CHAPTER 4

SUBCOMMITTEE NO. 5; "OUT OF CONTROL" FOR CIVIL RIGHTS

Prior to the Birmingham demonstrations and riots, the legislative course leading to the passage of the Civil Rights Act of l964 was marked principally with partisan maneuvering rather than serious discussion of civil rights. Pro-civil rights members of both parties sought to portray themselves and their party as the great defender of civil rights while at the same time attempting to blame the opposition party for the lack of action on any major civil rights legislation.

On 12 March l963, one month before Birmingham, a group of Democratic senators supporting civil rights met with Senate Democratic Whip Hubert H. Humphrey of Minnesota. In a memorandum reporting on the results of the meeting, Humphrey revealed that the spirit of the meeting was anything but bipartisan. Despite the fact that pro-civil rights Republican senators Jacob Javits and Kenneth Keating, both of New York, were "pressing hard" to cosponsor a civil rights bill with the Democrats, Humphrey and his colleagues decided that any Democratic civil rights bills would be sponsored only by Democrats. Humphrey made it clear that, with the Democrats so strongly in control in the Senate, only a Democratic sponsored bill would be reported out by a Senate committee.[1] By not allowing any Republican cosponsors, Humphrey implied, the Democrats would get all the credit for having introduced a strong civil rights bill in the Senate.[2]

Prior to Birmingham, the Republicans proved fully able to play the same game. On 28 March l963, senators Javits and Keating

joined with six other liberal Republican senators to introduce a package of bills which would implement the Civil Rights Commission recommendations of 1961 which the Kennedy administration had so purposefully ignored. In a joint statement to the press, the eight liberal Republicans charged that the Kennedy civil rights program "fell far short" of the Civil Rights Commission recommendations and of both the Republican and Democratic l960 party platforms. "If the president will not assume the leadership in getting through Congress urgently needed civil rights measures," the liberal G.O.P. Senators said, "then Congress must take the initiative."[3]

The liberal Republicans had everything to gain and nothing to lose by pressing the civil rights issue on the Democrats. Most of them were from large states like New York, California, Pennsylvania, and New Jersey. Along with large numbers of black voters, these states had even larger numbers of white voters that favored civil rights. Furthermore, these liberal Republican senators were well aware that Democratic power in the Congress and in presidential elections rested on maintaining a delicate balance between liberal Northern Democrats and conservative Southern Democrats. By pressing for strong civil rights legislation, the liberal Republicans were hoping to drive a wedge between the Northern and Southern wings of the Democratic Party. The major goal of these liberal Republican senators, therefore, was to place the blame for the lack of a civil rights bill on the Democrats and hope that the result would be black votes and liberal white votes for the Republicans in the North and the Border States. Senator Thomas H. Kuchel, a liberal Republican from California, had a legislative assistant who was a particularly strong advocate of Republicans using the civil rights issue in an attempt to divide the North-South Democratic coalition.[4]

Birmingham put a temporary hold on this form of partisan bickering and advantage grabbing. Everyone on Capitol Hill cognizant of the situation knew that, in order to overcome a Southern filibuster of a civil rights bill, Northern and Western Democrats would have to be joined by Northern and Western Republicans in

order to produce a 2/3 vote for cloture. Sixty-seven votes were required for cloture. The Democrats had 67 Senators in the 1963-1964 session of Congress, but 18 of them were from the South and could be expected to oppose any cloture motion on a civil rights bill. This meant a minimum of 18 Republican votes were required for a successful cloture vote, and more if certain Democratic senators from outside the South decided not to support cloture for philosophical reasons.

THE BIPARTISAN STRATEGY

On 3 June l963, just four days after President Kennedy decided he would present a major civil rights bill to Congress, Assistant Attorney General Norbert A. Schlei met with Vice President Lyndon Johnson to discuss the proposed administration bill. According to Nicholas Katzenbach, a deputy attorney general under President Kennedy who specialized in civil rights issues, Vice-President Johnson was frequently consulted by the Kennedy administration on civil rights problems and strategies. Katzenbach recalled:

> [The civil rights bill] had been discussed in the White House with legislative leaders and very much with the then Vice-President Johnson, who had quite an input into the structure of that act. . . . I recollect that Vice-President Johnson was continuously present at meetings on this in the White House, and that President Kennedy was very much relying on his judgement on the legislative situation and what was possible and what wasn't possible to achieve in that legislation.[5]

In his meeting with Assistant Attorney General Schlei, Vice-President Johnson began by stating his complete loyalty to President

Kennedy and his willingness to support whatever decisions the president might make. Johnson then proceeded to outline to Norbert Schlei an extensive plan for getting a major civil rights bill through both the House and the Senate. Item number one on Johnson's list was taking a bipartisan approach.
Johnson told Schlei:

> [The president should] call in the Republican leaders, tell them about the plans and put them on the spot; make them give their promises in blood to support the legislation in an agreed form, indicating that credit would be shared with them for the success achieved and indicating that any failure on their part to agree and to deliver would be laid unmistakably at their doors.

Vice-President Johnson then proceeded to give Schlei the numerical reasons a bipartisan approach was absolutely essential:

> [The civil rights forces] would need 27 out of the 33 Republican votes in the Senate in order to obtain cloture, and as matters now stand we have no prospect at all of getting that many. We would be able to get that many only if we could enlist the full support of Senator Dirksen [the Republican leader in the Senate], among others.[6]

By mid June l963 a bipartisan approach similar to the one suggested by Johnson was official administration strategy, and it was evident that Senator Everett Dirksen of Illinois would be viewed as the key to getting the bill through the Senate. A memorandum in the papers of Hubert Humphrey, dated 18 June l963, revealed that the bipartisan approach would begin with the introduction of the bill in Congress. Senate Democratic Leader Mike Mansfield would introduce, with liberal Republican cosponsors, the full administration

bill. Simultaneously, however, he would cosponsor with Senator Dirksen the same bill minus certain public accommodations sections to which the Senate Republican leader was opposed. The memorandum makes clear that senators Mansfield and Humphrey had carefully checked with Senator Dirksen to make sure that this method of introducing two forms of the administration bill had his complete support. The memorandum concluded with the following statements:

> The crucial factor [in the legislative agreement to introduce two different bills] was a common Mansfield-Dirksen front. It will be necessary at every step of the proceedings that this common approach be protected by complete communication between the two leaders.[7]

Introducing two bills in this manner, one cosponsored with liberal Republicans and the other cosponsored with Senator Dirksen, is a common practice in the Senate and the House of Representatives. Major legislation does not usually begin with only one bill being presented to Congress. Customary practice is for a wide variety of bills to be introduced on a given subject with a wide variety of cosponsors. It also is customary, as was done with the strengthened Kennedy civil rights bill of 1963, to introduce "simultaneous" bills, one in the House and one in the Senate. The congressional committees decide which of the many bills introduced will be selected for advancement.

By late June l963 the Kennedy administration's bipartisan approach was being applied to Republicans in the House of Representatives as well as the Senate. In a memo to Attorney General Robert F. Kennedy, Deputy Attorney General Nicholas Katzenbach noted:

> We will probably need in the House around 65 Republican votes to pass this legislation. . . . I think

> we can get these votes only if we can get some support from [William] McCulloch [the highest ranking Republican on the House Judiciary Committee] and Gerry Ford [Gerald R. Ford of Michigan, the newly elected chairman of the House Republican Conference]. I assume we are not likely to get support from Halleck [the House Republican leader], but McCulloch and Ford might be able to deliver the necessary votes despite Halleck. This is more than a question of Ford's support. He would have to work actively.[8]

At these early stages of work on the civil rights bill, Kennedy administration strategists were leery of the liberal Republicans in the House of Representatives, particularly John Lindsay of New York. The fear was that the liberal Republicans would press for a really strong civil rights bill and then blame the Democrats when the bill failed to get moderate support and thus was defeated. Katzenbach noted in his memo to Robert Kennedy:

> I do not think we can get [votes] from the liberal Republicans [i.e., John Lindsay], and working with them is likely to do nothing but build them up [and end] up in defeat for us.

It thus was clear that administration strategists would have a difficult time where Republicans in the House of Representatives were concerned. The civil rights bill would have to be strong enough to win the support of liberal Republicans like John Lindsay, but it would simultaneously have to be moderate enough to win the support of middle-of-the-road Republicans like William McCulloch and Gerald Ford. Deputy Attorney General Katzenbach later recalled:

> We, for example, refused to work with John Lindsay,

> which irritated Lindsay, but we refused to work with him because we felt the only way of getting the Republican support we needed in the committee, and more importantly in the House leadership, was through Bill McCulloch.[9]

This problem of differing Republican sentiments over civil rights would have to be solved, however, because the bill would not pass the House of Representatives without strong Republican support. In the 1963-1964 session of the House of Representatives, the Democrats enjoyed a 256 to 178 (1 vacancy) majority over the Republicans. However, 101 of the Democrats were Southerners and could not be relied upon to vote for a strong civil rights bill. This left at best 155 Democrats to support the bill with 217 votes required for final passage (all members present and voting). Thus at least 62 Republican votes were needed to gain a majority in the House for the bill. Even more than 62 would be required because not all Northern and Western Democrats could be counted on to vote for a strong civil rights bill.

OVERALL LEGISLATIVE STRATEGY

Because of the ever present threat of the Senate filibuster, the strategy for getting the strengthened Kennedy civil rights bill through the House and the Senate required a great deal of careful strategy making. The essential problem was this. The bill had to be routed through the House and the Senate in such a way that the bill only went before the Senate once and thus was subject to only one Senate filibuster.

Under ordinary circumstances, a bill as important as the new administration civil rights bill would have been considered by the Senate twice. Major legislation traditionally is passed in differing versions in both houses of Congress and then a combined version of the two bills is produced by a House-Senate conference committee.

The conference committee bill then returns to both the House and the Senate where it is debated and passed in each house a second time without amendment. The conference committee bill then goes to the White House for the president's signature.

If the strengthened Kennedy civil rights bill followed this traditional route to enactment, it would have been subject to a filibuster when it first came up for passage in the Senate. It would have been subjected to a second filibuster, however, when the House-Senate conference committee bill came back to the Senate for final passage. In each case the filibuster would probably have had to be overcome with a 2/3 cloture vote. It was feared that there was neither adequate time nor sufficient support for a civil rights bill to survive two filibusters and two cloture votes. A strategy would have to be devised for seeing that the bill went before the Senate only one time and endured only one filibuster.

The strategy devised was this. The bill would be advanced first in the House of Representatives. There were two reasons for doing this. One reason was obvious. The House of Representatives rules provide for the limitation of debate, therefore there was no threat of a filibuster in the House. The second reason was less obvious but just as important. A civil rights bill in the House would automatically go to the House Judiciary Committee, where the chairman, Representative Emanuel Celler of New York, was a liberal Democrat and a strong supporter of civil rights. As committee chairman, Celler would see to it that the initial House of Representatives hearings on the civil rights bill were very favorable to the bill and would generate a great deal of favorable newspaper and television publicity for the bill.

Following passage on the floor of the House of Representatives, the civil rights bill would then go to the Senate. An overly optimistic strategy might call for having the Senate, following the inevitable Southern filibuster and a cloture vote, pass the House bill without amendment. With the same bill having passed both houses, the bill could then go directly to the president for his

signature and final enactment into law.

The idea that the Senate might pass a House of Representatives civil rights bill without amendment was too much to expect. The two houses of Congress are too jealous of their various prerogatives for that to happen. A more realistic view would be that, following the filibuster and the cloture vote, the Senate would amend the bill passed by the House, probably weakening it in an effort to get those last few votes of Senate moderates to make the 2/3 vote for cloture. The amended Senate bill would then come back to the House.

At that point the final part of the strategy would be implemented. The House would have to repass the bill with the Senate amendments added. There could be no House amendments, because that would have the effect of sending the bill back to the Senate for another filibuster. But the House of Representatives is as jealous of it prerogatives as the Senate is. It would take delicate handling and skillful negotiating to prevail on a majority of the House to pass the Senate version of the bill without amendment. Probably the only way this could be done would be to clear all Senate amendments with key leaders in the House of Representatives, both Democrats and Republicans, before letting such amendments be added to the bill in the Senate.

Thus the strategy would be passage in the House, amendment in the Senate, and repassage with the Senate amendments in the House. The version of the Kennedy civil rights bill that was introduced in the House of Representatives was carefully routed to Emanuel Celler's Judiciary Committee. Celler began holding favorable hearings on the new administration civil rights bill almost at once.

POMP AND CIRCUMLOCUTION; THE SENATE JUDICIARY COMMITTEE

As action began on the House version of the strengthened

Kennedy civil rights bill, action also began in the Senate. As noted previously, two versions of the Kennedy civil rights bill were introduced in the Senate, one the full administration bill and the other the Mansfield-Dirksen bill with certain public accommodations sections deleted at the request of Senator Dirksen. These bills were introduced mainly for publicity purposes and little more. Both bills were routed to the Senate Judiciary Committee, where it was assumed that Chairman James O. Eastland of Mississippi would hold perfunctory hearings and then quietly bury the two bills forever.

The Senate Judiciary Committee hearings began on 16 July l963 with a strong statement of opposition to the bill by Senator Sam J. Ervin, Jr., a Democrat from North Carolina. An acknowledged expert on the United States Constitution, Ervin made it clear he was going to attack the bill "on the intellectual plane and not on the emotional plane." He argued that the bill was "condemned by its manifest unconstitutionality. Neither the commerce clause [of the Constitution] or the l4th Amendment can save it."[10]

The vast majority of the Senate Judiciary Committee hearings consisted of Senator Ervin asking nitpicking constitutional questions of the main administration witness, Attorney General Robert Kennedy. By late July the unceasing grilling of Robert Kennedy by Ervin inspired Republican Senator Kenneth Keating of New York to charge that the Judiciary Committee hearings were "rapidly approaching the appearance of a committee filibuster."[11]

On 23 August 1963 committee Chairman Eastland adjourned the Judiciary Committee hearings subject to the call of the chairman. The call of the chair never came, therefore consideration of the Civil Rights Act of l964 by the Senate Judiciary Committee officially ended at that point. The assumption that Chairman Eastland would quietly bury the Senate version of the administration civil rights bill in the Judiciary Committee had been correct.

THE OPPOSITION ASSEMBLES

At the same time the Senate Judiciary Committee was holding its shortlived hearings on the Kennedy administration civil rights bill, the 18 United States Senators representing the Southern United States began holding strategy meetings to plan their opposition to the bill. The chairman of these sessions was Senator Richard Russell of Georgia. Russell was the acknowledged leader of the Southern Democrats and a veteran of many previous civil rights struggles in Congress.

Ten of the 18 Southern Democratic senators were chairmen of Senate committees. Along with Russell, they would use every legislative trick they knew to try to kill the administration civil rights bill. Their most important weapon -- the Senate filibuster -- would be turned full force on the civil rights bill the minute the bill came up for debate in the Senate.

Following one of these early Southern strategy sessions, Senator Russell described the Southern senators as "not without hope." He summed up the Southern mood as one of "grim optimism." A national magazine reviewed Russell's many legislative talents and concluded he was "the most formidable foe in the Senate."[12]

SAFETY BACKUP;
THE SENATE COMMERCE COMMITTEE

Although administration strategists were certain that President Kennedy's new civil rights proposal would receive favorable treatment before the House Judiciary Committee, they apparently were worried about what might happen to the bill after that. What if the House bill became hopelessly mired in the House Rules Committee? Suppose the House bill arrived in the Senate too late in the l963-l964 session of Congress to permit a lengthy filibuster, cloture vote, and then a return to the House for acceptance of Senate amendments? To be absolutely safe, some sort of civil rights bill should be readied for presentation in the Senate in case the House

version of the bill either did not make it to the Senate or arrived too late.

The result was the introduction in the Senate of a bill which incorporated only the public accommodations sections of the Kennedy civil rights proposal. Because the public accommodations sections were based on the interstate commerce clause of the Constitution, this particular bill could be routed to the Senate Commerce Committee rather than the Senate Judiciary Committee. The Commerce Committee chairman was Warren Magnuson, a Democrat from the state of Washington who was a loyal Kennedy man and a strong civil rights supporter. Administration influence over the Senate Commerce Committee was so great that Nicholas Katzenbach told Robert Kennedy:

> We have the votes to report out any bill we wish to in this committee. . . . The following are committed to support any bill: Democrats -- Magnuson, Pastore, Engle, Bartlett, Hartke, McGee, and Hart; Republicans -- Scott and Beall.[13]

The Kennedy strategists used their power on the Senate Commerce Committee to write a very strong public accommodations bill. If the House bill never made it to the Senate, the Commerce Committee bill could be presented for debate in the Senate in plenty of time to last out a filibuster and cloture vote. Once cloture had been obtained, this bill could then be amended on the floor of the Senate to include most of the other principal points in the Kennedy civil rights program. If all these Senate amendments were cleared beforehand with House Democratic and Republican leaders, the Commerce Committee bill could then be passed in the House without amendment and sent directly to the president for his signature.

The Senate Commerce Committee reported out its public accommodations bill on 8 October l963. From that date forward, the bill could be brought up on the Senate floor at any point the Senate

leadership felt it was necessary. The safety backup for the new Kennedy civil rights bill was firmly in place and, if ever needed, ready to go.

THE HOUSE JUDICIARY COMMITTEE

A popular saying around Capitol Hill is: "The committee system is not neutral."[14] What this concept means is that congressional committee chairmen can shape both committee hearings and committee bill writing sessions in order to favor one side or the other. Although committee hearings often have the appearance of a court trial, with witnesses being sworn to tell the truth and legislators questioning witnesses the way tough prosecuting attorneys cross-examine court defendants, there is no "judge" at a committee hearing to see that both sides of the issue get a fair chance or an equal say in the matter. By and large, committee chairmen will endeavor to use the committee hearings to build a strong public record either for or against the bill in question, depending on the political desires of the chairman.

As previously noted, Senator Eastland used the Senate Judiciary Committee hearings on the administration civil rights bill to produce testimony critical of the bill. The Senate hearings consisted almost exclusively of Senator Ervin reading into the record attacks on the bill. Chairman Eastland declined to call any witnesses that strongly favored the Kennedy civil rights bill other than Attorney General Robert Kennedy, and Robert Kennedy's every positive statement about the bill was promptly challenged on legal and constitutional grounds by Senator Ervin.

The "lack of neutrality" was going the other way in the House of Representatives, however. Chairman Celler of the House Judiciary Committee introduced the Kennedy legislative proposals on 20 June l963, and the House clerk gave the bill the number H.R. 7l52. When the bill arrived at the House Judiciary Committee, Chairman Celler immediately assigned the bill to Subcommittee No. 5. It was this

subcommittee that held the first public hearings on the bill and then marked up its own version of the bill for later consideration by the full Judiciary Committee.

It would be hard to imagine a more favorable forum for a civil rights bill than Emanuel Celler's Subcommittee No. 5. For several years this subcommittee, which Celler chaired himself, had been carefully constructed to be strongly favorable to civil rights. Officially No. 5 was the antitrust subcommittee, but it was a measure of the arbitrary power of congressional committee chairmen in the l960s that, when Celler sent the civil rights bill to the antitrust subcommittee, no one bothered to complain or question. Whenever a Democratic vacancy had occurred on the subcommittee, Celler had carefully filled it with a liberal supporter of civil rights. By l963 none of the Judiciary Committee's senior Southerners were members of No. 5. The Democratic majority on the subcommittee consisted of Celler, five other Northerners, and a Texan favorable to civil rights.[15]

The hearings on the Kennedy civil rights proposal produced by this subcommittee were exactly what one would have expected -- a long string of favorable witnesses for the bill who, rather than being sharply questioned by Celler and the other subcommittee members, heard nothing but praise and support for their various statements. Attorney General Robert Kennedy was the first witness. He told the subcommittee:

> [The administration civil rights bill] will go a long way toward redeeming the pledges upon which this Republic was founded -- pledges that all are created equal, that they are endowed equally with inalienable rights, and are entitled to equal opportunity in the pursuit of their daily lives.[16]

The similarity between the attorney general's statement and the Declaration of Independence was unmistakable.

The parade of witnesses which followed Attorney General

Kennedy was a veritable "who's who" of civil rights supporters. George Meany, president of the AFL-CIO, testified that civil rights "is not a matter for abstract debate but an immediate crisis." He argued the Kennedy administration proposals were "urgent, not because we say so, but because the course of history demands their enactment."[17]

Norman Thomas spoke in support of the bill for the U.S. Socialist Party, and the Reverend Walter E. Fauntroy testified on behalf of Martin Luther King, Jr., and the Southern Christian Leadership Conference. Other organizations sending representatives to endorse a strong bill included the Congress on Racial Equality (CORE), the Teamsters Union, the National Council of Churches, the National Lawyers Guild, the Medical Committee for Civil Rights, the National Students Association, Americans for Democratic Action, the United Automobile Workers, the American Veterans Committee, and the American Friends Service Committee.[18]

The most important sign that the Kennedy bill would experience smooth sailing before Subcommittee No. 5 was the strong support for civil rights legislation that had so frequently been expressed by Subcommittee Chairman Celler. At one point Celler voiced his outrage over the white violence in Birmingham:

> Police clubs and bludgeons, firehoses and dogs have been used on defenseless schoolchildren who were marching and singing hymns.[19]

Equally important were the strong statements of moderate support from the ranking Republican on the Judiciary Committee, William McCulloch, who hopefully pointed out:

> Turmoil is a sign of birth, as well as decay, and, I am convinced that if the people of the country will continue to pursue a moderate but ever forward moving program for the insurance of individual

equality, the day will soon come when we'll wonder
why all the tumult and shouting had to happen.[20]

THE COMMERCE CLAUSE VS. THE 14th AMENDMENT

Although there was plenty of speechmaking during the subcommittee hearings, with the customary "pointing with pride" and "viewing with alarm," many important issues about the Kennedy civil rights bill were raised and seriously debated. A major issue concerned whether the public accommodations section of the proposed bill should be based on the commerce clause of the Constitution or upon the l4th Amendment. Attorney General Kennedy wanted to base equal access to public accommodations on the commerce clause because the Constitution clearly gave Congress the power to regulate interstate commerce and this would avoid a great deal of litigation. For reasons of party history, however, the pro-civil rights Republicans on the Judiciary Committee wanted equal access to public accommodations based on the l4th Amendment, the "Civil War" Amendment that had been passed by the Republican Party in l868 and which guaranteed equal protection of the laws and other basic rights to all Americans.

Robert Kennedy went to great lengths to identify certain problems with the l4th Amendment. Because the amendment applied only to action by the states rather than individuals, Kennedy pointed out, Southern states would probably repeal all of their motel and restaurant licensing laws in order to leave individual motel and restaurant owners free to discriminate.[21]

Was perpetuation of racial segregation so important to Southern politicians and government officials that they would have their state legislatures repeal all motel and restaurant licensing laws in order to evade a national equal accommodations law? The Kennedy administration seemed to be committed to that idea. Assistant Attorney General for Civil Rights Burke Marshall claimed that there were places in the South where "feelings of racial

supremacy are so ingrained that voluntary action is impossible."[22]

The Republicans argued, however, that the l4th Amendment's guarantee of equal treatment for all citizens would extend equal access to public accommodations to those smaller places of business that were not engaged in interstate commerce. The position was best summed up by Republican Senator John Sherman Cooper of Kentucky, a strong civil rights advocate:

> If there is a right to the equal use of accommodations held out to the public, it is a right of citizenship and a Constitutional right under the l4th Amendment. It has nothing to do with whether a business is in interstate commerce. . . . Rights under the Constitution go to the equality of all citizens, the integrity and dignity of the individual, and should not be placed on any lesser ground.[23]

As often happens in United States legislative politics, the dispute was settled with a "golden compromise," i.e., a brand new solution that leaves both sides satisfied. Republican Senator Kenneth Keating of New York proposed that equal access to public accommodations be based both on the commerce clause and on the l4th Amendment. Such a combination, Keating suggested, would give the legislation the "broadest coverage consistent with the Constitution."[24] Keating's proposal was quickly endorsed by his fellow Republican Senator from New York, Jacob K. Javits, and the Justice Department quickly agreed and wrote the l4th Amendment as well as the interstate commerce clause into the official language of the administration bill.[25]

MRS. MURPHY'S BOARDING HOUSE

A second major issue which was hotly debated when the Kennedy civil rights bill was before Subcommittee No. 5 of the

House Judiciary Committee was "Mrs. Murphy's boarding house." The hypothetical Mrs. Murphy was the invention of Republican Senator George D. Aiken of Vermont, who had created her when leaving a White House meeting of congressional leaders supporting civil rights. Some way had to be found, Aiken told the press, to distinguish between the types of accommodations which should be desegregated. He then said:

> Let them integrate the Waldorf and other large hotels, but permit the 'Mrs. Murphys,' who run small rooming houses all over the country, to rent their rooms to those they choose.[26]

The actual language of the civil rights bill was much too complex for the average person to understand, but everyone could identify with "Mrs. Murphy" and comprehend her problem. What Senator Aiken had done was to "sloganize" a complex concept into a simple, understandable idea. Such sloganizing is one of the major functions of congressional committee hearings. Senators and Representatives are always looking for simple and personal concepts, such as "Mrs. Murphy's boarding house," that will catch the public eye and make a complicated legal problem readily understandable. The news media are particularly adept at picking up slogans and simplified concepts when they are presented at committee hearings and other public forums.

Subcommittee No. 5 spent much of the summer of l963 searching for a "Mrs. Murphy formula" which would exempt small rooming houses from the public accommodations section of the bill but would not prove to be a loophole for larger establishments that might wish to discriminate. By late summer agreement had been reached, however, that there would be a "Mrs. Murphy" exemption. In a 19 August 1963 memorandum to the attorney general, Deputy Attorney General Katzenbach put the idea directly. "[Assistant attorney general] Norb Schlei will do the following," Katzenbach

wrote, and then in Schlei's list of duties for that week appeared the instruction, "Write a 'Mrs. Murphy' exemption."[27]

The exemption of "Mrs. Murphy" from coverage under the administration civil rights bill did not succeed in eliminating her from the public discussion of the bill. She had become too popular and too identifiable for that to happen. To the Southern Democrats opposing the civil rights bill, "Mrs. Murphy" became the "symbol of the average American whose rights were to be destroyed by the bill." To pro-civil rights Democrats and Republicans supporting the bill, however, she came to stand for "the absurd lengths to which the opponents of the bill would go in order to seek a basis for attacking the bill."[28]

Even Senate Democratic Whip Hubert Humphrey could not pass up the opportunity to get some personal publicity by referring to "Mrs. Murphy." In heavily Swedish and Norwegian Minnesota, Humphrey frequently quipped, it's known as "Mrs. Olsen's boarding house."[29]

FEPC

A third major point of discussion in Subcommittee No. 5 was the inclusion in the civil rights bill of a Fair Employment Practices Commission (FEPC). The Commission created by such a law would have the power to investigate racial discrimination in all employment, both public and private. If it found racial bias to exist, the FEPC could order business firms to hire more minority employees. This proposed provision was considered to be most controversial and politically dangerous because racial discrimination in employment was considered to be as big a problem in the North as it was in the South. President Kennedy's legislative strategists had left an FEPC provision out of the administration civil rights bill because they believed it had little chance of passing the House of Representatives and no chance at all of surviving "the fierce filibuster it would spark [in the Senate]."[30]

Chairman Celler soon found himself under intense pressure from certain directions to include FEPC as part of the subcommittee's recommended bill. A typical congressional power play to this end was attempted by Representative Adam Clayton Powell, a Democrat from New York City who was chairman of the House Education and Labor Committee and, at that time, the highest ranking black in the Congress. Representative Powell's committee had held hearings and reported out an FEPC bill which was currently waiting action (and would probably wait forever) in the House Rules Committee. Powell let it be known that he would try to bypass the House Rules Committee by bringing his FEPC bill to the House floor through the Calendar Wednesday procedure. Under this procedure, a committee chairman can bring a bill to the floor on a particular Wednesday without going through the House Rules Committee, but the bill must pass the House before adjournment that evening.

The Leadership Conference on Civil Rights was the first group to have a negative reaction to Powell's proposal. Joseph Rauh, Jr., of the Conference lobbying team, noted:

> The Calendar Wednesday strategy would have been a big show for Mr. Powell, but there was no chance of getting FEPC that way, and a defeat would have been a serious blow to the pending Kennedy civil rights bill.[31]

The Leadership Conference turned thumbs down, and Powell promptly announced that, since there were many more whites than blacks in the Leadership Conference, he was not bound by their decision.

Chairman Celler agreed with the Leadership Conference that "an early House floor vote on the FEPC bill alone -- when it might be defeated -- would be a major embarrassment for the administration and a psychological blow to the legislative drive for civil rights legislation." In a conciliatory move, Celler told Powell that he would

try to incorporate provisions for a Fair Employment Practices Commission in the omnibus civil rights bill to be reported out by Subcommittee No. 5.[32] This was enough to get Representative Powell to drop the idea of trying the Calendar Wednesday procedure.

The flap over FEPC brought to the fore a difference of opinion on overall strategy for the bill. On one side was the Justice Department, the Kennedy Democrats on the subcommittee, and Republican Representative William McCulloch. They wanted to write a moderate bill that would have a chance of passing both the House and the Senate. On the other side were the strongly liberal Democrats and liberal Republicans on the subcommittee, who wanted to write a strong bill in the subcommittee for the express purpose of giving the Southerners something they could "cut out of the bill" when it got over to the Senate.

FEPC was seen as the most likely candidate to play this "give them something to cut out" role. According to Congressional Quarterly Weekly Report:

> Some civil rights strategists regard FEPC as something that could be traded off to break up a Southern filibuster and let the Southerners appear to have scored a victory while other key provisions of the administration civil rights bill are approved.[33]

Republican Representative Arch Moore of West Virginia said it was "vital" that a strong bill be sent to the Senate. "If we send them a water bill," Moore told the press, "we'll get back a water-water bill."[34] This problem of whether to pass a moderate bill or a strong bill in the House of Representatives continued to vex Kennedy legislative strategists throughout the summer and fall of l963.

"AT THE COMMITTEE LEVEL"

"The real work of Congress takes place when the bill is at the

committee level." This Capitol Hill saying refers to the fact that most of the legislation writing that takes place in the Congress occurs while bills are in committee rather than when bills are being amended and voted up or down on the floor of the Senate or the House of Representatives. A frequently heard rough estimate is that 90 percent of the nation's laws are written by the committees and subcommittees and only l0 percent are actually decided on the floor of either House.

Notice carefully, however, that the last four words of the Capitol Hill saying are "at the committee level." It does not say that the real work of Congress takes place during the committee hearings or in the "markup" session (where the committee writes the actual legal language it will "report" to the full House of Representatives or Senate). What the saying means is that the "real work of Congress" is the behind the scenes lobbying, compromises, and mutually beneficial deals that are made when the bill is "at the committee level." One view of committee hearings and committee markup sessions, in fact, is that they are simply "public confirmation of agreements reached in private." In other words, at the hearings and the markup sessions the committee members mainly read into the public record and write into legislation the closed door, private agreements that are made when the bill is "at the committee level."

Lobby groups are well aware of the fact that they must make their strongest pitch for their ideas and their interests when the bill is "at the committee level." The Leadership Conference on Civil Rights thus rapidly organized itself to put maximum pressure on Subcommittee No. 5 for a strong civil rights bill. Its efforts were a good example of what powerful lobby groups do when they wish to maximize their influence over pending legislation.

BUILDING A "SUPER LOBBY"

Shortly after President Kennedy introduced his omnibus civil rights package in mid June l963, Walter Reuther of the United Automobile Workers called a meeting of the nation's most prominent

civil rights leaders to discuss ways of mobilizing public support behind the bill. The Reverend Martin Luther King, Jr., talked of a gigantic March on Washington as the best means of dramatizing the need for the legislation. Roy Wilkins, who was chairman of the Leadership Conference as well as head of the NAACP, suggested enlarging the Leadership Conference to include all organizations favoring the legislation and "galvanizing them into [exerting] grass roots pressure for the bill."[35] Speedy action followed, both to organize the March on Washington and to enlarge the Leadership Conference.

On 2 July l963, Roy Wilkins held a meeting at the Roosevelt Hotel in New York. Joseph Rauh, Jr., recalled:

> Not only were the 50 longtime civil rights organizations then in the Leadership Conference invited, but another 50 or so religious and other potentially helpful groups were asked to come. The mood was one of excitement that at long last there was a bill in the hopper worthy of a real struggle. The consensus was easily arrived at: The civil rights movement gave its wholehearted support to the administration bill -- but it demanded more -- an FEPC [that included private industry], Part III [permitting the United States attorney general to intervene in all civil rights cases], all public accommodations [not just interstate accommodations] covered. Not only were these additional provisions urgently needed, but a good offense was obviously the best defense against weakening amendments.[36]

The members of the Leadership Conference, both new and old, were informed at the New York meeting of the monumental congressional roadblocks that would have to be overcome to pass the bill. The conservative character of the House Rules Committee; the fact that the Senate Judiciary Committee had never reported out a

civil rights bill; the fact that conservative Republican votes would be required to vote cloture on a Senate filibuster -- these and other obstacles were identified and possible strategies for overcoming them weighed. At one point in the discussion Martin Luther King, Jr., whispered, "Mighty complicated, isn't it?" Despite the complications, the Leadership Conference was ready to go to work to eliminate the many legislative roadblocks ahead.[37]

As the New York meeting concluded, there was a general sense of urgency. To civil rights supporters, it seemed vital that the momentum created by President Kennedy's stirring speeches and his legislative proposals not be lost. At the same time, however, it was essential to begin to calm the stormy tensions which the continuing racial protests had produced across the country, both North and South. The civil rights movement was at an important watershed. The battle was going to move from the streets into the halls of Congress. The delicate process began of reducing the intensity of the civil rights demonstrations (so that they would not produce an adverse reaction in Congress) but at the same time maintaining the drive for civil rights which the racial demonstrations had created in the first place.

Up until this point in time, the Leadership Conference on Civil Rights had been headquartered in New York. With serious civil rights legislation in Congress, however, it was decided to open a branch office in Washington, D.C. Office space was provided by Walter Reuther of the United Automobile Workers, and Reuther and other civil rights supporters went to work raising the necessary funds to pay office rent and other lobbying expenses. A small paid staff, most of them with wide experience in the civil rights movement and neighborhood racial work, were hired to mobilize public support for the civil rights bill on a full-time basis. As events required, a "Memorandum" was mailed to each of the cooperating organizations in the Leadership Conference, informing them of the latest developments concerning the civil rights bill.[38]

Basically what the Leadership Conference had sought to

create was a "super lobby," an alliance of powerful organizations supporting the bill. The United States is too large a nation and the Congress too vast an operation for a single organization to have much hope of pushing a major bill through to final passage.
Individual organizations therefore have learned to combine with other organizations with similar interests and goals in order to get their pet bills enacted into law.

The super lobby which the Leadership Conference organized behind the Civil Rights Act of 1964 was probably one of the largest and most powerful lobbies ever organized in United States political history. It consisted of all the major labor unions, such as the AFL-CIO and the Teamsters Union. It included all the major church groups in the nation, such as the National Council of Churches, the National Catholic Welfare Conference, and the Synagogue Council of America. All the major civil rights groups were represented, such as the NAACP and CORE.

In the manner of powerful national interest groups, the Leadership Conference did much more than send a lobbyist or two up to Capitol Hill to talk with a few key senators and representatives. A constant barrage of press releases, fact sheets, and newsletters were sent to the member organizations, urging them, in turn, to acquaint their individual members with what was going on with the civil rights bill in Washington. At key points in the legislative process, members of the individual organizations were asked to write or telephone their senators or representatives, as the case might be, to urge them to move the bill along. High ranking officers of the various member groups periodically came to Washington to meet with their congressmen
and urge them to support civil rights in general and the civil rights bill in particular. As the bill moved through the Congress, the religious groups in the Leadership Conference made a particular effort to have bishops, priests, and rabbis urge senators and representatives to support the bill for "moral" and "conscience" reasons.

Leadership Conference newsletters and mailings sought to

equip its member organizations with information that would help identify those senators and representatives who might be influenced by lobbying from a particular Leadership Conference organization or individual. Thus senators and representatives were identified in terms of their religious affiliations, key financial contributors, and various organizations (such as veterans groups or service clubs) to which they belonged. The intention was to have senators and representatives lobbied by Leadership Conference representatives who were members of the same religion as the senator or representative, or who were large financial contributors, or who belonged to the same service clubs. For instance, if a Baptist church leader in the Leadership Conference saw that a particular senator was a Baptist, the church leader would call the senator and use their common religious affiliation to make the church leader's lobbying more effective.[39]

As a result of this extensive grass roots organizing and lobbying, the full-time professional lobbyists who represented the Leadership Conference on Capitol Hill were in an unusually strong position. The senators and representatives they spoke with were well aware of the large numbers of organizations and the millions of individual Americans on whose behalf the lobbyists were speaking. Members of Congress with large numbers of labor union members in their home states or home districts were particularly vulnerable to pressure from Leadership Conference representatives.

THE GOLD DUST TWINS

The Leadership Conference fielded an integrated lobbying team on Capitol Hill. The black member of the team was Clarence Mitchell, Jr., director of the Washington office of the National Association for the Advancement of Colored People. The white member was Joseph Rauh, Jr., a prominent Washington lawyer and vice-chairman of Americans for Democratic Action, a national political lobbying organization that traditionally supported liberal causes. Because they had worked together lobbying for both the l957

and the l960 civil rights acts, Mitchell and Rauh were experienced and familiar faces in the halls, meeting rooms, and lounges of the Capitol building.

Typical of Washington lobbyists, both Mitchell and Rauh were somewhat older men with years of Washington experience behind them. Mitchell at one time had worked for the old Fair Employment Practices Committee which President Franklin D. Roosevelt had established in 194l. After Congress abolished the Fair Employment Practices Committee in 1946, Mitchell went to work as labor secretary for the NAACP, specializing in pressuring Congress for a fair employment law. It was perfectly understandable, therefore, that his voice would be one of the strongest in Washington clamoring for inclusion of an FEPC provision in President Kennedy's omnibus civil rights bill.[40]

Similar to Mitchell, Joseph Rauh, Jr., had worked for Franklin D. Roosevelt. It was Rauh, in fact, who wrote the presidential order setting up the 1941 Fair Employment Practices Committee. Rauh regarded Mitchell and himself as an ideal lobbying team. "We had," Rauh said, "a perfect relationship for grown men." Rauh always made it a point to let Mitchell speak first as the two of them went about the nation's capital lobbying for civil rights. "Clarence, after all, was the direct spokesman for the black people of America," Rauh noted, "and I always felt their views should be the first presented."[41]

Rauh pointed with pride as well as amusement to the fact that a segregationist Southern Democrat, Senator Harry Byrd of Virginia, had labeled Mitchell and Rauh "the Gold Dust Twins." The reference was to a picture of a white and a black child which had appeared on the label of cans of Old Dutch Cleanser, a cleaning and scouring powder widely in use in the United States in the early 20th Century.

According to Joseph Rauh, Jr., the Gold Dust Twins spent the spring and summer of l963 trying to convince the Kennedy administration to strongly support civil rights. Rauh recalled:

> Up until Birmingham, Clarence and I spent most of

> our time screaming at Kennedy. There is no question that King turned the tide. No Birmingham -- no bill. Then I spent the summer arguing with [Deputy Attorney General] Nick Katzenbach over putting FEPC in the bill. The Kennedy people kept telling us a strong bill could not pass, but Clarence and I knew better -- that a strong bill would pass.[42]

Similar to Rauh, Mitchell was "exasperated by the Kennedy administration and their downgrading of civil rights." President Kennedy himself had strong convictions for civil rights, Mitchell argued, but many of the people around him did not share those convictions. The problem, Mitchell believed, was that the Kennedy people were too "unoptimistic" about what Congress would pass in the way of a civil rights bill. "I could never convince them," Mitchell said, "that I could get large numbers of House and Senate Republicans to vote for a strong civil rights bill."[43]

Mitchell claimed that he learned the technique of getting exact counts on issues coming before Congress from Lyndon Johnson when Johnson was the Democratic leader in the Senate. The Kennedy Democrats, he argued, would estimate the possible Republican votes for civil rights rather than taking the trouble to do an exact count. Mitchell explained:

> I do know that nobody [in the Kennedy administration] thought that some of the things which we ultimately got into the law would be possible. I thought we'd get them mainly because I was applying the Johnson principle of vote counting. The Democrats were doing what Democrats other than Mr. Johnson often did; that is, they were counting just the Democratic votes and estimating what they had among the Republicans. Usually much too low. I was counting both Republicans and Democrats and, as I

> said, I was just using the Johnson method. And I felt sure we could win . . . .[44]

THE MARCH ON WASHINGTON

In August 1963 Martin Luther King, Jr., successfully staged his "March on Washington for Jobs and Freedom." Patterned after the "Prayer Pilgrimage for Freedom" which had drawn 20,000 participants to the mall in May 1957, the 1963 March on Washington drew 200,000 people, the largest public demonstration held in Washington, D.C., up to that time.[45] Blacks and whites supporting civil rights legislation made a short and orderly march from the Washington Monument to the Lincoln Memorial, where a long series of speeches was climaxed by Martin Luther King, Jr., and his integrationist appeal, "I have a dream."

President Kennedy did not attend the March on Washington but did meet with the leaders of the various civil rights groups supporting the march at the White House. Although the Kennedy administration was not enthusiastic about the March on Washington at the time it took place, within seven months White House staff came to view the March on Washington as having directed the energies of black Americans away from more violent forms of racial protest. A recommendation was made to institute a similar type of event or events for the summer of 1964. A White House memo in March 1964 detailed this line of thinking:

> One of the key reasons that we got through last summer [1963] without serious violence, death, injury, and destruction was the fact that the August 28 March on Washington provided an outlet for the energies, emotions, and time of the Negro community. I believe some thought should be given to providing similar constructive channels to those energies for the summer of 1964.[46]

Once again, television coverage was a critical factor in a civil rights demonstration. Live broadcasts of the march were featured on afternoon television followed by prime time news reports in the evening and special summary reports following the late news. Thus millions of Americans witnessed the March on Washington in their own homes. Political writers commented extensively on King's speech, and several predicted that its effect would be lasting.[47]

BIRMINGHAM AGAIN

Shortly after the March on Washington, and just at the moment when Mitchell and Rauh were putting the maximum amount of pressure on Subcommittee No. 5 to report a strong civil rights bill, Southern white violence against blacks once again came to dominate the national news media. Four black girls attending Sunday school in Birmingham, Alabama, were killed when a bomb was thrown into their church. The building bombed was the l6th Street Baptist Church, a central point for civil rights strategy making during the Birmingham demonstrations the previous spring. It was the 2lst time in eight years that blacks had been victims of bombings in Birmingham. None of the 2l bombings had ever been solved.[48]

As the pictures of the four slain girls appeared on the front pages of newspapers throughout the country, civil rights leaders pointed out that the time for action on civil rights was at hand. Martin Luther King, Jr., said:

> Unless some immediate steps are taken by the U.S. Government to restore a sense of confidence in the protection of life, limb and property, my pleas [for nonviolence] will fall on deaf ears and we shall see in Birmingham and Alabama the worst racial holocaust the nation has ever seen.

King then pointed out that the deaths of the four little girls

showed the desperate need for Part III, "legislation empowering the attorney general to file suit on behalf of citizens whose civil rights had been violated."[49] The fact that Martin Luther King, Jr., was now publicly telling President Kennedy the exact language needed in the civil rights bill dramatized the extent to which civil rights leaders were using every possible means of communication to press Subcommittee No. 5 for a stronger bill.

King also sent a telegram to Alabama Governor George Wallace charging that Wallace's segregationist rhetoric contributed to the bombing. "The blood of our little children is on your hands," King wired. Senate Democratic Whip Hubert H. Humphrey asked President Kennedy to "set aside next Sunday as a day of national mourning for the victims of last Sunday's bombing." James Reston, editorializing in the New York Times, labeled the central black neighborhood in Birmingham "Dynamite Hill" because of all the bombing attacks that had occurred there.[50] Throughout the nation, both North and South, memorial services and memorial marches were held for the four black girls killed in "the Sunday school bombing."

Roy Wilkins, executive secretary of the NAACP, related the Birmingham church bombing directly to the pending civil rights bill. In an obvious reference to the provision of the bill which called for the cutoff of U.S. Government funds to states and cities that discriminate, Wilkins urged President Kennedy to cutoff "every nickel" of U.S. funds going to Alabama, and suggested that as a first step the president close Maxwell Air Force Base near Montgomery. Wilkins also "urged the president to push for legislation empowering the attorney general to initiate suits in cases of violations of civil rights and to push for a Fair Employment Practices law."[51]

"OUT OF CONTROL" FOR CIVIL RIGHTS

The combination of the heavy pressure from the Leadership Conference and the public reaction to the Sunday school bombing in

Birmingham was too much for the more liberal members of Subcommittee No. 5. As the subcommittee began marking up the Kennedy omnibus civil rights proposal, the liberal majority on the subcommittee began voting into the bill everything the Leadership Conference had asked for. From the Kennedy administration's point of view, the subcommittee was completely out of control. It approved a complete Part III and, most controversial of all, a Fair Employment Practices section ending job discrimination in private industry. Chairman Emanuel Celler himself, who ordinarily was loyal to the Kennedy people, had been unable to resist the blandishments of lobbyists Mitchell and Rauh and joined the subcommittee majority in supporting FEPC.

Deputy Attorney General Nicholas Katzenbach gave the following evaluation of the tendency of liberal supporters of civil rights to always support as strong a civil rights position as possible:

> You get as much trouble from the liberals as you do from the conservatives. . . . [They are always] wanting to go further than it is possible to go. At the drop of a hat, they want troops sent in. This was my constant battle . . . .[52]

STAYING BACK FOR THE TAX CUT

Emanuel Celler knew that the announcement of the subcommittee version of the bill would produce shock waves in the Congress and the nation. The day of the subcommittee's tentative approval of the strong bill, the House of Representatives was voting on one of the major bills in President Kennedy's economic program -- a major cut in both personal and corporate income taxes. The president was pushing the tax cut measure in hopes it would put more spending money in the pockets of American consumers and businesses and thereby stimulate an economic recovery. In fact, Kennedy administration spokesmen were touting the tax cut and the

civil rights bill as the "big two" pieces of legislation that the President wanted enacted into law during the 1963-1964 session of Congress.

Celler very carefully waited until after the House of Representatives had approved the tax cut bill before announcing the subcommittee civil rights proposal. Celler and administration legislative strategists feared that many Southern Democrats would have joined with conservative Republicans in voting against the president's tax cut if they had known how comprehensive the proposed civil rights bill was going to be.

"No legislation goes through Congress in a vacuum," is the way oldtimers on Capitol Hill express the idea that seemingly unrelated bills can have a big effect on each other.[53] At first glance one would not think there was any relationship whatsoever between the tax cut bill and the civil rights bill. This was not the case, however. The Kennedy administration wanted the tax cut enacted into law first, and whenever necessary the Kennedy forces were willing to slow down the civil rights bill in order to make way for the tax cut bill. There also was the perpetual fear that the Republicans might make a deal with the Southern Democrats on both bills. The Republicans would vote against the civil rights bill in return for the Southern Democrats helping to vote down the tax cut. Thus the two bills were definitely related to each other, and strategy making on one of the bills had a definite effect on strategy making for the other bill.

THE REVOLT OF THE MODERATE

The press conference at which Emanuel Celler announced the subcommittee's strong civil rights bill was a happy moment for the Leadership Conference on Civil Rights. Clarence Mitchell, Jr., and Joseph Rauh, Jr., immediately called upon the full House Judiciary Committee to approve the subcommittee bill "without dilution or delay."[54]

Suddenly, major problems began to develop for the subcommittee bill. Conservative politicians and conservative

newspaper columnists began to label the subcommittee bill "extreme." William McCulloch, the ranking Republican on the Judiciary Committee, expressed great concern over the far-reaching effects of the bill, particularly the FEPC section.[55] McCulloch's wavering support was of great concern to the Kennedy people. Administration strategists had considered McCulloch's wholehearted support to be essential. They were counting on McCulloch to round up the moderate Republican votes needed to get the bill passed on the floor of the House of Representatives. Justice Department lawyers had spent hours negotiating with McCulloch in an effort to write a bill to his liking. When Celler and the subcommittee majority abandoned the moderate bill that had been agreed to by McCulloch and reported a strong civil rights bill, the Kennedy people saw defeat on the floor of the House of Representatives as a certainty.

Deputy Attorney General Nicholas Katzenbach recalled that Representative McCulloch was emphatic that the same bill that passed in the House would have to be the one that passed in the Senate. Katzenbach said:

> The only Republican man I could work with was McCulloch. . . . McCulloch at the outset insisted that he would support us, . . . but not if we were bargaining the House against the Senate. And I had to make a commitment to McCulloch that we would do everything possible in the Senate to get the same bill the House passed through the Senate and that the administration would not remove any title of that bill as a deal in the Senate. . . . McCulloch said that the House would not stand for that, and he wanted my personal word and that of President Kennedy that this would not be done.[56]

STRENGTHEN IT TO DEFEAT IT

The Southern Democrats on the full Judiciary Committee agreed with the administration view that a strong bill would be easily defeated. In fact, the segregation supporters on the full committee made known their intention to vote for the subcommittee bill when it came up for final approval by the Judiciary Committee. They knew that marginal support would be scared off by a strong bill.[57] One of the oldest of legislative strategies is to strengthen a bill you dislike in committee on the assumption that such a strong bill will have no chance of final passage by the entire legislative body. With the votes of the Southern Democrats on the Judiciary Committee added to the liberal Democrats and liberal Republicans who wanted a strong bill, there were more than enough votes in the full committee to adopt the subcommittee bill. If the Kennedy administration strategists were going to tone the bill down, they would have to act quickly.

"A BILL, NOT AN ISSUE"

In mid October Attorney General Robert Kennedy asked to speak to an executive session of the full House Judiciary Committee. "What I want is a bill, not an issue," the attorney general said. He then recommended that the full committee trim some portions of the subcommittee bill which he considered legally unwise or so sweeping that they would provoke unnecessary opposition to the bill. The attorney general was particularly concerned about FEPC for private industry, which he said the administration supported but which he felt might mire the civil rights bill forever in the House Rules Committee. He suggested an alternative strategy of deleting FEPC from the committee bill, letting the milder bill sneak past the House Rules Committee, and then adding FEPC as an amendment when the civil rights bill was safely up for debate on the House floor.[58]

Representative McCulloch went out of his way to strongly endorse Robert Kennedy's testimony before the full Judiciary

Committee. Kennedy had made some "very useful, very constructive suggestions," McCulloch told the press, "some that I would make and have been making."[59] Clearly the Democratic attorney general and the Republican representative from Ohio were working together to keep the liberal Democrats and liberal Republicans on the Committee from passing too strong a bill.

Clarence Mitchell, Jr., and Joseph L. Rauh, Jr., refused to go along with the Kennedy administration view that a strong bill could not pass the House of Representatives. The Leadership Conference on Civil Rights sent Emanuel Celler a three page letter urging him to stand by the stiffer provisions written by Subcommittee No. 5.[60] According to Rauh, he and Mitchell did everything in their power "to get the liberal representatives to hold out for the stronger bill."[61] The day after Robert Kennedy's testimony before the Judiciary Committee, Mitchell fired a public broadside at the Kennedy administration. He told the media:

> There is no reason for this kind of sellout. The administration should be in there fighting for the subcommittee bill. . . . Everybody in there [in the closed Judiciary Committee session] is a white man, and what they are doing affects [the] 10 percent of the population that is black. I don't know if the Negroes are being protected.[62]

But even as Mitchell was making this strong statement, House Judiciary Chairman Celler began to retreat from the strong subcommittee bill. Clearly feeling the pressure from both Robert Kennedy and McCulloch, Celler announced that he would "put aside my own feelings" and support a more moderate version in order to win congressional approval of the bill. The coalition of strong civil rights liberals on the committee was unmoved by Celler's action, however. Now led by Republican Arch Moore of West Virginia and Democrat Robert W. Kastenmeier of Wisconsin, they remained

adamant in opposing any modification of the subcommittee bill.[63]

It was in this highly charged atmosphere of pressure and counterpressure that the House Judiciary Committee met on 22 October l963 to begin voting on the final version of the bill to be recommended to the House of Representatives. A motion by the Southern Democrats to return the bill to the subcommittee (in effect to kill it) was easily defeated. Republican Arch Moore then moved that the Judiciary Committee report the subcommittee bill. Ironically, the subcommittee bill was now opposed by the subcommittee's own chairman, Emanuel Celler, who spoke strongly against it. Celler soon realized, however, that the votes were still there to easily pass the subcommittee bill. Exercising his prerogatives as chairman of the House Judiciary Committee, Celler adjourned the meeting and then abruptly cancelled another meeting scheduled for the next day. In the manner of powerful congressional committee chairmen in the l960s, Celler was not going to let the Judiciary Committee meet if the committee was not going to do what he wanted it to do.

PRESIDENTIAL INTERVENTION

At this moment John F. Kennedy stepped personally into the fray. The president called a late night secret strategy conference in his office at the White House. Attending this meeting were Emanuel Celler and William McCulloch of the House Judiciary Committee. Also present, however, were the speaker of the House of Representatives, Democrat John W. McCormack of Massachusetts, and the House Republican leader, Charles Halleck of Indiana. The president asked the House legislative leaders to explore possibilities for a compromise bill that could win majority approval in the House Judiciary Committee while at the same time retaining sufficient Republican support to get out of the House Rules Committee and also pass on the House floor.

The first indication that the president's efforts were going to bear fruit came the following day when House Republican Leader

Halleck said he would help the Kennedy administration block Judiciary Committee approval of the sweeping subcommittee bill. In the five days of intense negotiations that followed, the Democratic and Republican leadership of the House of Representatives, with the aide of Justice Department lawyers, began to formulate a new version of the bill. Suddenly Subcommittee No. 5 and its strong version of the bill were being superseded by the president and the House leadership of both political parties.

President Kennedy found the biggest problem to be the mutual distrust between the liberal Democrats and the moderate Republicans on the House Judiciary Committee. The liberal Democrats were fearful that the Republicans would outmaneuver them by voting for the more liberal subcommittee bill and thereby make the liberal Democrats who supported the presidential compromise appear to be "soft on civil rights." The moderate Republicans, on the other hand, feared that they would be tricked into "walking the plank," i.e. they would take all the risks of supporting a Democratic president's civil rights bill and then, when the bill reached the Senate, would see the bill "gutted" to end a Southern Democratic filibuster. A second late night meeting at the White House was required to get the two sides to begin trusting each other and to agree to support the bipartisan compromise all the way from the House Judiciary Committee to the House Rules Committee to the House floor.[64]

By 29 October l963 negotiations on the bipartisan compromise were completed. On that day Chairman Celler called the House Judiciary Committee into session and voting on the civil rights bill resumed. The broad version of the bill written by Subcommittee No. 5 was rejected by a vote of 15 For and 19 Against. The new bipartisan compromise was then presented and adopted by a vote of 20 For and 14 Against. The Judiciary Committee then ordered the compromise bill reported to the House of Representatives by a vote of 23 For and 11 Against.[65]

Deputy Attorney General Nicholas Katzenbach recalled how narrow the victory was for the Kennedy administration in the House

Judiciary Committee:

> We very nearly failed because of a liberal-conservative coalition in the House Judiciary Committee, when the Southerners agreed to vote out the bill the liberals wanted. And they obviously agreed to it because they knew that when it got on the floor it would be recommitted, and there would be no civil rights bill. By working with the moderate and liberal Republicans and then getting enough of our Democratic liberals, we were able to defeat that . . . .[66]

THE FURLED UMBRELLA

House Republican Leader Charles Halleck was forced to "pay the price" for supporting the president's bipartisan compromise and successfully pushing it through the House Judiciary Committee. Charging that Halleck had "appeased" the Democratic enemy, a group of conservative Republicans placed a furled umbrella on his desk and then carefully pointed out to the news media that the furled umbrella was symbolic of former British Prime Minister Neville Chamberlain, who carried such an umbrella, and of Chamberlain's "appeasement" of Adolph Hitler prior to the start of World War Two.

The Kennedy administration and the House leadership launched a media blitz supporting the bipartisan bill. According to Attorney General Robert Kennedy, the compromise bill was a "better bill than the administration's in dealing with the problems facing the nation." He later added, "In my judgment, if it had not been for their (Halleck's and McCulloch's) support and effort, the possibility of civil rights legislation in Congress would have been remote."[67]

Halleck himself publicly praised the bipartisan bill. "I've always been for a good effective bill. This was a determination of what we ought to do -- not as a political question, but as a matter of what's right." Halleck was joined by McCulloch in lauding the

compromise effort. McCulloch particularly praised Republican Representative John Lindsay of New York for convincing a significant number of liberal Republicans on the Judiciary Committee to abandon their preference for the broad subcommittee measure and support the bipartisan bill.[68]

Republican Arch Moore of West Virginia stayed with the subcommittee bill to the very end, however. In an unusually bitter and scathing attack, he later described the compromise bill as "sprung upon the committee from out of the night." It was, he charged, "conceived in segregation, born in intolerance, and nurtured in discrimination."[69]

Although not using as sharp words as Moore's, civil rights groups were publicly critical of the compromise. James Farmer, executive director of CORE, found the bipartisan bill "not acceptable." Roy Wilkins, executive secretary of the NAACP, said: "Today's events are no cause for rejoicing but are a challenge to work to strengthen the bill." His remarks were seconded by Clarence Mitchell, Jr., speaking on behalf of both the NAACP and the Leadership Conference on Civil Rights, who charged that the Judiciary Committee's performance had been "shabby" and that the Kennedy administration had been arrogant.[70]

PUBLIC VS. PRIVATE VIEWS

There appears to have been something of a gap between what civil rights leaders were saying about the bipartisan compromise and how they really felt about it. According to Joseph Rauh, Jr., the compromise version of the bill was not all that watered down when compared with the subcommittee version. The Fair Employment Practices Commission (FEPC) for private industry was still in the bill, even if it was to be called the Equal Employment Opportunity Commission (EEOC) and have its rulings enforced by the courts rather than by government administrators. Part III remained in the bill, even though the attorney general could not intervene in civil

rights cases on his own volition but would have to wait until a private citizen first filed a suit. The cutoff of U.S. Government funds to states and cities that discriminate had not been watered down at all, and the part of the bill granting equal access to public accommodations had been limited only by the exemption for "Mrs. Murphy's Boarding House."

In fact, Rauh argued, "the Leadership Conference was well satisfied. . . . [Its] efforts had strengthened the bill and the Republican leadership, including McCulloch and [Republican] leader Halleck, were now tied to the bill." Rauh then cited a New York Post editorial as a perfect statement of why the Leadership Conference publicly criticized the bipartisan bill as too weak but, in private, was delighted with it. The New York Post editorial, printed 31 October 1963, said:

> The civil rights bill voted by the [House] Judiciary Committee is an improvement over the administration's original proposal. It vindicates the fight waged by the Democratic and Republican liberals for a stronger measure. . . . The lesson of this episode so far is that faint heart rarely prevails on Capitol Hill.[71]

As was to be expected, the Southern Democrats in the House of Representatives were highly critical of the civil rights bill that had been approved by the House Judiciary Committee. Representative Watkins M. Abbitt of Virginia described the new version of the bill as the "most iniquitous, dangerous, liberty-destroying proposal that has ever been reported to Congress."[72]

Six Southern Democrats in the House of Representatives issued a statement criticizing the committee bill. They described the bill as "the most radical proposal in the field of civil rights ever recommended by any committee of the House or Senate. . . . [It] constitutes the greatest grasp for executive power conceived in the

20th Century . . . ." If the bill became law, the Southern representatives concluded, "the basic and fundamental power of the states and the power of our local governments to regulate business and govern the relation of individuals to each other will have been preempted."[73]

Although the House Judiciary Committee approved the bipartisan compromise bill on 29 October 1963, the Southern Democrats on the committee stalled the writing of the official report of the bill until 20 November 1963.[74] On the day the report of the bill was officially filed, House Judiciary Chairman Emanuel Celler asked House Rules Committee Chairman Howard Smith for an early hearing on a rule for floor debate. Southern Democrat Smith, of course, was not expected to expedite the process, and, when asked about the bill, simply said no hearings were planned.[75]

As the nation's capital prepared itself for the inevitable House Rules Committee fight over the administration's civil rights bill, President John F. Kennedy boarded Air Force One to fly to Dallas, Texas. It was to be the first step in the president's campaign for reelection. It was symptomatic of the problems of Democratic presidents that Kennedy was taking his reelection bid first to Texas, the key southern state that had to be kept in the Democratic party if the Democrats were to retain the White House in 1964.

An assassin's bullets ended President Kennedy's life while he was in Dallas. Vice-President Lyndon Johnson succeeded Kennedy as president of the United States.

CONCLUSIONS

The exact role of President Kennedy in the great civil rights struggle of the early 1960s is hotly debated. Although not as much as civil rights leaders wanted, the civil rights bill which he presented in June 1963 was "still by far the boldest and most comprehensive ever proposed by any president to advance the cause of civil rights."[76] On the other hand, as a pro-civil rights legislative aide in the United

States Senate later put it, "The bill [the Kennedy civil rights bill] would not have passed if Kennedy had still been president."[77]

The criticism of Kennedy on civil rights was prevalent enough that all of his biographers made an elaborate effort to defend his record on the subject. Theodore Sorensen's main argument was that there was more than ample proof in 1961, 1962, and early 1963 that the votes simply were not there to get a major civil rights bill around the filibuster in the Senate. Until the white violence and black counter violence at Birmingham changed everything, Sorensen's view was that Kennedy was absolutely correct in his political judgement that pressing for civil rights legislation would be doomed to failure.

In 1963, Sorensen argued, Kennedy "was deeply and fervently committed to the cause of human rights as a moral necessity," but Sorensen carefully pointed out that the moral necessity was "inconsistent with his political instincts."[78] Kennedy himself put it very concisely in a private talk with Sorensen:

> If we drive Sparkman, Hill and other moderate Southerners to the wall with a lot of civil rights demands that can't pass anyway, then what happens to the Negro on minimum wages, housing and the rest?[79]

President Kennedy thus did everything for blacks and the cause of civil rights except press hard for congressional legislation. He forced the integration of the Washington Redskins professional football team over the heated opposition of the team's owner. He had the son of a black member of the White House staff attend his children's White House nursery school. It can be argued that Kennedy used the executive powers of the presidency so thoroughly on behalf of blacks that he felt no need to make a suicidal attempt at making legislative advances as well. In fact, Kennedy used the executive power so thoroughly for civil rights that, when Lyndon Johnson became president following Kennedy's assassination, only the legislative arena remained as a place where Johnson could build

his own record with black Americans.

A careful reading of John F. Kennedy's speeches and press conferences reveals that he repeatedly called for mediation and negotiation between whites and blacks in the South as the best solution to the civil rights crisis. It was clearly his hope that Southern attitudes might change, the various civil rights crises would be solved by local settlements and agreements, and there would be no need for congressional action.

Kennedy also appears to have hoped that the attitude of Southern Democrats in the Senate might change and that a civil rights bill might then have a chance of getting through the Senate without a filibuster. Theodore Sorensen, President Kennedy's speechwriter, later wrote:

> The president hoped -- but never with much confidence -- that a "Vandenberg" would emerge among the Southern senators, a statesman willing to break with the past and place national interests first. Despite idle speculation that Arkansas' Fulbright might play such a role, no Southern solon came forward to place the judgement of history ahead of his continued career.[80]

Kennedy's speech to the nation the night of the standoff with Governor Wallace at the University of Alabama was the high point of his civil rights fight in the public sphere. In announcing he would send a major civil rights bill to Congress, Kennedy was doing what no American president had done in almost a century. With his dramatic speech and his civil rights bill, Kennedy had taken the crucial "first step" in getting Congress to consider major civil rights legislation.

Consideration of the Kennedy civil rights bill by Subcommittee No. 5 and the full House Judiciary Committee illustrates the extent to which the Kennedy administration was the

main source of pressure behind the bill. The language of the original bill introduced in the House of Representatives was written by a team of lawyers from the Civil Rights Division at the Kennedy Justice Department. As the bill proceeded through the subcommittee hearings, these same Kennedy administration lawyers continued to maintain a high degree of control over the bill. As new ideas were presented at the subcommittee level, it was the Justice Department lawyers who would write them into the official legislative language of the bill. Justice Department lawyers were present at all subcommittee hearings and were available if wanted at all the mark up sessions. It is important to note that the Justice Department was not only handling the official language of the bill but was also helping to make the strategy for getting the bill passed.

One need only read Nicholas Katzenbach's periodic memoranda concerning the Kennedy civil rights bill to realize how completely the administration was involved in the day-to-day details of House consideration of the legislation. His memos repeatedly ordered Justice Department attorneys to do those things which, at least in theory, might have been done by individual members of the House of Representatives or congressional staff. "Write a [small boarding house] exemption!" "Clear our redraft of Title VI [the funds cut off provision] with Celler, McCulloch, and Lindsay!" "Form a drafting team . . . . This drafting team will meet each day at 2:00 P.M. to review what has gone on within the committees and to prepare suitable language to meet committee objections."[81]

Katzenbach also had the Justice Department negotiate with the key lobby groups supporting the bill. He told Attorney General Robert Kennedy: "Last week I met with Joe Rauh's group . . . . This group continues to be insistent that FEPC be included in the omnibus bill, and there will be some problem heading them off."[82] The Justice Department's efforts even extended to trying to tone down the activity of civil rights leaders contemplating further racial demonstrations in cities far away from Washington. "I think Burke Marshall," Katzenbach wrote Robert Kennedy, "should keep in close touch with

Negro groups in an effort to channel and control their activities."[83]

Katzenbach and his team of Justice Department lawyers took it upon themselves to help maintain relations between the Senate and the House of Representatives. Katzenbach assigned himself the task of clearing redrafts of key titles of the bill with Mansfield, Dirksen, and other Senators, even though the bill was at the subcommittee level in the House of Representatives and would not be over to the Senate until several months later.

The extent of executive branch control over the bill was best illustrated, however, when President Kennedy held his two secret, late night meetings at the White House and arranged for Justice Department officials and the House Democratic and Republican leaders to write a completely new version of the House bill. As a result, the legislation reported to the House floor was not written by Subcommittee No. 5 or, for that matter, the House Judiciary Committee. It was written at the White House, at the call of the president, with legal experts from the Justice Department penning the exact legal language. The legislative product of a subcommittee of the House of Representatives -- Judiciary Subcommittee No. 5 -- received major modification upon the application of stiff presidential pressure.

Later on in the passage of the Civil Rights Act of 1964, the Justice Department and others supporting the bill had to develop legislative techniques for "bypassing" the House Rules Committee and the Senate Judiciary Committee because they were dominated by Southern Democrats who were anti-civil rights. It is interesting to note that President Kennedy and the Justice Department found it equally necessary to "bypass" Subcommittee No. 5, only in this instance it was because the subcommittee was excessively pro-civil rights rather than anti-civil rights.

As the Kennedy civil rights bill moved through the subcommittee and full committee process in the House of Representatives, William McCulloch of Ohio slowly began to emerge as the "unsung hero" behind successful House consideration of the

bill. At the time when both the liberal Democrats and the liberal Republicans were throwing in behind the strong subcommittee bill, Representative McCulloch stood by the Kennedy administration and continued to work for a moderate, compromise, bipartisan bill that, in his view, could have a chance of passing both the House and the Senate. As a result, McCulloch earned respect from those who agreed that only a moderate bill could get passed. McCulloch also earned himself a great deal of influence over the final form of the bill as it continued to make its way through the House of Representatives and then the Senate.

It is the conclusion of this author that President Kennedy deserved more praise from civil rights leaders than he received as the compromise bipartisan bill emerged from the House Judiciary Committee and made its way to the House Rules Committee. As Theodore Sorensen, Kennedy's speechwriter, pointed out, Celler and most of the other liberals pushing for a strong civil rights bill took the "easy course" and supported the broad subcommittee bill. President Kennedy resisted taking the "easy course" and did not support the subcommittee bill. He would have been praised by the civil rights lobby, and the "death" of "his bill" on the floor of the House of Representatives would have been blamed on the House of Representatives, not on the President. But Kennedy did not take the "easy course."[84] He chose instead to call the secret meetings at the White House, put his executive prestige behind a compromise bipartisan bill, and come up with legislation that could be passed. It was the high point of his civil rights fight in the private sphere. In this author's opinion, it was also one of the high points of Kennedy's career as president of the United States.

If President Kennedy is a "hero" of civil rights, why did the sophisticated leaders of the civil rights movement not see him as a hero. The answer was the legislative strategy adopted by the Leadership Conference on Civil Rights. Since the Leadership Conference decided it would press for "the strongest bill possible" and would criticize strongly any attempt at compromise, it was

inevitable that President Kennedy would come to have a negative image where civil rights was concerned. No matter how strong for civil rights a Kennedy compromise bill might have been, the Leadership Conference still would have criticized the bill and lambasted the president. It was a "no win" situation for the president. By taking a "no compromise" position the Leadership Conference was pursuing good legislative strategy, but the image seeped into the minds of strong civil rights supporters that President Kennedy was not strong for civil rights. From the president's point of view, however, he was doing exactly what was required to get the bill enacted into law.

Although their legislative strategy weakened the national image of President Kennedy as a strong supporter of civil rights, Mitchell and Rauh cannot be faulted for that strategy. By taking a strong pro-civil rights position, they did force the Kennedy administration to back a stronger bill than that administration originally had wanted to support. It is only coincidental that, in pressing John F. Kennedy to take a stronger stand on civil rights, Mitchell and Rauh possibly gave an incorrect historical view of the extent of President Kennedy's civil rights efforts.

It is often said that President Kennedy was considered a civil rights hero by the average black person in America but was not considered a civil rights hero by the more sophisticated black leaders who knew his true record. It is this author's opinion that the sophisticated black leaders were too much under the influence of the negative publicity given Kennedy, as a matter of legislative strategy, by the Leadership Conference on Civil Rights. In seeing Kennedy as a hero of civil rights, it is this author's opinion that the average black person in America was exactly right.

1. There were 67 Democrats and 33 Republicans in the 1963-1964 session of the Senate. See CQ Weekly Report, 11 January 1963, 30.

2. Memo for John S. from Senator, 12 March 1963, Hubert H. Humphrey Private Papers on Civil Rights, Minnesota Historical Society, St. Paul, Minnesota. John S. is Humphrey's legislative assistant, John G. Stewart. See also Hubert H. Humphrey from Senator Joseph S. Clark, 14 March 1963.

3. CQ Weekly Report, 5 April 1963, 527.

4. Personal recollection of the author.

5. Nicholas Katzenbach, interview, 12 November 1968, 14-15, Oral History Collection, LBJ Library.

6. Memorandum to the attorney general from Norbert A. Schlei, assistant attorney general, 4 June 1963, 2, Robert F. Kennedy General Correspondence, John F. Kennedy Library, Boston.

7. Memorandum marked John S/FYI, 18 June 1963, Hubert H. Humphrey Private Papers on Civil Rights, Minnesota Historical Society.

8. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 29 June 1963, 1, Robert F. Kennedy General Correspondence, John F. Kennedy Library. Katzenbach's assumption that House Republican Leader Charles Halleck of Indiana would not support the strengthened Kennedy civil rights bill later turned out to be incorrect.

9. Nicholas Katzenbach, interview, 12 November 1968, 18, Oral History Collection, LBJ Library.

10. CQ Weekly Report, 26 July 1963, 1318.

11. CQ Weekly Report, 26 July 1963, 1318.

12. Newsweek, 19 August 1963, 20.

13. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 19 August 1963, 3, Robert F. Kennedy General Correspondence, John F. Kennedy Library.

14. Personal recollection of the author.

15. Sundquist, Politics and Policy, 264-265.

16. CQ Weekly Report, 28 June 1963, 1068.

17. CQ Weekly Report, 26 July 1963, 1319.

18. CQ Weekly Report, 26 July 1963, 1319, and 2 August 1963, 1374.

19. Sundquist, Politics and Policy, 259.

20. Statement on Civil Rights, 8 May 1963, 1-2, Papers of Representative William McCulloch, Ohio Northern University, Ada, Ohio.

21. CQ Weekly Report, 12 July 1963, 1131.

22. CQ Weekly Report, 12 July 1963, 1131.

23. CQ Weekly Report, 12 July 1963, 1131.

24. CQ Weekly Report, 12 July 1963, 1131.

25. The Leadership Conference on Civil Rights, a coalition of lobby groups supporting the civil rights bill, devoted the major portion of its first newsletter to its member groups to the question of whether equal access to public accommodations should be guaranteed by the commerce clause or the 14th Amendment. Joseph Rauh, Jr., a lobbyist for the Leadership Conference, wrote a legal brief on the "Commerce Clause-14th Amendment Controversy" which was distributed with the newsletter. See Memorandum #1, 25 July 1963, Series D, Box 4, Leadership Conference on Civil Rights Collection, Library of Congress, Washington.

26. CQ Weekly Report, 21 June 1963, 1000.

27. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 19 August 1963, 3, Robert F. Kennedy General Correspondence, John F. Kennedy Library.

28. Kane, The Senate Debate, 48.

29. Kane, The Senate Debate, 130.

30. CQ Weekly Report, 2 August 1963, 1374.

31. Rauh manuscript, 10.

32. CQ Weekly Report, 2 August 1963, 1374.

33. CQ Weekly Report, 2 August 1963, 1374.

34. CQ Weekly Report, 25 October 1963, 1863.

35. Rauh manuscript, 6.

36. Rauh manuscript, 6.

37. Rauh manuscript, 7.

38. Memorandum #1, 25 July 1963, Series D, Box 4, Leadership Conference on Civil Rights Collection, Library of Congress.

39. Memorandum #2, 5 August 1963, and in succeeding memoranda, Series D, Box 4, Leadership Conference on Civil Rights Collection, Library of Congress.

40. Clarence Mitchell, Jr., interview by the author, 17 August 1983, Baltimore.

41. Joseph L. Rauh, Jr., interview by the author, 15 August 1983, Washington.

42. Joseph Rauh, Jr., interview by the author, 15 August 1983.

43. Clarence Mitchell, Jr., interview by the author, 17 August 1983.

44. Clarence Mitchell, Jr., interview, 30 April 1969, Tape 1, 27, Oral History Collection, LBJ Library.

45. CQ Almanac - 1963, 347.

46. Memorandum, Lee C. White to President Johnson, Subject: Civil Rights Program, 11 March 1964, Legislative Background CR 64, Box #1, 2, LBJ Library.

47. New York Times, 29 August 1963, 1.

48. CQ Weekly Report, 20 September 1963, 1632.

49. CQ Weekly Report, 20 September 1963, 1632.

50. CQ Weekly Report, 20 September 1963, 1632-1633.

51. CQ Weekly Report, 20 September 1963, 1633.

52. Nicholas Katzenbach, interview, 12 November 1968, 16, Oral History Collection, LBJ Library.

53. Personal recollection of the author.

54. Rauh manuscript, 12.

55. CQ Weekly Report, 11 October 1963, 1749.

56. Nicholas Katzenbach, interview, 11 November 1968, 18, Oral History Collection, LBJ Library.

57. Kane, The Senate Debate, 51.

58. CQ Weekly Report, 18 October 1963, 1814.

59. CQ Weekly Report, 18 October 1963, 1814.

60. CQ Weekly Report, 18 October 1963, 1814.

61. Joseph Rauh, Jr., interview by the author, 15 August 1983.

62. CQ Weekly Report, 18 October 1963, 1814.

63. CQ Weekly Report, 1 November 1963, 1879.

64. Sorensen, Kennedy, 501.

65. CQ Weekly Report, 1 November 1963, 1875.

66. Nicholas Katzenbach, interview, 12 November 1968, 17, Oral History Collection, LBJ Library.

67. CQ Weekly Report, 1 November 1963, 1875.

68. CQ Weekly Report, 1 November 1963, 1875.

69. CQ Weekly Report; 29 November 1963, 2105.

70. CQ Weekly Report, 1 November 1963, 1875-1876.

71. Rauh manuscript, 13.

72. CQ Weekly Report, 1 November 1963, 1876.

73. CQ Weekly Report, 29 November 1963, 2105.

74. Rauh manuscript, 14.

75. CQ Weekly Report, 29 November 1963, 2105.

76. Sundquist, Politics and Policy, 263.

77. William B. Welsh, administrative assistant to Senator Philip A. Hart (Democrat, Michigan), 21 April 1966, quoted in Kane, The Senate Debate, 37.

78. Sorensen, Kennedy, 470.

79. Sorensen, Kennedy, 475-476.

80. Sorensen, Kennedy, 501. Sorensen's reference is to Arthur Vandenberg, a Republican senator from Michigan who, immediately following World War II, turned away from partisan politics and worked out a bipartisan foreign policy with Democratic President Harry Truman. A 'Vandenberg' thus was a politician who put national needs ahead of partisan advantage and getting reelected.

81. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 19 August 1963, 1-4, Robert F. Kennedy General Correspondence, John F. Kennedy Library.

82. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 19 August 1963, 1, Robert F. Kennedy General Correspondence, John F. Kennedy Library.

83. Memorandum to the attorney general from Nicholas Katzenbach, deputy attorney general, 29 June 1963, 3, Robert F. Kennedy General Correspondence, John F. Kennedy Library.

84. Sorensen, Kennedy, 500.