in the judicial field and it will extend from there.”⁵⁶

President Johnson introduced his omnibus bill to Congress in April 1966. It forbade discrimination in the selection of juries and provided for stricter enforcement of desegregation in schools and public facilities. It also added broader enforcement powers for the Equal Employment Opportunities Commission and made it a federal offense to threaten or use force to prevent an individual from exercising their constitutional rights. However, the open housing section, Title IV, provided the most contentious debate among opponents.⁵⁷ Attorney General Katzenbach was charged with guiding the legislation through Congress. He argued that discrimination in regard to housing was outlawed by the 14th Amendment and that the bill was covered under the interstate commerce clause of the constitution, an argument that Dirksen did not buy. “If you can tell me what in interstate commerce is involved about selling a house fixed on soil or what federal jurisdiction there is, I’ll eat the chimney on the house” commented the minority leader.⁵⁸

Although Dirksen’s main reason for opposing the open housing bill was his assertion that it was unconstitutional, he was fully aware of the changing political climate, priming what rival Illinois Senator Paul Douglas called Dirksen’s “weathervane sensitivity.”⁵⁹ Dirksen was lobbied by and corresponded with a wide variety of his constituents from Illinois, as well as interested parties throughout the country. Harry Porter, Circuit Court Judge of Cook County, Illinois, wrote to the senator and described the bill as “perhaps the worst piece of legislation ever to be offered

⁵⁶ “The Civil Rights Story Thus Far”, June 13, 1966, Everett McKinley Dirksen Papers, Remarks and Releases, folder 218.

⁵⁷ Schapsmeier, 184.

⁵⁸ Neil MacNeil, 284-285. *Chicago Tribune*. 3 May 1966.

⁵⁹ Paul H. Douglas, *In the Fullness of Time: The Memoirs of Paul H. Douglas* (New York: Harcourt Brace Jovanovich, Inc., 1971), 303.

in the nation's history." He further suggested that "the consensus of this community of some 87,000" was overwhelmingly with him in his fight against open housing. Dirksen replied that he was glad to hear from the judge and get a report about sentiments in the community.⁶⁰

Dirksen received a memo from Bertel Sparks, Professor of Law at New York University, that opposed Title IV and indicated that it would reduce the total amount of housing available by discouraging new construction. He contended that blacks and other minorities would be further disadvantaged in efforts to buy what would be available.⁶¹ Dirksen received letters from a constituent in Markham, Illinois that said the legal pressures of open housing were pushing the communities of Markham, Harvey, and Maywood from integration into resegregation. The Executive Secretary of the Beverly Area Planning Association informed the senator that they conducted a survey on housing legislation in Chicago and found overwhelming opposition. Dirksen wrote to attorney Walter Wiles of Chicago about the fight over Title IV. "I have contended over and over that such a restriction upon the individual citizen could not under any circumstance be supported by the Supreme Court and I am still willing to gamble on that opinion."⁶²

The chief opponent to the open housing title was the real estate industry. The National Association of Real Estate Boards mobilized a thousand local real estate boards to attack the housing clause. Estimates indicated that congressional mail was running one hundred to one against open housing.⁶³ Arthur Mohl of the Illinois Association of Real Estate Brokers testified

⁶⁰ Harry H. Porter to Everett Dirksen, May 9, 1966, Everett McKinley Dirksen Papers, Working Papers, folder 312. Everett Dirksen to Harry H. Porter, June 3, 1966, Everett McKinley Dirksen Papers, Working Papers, folder 326.

⁶¹ Memo from Bertel M. Sparks on Title IV, Everett McKinley Dirksen Papers, Working Papers, folder 326.

⁶² Everett Dirksen to Walter E. Wiles, August 2, 1966, Everett McKinley Dirksen Papers, Working Papers, folder 336. Thorpe Dresser to Everett Dirksen, February 26, 1967. Nelson C. Blackford to Everett Dirksen, March 16, 1967, Everett McKinley Dirksen Papers, Working Papers, folder 347.

⁶³ Ralph, 174-75.

against the bill in front of the House Judiciary Committee and said Title IV would not have positive effects on the ghetto. He argued that New York City had an open housing law that enabled riots and a sixty-five percent increase in substandard housing over a ten-year period, while Chicago did not have an open housing law, had no major riots, and experienced a thirty-three percent reduction in substandard housing. He concluded, “We submit that any law which attempts to regulate a personal relationship between two individual citizens, where the public interest is not involved, is un-American and un-democratic.”⁶⁴

An opposition statement from the Rhode Island Realtors Association, Inc. and Home Owners Division of Rhode Island was read before Congress. The statement suggested “that some leaders of minority groups and proponents of ‘Forced Housing’ legislation do not want to solve the housing problem, but as a result wish to force integration by using it as a tool.” E.G. Stassens, President of the Oregon Association of Realtors, also read a statement before Congress that opposed Title IV. He noted that Oregon had a fair housing law since 1959, and since that time, all the charges of discrimination proved to be invalid. He said that the law harassed citizens accused of discrimination, and those individuals were forced to spend a great deal of time and money defending themselves.⁶⁵

Unlike the Civil Rights and Voting Rights Acts of the previous two years, the 1966 Civil Rights Bill never built enough momentum to pressure Congress into action. Debate on the bill began in June within the judiciary subcommittee of the House of Representatives. The subcommittee recommended approval of the sections that addressed discrimination in federal and state juries, armed the attorney general with the power to file desegregation suits on his own

⁶⁴ Statement of Arthur F. Mohl before House Judiciary Committee, May 25, 1966, Everett McKinley Dirksen Papers, Working Papers, folder 320.

⁶⁵ Statement of Rhode Island Realtors Association, Inc and Home Owners Division of Rhode Island before Subcommittee, June 14, 1966. Statement of E.G. Stassens, President of the Oregon Association of Realtors before Subcommittee, June 14, 1966, Everett McKinley Dirksen Papers, Working Papers, folder 326.

initiative, and made terror and violence against civil rights workers a federal crime. Meanwhile, Title IV was referred to the full judiciary committee without recommendations. After a failed attempt to completely strike the open housing title, an amendment passed by a vote of 180 to 179 that exempted approximately sixty percent of the nation's housing units. It allowed real estate agents, with written instructions from an owner, to discriminate in the sale or rental of housing with less than four units, provided at least one of the units was occupied by the owner. The bill passed the House on August 9 by a vote of 259 to 157 and was sent to the Senate for a certain death.⁶⁶

The bill was added to the Senate calendar with debate scheduled to begin on September 6. North Carolina Democrat Sam Ervin led a southern filibuster that lasted for over two weeks and effectively blocked consideration of the bill. Dirksen informed Mansfield that there were not enough votes to gain cloture but the majority leader was under pressure from the Johnson administration and held two votes for cloture. Both votes received a majority but failed to gain the two-thirds necessary. In the second vote, only ten Republicans supported cloture, whereas that amount doubled in 1964 and 1965. Johnson reluctantly withdrew the bill from Senate consideration. Dirksen voted against cloture because he could not overcome his objection to the housing title and was aware of what was politically feasible. Arnold Aaronson, spokesperson for the Leadership Conference on Civil Rights, summed up the climate of Congress. "The mood of many Northern members was one of apprehension and timidity. With the November elections coming on, their votes and speeches frequently reflected political anxiety about voter reaction to big-city riots, 'black power' slogans and the pressures of the real estate lobby."⁶⁷

⁶⁶ *Chicago Tribune*, 4, 10 August 1966. MacNeil, 287.

⁶⁷ Stephen F. Lawson, *In Pursuit of Power: Southern Blacks and Electoral Politics, 1965-1982*. (New York: Columbia University Press, 1958), 76. Schapsmeier, 185-186. MacNeil, 287

Democrat Paul Douglas of Illinois, a long time supporter of civil rights who cosponsored the housing legislation in the Senate lost his seat in the 1966 midterm elections, the only incumbent Senator to lose his reelection bid. Douglas included open-housing in his campaign and lost decisively in Chicago's suburbs and white ethnic wards; areas that had overwhelmingly supported him in 1960. Douglas' campaign was also hindered by the Chicago Freedom Movement, which was a civil rights campaign that took place in Chicago during the summer of 1966. Open housing became the objective and demonstrations into white neighborhoods turned violent and further hardened opponents against fair housing.⁶⁸

The Johnson administration attempted to get the bill passed in 1967 but the threat of filibuster convinced the president to withdraw the bill again. It was taken up again in 1968 and this time Dirksen informed Johnson that he felt if a compromise could be reached on the open housing title, he could open the door for passage of the entire bill. Dirksen pushed for limiting the scope of prohibitions against discrimination in the sale and rental of housing units by exempting private, single-family dwellings. After three failed attempts at cloture, the Johnson administration agreed with Dirksen to exempt private dwellings. Dirksen, despite his frail health, once again worked diligently to build a coalition. In 1968, the Republican Party in Congress was populated by more liberals than before who did not want to be blamed in an election year for opposing legislation that was intended to remedy the growing urban disorders. The "Dirksen substitute" as the bill was referred, was introduced in February and the minority leader explained his apparent change of heart. "One would be a strange creature indeed in this world of mutation if in the face of reality he did not change his mind," he explained.⁶⁹

⁶⁸Roger Biles, *Crusading Liberal: Paul H. Douglas of Illinois* (DeKalb, IL: Northern Illinois University Press, 2002), 194-199.

⁶⁹Lawson, *In Pursuit of Power*, 82-84. Schapsmeier, 187-188. MacNeil, 323-325.

Cloture on the bill was achieved on March 4, and passage in the Senate quickly followed on March 11. An anti-riot amendment was added to the bill despite objections from the Johnson administration. The bill was moved to the House, which had to approve the Senate version or convene a joint conference to work out a compromise. The bill went to the Rules Committee, which decided to suspend any consideration of the bill until the House returned from Easter break on April 9. On April 4, the assassination of Martin Luther King triggered riots in Washington, D.C. and other urban areas throughout the country. The Rules Committee reported the bill out when they reconvened on April 9 and a bipartisan majority approved the Senate modifications the next day. Lyndon Johnson signed the Civil Rights Act of 1968 into law on April 11.⁷⁰

The civil rights movement is a broad descriptive term that refers to the wide range of court cases, demonstrations, political organizations, and legislative activities intended to provide enfranchisement and equality for African Americans. This paper focused on the legislative branch's contribution to the civil rights movement. The number of civil rights acts proposed and enacted during the 1950s and 1960s demonstrates the difficulty in overcoming generations of resentment and prejudice toward equality for African Americans. Members of both houses of Congress, reflecting their constituencies, held a wide range of positions regarding the rights of blacks and the responsibilities of the government in ensuring or denying those rights. Many supported the fulfillment of these rights, but many adamantly opposed them. The challenge of the legislative branch was to correct the problems confronting blacks while building sufficient support necessary to pass said legislation. Something Everett Dirksen referred to as "the Art of the Possible."

⁷⁰ Lawson, *In Pursuit of Power*, 85-87. Schapsmeier, 188-189.

Southern congressmen and senators prevented any legislation from passing for decades due to their domination of powerful committees and their use of the filibuster. Everett Dirksen was instrumental in building support among fellow Republicans to combine with liberal Democrats in a bipartisan coalition that passed civil rights legislation. In order to build that coalition, bills had to be delicately customized to please a vast range of egos, constituent mandates, and political necessities. Dirksen was also instrumental to behind-the-scenes wrangling between White House officials and fellow members of Congress that made collaboration possible. Without building that tenuous alliance, there was little chance of passing any meaningful civil rights legislation.

Darren Miles

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