

CHAPTER 5

CONGRESS AT WORK: THE SENATE JUDICIARY COMMITTEE

With his Ph.D. degree in political science at last firmly in hand, Clark Schooler spent the summer of 1963 working at his old journalism job at the *Baltimore Banner*. Somewhat to Clark's dismay, the city editors at the *Banner* had come to regard Clark as a "rewrite man" rather than a "street reporter." He spent most of the summer working on the "rewrite desk," taking telephone calls from the various reporters and turning the facts they presented into written newspaper copy.

It started out as a dull summer where civil rights stories were concerned. Because President John F. Kennedy had sent a major civil rights bill to Congress and was pushing hard for its enactment, the various civil rights groups curtailed their protest marches and sit-in demonstrations. The new motto of the civil rights movement seemed to be: "We've shown them what we can do on the streets. Now lets see what they can do in Congress."

Periodically during the summer of 1963, Clark's services were commandeered by the Patriot Press newspapers, the national chain that owned the *Banner*. In the middle of July, Clark was temporarily assigned to a Patriot Press News Squadron that was covering the progress of President Kennedy's civil rights bill through the U.S. Congress.

Baltimore, Maryland, was close enough to Washington, D.C., that Clark could commute down to Capitol Hill in Washington each morning and drive back to his home in Baltimore in the evening. Baltimore and Washington were only 40 miles apart. Thanks to a new expressway, the Baltimore-Washington Parkway, the drive only took 40 minutes to 60 minutes each way, depending on traffic. On days when Clark did not feel like driving, he could go by train on the Pennsylvania Railroad, which ran passenger trains between Baltimore and Washington on an almost hourly basis.

The United States Congress is organized under the committee system. Legislative bills are introduced in the Senate or the House of Representatives and immediately routed to committee. The committees are small groups of senators or representatives, depending on which house of Congress the bill is in, that meet together and analyze the various provisions of the bill in detail.

Committees in the U.S. Congress are jurisdictional committees. Each committee has a specific type of legislation which the committee reviews and considers. Thus the House Agriculture Committee has jurisdiction over all bills that concern farming and agricultural production. The Senate Armed Services Committee looks over all bills on the subject of national defense and military preparedness.

The Patriot Press newspapers sent Clark down to Washington to cover Senate Judiciary Committee consideration of President Kennedy's brand-new civil rights bill. As soon as the bill was introduced in the Senate, one of the Senate clerks routinely sent the bill to the Senate Judiciary Committee. There the bill came under the control of the committee chairperson, Senator James Oliver Eastland, a Democrat from the Southern state of Mississippi.

Congressional committees do two main things. First, they hold committee hearings on a bill, inviting citizens and groups that are interested in the subject matter of the bill to come to Washington and testify for or against the bill. Second, committees hold mark-up sessions, where the committee members rewrite the bill before sending it on to the entire Senate or the entire House of Representatives. In the mark-up session, the committee can and usually does, by majority vote, make any changes it deems appropriate in the original bill.

The first thing Clark Schooler needed to do was to find out exactly what was in President Kennedy's proposed civil rights bill. That problem was quickly solved when the top Washington correspondent for the Patriot Press newspapers, Jim Senitall, telephoned Clark and invited him to go to lunch and discuss the bill's major provisions.

Personal time is at a premium on Capitol Hill. People have plenty of work to do. The more important the person, the more likely that person is to be short of time and hard-pressed to get all the day's necessary tasks completed. One of the best ways to expand the available working hours in the day is to turn meal times into meeting times. Capitol Hill thus is the land of the "working breakfast," the "luncheon meeting," and, on many days, the "evening banquet," where connections are made and particular points of view gently or forcefully pushed.

One of the most convenient places for a luncheon get-together on

Capitol Hill was the Carroll Arms Hotel. This stately brick building was located just a few blocks north of the Capitol building. The Carroll Arms actually was a hotel, but it was mainly famous for its dining room. Here, particularly during the weekday lunch hour, one could see a variety of well-connected and influential persons meeting and talking to each other.

The Carroll Arms was an exciting place to dine. Anyone could go and eat there. But, with a little luck, sitting at the next table would be a prominent member of Congress, or a famous newspaper columnist, or a well-known lobbyist for a powerful corporation or industry.

Clark Schooler and Jim Senitall sat down at a small table covered with a white tablecloth and ordered lunch. Clark looked around the room and then remarked to Jim Senitall that he did not see anyone famous eating at the Carroll Arms this particular noontime. Jim Senitall turned around, quickly surveyed the room, and brought Clark up-to-date on the various important people who were present and munching. There was a key chairperson of a House committee, the leading foreign policy correspondent for the *New York Times*, and so forth and so on for about eight of Clark's fellow lunch goers. As Jim Senitall obviously had intended, Clark was impressed with Senitall's ability to spot and name the great and near-great in Washington, D.C.

Jim Senitall was about 50 years old. In the traditional manner of newspaper reporters, he started out working on a small daily newspaper and, step by step, struggled his way up to become a leading national news reporter. He exuded a touch of that "been everywhere, seen everything" atmosphere characteristic of successful newspaper people. But Senitall kept his aura of journalistic superiority under control. He seemed to really want to help Clark get started on his newspaper assignment in the nation's capital.

Senitall was of medium height and medium build. He spoke quickly and forcefully in a no-nonsense manner. After exchanging the barest amount of pleasantries with Clark Schooler about where Clark was from and where Clark went to school, Jim Senitall got right down to business talking about President Kennedy's civil rights bill.

"A major battle has been raging at the White House," Senitall said. "The fur's been flying ever since the Birmingham demonstrations. President Kennedy promised the nation a strong civil rights bill, but a number of the insiders in the Kennedy administration are urging caution. They want the president to send Congress a relatively weak bill so as not to antagonize the Southern Democrats in Congress."

"The president has a lot of things he wants from Congress this year," Senitall continued. "President Kennedy wants to stimulate the national economy by cutting taxes. But that means getting a tax cut bill through the

Senate and the House of Representatives. The Southern Democrats aren't going to cooperate with the president on a tax cut if he's simultaneously pushing a strong civil rights bill. There is real fear among some of the president's closest advisers that the Southerners will hold the tax cut bill hostage for the civil rights bill."

"You mean," Clark interrupted politely, "that the Southern Democrats will refuse to support the tax cut unless President Kennedy either weakens or drops the civil rights bill."

"Precisely," Jim Senitall replied. The nationally-known newspaperman then gave Clark Schooler a critical look and said. "You really are a professor as well as a reporter, aren't you? You just clarified my statement for me. I'll bet you do that for all your students."

Clark was taken aback by Senitall's frank statement but quickly moved to defend himself. "I had a really good course on Congress in graduate school," Clark said. "I was taught to always look at the total legislative picture. Sometimes you cannot tell what is going on with one bill without being aware of what's happening with a completely different bill. It sounds like that's what's going on with the tax cut bill and the civil rights bill."

Senitall looked almost impressed that Clark had learned such a concept in graduate school. He asked: "Who taught you that course?"

"A guy named Ronald Pullman," Clark responded. "He was the legislative assistant to Senator Wallace Bennett of Utah. He came up to Baltimore on the train from Washington every Tuesday afternoon to teach Johns Hopkins students about his experiences on Capitol Hill. He was full-to-overflowing with little catch phrases for analyzing Congress."

"You were lucky to have that," Senitall said, and then went right back to discussing President Kennedy's civil rights bill.

"But there's another set of voices trying to get the president's ear," Senitall said. "These are the strong pro-civil rights people. They argue that the country is in flames over civil rights and that only a really tough civil rights bill will quiet the accelerated political activity in the black community. They argue the real threat to the president's political future is the prospect of more demonstrations and riots like Birmingham."

"No legislation originates in a vacuum," Clark interrupted again. "Bills are introduced in the United States Congress because somewhere 'out there' real people are upset with some aspect of the status quo and want to see things changed." Clark let that thought sink in. He then smiled at Jim Senitall and said: "That was another key piece of congressional lore from Ronald Pullman."

Jim Senitall laughed out loud. Apparently, it seemed to Clark, Senitall was enjoying hearing the academic version of how things happen on Capitol

Hill.

“As you might expect,” Senitall continued, “the bill that President Kennedy presented to the Senate and the House of Representatives was somewhat in the middle of those two positions. But, in all fairness, I would characterize it as a strong bill. It’s not tough enough to satisfy the more vocal civil rights supporters around the president. But it’s a very practical and workable bill. It will be a real achievement for John Kennedy if he can somehow get Congress to enact this particular bill into law.”

“There are eleven major provisions in the civil rights bill,” Senitall continued, “but your readers will fall fast asleep if you try to describe and discuss all eleven of them. By unspoken agreement, the press is simplifying things for the American people by concentrating the discussion on just four provisions. Those four major provisions are important parts of the bill and relatively simple and easy to understand.”

“Incidentally,” Senitall pointed out, “up here on Capitol Hill, we refer to a major provision of a bill as a ‘title.’ The various titles of a bill are numbered in consecutive order, so you hear people talking about ‘Title One,’ and ‘Title Five,’ and so on. Did your intellectual pal, Ronald Patman, or whatever his name was, teach you about that?”

“Yes, Ronald Pullman,” Clark replied, emphasizing the “Pull” in Pullman. “He also taught us that sometimes government programs become known by the title number in the bill in which the programs were enacted into law. For example, and I’m making this up, people might refer to a ‘Title Five crop.’ It would be ‘Title Five’ because the subsidy for that particular agricultural product was included in ‘Title Five’ of some long ago agricultural bill.”

“That’s right,” said Jim Senitall, “and some of the title numbers of President Kennedy’s civil rights bill are already well-known and being bandied about among the press and the congressional staff on Capitol Hill.”

“The most important provision of the bill is Title Two,” Senitall went on. “It outlaws racial discrimination in all public accommodations. Those are places such as restaurants, snack bars, motels, hotels, swimming pools, and so on. Those are private businesses, but the public is invited to come in and do business in them. Under Title Two, restaurants and hotels would have to serve all customers without regard to race, religion, or national origin.”

“Title Two is the very heart of the civil rights bill,” Senitall noted. “It is written in direct response to all the sit-in demonstrations across the country.”

“Title Two is also the title that the Southerners will try the hardest to get chopped out of the bill,” Senitall said. “If the Southerners succeed in

that, the bill will be worthless. The nation will go back to sit-ins and Birmingham-style demonstrations and, possibly, riots.”

“The next most important provision of the bill is Title Six,” Jim Senitall continued. “It provides for the cut-off of U.S. Government funds to any state or local government program that practices racial discrimination. It means that colleges and universities in the South will not be able to get U.S. Government research funds if they discriminate against black students. It means that hospitals in the South will not get U.S. Government aid if they continue to refuse to treat blacks as well as whites in the emergency room.”

Clark Schooler was impressed by Title Six. He knew enough about how widespread U.S. Government aid programs were in American society to know that the funds cut-off could have real impact. It would be a tough choice, financially, for a state or local government in the South to give up U.S. Government aid in order to maintain racial segregation. With the funds cut-off, remaining racially bigoted could start costing Southern governments real dollars.

“Title Three of the bill is very important but somewhat difficult to understand,” Jim Senitall said. “You’ll find it a challenge to explain it clearly to your readers. As proposed by the Kennedy administration, Title Three permits the attorney general of the United States to file suits to bring about the racial desegregation of public schools.”

“The problem with present law,” Senitall continued, “is that individual blacks have to file suits to get their schools desegregated. As you know, the right to school integration was guaranteed in 1954 by the Supreme Court in the *Brown v. Board of Education* decision. But often, when black people filed suits to desegregate their local schools, they became the victims of community persecution, some of it violent. Blacks who pressed for school integration often were fired from their jobs, or their kids were kicked out of public school for some trumped-up reason, or their license to operate their barber shop or beauty shop was taken away.”

“Those were the more palatable types of punishments,” Senitall went on. “In some cases, blacks who filed suits to desegregate their schools were beaten up on the street, or somebody would throw a dynamite bomb through their front window in the middle of the night.”

“Title Three attempts to end all that by having the U.S. attorney general, rather than individual black persons, file the desegregation suit,” Jim Senitall explained. “The local Southern whites will not be able to fire the attorney general, nor close his barber shop, nor will they be likely to try to throw a bomb in the front door of the Justice Department building here in Washington, D.C. Under Title Three, the United States Government takes on the full burden, and risks, of filing school desegregation suits.”

As he was listening to Jim Senitall explain Title Three, Clark Schooler was reminded of his newspaper colleague, Bernard Martin, and Martin's viewpoint on "the willing suspension of law and order." It occurred to Clark that, if Title Three of the civil rights bill were enacted into law, African-Americans in Southern communities would be less subject to "the willing suspension of law and order." With the U.S. Government filing school desegregation suits on behalf of African-Americans, the African-Americans would, in effect, be protected from reprisals, possibly violent reprisals, from local whites.

"The last of the four major titles," Jim Senitall said, "is also probably the least likely to be enacted into law. It's Title Seven, which creates an Equal Employment Opportunity Commission. The commission will have the authority to limit job discrimination wherever work is being performed under U.S. Government contracts."

At that moment, two men at another table had finished their lunch together and were walking out of the Carroll Arms Hotel dining room. As they passed Clark's and Jim Senitall's table, one of the men stopped to talk with Senitall about some obscure piece of legislation that Clark had never heard of. Somewhere in the midst of the conversation, Jim Senitall introduced Clark Schooler to the two men. One was a Washington correspondent for the *Los Angeles Times*. The other was a reporter and commentator for Central Radio News, a small network of radio stations located mainly in the American Midwest.

The conversation quickly turned to President Kennedy's civil rights bill, and soon the two men pulled up empty chairs from adjoining tables and sat down with Clark and Jim Senitall. To Clark's pleased amazement, he was suddenly being briefed on the civil rights bill by three Washington correspondents, not just one.

Jim Senitall asked the man from the *Los Angeles Times*: "What do you think about Title Seven? Do you think equal employment opportunity is the legislative lamb being led to congressional slaughter that I think it is?"

The *Los Angeles Times* guy pondered the question for a few moments and then said: "It certainly would be the easiest part of the civil rights bill for the pro-civil rights forces to give up. The sit-in demonstrations were about getting served in restaurants, not about getting jobs in those restaurants. One way to lessen Southern opposition to the bill might be, at a strategic moment, to cut out equal employment opportunity. Then the Southerners could argue they had saved at least one part of the Southern segregation system."

The man from Central Radio News nodded his head in agreement. He said: "My sense is that President Kennedy put equal employment opportu-

nity in the bill only because the civil rights lobbyists were screaming their heads off for it. I think he will abandon that ship the minute the congressional waters get rough.”

“And don’t forget that the Democrats are going to need some Republican votes to get this bill passed,” stated the *Los Angeles Times* reporter. “Republicans are sensitive to anything that affects business, particularly businesses that have U.S. Government contracts. After all, the Republicans are the party of big business in this country. The pro-civil rights Democrats might maneuver to pick up some Republican votes by jettisoning equal employment. If nothing else, the business interests will be delighted to be rid of all the paperwork to file with the government.”

The conversation continued in this vein for a few more minutes. Then the two men got up and went on their way.

The day after his lunch with Jim Senitall, Clark Schooler took his place among the other news reporters covering the Senate Judiciary Committee hearings on President Kennedy’s civil rights bill. It was the 16th day of July in the year 1963. The hearing room looked something like a court room. The senators on the Judiciary Committee sat behind a high, horseshoe-shaped bench at one end of the room. In front of the bench was a large table with chairs. It was a witness table. Persons testifying before the committee sat at the witness table so as to be facing the bench full of senators.

There also was a table for members of the press to sit at and take notes. If the particular committee hearing was important enough, the hearing might be televised. That would add the excitement of television lights and television cameras to the proceedings. In most cases, however, reporting on committee hearings was the domain of the print press.

Occasionally the television networks set up their lights and cameras in the hallway outside the committee hearing room. The television reporters would try to grab important senators as they were leaving the hearing room and then get them to answer questions about the hearing “on camera.”

Behind the witness table and the press table were rows of seats for spectators. Lobbyists and other persons interested in the work of the Judiciary Committee could come and sit in these seats on a first-come, first-served basis. For most routine legislation, it was easy to get a seat and both observe and listen to the committee hearing. If the bill was important and getting lots of news media attention, however, interested persons often had to get in line early in the morning to get a seat in the hearing room.

Clark noticed something about the high circular bench where the senators sat. The height of the bench put the heads of the senators considerably above the heads of those who were testifying before the committee. The senators thus looked down from a position of dominance on those giving

testimony. It occurred to Clark that it could be pretty intimidating to come before the Judiciary Committee and have to sit there and look up into the faces of questioning and cross-examining senators.

It was easy to keep track of which senators were Democrats and which were Republicans. The Democrats all sat on one side of the horseshoe and the Republicans sat on the other. At the head of the horseshoe sat the committee chairperson, who presided over the hearing and determined who would speak when. The committee chairperson was the senior member of the political party which had a majority in the Senate. In 1963 that was the Democratic Party.

Clark was impressed with the ornate character of the committee hearing room. The regal atmosphere was enhanced by the presence of a U.S. flag and, on the wall, the Great Seal of the United States. Well, why not? The United States was a powerful and wealthy country. A good bit of that wealth had been spent on decorating the committee hearing room with beautifully carved woodwork and paneled wooden walls. The horseshoe-shaped bench was a magnificent piece of furniture. And all the door handles, door hinges, and other metal fittings in the room were made of brass and kept immaculately polished.

It occurred to Clark that this was the way a king or an emperor would decorate a modern throne room. That is, if he had the money.

The chairperson of the Judiciary Committee was Senator James Oliver Eastland of Mississippi. To Clark Schooler, Senator Eastland was the epitome of the pro-segregation Southern Democratic senator. Clark gave himself a mental reminder that Senator Eastland represented the state where the riot at Ole Miss had taken place just about one year earlier.

Because he had taken that excellent course on Congress in graduate school, Clark Schooler was able to observe a number of things about the Judiciary Committee that the average person would have missed. In the first place, a number of the senators sitting at the far ends of the horseshoe-shaped bench were considerably younger in appearance than the senators sitting toward the middle. That was a result of the seniority system.

The more years a senator served on the Judiciary Committee, the more seniority he or she gained. Senators who were newly elected to the Judiciary Committee took the outermost seats on the horseshoe, the newest Democrats sitting on one side and the newest Republicans on the other. As older members of the committee retired from office, or departed to take seats on other Senate committees, the newer members would move progressively toward the center of the horseshoe.

This process of moving to the middle of the horseshoe could take years, sometimes even decades. That explained why the senators in the middle

looked older than the senators on the far ends. Clark Schooler often said, jokingly, that an enterprising young member of Congress should take his or her vitamins, get plenty of exercise, avoid fatty foods, and give up drinking alcohol and smoking cigarettes. Such behavior would lead to a long life, and that would enable the Congress member to gain plenty of seniority on a congressional committee.

Seniority had its own set of rules. The concept was applied rigidly in both the Senate and the House of Representatives. When two members of Congress joined a committee on the same date, the person who had held high elective office, such as being governor of his home state, would have seniority over the other person. If neither of the two members had held high elective office, however, a coin would be flipped in the air. The winner of the coin toss would be the senior person of the two on that particular committee, and that would be true for the remainder of the time the two Congress members were on that committee.

Many aspects of daily life on Capitol Hill were controlled by seniority. Senior senators and representatives received the more desirable congressional office suites in the Senate and House office buildings. A desirable congressional office suite would be one that was close to the Capitol building or, better yet, had a spectacular view of the Capitol dome out the window. Clark had even been told, although he did not know if it was really true, that seniority could get a senator or representative a more convenient parking space for his or her automobile in the appropriate Capitol parking garage.

The chairperson of a congressional committee was the member of the majority party in that house of Congress who had served on the committee for the longest period of time. Committee chairpersons thus tended to be older, or in some cases almost superannuated. Committee chairpersons also were experienced, knew how to get things done in Congress, and tended to be conservative and cautious rather than liberal and aggressive.

The most important thing about congressional committee chairpersons, Clark knew, was the power they had to control the work of the committee. The chair of the committee set the committee agenda. If a younger member of the committee wanted to be recognized by the chairperson so he or she could speak and ask questions in committee hearings, well that younger member had better be nice and cooperative with the committee chair. If a younger member of the committee wanted his or her pet bill scheduled for hearings and passed by the committee, that young person had better be openly supportive of the committee chairperson.

In addition, the committee chair hired and assigned most of the committee staff, the paid employees who did research for the committee members

and helped to write the actual legislation. If a younger member of a committee wanted to have any staff assigned to help him or her research and write bills, that young person needed to be on the best terms possible with the committee chairperson.

Putting so much power in the hands of the committee chairs resulted in the chairperson dominating the other committee members almost totally. The committee pretty much held the hearings and passed on the legislation that the committee chairperson wanted.

Clark Schooler zealously taught his students that the general working rule for younger members of Congress was: "To get along, go along." Cooperate with your committee chairperson, and you'll get some legislative goodies. And, if you live long enough, and get reelected enough, and your party is in the majority in your house of Congress, some day you, too, may get to be an all-powerful committee chair.

Senator James Eastland, chairperson of the Senate Judiciary Committee, convened the committee's hearings on President Kennedy's civil rights bill. After some brief formalities, Chairperson Eastland recognized one of his Southern Democratic colleagues on the committee, Senator Sam J. Ervin, Jr., of North Carolina. In a thick but pleasing Southern accent, Sam Ervin launched the Southern attack on this latest piece of civil rights legislation.

"I am emotionally opposed to this bill," Ervin began. "It attacks the very fiber, the very structure, of our unique Southern way of life. It empowers the national government, here in Washington, D.C., to come into our sacred and treasured Southland and invade the private lives and social arrangements of our citizens. This bill constitutes nothing more than a direct assault on the sacred constitutional freedoms of every Southern man and woman."

Clark noted that Senator Ervin was attacking the civil rights bill in military terms, flavoring his speech with words such as "invade" and "assault." This kind of flowery overstatement was often heard at congressional committee hearings. What Senator Ervin was hoping for was that one of his provocative phrases would catch the ear of one of the news reporters present. Then both the quote and Senator Ervin's name would be in the newspapers the next morning.

"But there will be no need for me to attack this bill on the emotional plane," Senator Ervin continued. "It is my intention to attack it on the intellectual plane. This bill violates almost every sacred principle of the United States Constitution. It violates our sacred state sovereignty. It violates our right to be free from the tyrannous hand of the power-grasping national government. This bill stands condemned by its manifest unconstitutionality. There is no clause or principle in the United States Constitution

that can save it.”¹²

Senator Ervin spoke for a considerable period of time, making complex arguments against the Kennedy civil rights bill based on narrow interpretations of the United States Constitution. Clark began to notice a considerable amount of boredom on the part of his fellow news reporters. “Tell me about it one more time,” grumbled one reporter under his breath. “That’s true, except for the supremacy clause,” muttered another.

There was a lot of shuffling of reportorial feet and frequent trips to the rest room. In fact, Clark concluded, the reportorial trips to the rest room were more frequent than necessary. It was becoming clear to Clark that virtually all of his fellow reporters were convinced that nothing significant was going to happen at these particular committee hearings.

“It’s always this way with the Senate Judiciary Committee,” said an older reporter to Clark at the end of the first day of hearings. “This committee is famous as the burial ground of civil rights bills. In the past couple of decades, more than 120 civil rights bills have died before this committee.”

“The hearings are just a sham,” the man went on. “The Southern senators sit up there and amuse themselves by launching all these arcane constitutional arguments against the bill. When the Dixie boys finally get tired of that, Senator Eastland just puts the bill in his pocket and that’s the last the Senate ever sees of that particular civil rights bill.”

As Clark got to know them better, the news reporters began griping to Clark about having to cover these particular hearings. All those logical but subtly venomous Southern criticisms of civil rights had been lodged many times before. And the final outcome, which was the death of the bill at the hands of Senator Eastland, was preordained.

Clark began to figure something out. He had been given the so-called “opportunity” of covering the Senate Judiciary Committee hearings on the civil rights bill because none of the senior national reporters at the Patriot Press newspapers wanted the job. In reality, Clark concluded, he had been stuck with a boring assignment that none of the other reporters “in-the-know” wanted.

But Clark was not upset or disheartened by this fact. It was exciting to be covering a committee hearing, any committee hearing, on Capitol Hill. Clark had advanced, at least temporarily, from being a “Baltimore” reporter to becoming a “Washington” reporter. In addition, as a political scientist as well as a journalist, Clark Schooler was actually interested in the Southerner’s arguments against President Kennedy’s civil rights bill.

For one thing, Clark was impressed with Senator Sam Ervin’s knowledge of the Constitution and his ability to make a very appealing defense of state’s rights. “More than anything else,” Ervin said, “the Founders of

our great republic feared tyranny. They worried that the national government would become so powerful that it would begin to steal away the rights and freedoms of the individual. To guard against this threat of tyranny, the Founders preserved and enhanced the powers of the state governments as a needed check on national power. To weaken state government, as this civil rights bill proposes to do, will leave every American citizen at the mercy of an all-powerful, unchecked national power.”

“Our Founders were logical,” Ervin said, sounding more like a college professor than a U.S. senator. “They believed in an orderly universe in which one force was balanced by another. The best way to check national power, the Founders told us, was to balance state power against it. The Founders thus drew a delicate, finely balanced line between the powers of the national government and the state governments.”

“This civil rights bill will move that line dangerously in the direction of the national government,” Senator Ervin continued. “I tell you, with all my heart and mind, if we pass this civil rights bill, we will be moving that delicate line between nation and state to our peril. We will move that line toward national tyranny.”

It occurred to Clark that this particular Senate hearing was really a sort of graduate student seminar. Weighty questions on the nature of the United States Government were being rigorously argued. But this particular graduate student seminar was not limited to a select few graduate students. Anyone who was interested could come in, take a seat, and observe the proceedings. Others could read about the committee hearing in considerable detail in the next morning’s *New York Times* or *Washington Post*.

About every third day or so, Clark wrote a news story for the Patriot Press newspaper chain on the doings before the Senate Judiciary Committee. Of course Clark did not report everything that was taking place. That would have been boring and confusing for his readers across the nation. Clark did his journalistic duty and simplified the hearings, orienting his articles around only one theme or one really juicy quote that had been spoken that particular day. Clark called this journalistic process “imposing order where no order actually exists.”

Clark also took a tip from Jim Senitall, his mentor in the Washington bureau of the Patriot Press newspapers. As Jim had advised, Clark limited his coverage of the Senate Judiciary hearings to only the four major provisions of the civil rights bill. Those provisions dealt with public accommodations, the U.S. Government funds cut-off, the attorney general suing in civil rights cases, and equal employment opportunity.

Interest in the Senate Judiciary Committee hearings picked up significantly when Attorney General Robert F. Kennedy, the president’s younger

brother, appeared before the committee to defend the civil rights bill. “Bobby” Kennedy, as almost everyone called him in everyday speech, was relatively young for a politician, both in years and in appearance. With his tousled hair and his boyish good looks, Robert Kennedy caused a ripple of excitement to run through the hearing room as he entered and took his seat at the witness table.

The attorney general appeared to be mainly interested in making the point that the civil rights bill was legally justified because it was based on the commerce clause of the U.S. Constitution. “There is hardly a broader grant of constitutional power than that embodied in the commerce clause,” Robert Kennedy told the Senate Judiciary Committee. “That provision of the Constitution is unequivocal. The very words of the Constitution are: ‘Congress shall have power . . . to regulate commerce with foreign nations, and among the several states.’”

Robert Kennedy continued his lavish praise of the commerce clause. “This grant of power is clear, specific, and unlimited in any way,” the attorney general said. “Congress has the power, if it chooses to use it, to bar racial segregation in all hotels, motels, restaurants, and snack bars that are engaged in interstate commerce.”¹³

Senator Ervin had begun the hearings by saying that no clause or provision of the Constitution could save President Kennedy’s civil rights bill. Bobby Kennedy had come down to Capitol Hill to make the specific point that the commerce clause would, indeed, save the bill. And it would save it big time.

For the last two weeks of July of 1963, Clark Schooler sat and watched U.S. Senator Sam Ervin unceasingly grill Attorney General Robert Kennedy on virtually every last provision of President Kennedy’s civil rights bill. And every argument Senator Ervin made was grounded in the U.S. Constitution. In a moment of disturbing academic enlightenment, Clark suddenly realized he was watching a rerun of his own Ph.D. oral examination. The Southerners were making the argument, just as Clark had, that the Constitution provided for and could be used to defend racial segregation.

But to Clark, this version of his doctoral oral examination was somehow weird and twisted. It was, perhaps, a reverse vision of his Ph.D. oral, one that was being seen in a dark mirror. Clark Schooler had condemned the fact that the Constitution had been used in such a way that racial segregation and oppression had grown and thrived in the United States. The Southern senators, on the other hand, were praising the Constitution for its many provisions which, in the hands of a skilled advocate such as Senator Ervin, could be used to justify the continuation of racial segregation.

It was as though Senator Ervin had become Clark Schooler’s evil twin.

Senator Ervin possessed much the same factual knowledge that Clark did about the U.S. Constitution. But Senator Ervin was using that knowledge to justify racial segregation, not eradicate it.

Toward the end of July, Senator Sam Ervin's constant attacks on Robert Kennedy and the Kennedy administration civil rights bill produced an angry response from one of the Republican senators on the Senate Judiciary Committee. Senator Kenneth Keating, a pro-civil rights Republican from New York, lashed out mildly at Senator Ervin, accusing him of using stalling tactics and unnecessarily lengthening the discussion. Keating said in a sharp and critical tone: "With all these questions of the attorney general, which appear to be leading in no particular direction and to have no particular purpose, these hearings are rapidly approaching the appearance of a committee filibuster."

As the hearings dragged on into early August of 1963, Clark noted the interesting political party byplay where Robert Kennedy's appearance before the Senate Judiciary Committee was concerned. Robert Kennedy was a Democrat, simultaneously the brother and the attorney general of a Democratic Party president, John F. Kennedy. But the two men on the Senate Judiciary Committee who were Robert Kennedy's most vociferous critics also were Democrats. Sam Ervin of North Carolina and committee Chairperson James Eastland of Mississippi claimed the same loyalty and commitment to the Democratic Party that Robert and John Kennedy did. It was truly an intraparty squabble, with the members of the other political party, the Republicans, mainly relegated to the sidelines.

Something else interested Clark about these particular committee hearings. Although the subject matter of the civil rights bill was equal rights for black Americans, not one black face was to be seen on the Senate Judiciary Committee. And the principal person defending the civil rights bill, Attorney General Robert Kennedy, also was a white person. The fate of black civil rights in the United States was being debated exclusively by white people, with interested black citizens being relegated to sitting passively in the audience.

The day finally came when Chairperson James Oliver Eastland terminated the Senate Judiciary Committee hearings on the Kennedy administration civil rights bill. It was the 23rd day of August of 1963. The hearings were adjourned subject to the future call of the committee chair. Of course no such future call ever came. For all intents and purposes, the Senate version of President Kennedy's civil rights bill was tabled, killed, down the drain, dead and buried, dead as a doornail, dead and gone forever. Pick your favorite cliché, Clark thought, as he sat down at the typewriter to write his final story on these particular Senate hearings.

After Chairperson Eastland had personally assassinated the Senate version of the civil rights bill, Clark Schooler thought he would be returning to the rewrite desk at the *Baltimore Banner*. To Clark's surprise, the Patriot Press newspaper chain kept him in Washington, D.C., and assigned him to another Patriot Press News Squadron. This particular News Squadron was covering the upcoming 1963 March on Washington.

"Your job," Jim Senitall told Clark over the telephone, "will be to cover the transportation, feeding, and rest room arrangements for the march. You're to write about anything you can find that has to do with how they're going to get the marchers to Washington. You're also to write about what they're going to do with the marchers once they get them here. The Patriot Press wants everything we can possibly give them about the March on Washington. If they put out extra trash cans at the Lincoln Memorial, write about it. This story's red hot."

As so often happens in life, Clark had to force himself to be honest with himself. He was just a little bit disappointed that he was covering the rest room beat on this particular story. Jim Senitall got the plum assignment. He was to report on the speeches by the various civil rights leaders to be given from the front steps of the Lincoln Memorial. Another reporter, a woman whom Clark did not know, was assigned to make the actual march from the Washington Monument to the Lincoln Memorial. She would write the color story, a lively description of what the people looked like, what they shouted and sang, and what they said their feelings were as they demonstrated for civil rights on the green, grassy Mall in Washington.

Then Clark reminded himself that he was a newcomer to Washington news reporting. He comforted himself with the thought that Jim Senitall probably got some dull and mundane assignments when he was a younger and less experienced reporter. And Clark restored his optimism and positive good nature by remembering his belief that, with a little hard work and some creative imagination, a good reporter could turn almost any assignment, no matter how routine, into a good newspaper story.

United States civil rights leaders had long dreamed about a March on Washington. It was first proposed by A. Philip Randolph, a prominent African-American labor leader. The idea was that black Americans and their white allies from all over the nation would come to Washington and gather at the Lincoln Memorial to show their solid support for civil rights reform. With the Kennedy administration strongly pushing a major civil rights bill in Congress, August of 1963 seemed like the perfect time for such a March on Washington to take place.

Both the year and the place selected for the march were significant in African-American history. President Abraham Lincoln issued the Emancipa-

tion Proclamation, which freed the slaves in the rebellious Confederacy, exactly 100 years earlier in 1863. And when black soprano Marian Anderson had been excluded from singing in a segregated concert hall in Washington, D.C., she gave a free outdoor concert, to thousands of appreciative listeners, on the steps of the Lincoln Memorial instead.

President Kennedy himself was hostile to the idea of such a March on Washington but actually could do nothing to stop it. The “right of the people to peaceably assemble, and to petition the government for a redress of grievances,” was specifically protected in the 1st Amendment of the U.S. Constitution.

The Kennedy administration was mainly fearful that the march might get out of control and turn violent. There was the possibility that pro-segregation counter-demonstrators would shout insults at the marchers, or even throw things at them, thereby provoking a violent response.

Clark did a good story on how the City of Washington provided 2,000 police officers as well as 2,000 volunteer marshals to direct and protect the marchers. In addition, more than 2,000 National Guard troops were on hand to help keep things orderly. Out of sight but definitely in the forefront of President Kennedy’s mind, 7,000 U.S. Army soldiers and U.S. Marines were on alert and ready to go at the various military bases in the Washington area.

Transportation arrangements were massive and complex. Many of the marchers would be coming from New York, Philadelphia, and Baltimore by railroad train. Clark called a public relations officer at the Pennsylvania Railroad and learned that special extra trains would be operating the day of the march. “We are a common carrier,” the railroad man told Clark, “required by U.S. law to haul any passenger that shows up at our train stations to ride a train in interstate commerce. We have people right now trying to estimate how many extra passengers we’re going to have and how many extra passenger cars and locomotives we’re going to need to haul them down to Washington and back.”

A funny thing happened to Clark Schooler on his way to the march. The more information he gathered about the logistical arrangements, the more he liked this particular newspaper assignment. He wrote at length about how more than 1,500 chartered buses would be bringing marchers in from all over the country. He described in detail where the buses would unload their passengers and where the buses would be parked during the march and the speech making. He noted that some of the buses would be sleek new highway buses with comfortable seats and rest rooms. But other folks would be coming in school buses and church buses, some of them very old and very rickety in appearance.

Two of Clark’s best stories were about people who chose unusual and

colorful ways to get to Washington for the march. Twelve people decided to walk the more than 200 miles from Brooklyn, New York, to the nation's capital. One man came all the way from Chicago, a distance of more than 600 miles, on roller skates.

The more he worked the story, the more Clark began to catch the enthusiasm of the black Americans who were coming to Washington to demonstrate for civil rights. Clark talked with the spokesperson for a group of professionals from Harlem, the large black community in New York City that many persons regarded as the capital of black America. These doctors, lawyers, and successful businessmen were coming down to Washington on the train. And Clark talked to the ministers of African-American churches, all up and down the East Coast, who were recruiting their parishioners to make the trek, often in an old church bus, to the nation's capital.

Clark realized that he was beginning to feel the sheer depth of the commitment on the part of black Americans to publicly demonstrate their support for civil rights.

When August 28, 1963, finally arrived, Clark Schooler spent the first part of his day watching railroad trains full of marchers arrive, one after the other, at Washington's Union Station. Clark took notes as the marchers walked through the high-ceilinged and statuary-bedecked waiting room at the station and then boarded shuttle buses for the Washington Monument.

Among the marchers, Clark saw every possible type of human being and every conceivable style of dress. Many of the men were wearing coats and ties, and most of the women were in summer dresses. Some marchers were more casually dressed, but almost all were clean and neat in appearance. Instead of looking like a bunch of eccentric radical reformers, Clark later wrote, the marchers mainly resembled typical middle-class Americans.

Signs and banners often identified where a particular group of marchers came from. There were signs for Pittsburgh, Philadelphia, Richmond, Baltimore. The East Coast was particularly well represented. Clark estimated that roughly one-in-ten of the marchers were white supporters of African-American civil rights.

Clark then went up to the Washington Monument, the place where the march to the Lincoln Memorial was to begin. Beneath the gigantic marble obelisk that is the Washington Monument, Clark observed the preparation and distribution of literally hundreds of thousands of cheese sandwiches to those marchers who needed to eat. He observed from a distance the large platforms that were being assembled in front of the Lincoln Memorial to give the television cameras and the newspaper photographers a clear view of the proceedings. As he had been instructed to do, Clark studied the manner in which the marchers were being given water and soft drinks and

provided with rest room facilities.

And then Clark got himself to a telephone and dictated his story to Patriot Press News Squadron headquarters in New York. As the actual march from the Washington Monument to the Lincoln Memorial began, Clark was busy describing all the pre-arrangements for the march to the millions of readers of all the Patriot Press newspapers.

As previously decided, Clark's story began the coverage in the Patriot Press newspapers. When the actual march was completed, the woman reporter telephoned in that part of the story. At the end of the day, Jim Senitall added the actual words of the various speech makers at the Lincoln Memorial.

Once Clark had phoned in his story, he was free for the remainder of the day. The marchers already had arrived at the Lincoln Memorial. The vast crowd filled and overflowed the space in front of the memorial. Clark was able to stand at the back edge of the crowd, at a spot that highlighted the scenic beauty of Washington, D.C. Clark had the image of the Lincoln Memorial, the speaker's stand, and the vast numbers of people clearly in view.

The Reverend Martin Luther King, Jr., was just beginning his speech. His voice sounded distant where Clark had positioned himself, but King's words, augmented by large outdoor loud speakers, carried clearly to Clark's ears.

Clark Schooler had heard enough speeches by Martin Luther King, Jr., to know that there would be a triple start statement. That was when King would start three sentences with the same phrase but then finish each sentence differently. It was a very effective speaking technique that Clark very much admired. A triple start statement went something like this:

"They put it down on paper, that all men and women in this nation are created equal."

"They put it down on paper, that all men and women in this nation are entitled to equal protection of the laws."

"They put it down on paper, that all men and women in this nation enjoy an equal right to liberty, freedom, and the pursuit of happiness."

Martin Luther King, Jr., would always put particular vocal emphasis on the third sentence in his triple start statement. It was a touch that always resulted in loud cheering, clapping, and shouts of "Amen, brother!" from the audience.

The triple start statement Clark was waiting and hoping for was not long in coming. Midway through his speech, Martin Luther King, Jr., hesitated for a moment, let the crowd get quiet and get its expectations up. Then the Reverend King said:

“One hundred years after emancipation, the lives of American blacks are still sadly crippled by the manacles and chains of discrimination.”

“One hundred years after emancipation, too many black people live on a lonely island of poverty in a vast ocean of material prosperity.”

“One hundred years after emancipation, blacks in the United States still languish in the corners of American society and find themselves exiles in their own land.”¹⁴

As Clark knew it would, the crowd burst into strong applause at the end of the third sentence. The clapping and the shouting and the cheers came rolling to Clark’s ears.

Clark pondered the words of Martin Luther King, Jr., on the oppression of African-Americans in the United States. Clark thought of some of the words of the 1st Amendment to the Constitution: “To petition the government for a redress of grievances.” What other group in American history, Clark asked himself, had a list of “grievances” as great as those of black Americans?

The next day’s newspapers were an absolute feast for Clark Schooler. The columnists and editorial writers of all the major newspapers and newspaper chains had been impressed with the March on Washington and with the speech by Martin Luther King, Jr. Despite all the fears of possible violence, the march had been peaceful, orderly, and almost totally without serious incident. And the Reverend King’s speech was described as both “challenging” to the white majority in the United States and “inspiring” to every American, white or black. The general view of all the political writers was that the effects of the speech would be “permanent” and “enduring.”

Unbeknownst to Clark Schooler, President John F. Kennedy had invited A. Philip Randolph, Martin Luther King, Jr., and other major civil rights leaders to come to visit at the White House once the march was over. The president declined to attend the march, but he exhibited a careful measure of public support for the march by welcoming the civil rights leaders into his official home. It was about 5 o’clock in the afternoon when President Kennedy greeted the leaders with a key phrase from Reverend King’s speech: “I have a dream!”¹⁵

When he learned that many of the civil rights leaders had not eaten since breakfast, John F. Kennedy ordered them sandwiches and coffee from the White House kitchen. The newspapers reported that the civil rights leaders gently urged the president to strengthen the civil rights bill he had sent to Congress, particularly the section on equal employment opportunity. The president, the press said, was noncommittal. The chief executive emphasized instead that it now was time for all Americans interested in civil rights to begin lobbying Congress to pass the president’s bill, in exactly the

form the president had sent it to Capitol Hill.

In The Interim

Seniority still counts for a great deal on Capitol Hill in Washington, D.C., but it is no longer as important as it was in the 1960s. There was a wave of congressional reform in the early 1970s that weakened the ability of committee chairpersons to totally dominate the committee system.

In some instances since the 1970s, the senior member of the majority party on the committee has not been chosen committee chairperson. In addition, power has been passed downward to subcommittees. Members of the majority party without much seniority become subcommittee chairpersons and wield considerable power over the narrow area of the subcommittee's jurisdiction.

All the same, seniority is still important in Congress. By and large, it is those members who have served in Congress the longest who have the most power and influence.

Also on the disappearing list are the powerful Southern Democratic senators of the 1960s. The Southern United States has been shifting Republican over the past four decades, and many Southern seats in the U.S. Senate now are held by Republicans rather than Democrats.

In addition, a different kind of Southern Democrat is being elected to the Senate. These new Democrats from Dixie are more middle-of-the-road than their Southern Democratic predecessors. They tend to take more moderate stands on issues rather than highly conservative stands.

In other words, the South that was so heavily Democratic in the 1960s has become, by the early 2000s, a genuine two-party region. Democrats and Republicans now struggle hard against each other to win seats in Congress from the South. The old one-party Democratic Solid South is just a memory.

12. Congressional Quarterly Weekly Report, July 26, 1963, p. 1318.
13. Loevy, To End All Segregation, p. 49. Congressional Quarterly Weekly Report, July 12, 1963, p. 1131.
14. Whalen, The Longest Debate, p. 26.
15. Whalen, The Longest Debate, p. 26-28.