

CHAPTER 10

THE SENATE: THE FILIBUSTER AT FULL FORCE

The Capitol Hill staff members supporting the civil rights bill gathered for a meeting in a conference room in the Old Senate Office Building. The mood at the start of the meeting was exceptionally upbeat. The civil rights bill had passed the House of Representatives without suffering any major setbacks in the form of damaging or weakening amendments. The bill now was in a sort of legislative limbo. It had passed the House, but it had not yet come over to the Senate for action in the upper house.

The speaker at this particular meeting was Ralph Shepard. He was the special assistant on civil rights to Senator Hubert H. Humphrey, the Democratic whip in the Senate. It was well known that Senator Humphrey was a longtime supporter of civil rights and would be playing a major role in guiding the civil rights bill through the Senate.

“Almost everybody in the United States has heard the word filibuster,” Ralph Shepard began. “But very few people know how the filibuster really works. The word conjures up the image of Southern senators with leather lungs giving bombastic speeches on irrelevant subjects. A lot of people regard the filibuster as a sort of comic opera rather than a serious impediment to important legislation. They think of Southern senators reading obscure passages from the Bible, or conducting arcane discussions on names found in the New Orleans telephone directory, or telling jokes with one another, some of the jokes having a racist tinge.”

“But those kind of ridiculous filibusters no longer exist,” Shepard continued. “The Southerners have learned how to stay on the subject of civil rights and only discuss topics that are relevant to the debate. They want to look wise and thoughtful to the folks back home. They no longer are willing to run the risk of looking and sounding like fools and buffoons.”

Ralph Shepard's well organized presentation was interrupted by an early question: "Can just one senator, talking by himself, conduct a filibuster and defeat an important bill?"

"Single-senator filibusters are well-known in Senate lore," Shepard replied, "but they constitute no long range problem to the Senate. These one-person filibusters attract a lot of attention in the press but rarely last more than 24 hours. That's about as long as one human being can hold out without getting some rest."

Clark Schooler had been looking for an opportunity to make a contribution at these pro-civil rights staff meetings. Up to this point, he had played the proper role of a newcomer and had only been a passive listener at these meetings. But the subject of the single-senator filibuster was one which Clark knew something about.

"There are two claimants to the title of having delivered the longest speech in the history of the Senate," Clark chimed in with a somewhat weak and wavering voice. "The first is Senator Strom Thurmond, a South Carolina Democrat. He gave a 24-hour speech against a civil rights bill in 1957. That's been the longest speech ever recorded in the Senate. But Senator Thurmond's Southern pals helped him out by periodically requesting quorum calls. That enabled Strom to leave the Senate chamber from time to time to answer periodic calls of nature."

"The second claimant is Senator Wayne Morse of Oregon," Clark continued. As Clark's little lecture went on, his voice and confidence gained strength. "Senator Morse gave a 23-hour speech against an offshore oil drilling bill. He strenuously opposed drilling for oil in oceans and bays because he feared it would lead to environmental pollution. But during this marathon speech, lasting almost a full day and night, Senator Morse never once left his desk on the Senate floor. He had somehow solved the major problem of uninterrupted single-senator filibusters. That problem was the need to visit the rest room."

Clark's historical contribution to the discussion was well received by the group of Capitol Hill staffers. There were a few smiles when he mentioned Senator Morse's unique achievements, and no one looked or acted as if Clark's comments were out of place or otherwise inappropriate.

"The type of filibuster that totally shuts down the Senate," Ralph Shepard said, "occurs when a sizable group of senators get together and proceed to talk the bill to death. They refuse to stop debating until the bill is either withdrawn or seriously weakened by amendments. The filibustering senators divide up into teams in order to make the work lighter. Often all they do is hold casual little discussions that are no more trouble to carry on than a pleasant conversation."

“They talk on endlessly,” Ralph Shepard said, a tone of vexation beginning to come into his voice. “They know that the bill they are trying to kill will be enacted into law if it ever comes to a vote in the Senate. So they continue to blather to one another, oblivious to the passage of precious legislative time. The usual outcome of a filibuster is that the other senators give up, withdraw the bill in question, and allow the Senate to move on to other business.”

The discussion then turned technical in nature. “The filibuster is found in the Senate rules,” Ralph Shepard explained, “and the rules state all too clearly: ‘No senator shall interrupt another senator in debate without his consent.’”

“You have to interrupt a speaking senator in order to hold a vote on a bill,” Shepard concluded. “But under the rules, no senator can be interrupted when speaking on the Senate floor. That’s what makes the filibuster possible, and 100 percent legal.”

At that moment, a middle-aged woman stood up at the back of the room. She was a legislative aide to Senator Clifford Case of New Jersey. Senator Case was a liberal Republican and a strong supporter of civil rights. The woman was smartly dressed in a woman’s dark business suit with a white blouse. She spoke with the smoothness and assurance that comes from longtime service in a staff capacity on Capitol Hill.

“The Senate rules and the filibuster exist,” the woman said, “because a majority of senators believe in them. You will not be able to get the civil rights bill passed by changing the Senate rules. The only way to get the bill passed will be to end the debate with a cloture vote, a vote of 2/3 of the senators to stop debate and vote on the bill.”

Apparently the woman was just getting warmed up to the topic. “The Founders of this nation did not intend the Senate to be a popular body,” she said. “They did not want the Senate responding to the temporary majority that won the most recent election. When writing the United States Constitution, the Founders took care to insulate the Senate from the popular will in two ways.”

“The first way,” the woman continued, “was to have equal representation in the Senate. There are two senators for each state, regardless of a state’s population. The traditional role of the Senate is to protect the states with small populations from the states with large populations. The filibuster fits nicely with this traditional role of the Senate. Senators from small states can band together and filibuster what they consider to be oppressive legislation favored by large states.”

“The second way,” the woman went on, “was to have senators serve a six-year term, with only 1/3 of the Senate elected every two years. That

makes the Senate a continuing body. The Senate cannot be completely changed by the results of just one election. Elections to the Senate are held every two years, but only one out of every three senators is up for reelection at any one time. Two out of three senators are held over without having to undergo judgement by the voters. The Senate thus is designed to respond mainly to long-term shifts in the political winds and is somewhat insulated from the short-term effects of the latest political breeze.”

“Senators are very proud of the unique character of the Senate,” the woman concluded. “And most senators believe the filibuster is a logical extension of the Senate’s role of checking the mad passions of popular democratic government. The Founders of our nation did not create the filibuster, but most senators believe the Founders would view the filibuster with favor. It adds to the image of the Senate as the more thoughtful and prudent of the two houses of Congress.”

Clark Schooler took it upon himself to respond to the woman’s well-thought out and historically accurate statements. “I agree with everything you just said,” Clark stated in a discussional rather than a confrontive tone. “But there is a grim irony here for those concerned with civil rights. The filibuster has not been used very much to protect the small states from the large states. It’s mainly been used by Southern senators, some of them from fairly large states such as Virginia and Georgia, to oppress the minority group known as Southern blacks. The filibuster has enabled Southern senators to stop Northern and Western senators from passing national laws designed to protect the civil rights of black persons in the South.”

“The situation is almost laughable,” Clark said with emphasis. “The filibuster is proclaimed by the Southerners as an instrument for protecting the minority rights of small states. But in reality, the filibuster is mostly used to deny the minority rights of black Americans.”

Ralph Shepard directed the discussion to the actual day-to-day mechanics of the filibuster. “There will be 18 Southern senators participating in the blabathon,” Shepard pointed out. “They will divide into 3 teams of 6 senators each. Each team will take charge of the filibuster for one entire day. That means each Southern senator gets two days off between assignments on the Senate floor.”

“But, even working only every third day, the Southern senators have an easy time of it,” Shepard continued. “Only 3 of the 6 senators need to be present in the Senate at any given time. That means each member of that day’s team gets half the day off. As for the 3 senators on the Senate floor, only one has to be speaking at any particular moment. The other two help out by asking lengthy, detailed questions. Or they give forth with the spontaneous thoughts that pop into their minds as the first senator is talking.”

“It’s strange,” Ralph Shepard ruminated. “People think of the filibuster as exhausting for the Southerners. But the truth is the Southerners have an easy time of it. In reality, the filibuster is more physically challenging for those trying to end the filibuster than for those conducting it.”

“The reason is another Senate rule,” Shepard continued. “It’s the quorum rule. To be officially in session, the Senate has to have 51 senators present and answering to a quorum call. The Southerners keep their eyes on the clock, and every two hours one of them will suggest the absence of a quorum. That means the civil rights forces have to contact and rush to the Senate floor at least 51 senators.”

“The Southerners just love it,” Shepard went on, “when the civil rights forces fail to round up a quorum of 51 senators. That means the Senate stops work for the rest of that day. The filibusterers can put their speeches away. They’ll use those speeches sometime in the future. But most important is the embarrassment. When the Northern and Western senators fail on a quorum call during a filibuster, and the Senate quits and goes home, civil rights supporters across the country accuse the Senate majority of not really wanting to pass a civil rights bill.”

“The regimen required to beat a filibuster is physically and mentally taxing,” Ralph Shepard said. He seemed to be warning his fellow Senate aides about very difficult days ahead. “The pro-civil rights senators have to be on Capitol Hill every day and ready to meet a quorum call every two hours. That makes it hard to go back to your home state and spend time giving speeches and mending fences. The liberals and moderates fighting the filibuster, on duty every day, thus become ever more harried and frustrated. The Southerners, on the other hand, work only half a day every third day. They become ever more casual and relaxed.”

“The filibuster disrupts the work of the Senate in every way,” Ralph Shepard concluded. “The Southern senators will not allow committees to meet while the Senate is in session. The result is that badly needed legislation gets stalled and jammed up in committee. So, as weeks and sometimes months go by, the Senate produces no legislation. The pro-civil rights senators are working very hard, but as the drone and drawl of the filibuster drag on, these senators have nothing to show for their efforts.”

Once again the middle-aged woman who worked for Senator Clifford Case of New Jersey stood up and took over the discussion. “There are three ways to end a filibuster,” she said with confidence and finality, “but only one of them works.”

“The first way,” she continued, “is to surrender to the Southerners and amend the bill in such a way that the Southerners no longer object to it. In the past, this has been the usual outcome of virtually all civil rights filibuster-

ters. The pro-civil rights senators from the North and West just wear out, give up, and let the Southerners have their way. The result is a defanged civil rights bill, a piece of legislation that does next to nothing to end racial segregation in the Southern United States.”

“The second way,” she said, “is to try to exhaust the Southerners and make them give up. But that way never works. As Ralph Shepard just pointed out, the filibuster exhausts those trying to stop it, not those who are conducting it. ‘Hold the Southerners feet to the fire,’ people say. ‘Hold round-the-clock sessions to tire the Southerners out.’ But it’s actually the civil rights forces that end up with their feet in the fire, and the Southerners stay as cool as a cucumber.”

“Round-the-clock, 24-hours a day sessions have been tried in the past,” the woman noted. “Back in 1960, when Lyndon Johnson was the Senate Democratic leader, he brought in U.S. Army cots so pro-civil rights senators could have a place to nap during all-day and all-night sessions of the Senate. It actually was quite comical. My boss, Senator Case, woke up from a deep sleep. He raced down to the Senate chamber to answer a quorum call he had only dreamed about.”

“The third way to end a filibuster,” the woman said, “is to garner the 2/3 vote needed to invoke cloture. That’s 67 out of 100 senators.” Then the woman delivered a stern warning. “The truth is, cloture is rarely applied in the Senate, and it has never been successfully applied to a civil rights bill. In fact, cloture has only been successfully used once. That was in 1962 on a communications satellite bill. This dreary historical record suggests that it will be extremely difficult to mount a successful cloture vote for the civil rights bill that is just now coming to the Senate.”

The meeting ended at that point. Clark Schooler left the room in a state of deep political dejection. Things had gone so perfectly for the civil rights bill in the House of Representatives. Clark had been hopeful that the same sort of quick success might be possible in the Senate. But the meeting had made it very clear to Clark that the filibuster was an unusually powerful, and successful, legislative weapon.

The Senate of the United States, Clark thought to himself, was about to face one of the greatest struggles in its history. And, at this point, no one could say with any real certainty how that struggle was going to turn out.

Clark was shaken out of his depression over the filibuster by a telephone call from Bonnie Kanecton. “You’re invited to tea and crumpets this Sunday afternoon at 2 P.M.,” Bonnie said cheerfully.

“I’ve never seen a crumpet, let alone eaten one,” Clark responded. “What happens when I embarrass you by not knowing how to eat a crumpet?”

“Don’t worry,” Bonnie said. “I’ve never seen or eaten a crumpet either. It’s actually going to be coffee and coffeecake.”

“Dress to kill,” Bonnie added. “A *Washington Post* reporter and photographer are coming by the apartment to interview us and get some photographs. They’re doing a story for the society section of the paper on young people living in Georgetown. But bring a change of casual clothes and your ice skates. After the newspaper interview, we’re all going to run out to Chevy for an early dinner and ice skating.”

When the telephone call was over, Clark thought about it for a minute. Bonnie Kanecton had never given Clark a specific opportunity to respond “yes” or “no” to her invitation to come over for coffee on Sunday afternoon. She had assumed, and rightly so, that Clark was free that Sunday and ready and waiting to go along with any social project Bonnie concocted. It was clear that Bonnie Kanecton had spent enough time with Clark Schooler to gauge, all too correctly, that Clark had no other girlfriend at the time but Bonnie.

The appointed day and hour arrived. Clark appeared at Bonnie’s apartment dressed in a brand new blue-and-grey tweed business suit. Bonnie and her two roommates also were dressed in their Sunday best, as were their two escorts. The six young people sat with the reporter from the *Washington Post* in the apartment’s posh living room and had a long, informal chat about lives and careers in Georgetown. Following the discussion, a *Washington Post* photographer stopped by and posed the young people for a series of photographs.

The reporter from the *Washington Post* turned out to be the assistant editor of the society section. She was a slightly older woman, in her late 30s or early 40s, but was very professional. Like most newspaper people, she had decided the theme, or angle, of her story before ever arriving at Bonnie’s apartment. She shaped her discussion with the young people to support that theme, carefully discarding information that disagreed with her theme.

The theme was that Georgetown was a sort of youthful mirror of political life in Washington, D.C. Georgetown was filled with young men and young women working to be the political leaders of the American tomorrow. At the same time, these young men and young women were learning the political arts and social graces that would make some of them the great Washington hosts and hostesses of the future. Georgetown was thus a juvenile micro world that mimicked the larger world of high powered politicians and manipulative political spouses who were the shakers and movers of the nation’s capital.

In framing her story, the reporter was delighted to learn that Clark Schooler worked for a U.S. senator. That was exciting! She was not inter-

ested that Clark had a Ph.D. in political science and previously worked as a college professor. That was much too stuffy! The reporter was really snowed by the fact that Bonnie Kanecton was on the Board of Directors of the Merrie Maids and Noble Knights of Georgetown. That social connection fit the Washington hostess-in-training theme perfectly.

As the underlying theme of the newspaper article became clear, Clark could see Bonnie Kanecton begin to bristle at being cast in the role of a prospective Washington hostess. "Actually, I'm thinking about going into politics myself," Bonnie said pointedly, "and perhaps even running for office. My future husband can host all the parties."

Two Sunday's later, the newspaper article ran as the lead story on page one of the society section of the *Washington Post*. The headline blared out: "Upwardly Mobile Lads And Lasses Move In And Move Up In Georgetown." The story was accompanied by a photograph that almost completely filled the top half of the front page of the society section.

The photograph was too much. It was in full color, not just black and white. It showed the comfortable and ornate furnishings of the living room at their very best. A painting was visible on one wall, giving an aura of intellectual class to the setting. The three young men and the three young women were arranged as individual couples, standing and chatting informally with one another with coffee cups in their hands. The coffeecake, with dessert plates of fine china, was visible on a cocktail table. There was a window in the center of the photograph. Out the window could be seen part of the beautiful tree-lined street scape that typified Georgetown.

It was a photograph, Clark later concluded, that produced a melancholy longing in people when they looked at it. You wanted to be in that picture. You wanted your life and circumstances to change so that you could be one of those six young people in Georgetown. You wanted to be, as they were, dressed in stylish clothing, chatting in a luxurious apartment, and enjoying what appeared to be a sophisticated and urbane social life. And, of course, you wanted to be quietly preparing to take your future place among Washington's political and social elite.

The newspaper article and photograph made Clark Schooler something of an overnight celebrity around Senator Kuchel's office. "My wife and I have lived in this town for 12 years," Evan Harris, the Chief of Staff, said to Clark the following Monday morning. "My wife's lifelong dream has been to be mentioned in the society section of the *Washington Post*. You, Clark, are in town for less than a year and get a front page story and a photograph. Rose can't get over it. She says it's just not fair."

It was a lesson to Clark as to why politicians value good press coverage so highly. Almost everyone he worked with or ran into over the next few

weeks mentioned to Clark that they had seen his photograph in the newspaper. And every once in a while, a store clerk or a restaurant waitress would look at Clark quizzically and ask: "Wasn't that your picture I saw in the *Washington Post* last week?"

Shortly after the article appeared in the *Washington Post*, Clark invited Bonnie Kanecton to have lunch with him in the Senate dining room in the New Senate Office Building. Clark was struck by the way in which Bonnie seemed to be not the least bit awed or impressed by the occasion. She listened politely while Clark pointed out to her the various high-powered politicians, most of them senators but some of them lobbyists and Cabinet members, who were dining with her that day. Unlike other guests Clark had brought to the Senate dining room, Bonnie made it a point not to look at the great political persons while Clark was identifying and describing them.

The lunch turned out to be what Clark liked to call a "credentials" date. When a college-educated man and a college-educated woman start to get serious about one another, they sooner or later go on a date where they demonstrate their budding intellectuality to each other. Clark often derisively mimicked such dates by saying: "Mumble-mumble-Faulkner; mumble-mumble-Hemingway; mumble-mumble-des Cartes; mumble-mumble-de Tocqueville; and so on." Clark often compared such an intellectual display on the part of a man and woman to the elaborate courtship rituals, such as a male peacock spreading his feathers, that characterize other animals.

It turned out that Bonnie Kanecton did not know very much political science, but she was the font of all knowledge when it came to civil rights law. In addition, she had majored in English literature and classical philosophy at Vassar and could discuss those subjects with great facility. Bonnie proved to Clark that she was intellectually adept. Only in Bonnie's case, Clark was happy to note, the intellectualism was considerably brightened by Bonnie's sharp wit and biting sarcasm.

Toward the end of their meal together, Bonnie looked at Clark and said matter-of-factly: "Clark. Before our dating each other goes any further, I think you owe me an apology."

Clark was simultaneously confused and amused. "Tell me," he said somewhat mockingly, "what did I do?"

"What you did," Bonnie said slowly and carefully, "was fail to remember me."

"Fail to remember you," Clark repeated back, still showing a less than serious attitude toward what Bonnie was trying to tell him. "Believe me, Bonnie, I could never forget a social and intellectual lioness such as you."

"You forgot me soon enough when you met me six years ago at the

CORE demonstration at the Monarch Shopping Center in Baltimore,” Bonnie said to Clark. “I wasted two good hours of my life talking to a man I thought was a responsible and capable newspaper reporter. But not one word of what I said there in front of the White Dinner Plate appeared in the next day’s *Baltimore Banner*. You done me dirt, Clark. You took me for a ride. And you owe me a super-big apology.”

Clark was mortified. He stammered helplessly: “That was you?”

“You bet it was me,” Bonnie replied, and then flashed Clark a great big smile. “I could have killed you that Sunday morning when the newspaper came out without a word about our protest. And I really could have killed you when we sat together practically all evening at the Capitol Fellows dinner and you didn’t recognize me at all. Only the fact that you’re a reasonably good ice skater saved your life.”

Clark said softly but with great sincerity: “Bonnie. I apologize.”

“Good,” Bonnie said with a note of finality. “That settles that. By the way, Clark, I had another reason for bringing this up.”

Bonnie hesitated a moment to give added importance to what she was going to say. She concluded:

“I don’t want you to think I spend all of my spare time at the Chevy Chase Club.”

It took Clark Schooler almost two weeks to get used to the idea that Bonnie Kanecton, the Georgetown socialite, had led civil rights demonstrations for CORE long before such an activity was at all socially fashionable.

In his capacity as a legislative aide to Senator Thomas H. Kuchel of California, Clark Schooler enjoyed the privilege of the Senate floor. That meant that Clark could go on the Senate floor to meet with Senator Kuchel while the Senate was in session. Senator Kuchel liked to save precious time by going over routine paperwork with Clark while simultaneously listening to the debate in the Senate.

Fortunately for Clark, he could go on the Senate floor even when he did not have work to do with Senator Kuchel. That Senate aides could do this was officially acknowledged by the fact that chairs and sofas had been placed along the walls of the Senate chamber for aides to sit on and witness the proceedings. When interesting action was scheduled on the Senate floor, Clark Schooler made it a point to go to the Senate, find himself a comfy place to sit, and watch the legislative drama in the upper house of Congress unfold.

Thus Clark was present in the Senate chamber on the first day the Senate took up the civil rights bill. Mike Mansfield of Montana, the Democratic leader in the Senate, was patiently waiting at his desk on the Senate floor. The ornate door at the head of the center aisle of the Senate opened.

Through the door and down the center aisle came a clerk from the United States House of Representatives. The clerk was carrying the bundle of printed paper that was the actual civil rights bill, the same bill that earlier had passed in the House by a comfortable majority.

If the situation had been ordinary, the House clerk would have quietly handed the bill to the Senate clerk, who would have routinely routed the bill to the Senate Judiciary Committee. But the situation was not ordinary. Senator Mansfield was preparing to step outside the bounds of normal Senate procedure.

“I request that House Bill 7152 be read the first time,” Mansfield said matter-of-factly. The Senate clerk read the name and number of the bill. Then Mansfield said: “I object to the second reading of the bill today.”⁶¹

With this little piece of arcane parliamentary procedure, Democratic Leader Mansfield stopped the civil rights bill from being forwarded to the Senate Judiciary Committee. In effect, the Democratic leader took the bill under his own control. Mansfield then made a motion that the bill be brought directly up for debate on the Senate floor. Senator Mansfield, using the somewhat stilted formal language of the Senate, carefully explained his procedural motion to his Senate colleagues:

“The Senate leadership proposes to the Senate that this measure be placed on the calendar without referral to committee, and that the Senate as a body proceed immediately to its consideration.”

Senators work hard at always being polite and civil with one another. In fact, civility is one of the most highly admired norms of Senate behavior. In justifying these unusual procedures to the Senate, Mike Mansfield never mentioned the name of the Senate Judiciary Committee or its chair, Senator James Oliver Eastland of Mississippi. Mansfield simply said:

“The procedures which the leadership is following are not the Senate’s usual procedures. However, the reasons for these unusual procedures are too well-known to require elaboration.”⁶²

But Democratic Leader Mansfield’s sensitive treatment of the Senate Judiciary Committee and Senator Eastland was not copied by the Senate’s more liberal supporters of civil rights. These senators made it crystal clear why the civil rights bill could not be allowed to go anywhere near the Senate Judiciary Committee.

“Over 121 consecutive civil rights bills died in the Senate Judiciary Committee from 1953 to 1963,” said Hubert H. Humphrey of Minnesota, the Democratic whip in the Senate.⁶³ Then Senator Kenneth Keating, a Republican from New York, stated his opinion: “Giving the bill to Senator Eastland will result in a bore-athon. The senator from Mississippi has decided that the filibuster rules of the Senate also apply to his committee.

There will be lots of talk, but no bill will ever come back to the Senate. That's why the Judiciary Committee is the traditional graveyard of civil rights legislation."⁶⁴

And criticism of Senator Eastland and the Judiciary Committee came from off the Senate floor as well. Clarence Mitchell, of the NAACP, made public a telegram he sent on the subject. The telegram read:

"Sending the civil rights bill to the Senate Judiciary Committee will be regarded as betrayal. If there is one thing that strains the faith of citizens, it is a persistent effort to give an aura of respectability to committee hearings on civil rights run by Senator Eastland. To the man in the street, such hearings are the equivalent of the stacked deck, the hanging judge, and the executioner who enjoys his work."⁶⁵

Clark Schooler, of course, did not need to be told what would happen to the House-passed civil rights bill if it went to the Senate Judiciary Committee. Clark, after all, had begun his career as a Washington newspaper reporter the previous summer by witnessing the Judiciary Committee hearings on the Senate version of the civil rights bill. Clark had watched Senator Eastland and his Southern colleagues condemn the bill verbally for a few weeks and then summarily kill it.

With the civil rights bill now the first order of business before the Senate, Democratic Leader Mansfield addressed his fellow senators. He rose from his desk on the Democratic side of the front row of desks in the Senate. Mansfield stepped slowly into the well of the Senate, then he turned and faced his colleagues.

Clark Schooler was impressed with Mike Mansfield's ability to choose meaningful and moving words when speaking to the Senate. Clark realized that some of Mansfield's comments were probably scripted by the senator's aides, men and women like Clark himself. But much of the time Mansfield seemed to be speaking without notes and saying what were genuinely heartfelt sentiments.

"Let me say at the outset," Mansfield began, "that I should have preferred that the civil rights issue be resolved before my time as a senator. This senator from Montana has no lust for conflict in connection with this matter. It is an issue which divides deeply. But the time is now. The crossroads for civil rights in the United States of America is here in the Senate."

Senator Mansfield then pledged to his colleagues that he would not try to use obscure legislative rules or sharp parliamentary tricks to head off the anticipated filibuster of the civil rights bill. He referred to himself in the third person as he said:

"Your Democratic leader has no suave parliamentary tactics by which to bring this legislation to a swift vote. Even if there were parliamentary

tricks or tactics, the Democratic leader would not be inclined to employ them. I can think of nothing better designed to bring this institution into public disrepute and derision than a test of this profound and tragic issue by an exercise in parliamentary fireworks.”

Clark Schooler listened with rapt attention as Senator Mansfield concluded his oration by urging the Southerners to stop hiding behind the Senate rule book and to forthrightly deal with civil rights as an issue. Mansfield concluded:

“For the truth is that we will not find in the Senate Rule Book even the semblance of an answer to the burning questions which now confront the nation and, hence, this Senate. We senators would be well advised to search, not in the Senate Rule Book, but in the Golden Rule, for the semblance of an adequate answer!”⁶⁶

Under ordinary conditions in the United States Senate, legislation is sent to the relevant committee and marked up by that committee before coming to the Senate floor. Under those circumstances, the chairperson of the relevant Senate committee becomes the floor leader for the bill when it is debated in the Senate. It is the floor leader’s job to arrange for the presentation of a strong case for the bill during the Senate debate and to round up the votes needed to get the bill passed.

In the case of the civil rights bill, it was well-known that Senate Democratic Leader Mike Mansfield was not going to allow the bill to go to the Senate Judiciary Committee. As a result, there was no floor leader for the bill when Mansfield moved to place the bill directly on the Senate calendar.

That was just as well, of course. Imagine it, Clark Schooler thought to himself. James Oliver Eastland of Mississippi, the chair of the Senate Judiciary Committee and an ardent foe of civil rights, serving as the floor leader for the civil rights bill. Clarence Mitchell and Joseph Rauh of the Leadership Conference would have gone apoplectic at just the thought of such a development.

But the civil rights bill needed a floor leader, and Democratic Leader Mansfield did not want to take on the job himself. As the titular leader of all the Democrats in the Senate, Mansfield wanted to remain above the civil rights debate. That was so that, if things went a certain way, Mansfield could negotiate a compromise between the Southerners and the civil rights forces to amicably end the filibuster. Such a compromise would, of course, involve removing some of the stronger provisions from the bill, such as the U.S. Government funds cut-off or the equal employment opportunity provision.

Mike Mansfield therefore named Hubert Humphrey, the Democratic whip in the Senate, the Democratic floor leader for the civil rights bill. To

help secure vitally needed Republican votes for the bill, Senator Thomas H. Kuchel of California was named the Republican floor leader.

Suddenly, Clark Schooler found himself to be a legislative aide to the man, Senator Kuchel, who was mainly responsible for rounding up the Republican votes needed to cloture the civil rights bill. Now added to Clark's working day were an intense round of strategy meetings to determine the best way to accomplish what often appeared to be an impossible task. That was to get 67 out of 100 senators to vote to end a filibuster.

Clark was particularly struck by the bipartisan nature of the task. He was working with Democratic staff as intensely as with Republican staff to try to get the job done. Party lines blurred almost completely as passing the civil rights bill, rather than advancing the Republican cause, became Clark Schooler's main professional purpose in life.

The filibuster had been going on for about a month when, on Saturday, April 4, 1964, Clark was awakened by an early morning telephone call.

"Get over to the Capitol right away," said Ralph Shepard from Senator Humphrey's office. "There's a real possibility we're not going to get a quorum on the floor for today's session of the Senate. I'm calling all the missing Democratic senators. Please come over and help me by calling some of the missing Republicans."

Clark got up, dressed, ate a hurried breakfast of cereal and toast, and raced over to his office. He sat down at his telephone with a list of the missing Republicans and their home telephone numbers. The news was all bad. Republican senators who had promised to be on the Senate floor that morning had played hookey and gone back to their home states to "meet with the voters."

Senator Wallace Bennett, a Republican from Utah, had run away to Salt Lake City to make a politically obligatory appearance at the annual conference of the Church of Latter Day Saints, the Mormon Church. Given the fact that the Mormon Church was the dominant religion in Utah, and that the state had been founded as a haven for Mormons, Clark understood perfectly why Senator Bennett had left town. But a collateral result was difficulty making quorum that morning.

It was the same story with Republican Senator Roman Hruska of Nebraska. How could he possibly pass up Founders' Day ceremonies in Omaha celebrating the birth of the Republican Party? But there went another badly needed body to meet the quorum call.

Ralph Shepard was not having any more luck with truant Democrats. Senator Henry Jackson had flown the coop to dedicate a new Forest Service laboratory in Washington state. Senator Clinton Anderson, from New Mexico, was in Albuquerque holding a pow-wow with some of the state's

Pueblo Indian tribes.

And thus it was. Every senator who should have been in Washington that morning to help the civil rights forces had a good excuse as to why he or she was out of town. "Campaigning for reelection." "Meeting with a key lobby group back home." One exasperated Senate aide quietly complained to the press: "When the siren song of politics calls, senators just can't resist."⁶⁷

There was a grim hour on the Senate floor during which the Southerners stood quietly at their desks, waiting to see if the civil rights senators could muster a quorum. But it was no use. All the telephoning by Senate aides was simply revealing that all the needed senators had skipped out of town that day.

Hubert Humphrey, the Democratic floor leader for the civil rights bill, threw in the towel. He called a press conference. Humphrey gathered together Clark Schooler, Ralph Shepard, and all the Senate aides who had feverishly made telephone calls that morning. Humphrey invited them to stand behind him to form the requisite human background for the press conference.

Senator Humphrey stood in front of the television cameras, the microphones, and the print reporters with their paper note pads at the ready. He intentionally projected a look of total exasperation. Slowly and systematically, Humphrey read aloud the names of the absent civil rights senators and their excuses for not being in Washington that morning.⁶⁸ He then announced that the Senate would not be going into session that day. The press quickly nicknamed the event the Saturday debacle.

Democratic Leader Mike Mansfield made the same announcement on the Senate floor. There would be no meeting of the Senate that day. The Southern senators smiled and laughed, saved their speeches for another time, and let everyone know they had scored a major victory. Senator Mansfield agreed with them. He labeled the lack of a quorum "a sham and an indignity upon this great legislative institution."⁶⁹ Senator Humphrey seconded the thought. "The only way we can lose the civil rights fight," Humphrey asserted, "is not to have a quorum when we need it."⁷⁰

Clark Schooler was feeling badly about the Saturday debacle. The story played very big in the next day's Sunday newspapers. And there were a number of newspaper editorials and television commentaries that were highly critical of the civil rights forces in the Senate.

"Don't feel so bad," Evan Harris, Senator Kuchel's chief of staff, said to Clark a few days later. "Whip counts taken by Humphrey and Kuchel themselves told us the previous Thursday that we weren't going to make quorum. For a while, Hubert and Tom debated canceling the Saturday

session of the Senate. But it was decided to make an example of the errant civil rights senators instead. We knew there would be adverse press reports. We decided to let those press reports shape up our wandering senators so there would be no failed quorum calls in the future.”

“You mean,” Clark said, “that was a staged failure.”

“Yes, it was,” Evan Harris said with a smile. “Best of all, the press covered it exactly the way we wanted them to cover it. The guys who didn’t show up for the quorum call really got burned.”⁷¹

Clark noticed over the next weeks and months that the staged failure strategy worked perfectly. Senators Humphrey and Kuchel never again had a problem mustering a quorum during the Southern filibuster of the civil rights bill.

On a beautiful Wednesday afternoon later in April, Clark Schooler found himself at D.C. Stadium, the home field of Washington’s “baseball” Senators. President Lyndon Johnson had come out to this “Opening Day” game with a group of his leading Cabinet members. As tradition demanded, the president threw out the “first ball” of the 1964 major league professional baseball season.

On hand to witness this event were a considerable number of “real” U.S. senators. They were seated throughout the stadium, watching Lyndon Johnson’s athletic antics and simultaneously enjoying the baseball game.

The baseball Senators were the butt of many jokes, mainly because of their uncanny ability over the years to lose baseball games. One joke mixed George Washington’s reputation with that of his namesake city’s baseball team. The joke went: “Washington: First in the hearts of his countrymen. Last in the American League.”

True to form, by the end of the third inning, the baseball Senators were well on their way to losing their first game of the 1964 season. Suddenly, over the public address system at D.C. Stadium, an urgent message blared out: “Attention, please, there has been a quorum call in the United States Senate. All U.S. senators are requested to return to the Senate chamber immediately.”⁷²

Clark sprang into action. Senators began getting up from their seats and walking toward the back of the stadium. Clark and a number of other Senate aides had the job of herding the senators to one particular entrance to the stadium. At that entrance, a group of shiny black limousines waited to whisk the senators down East Capitol Street to the Capitol building.

Clark Schooler had worked as a Senate staffer for a long enough time that almost all of the senators recognized him as a Senate aide and were willing to follow his directions. Once in their limousines, the senators had a police motorcycle escort, with sirens blaring and lights flashing, to clear

the way for them on their mad dash to the Senate chamber.

All the time Clark was rounding up senators and helping to guide them to their limousines, Clark could hear the sound of flashbulbs popping and television cameras grinding. The press had been tipped that there was going to be lots of live action to photograph and film that afternoon.

Among the senators who left the baseball game to meet the quorum call were the top leaders of the Senate. Democratic Leader Mike Mansfield, Democratic Whip Hubert Humphrey, and Republican Leader Everett Dirksen all got out of their seats to go and do their quorumly duties. But one senator did not move a muscle. That was Democrat Richard Russell of Georgia, the leader of the filibustering Southerners in the Senate.

It was a wonderful day for Clark. He watched with pride as, loaded with their senatorial cargo, the shiny limousines with their police escort disappeared up the street. Then Clark and a group of the other Senate aides went back into D.C. Stadium and watched the rest of the baseball game. Hopes for a late-innings rally and a Washington Senators victory did not materialize, however.

The "Opening Day" for the baseball Senators was a big success for the civil rights forces. A quorum of 51 senators was assembled within less than 20 minutes of the announcement going out over the public address system at D.C. Stadium. The civil rights forces had been well prepared, with the limousines and police motorcycles ready to go at the very minute they were needed.

And best of all was the press coverage, both written and visual. Print stories oozed with praise for the efficiency of the civil rights forces. There were excellent and exciting photographs of well-known Senate leaders getting up and leaving the stadium. And tremendous television footage of limousines and motorcycles, delivering U.S. senators for a quorum call, zooming down East Capitol Street.

It was all great publicity for the civil rights forces. But it did nothing to stop the Southern filibuster. Suddenly it was early May of 1964. The filibuster had been going on for two solid months. And there was no sign whatsoever that the Southerners would ever give in and let the Senate majority pass a civil rights bill.

In The Interim

Procedures in the U.S. Senate have changed very little in the past 40 years. Senators continue to be very independent in their statements and their actions. Senators still can speak on the Senate floor anytime they want to, simply by rising at their desks and waiting to be recognized in turn. The

result is that the Senate leadership has very little direct control over what senators say and how senators vote. Senate leaders, in both the Democratic and Republican parties, have to lead by persuading rather than by issuing orders or making threats.

The situation contrasts strongly with the House of Representatives. Over on the House side of the Capitol, debate is limited and carefully controlled. In the House, party leaders have some leverage to control the statements and votes of House members.

There has been one major change in the Senate Rules. In the early 1970s, the number of votes required to invoke cloture was reduced from a 2/3 majority (67 or more votes) to a 3/5 majority (60 or more votes). This has made it somewhat easier to stop a filibuster with a cloture vote.

61. *Time*, February 28, 1964, p. 22.
62. *Congressional Record* 110, Pt. 3 (February 17, 1964), p. 2882.
63. Recollection of the author. See Robert D. Loevy, *To End All Segregation: The Politics of the Passage of the Civil Rights Act of 1964* (Lanham, MD: University Press of America, 1990), p. 169.
64. *Congressional Record* 110, Pt. 5 (March 26, 1964), p. 6431.
65. *Congressional Quarterly Weekly Report*, March 27, 1964, p. 597. Also see Stephen Horn, "Periodic Log Maintained During Discussions Concerning the Passage of the Civil Rights Act of 1964," unpublished notes, p. 23.
66. *Congressional Record* 110, Pt. 3 (February 17, 1964), p. 2882-2884. Also see Peter E. Kane, "The Senate Debate on the 1964 Civil Rights Act," unpublished Ph.D. dissertation, Purdue University, 1967, pp. 68-69.
67. *Time*, April 17, 1964, pp. 35-36.
68. Recollection of the author.
69. *Congressional Record* 110, Pt. 5 (April 4, 1964), p. 6863.
70. Joseph L. Rauh, Jr., "The Role of the Leadership Conference on Civil Rights in the Civil Rights Struggle of 1963-1964," in Robert D. Loevy, ed., *The Civil Rights Act of 1964: The Passage of the Law That Ended Racial Segregation* (Albany, NY: State University of New York Press, 1997), p.68.
71. Stephen Horn, "Periodic Log Maintained During Discussions Concerning the Passage of the Civil Rights Act of 1964," unpublished notes, p. 77.
72. *Time*, April 24, 1964, p. 18.