

## CHAPTER 5

### *LYNDON B. JOHNSON; "TO WRITE IT IN THE BOOKS OF LAW"*

The assassin's bullets that killed President Kennedy in Dallas changed many things, but nothing quite so much as the political situation concerning civil rights. Kennedy's successor, Vice-President Lyndon Johnson, was a Democrat from the Southern state of Texas. At first civil rights supporters believed this would doom the civil rights bill, but actually the reverse situation was the case. As a Southerner, Lyndon Johnson was mainly concerned with winning political support in the North. Similar to Kennedy, he would have to run for reelection in 1964, and he had less than a year to convince skeptical Northern and Western liberals that a Southerner was an acceptable leader for the national Democratic party.

Clarence Mitchell, Jr., Washington Director of the NAACP, recalled the great contrast between what certain newspaper columnists were predicting about Lyndon Johnson and civil rights and what the new president was actually doing:

Bill White . . . used to work for the New York Times as a columnist. He was very close to . . . Johnson in the Senate. And most people assumed that when Bill said something in his column, that this was really coming [from Johnson] . . . . Shortly after President Johnson took office, Bill wrote a column in which he said that, "You can expect the shift away from the Kennedy provisions, which probably means that the

TO END ALL SEGREGATION

civil rights bill will be shelved . . . ." Well, under normal circumstances, you could have assumed that this really was what President Johnson was thinking. But almost at the same time his column was coming out, the president was calling people in to tell them how he had to get on the ball on civil rights.<sup>1</sup>

The idea that a Southern president would work extra hard to prove he was not racist also was explained by Louis Martin, deputy chairman of the Democratic National Committee under President Johnson:

Now my feeling about Johnson, and this is what I used to tell many Negroes in the newspaper business and others -- is that since Johnson was a Southerner, he would normally, being a good politician, lean over backwards to prove that he was not a racist. Further, there's something in the folklore of Negro life that a reconstructed Southerner is really far more liberal than a liberal Yankee. And I exploited this part of the folklore.<sup>2</sup>

Nicholas Katzenbach, a deputy attorney general at the time of President Kennedy's assassination, took the position that President Johnson was under much greater pressure than President Kennedy to be a strong supporter of the civil rights bill:

Both President Kennedy and President Johnson made very clear their views on civil rights. In a way President Johnson, I think to establish his own credentials, since he came from a Southwestern state, wanted to make very clear what his views on this were and to be very vigorous in the enforcement of it. I do not say this to take away from President Kennedy, but

*"TO WRITE IT IN THE BOOKS OF LAW"*

I think that President Johnson wanted to make absolutely clear to the Negro community and to others that there was going to be no letup in this. . . . [President Johnson] wanted to make it very clear -- and did -- right at the outset of his administration that this [civil rights] was something he was going to move forward in every possible way and with much more than deliberate speed.<sup>3</sup>

President Johnson seized on the civil rights bill as the perfect instrument for establishing his credentials with Northern and Western liberals. Five days after Kennedy's assassination, the new president told a joint session of the House and Senate, "We have talked long enough in this country about equal rights... It is time now to write the next chapter -- and to write it in the books of law."<sup>4</sup> Johnson asked the Congress to adopt the civil rights bill in memory of his slain predecessor, John F. Kennedy.

#### REACHING OUT TO BLACK POLITICAL LEADERS

Back on 4 June 1963, when Assistant Attorney General Norbert A. Schlei interviewed then Vice-President Johnson about strategies for getting a civil rights bill passed, Johnson outlined to Schlei exactly how he would attempt to get support and loyalty from black political leaders. Schlei reported:

[Johnson] said he would call in all of the Negro leaders of importance in the country and would tell them that the administration was unreservedly on their side in the battle for the objectives they have been seeking. He would tell them that the administration intended to seek civil rights legislation . . . before the end of the session; that the bill would be introduced and considered as soon as the president's tax [cut]

## TO END ALL SEGREGATION

program was enacted or defeated, one way or the other, and that Congress would stay in Washington until hell freezes over if necessary in order to get the [civil rights] legislation passed. . . . He would tell the Negro leaders that their help would be absolutely essential in getting the civil rights bill enacted. He would tell them that we need . . . Republican votes in the Senate and ask them to get busy on the task of obtaining them. He said he thought what the Negro leaders wanted was an absolute assurance that we were with them and that we meant business . . . .<sup>5</sup>

Now president himself, Johnson's first move was to implement the strategy he had outlined to Schlei. He called black leaders and civil rights leaders to well publicized meetings in the Oval Office at the White House. As Johnson himself told it:

I spoke with black groups and with individual leaders of the black community and told them that John Kennedy's dream of equality had not died with him. I assured them that I was going to press for the civil rights bill with every ounce of energy I possessed.<sup>6</sup>

It is important to note that, at these White House meetings with black leaders and civil rights leaders, President Johnson was asking for support as well as promising it. Whitney Young, Jr., executive director of the National Urban League, recalled:

He [Johnson] was not, at that point, trying to get unity as much as he was saying, 'I need your help.' And he was giving full recognition to the shock of the country [over the assassination] and the possible anxiety people might have about a Southerner being president. He wanted very much to convey that not

*"TO WRITE IT IN THE BOOKS OF LAW"*

only did we not have to worry, but he wanted to do far more than any other president.<sup>7</sup>

Roy Wilkins, of the NAACP, saw Johnson's pro-civil rights views as having become visible long before the new president called the White House meetings with civil rights leaders:

Mr. Johnson began to emerge during the Kennedy administration wholly unexpectedly and to the delight of the civil rights forces in areas that we didn't expect him to be active [in] as Vice-President. For example, he took a very personal concern on the fair employment business. He . . . called all manner of people -- unions and employers [--] all over the country on the matter of increasing their employment of Negroes. Now, for a Vice-President of the United States to do this, and especially a man who knew his way around . . . Washington, this was very effective."<sup>8</sup>

Clarence Mitchell, Jr., Washington director of the NAACP, confirmed this view that black leaders and civil rights leaders were favorably disposed toward Johnson long before they met with him at the post assassination meetings at the White House. Mitchell was receptive to Johnson because, in the past, Johnson had been friendly to him when other Southerners had been unfriendly:

It might be a little difficult for some people who were living in that period to understand this, but the Southern contingent in Congress was so hostile that when someone [Lyndon Johnson] came in [from the South] who was not hostile, you immediately felt that here was somebody you could respect and would like to work with, and would like to maintain their friendship.<sup>9</sup>

## TO END ALL SEGREGATION

In addition to reassuring black leaders of his support for the civil rights bill, Lyndon Johnson was urged by White House staff to use the White House meetings with civil rights leaders to press for a reduction in racial protests and demonstrations. "Although a moratorium on demonstrations is probably not possible," one White House staff member wrote, "whatever the [black] leadership can do to restrain physical activities or channel energies and interest into such positive programs as educational and vocational training should be encouraged."<sup>10</sup> Another White House memorandum noted that President Johnson was "making a personal plea" to CORE, the Congress of Racial Equality, a civil rights group, to "work with the other groups . . . and try to coordinate . . . activities through the White House . . . ." <sup>11</sup>

## NO COMPROMISES

If John F. Kennedy's early behavior on civil rights was a case study in a president trying to avoid a divisive domestic issue that could not be avoided, Johnson's behavior was a case study in what a president can do when he throws himself and the vast powers of his office totally into the fight. Johnson spoke out in favor of the civil rights bill at every suitable occasion -- press conferences, public speeches, messages to Congress, etc. In a memorandum summarizing civil rights activities during President Johnson's first 100 days in office, a White House staff member noted the "urgency and importance that have been given to civil rights." Under the topic of General Attitude, the memorandum emphasized that "numerous presidential speeches and informal statements have made crystal clear the president's commitment to equal treatment and opportunity for all Americans . . ." <sup>12</sup>

Knowing that civil rights advocates feared the civil rights bill would be compromised and watered down the way all the previous civil rights bills had, Johnson took the position that he and his administration would not compromise with the segregationist

*"TO WRITE IT IN THE BOOKS OF LAW"*

Southern Democrats in any way. "So far as this administration is concerned," Johnson told a press conference, "its position is firm."<sup>13</sup> There would be no room for bargaining. Johnson would win his spurs as a pro-civil rights president by getting the Kennedy civil rights bill past the House Rules Committee, the House, the Senate Judiciary Committee, and the Senate filibuster. Furthermore, he would get the bill through substantially intact.

Clarence Mitchell, Jr., Washington director of the NAACP, noted that President Johnson went out of his way to assure black political leaders that there would be no compromises on the civil rights bill:

He [Johnson] was in Texas and we [civil rights leaders] were up in the White House meeting . . . on strategy in the House [of Representatives] . . . . Somebody came on the air [radio news], I think it was Roger Mudd [then with CBS News] or somebody. I got the program as I was leaving the White House and turned on my car radio. This person, whoever it was, said, "Well, the president has already reached an agreement with Senator Russell that he'll get the civil rights bill through, but not with fair employment in it." And I was incensed because I knew that wasn't true on the basis of the conversations we were having. I called Roy Wilkins [of the NAACP] in New York to suggest to him that I didn't believe it was true and he said, "Well, the president just called me from Texas and said that it wasn't true." I cite that because it shows his [Johnson's] sensitiveness and his determination at all points along the way to give reassurances on things.<sup>14</sup>

It was President Kennedy who had put Johnson in a position to say "no compromises" and mean it. As previously described, one

#### TO END ALL SEGREGATION

of Kennedy's final acts prior to his assassination had been to negotiate the key compromise with House Republican Leader Charles Halleck that would provide Republican support for the civil rights bill in the House of Representatives. Few observers stopped to realize that Johnson was taking a "no compromises" position on a bill that had already been "compromised" for him by his predecessor.<sup>15</sup>

Apparently Johnson, as vice-president, knew about the compromise that Kennedy had made with the House Republican leadership and was present when one of the Republican leaders made his commitment to President Kennedy. In off the record remarks to the nation's governors meeting with Johnson at the White House immediately following the assassination, Johnson said: "A Republican leader told President Kennedy in my presence that he would help him get it [the civil rights bill] reported and help get it passed, . . ."<sup>16</sup>

#### THE DISCHARGE PETITION

Civil rights supporters had good reason to think that the administration civil rights bill would experience long delay and possibly a slow death while before the House Rules Committee. Committee Chairman Howard Smith had a way of vanishing from Washington for days on end when a bill he did not like was before the Rules Committee. In 1957 Smith disappeared to his Virginia farm because, according to him, his dairy barn had burned down. He absented himself again in 1959, claiming that his dairy cattle were sick and required his full attention. On both occasions liberals were awaiting a rule on a bill that Smith strongly opposed.<sup>17</sup>

On 3 December 1963 President Johnson told Democratic congressional leaders he would give full support to a discharge petition to dislodge the civil rights bill from the Rules Committee.<sup>18</sup> If a majority of the members of the House signed the discharge petition, the bill would move directly from the Rules Committee to the House floor.



*"TO WRITE IT IN THE BOOKS OF LAW"*

Apparently President Johnson believed that Rules Committee action and House of Representatives action on the civil rights bill could be completed before Christmas. Immediately following the assassination of President Kennedy, he told an off the record gathering of the nation's governors: "We are hoping that we can get a rule on that bill [the civil rights bill] and get it passed [in] the House and as far along in the Senate as we can this session, and then come back in the early part of the next session and finish that."<sup>19</sup>

There was a strong precedent for using the discharge petition in an effort to get Chairman Smith to act. A discharge petition had been instrumental in forcing the Rules Committee to send the bill that became the Civil Rights Act of 1960 to the House floor. The petition came within 10 names of the 218 required signatures when, two days later, the Rules Committee granted a rule for debate on the bill.<sup>20</sup> Apparently only the "threat" of a successful discharge petition was enough to shake the bill free.

On 9 December 1963 House Judiciary Chairman Emanuel Celler officially filed a discharge petition on HR 7152, the bipartisan civil rights bill. Now that the discharge petition actually existed and could formally be signed by members of the House, President Johnson's support could be more than just verbal. Each day the new president was briefed on who had signed the petition, and "holdouts" would get a personal telephone call directly from the president himself.<sup>21</sup> The White House was so committed to the discharge petition that plans were made to get the assistance of prominent businessmen to lobby representatives who had not signed the petition.<sup>22</sup>

More than 100 representatives signed the discharge petition the first day it was available, but a considerable number resisted signing, mainly because most members of Congress believe in the committee system of reviewing legislation and are hesitant to ever bypass a committee or its chairman. There also was the problem that, upon hearing that President Johnson was going to back a discharge petition, Chairman Smith had announced that he would hold Rules Committee

#### TO END ALL SEGREGATION

hearings on the civil rights bill "reasonably soon in January."<sup>23</sup>

Sometime in January was not good enough for the Leadership Conference on Civil Rights. According to Joseph Rauh, Jr.: "The target was the required 218 signatures [a majority of the House] by December 13th, so that the civil rights bill could be called up in the House on December 23rd and passed before year's end."<sup>24</sup> Rauh and Clarence Mitchell, Jr., began to put heavy pressure on various representatives to sign the discharge petition in order to get the bill on the House floor in December and not wait for Chairman Smith's "January hearings."

#### PARTISANSHIP AGAIN

The biggest problem with the discharge petition, however, was that it was opposed by the House Republican leadership. Halleck and McCulloch, citing their meetings at the White House with President Kennedy, argued that they had an agreement with the Democratic leadership to furnish Republican votes to clear the bill through the Rules Committee. The only reason the liberal Democrats were circulating the discharge petition, the Republicans charged, was so that they could get all the credit for getting the civil rights bill out of the Rules Committee. The Democrats, the Republicans said, wanted to prevent civil rights supporters throughout the nation from seeing that there was strong Republican support for the civil rights bill on the Rules Committee.<sup>25</sup>

Apparently the Republican opposition to the discharge petition came as a surprise to the Johnson White House. In a memorandum to President Johnson dated 29 November 1963, Lawrence F. O'Brien, special assistant to the president for congressional relations, suggested that the White House actively seek Republican signatures for the discharge petition. O'Brien wrote:

[In] order to have the civil rights bill enacted, we must have . . . sixty to seventy House Republicans on the

*"TO WRITE IT IN THE BOOKS OF LAW"*

discharge petition. . . . The immediate signal is to push House Republicans generally to sign the discharge petition . . . ."<sup>26</sup>

Five days later, at his first congressional leadership breakfast at the White House, President Johnson was proposing that the Republicans be asked to sign the discharge petition one-for-one with the Democrats. The president said: "Does everybody agree that you get as many signatures as you can? Then tell the Republicans they must match us man for man." Later in the breakfast, Johnson stated traditional objections to signing a discharge petition but noted the unusualness of the current situation:

I was always reluctant to sign a discharge petition, but you have a great moral issue. People have been denied a right they should have -- a discussion in [the House of Representatives].<sup>27</sup>

When the Leadership Conference continued to push for signatures on the discharge petition, the Republicans struck back with a Calendar Wednesday ploy. Pointing out that the bill could be brought to the House floor and enacted in one day under the Calendar Wednesday rule, the Republicans challenged the Democrats to do just that on Wednesday, 11 December 1963. Knowing what was about to happen, the Democratic leadership moved to dispense with Calendar Wednesday on that particular day. A lively and bitter partisan debate ensued.

Republican Representative John Lindsay of New York charged that the Democrats had failed to consult "the Republicans who developed this civil rights bill" when they started circulating the discharge petition, thus endangering the "delicate bipartisan coalition" needed to get the bill passed. Democratic Representative Richard Bolling of Missouri countercharged that "Calendar Wednesday is an impractical, if not impossible way to consider the civil rights bill."

## TO END ALL SEGREGATION

Republican representatives Frank J. Becker of New York and Thomas M. Pelly of Washington then said that the Democratic leadership's insistence on a discharge petition, while opposing Calendar Wednesday, was "political demagoguery at its lowest level."<sup>28</sup>

Rather than let the Republicans continue to push for bringing the bill up under the Calendar Wednesday rule, the Democrats made a motion for immediate adjournment. The motion passed by an almost straight party line vote of 214 to 166. The Republicans had achieved their goal, however. The liberal Democrats had been forced to cast a record vote against "immediate" consideration of the civil rights bill in the House of Representatives. When in the future Democrats charged that certain Republican representatives were not "really for civil rights" because they would not sign the discharge petition, the Republicans could answer back that the Democrats were not "really for civil rights" because they voted against trying Calendar Wednesday.

Clearly there was plenty of partisan politics left to be played with the "bipartisan" civil rights bill. The Calendar Wednesday fireworks in the House of Representatives were a reminder that politics is a continuing game of credit taking for your side and blame placing on the other side. If the liberal Democrats were going to try to get "one up" on the Republicans with the discharge petition, the Republicans were going to "retaliate" with Calendar Wednesday. When the debating and the voting finally ended on Wednesday, 11 December 1963, William McCulloch said, perhaps more hopefully than knowledgeably, that he "did not think the partisan sparring would endanger the bill's bipartisan support."<sup>29</sup>

The Leadership Conference's hopes of getting the civil rights bill on the House floor by late December were thoroughly dashed, however. By 13 December 1963 only 150 of the needed 218 signatures had been obtained, and conspicuously absent from the discharge petition were the names of such key Democrats as House Speaker John W. McCormack of Massachusetts and House Democratic Leader Carl Albert of Oklahoma. The next day, the

*"TO WRITE IT IN THE BOOKS OF LAW"*

national board of Americans for Democratic Action (ADA) lambasted the Democratic House leaders for failing to sign the discharge petition. They had, the ADA charged, "shown a callous disregard for the urgency of civil rights legislation" and "betrayed the memory of President Kennedy." The statement concluded with backhanded praise for the Republicans. "Republican leadership in the House", the ADA said, "has, at least, been more candid in its admitted opposition to the discharge petition."<sup>30</sup>

The top Democratic House leaders had a good reason for not signing the discharge petition. They had an agreement with the Republican House leaders to vote the bill out of the Rules Committee at the appropriate time, and they were most anxious to in no way disturb that bipartisan agreement. Apparently President Johnson agreed with this strategy because the White House pressure to sign the discharge petition ceased. The House of Representatives went home for Christmas with the administration civil rights bill still firmly in the grasp of Chairman Smith and the House Rules Committee.

**"ABOLISH . . . ALL RACIAL DISCRIMINATION"**

The second session of the 1963-1964 Congress convened at noon on Tuesday, 7 January 1964. Both the House and the Senate met briefly on procedural matters and then adjourned to await President Johnson's State of the Union message the following evening. With its pomp and ceremony and live coverage by all three major television networks, the State of the Union address offered Lyndon Johnson an opportunity to restate to the American people his commitment to the cause of civil rights:

Let this session of Congress be known as the session that did more for civil rights than the last hundred sessions combined. . . . As far as the writ of Federal law will run, we must abolish not some but all racial

#### TO END ALL SEGREGATION

discrimination. For this is not merely an economic issue -- or a social, political or international issue. It is a moral issue -- and it must be met by the passage this session of the bill now pending in the House.

Johnson's statement was forceful. It was the first time an American president had ever called for eliminating "all racial discrimination." It was also the first presidential request that it be done "as far as the writ of Federal law will run." Johnson concluded the civil rights portion of his State of the Union address with a patriotic reference to the increasing role that blacks were playing in the American military:

Today Americans of all races stand side by side in Berlin and in Vietnam. They died side by side in Korea. Surely they can work and eat and travel side by side in their own country.<sup>31</sup>

#### DRESS REHEARSAL

Exactly as he promised he would, Howard Smith began Rules Committee hearings on the administration civil rights bill on 9 January 1964. It soon became clear, however, that Smith's agreement to hold hearings in no way represented a capitulation on his part where opposition to civil rights was concerned. It represented little more than a shift in tactics. Smith's intention was to make sure that the hearings dragged on for weeks and perhaps months, thus stopping House action on the civil rights bill as effectively as if hearings were not held at all.

For a while Smith's new strategy appeared to be working. A long list of Southern Democrats opposed to the bill lined up to testify against it. Although civil rights strategists endeavored to speed the hearings along by having only a few of the bill's supporters testify, Celler and McCulloch had to present the bill on behalf of the House

*"TO WRITE IT IN THE BOOKS OF LAW"*

Judiciary Committee, and this provided Smith and his fellow Southerners the opportunity to ask endless technical and constitutional questions. After seven days of these desultory hearings, only ten representatives had testified, three in favor and seven against.

The Rules Committee hearings, it soon turned out, were providing an excellent opportunity for Southern congressmen to try out their various arguments against the civil rights bill. In the same way, Celler and McCulloch presented at the committee hearings the arguments which liberal supporters of the bill would use when the bill came up for formal debate on the House floor. The Rules Committee hearings thus became a "dress rehearsal" for the ideas, speeches, and ploys that would be used later when the "main performance" was presented on the floor of the House of Representatives.<sup>32</sup>

In presenting the administration civil rights bill to the Rules Committee, Judiciary Chairman Emanuel Celler hammered away on a theme that would be repeated over and over again on the House floor -- that the black campaign for equal rights could not be halted. "You can no more stop it than you can stop the tide," Celler said. The black American, he argued, "still wears some of the badges of slavery. . . . It is small wonder that Negro patience is at an end." Celler said he understood that the bill would be painful medicine for the white South to have to swallow. "It means changing patterns of life that have existed for a century or more. I wish it could be otherwise, but it cannot. The die is cast, the movement cannot be stayed."<sup>33</sup>

The major Southern Democratic arguments against the bill were "previewed" by Chairman Smith and Representative Edwin E. Willis of Louisiana. Smith charged that Celler had "railroaded" the bill through the Judiciary Committee with no opportunity for individual committee members to offer amendments. "This nefarious bill," Smith said, "is as full of booby traps as a dog is of fleas." He particularly attacked the public accommodations provisions, saying they stretched the commerce clause beyond all intention of the

## TO END ALL SEGREGATION

Constitution.

Representative Willis strongly supported Smith on the idea that the bill was unconstitutional. The civil rights bill, he said, was "the most drastic and far-reaching proposal and grab for power ever to be reported out of a committee of the Congress in the history of our Republic." Willis said the voting section of the bill was unconstitutional because it would regulate the qualifications of voters, which the Constitution leaves to the state legislatures. He argued the public accommodations section would shift the 14th Amendment of the Constitution to areas of individual discrimination, a misuse of the Amendment since it was designed to restrict only state action and not individual "custom or usage."

The Judiciary Committee's ranking Republican, William McCulloch, used the Rules Committee hearings to restate his firm conviction that House members would not be forced to cast unpopular votes to pass a strong civil rights bill and then see the bill watered down in the Senate to escape a filibuster. "I would never be a party to such a proposal," McCulloch said. "My head is still bloody from 1957 (when a House-passed Part III provision was stripped off the bill in the Senate). I feel very strongly about this."

## THREE SOURCES OF PRESSURE

On 23 January 1964 House Democratic Leader Carl Albert of Oklahoma announced that the bipartisan civil rights bill would be reported out of the House Rules Committee on January 30, and that floor debate in the House of Representatives would begin the next day. When asked by news reporters about this somewhat surprising announcement, Rules Committee Chairman Howard Smith confirmed that he had reached an agreement with the House leadership to continue the Rules Committee hearings until January 30 and then to allow a vote that day to clear the bill for House action.<sup>34</sup>

There were many opinions as to why Chairman Smith agreed to release the bill. Joseph Rauh, Jr., of the Leadership Conference on



*"TO WRITE IT IN THE BOOKS OF LAW"*

Civil Rights, argued that the situation changed because of what happened over the Christmas recess. "Congressmen had found real support for the bill in their districts at Christmas time," Rauh stated. "Additional signatures on the discharge petition were virtually certain."<sup>35</sup>

A second view holds that a bipartisan group on the Rules Committee itself was ready to take an extreme course of action and hold a vote on the bill without Chairman Smith's approval. Under the committee's own rules, three members of the committee could formally request a vote on the bill and, if Chairman Smith denied the request, a majority of the committee could meet and vote the bill out themselves. If the bipartisan group on the committee did what they said and applied this rarely used committee rule, Chairman Smith would have suffered the embarrassment of publicly losing control of his committee.<sup>36</sup>

A third reason cited for the release of the bill was increasing pressure placed on Chairman Smith by his longtime friend on the Rules Committee, Republican Clarence Brown of Ohio. Brown repeatedly pointed out to Smith that the Republican votes were there to vote the civil rights bill out of the Rules Committee over Smith's objections. Brown supposedly personally asked Smith to end his obstructionism.<sup>37</sup>

Probably for all three reasons, Smith surrendered and made his agreement with the House leadership to release the bill. His one sour comment was, "I know the facts of life around here!"<sup>38</sup> No one questioned that the bill would be brought to a Rules Committee vote on the date that Smith had specified. "Politicians may violate pledges made to their constituents, but they seldom break promises to one another."<sup>39</sup> Smith let the committee vote on 30 January 1963 and the bipartisan civil rights bill was sent to the House floor by a vote of 11 to 4.<sup>40</sup> All five Republicans on the Rules Committee had voted in the affirmative. John F. Kennedy's late night bipartisan agreement had, as it was designed to do, moved the civil rights bill through the Rules Committee.

## TO END ALL SEGREGATION

### RULES COMMITTEE AUTHORIZED AMENDMENTS

Before the civil rights bill finally left the Rules Committee, however, two interesting things occurred. At the same time it puts a rule on a bill governing the way it will be debated, the House Rules Committee can also authorize that certain amendments be officially offered to the bill on the House floor. By a wide margin, the Rules Committee voted down an amendment that would have created a U.S. Government resettlement commission to move blacks out of the South and find new homes for them in the North. Offered by Democratic Representative George W. Andrews of Alabama, the amendment was an obvious attempt to make the point that most blacks lived in the South and therefore the bill would really effect only the Southern states.<sup>41</sup>

Of more importance, however, was a proposed amendment which failed to clear the Rules Committee by only one vote. It would have barred discrimination by sex as well as by race, color, or religion. The presentation of this amendment was truly a "dress rehearsal." The so-called "sex amendment" would make a dramatic reentrance when the civil rights bill reached the House floor.<sup>42</sup>

Time Magazine took a humorous approach to this early discussion of having the civil rights bill apply to sex as well as race:

Then, taking a new tack, [Rules Committee Chairman] Smith complained that while the bill guarantees against discrimination on grounds of race, it does not forbid discrimination on grounds of sex. . . . [Judiciary Committee Chairman] Celler vowed he could not recall that sex had ever before been an issue in the civil rights bill. Remarked New York's Republican Representative Katharine St. George, the reason might be that sex was "just a dim memory" for the 75-year-old Celler.<sup>43</sup>

*"TO WRITE IT IN THE BOOKS OF LAW"*

As the bipartisan bill finally left the Rules Committee, approximately 60 Southern Democratic members of the House of Representatives attended a closed-door caucus to develop an opposition strategy to the bill. Representative William M. Colmer of Mississippi was the chairman of this informal opposition group. After the meeting he told the news media that the Southerners had decided to concentrate their attack on three principal parts of the bill -- public accommodations, the Equal Employment Opportunity Commission (EEOC), and the U.S. Government funds cutoff. Colmer said the Southerners decided against delaying tactics, preferring instead to avoid antagonizing middle-of-the-road members of the House whose support possibly could be won for key weakening amendments.<sup>44</sup>

## CONCLUSIONS

Who won the House Rules Committee fight over the bipartisan civil rights bill? In one sense, Chairman Smith won, because the delay of the bill while it was before the Rules Committee was considerable. The bipartisan bill was reported out of the House Judiciary Committee on 20 November 1963 and did not clear the Rules Committee until 30 January 1964, exactly two months and ten days later. The unusually lengthy Rules Committee hearings orchestrated by Chairman Smith also gave the Southern Democrats a well publicized national platform on which to practice their constitutional arguments against the civil rights bill.

Was the delay before the Rules Committee really damaging to the Johnson administration and the bipartisan coalition supporting the bill? A look at the "total legislative picture" would suggest that this was not the case. It had been constantly stated that the tax cut bill should be enacted prior to the civil rights bill. All during the time the civil rights bill was tied up in the House Rules Committee, the tax cut bill was gaining final approval in the House, undergoing committee hearings and markup in the Senate, and coming up for debate,

#### TO END ALL SEGREGATION

amendment, and final passage on the Senate floor. As a result, there was no particular rush about getting the civil rights bill out of the House Rules Committee and over to the Senate. Once in the Senate, it would have just had to wait for the tax cut bill.

Also, by letting Chairman Smith take his time and hold hearings on the civil rights bill, the administration and the bipartisan House leaders were protecting themselves from possible criticism for "rushing the bill through" and "cutting off the opposition before it had a chance to speak." Furthermore, the bill had cleared the Rules Committee in the appropriate manner -- it had been voted out by a majority of the committee members. By not using the discharge petition, Calendar Wednesday, or any of the other exotic methods proposed for "blasting" the bill out of the Rules Committee, the bipartisan House leaders protected themselves from Southern charges of "ramming the bill through" in "procedurally high-handed style."

More important was the fact that the heavy vote for the bill in the Rules Committee demonstrated that the bipartisan coalition behind the bill really did exist and really could deliver the votes. The fact that every Republican on the House Rules Committee voted for the bill was impressive. Since Halleck and McCulloch had shown they could deliver the necessary Republican votes for the civil rights bill in the House Rules Committee, there now was good reason to think they could deliver the necessary Republican votes for the bill on the House floor.

*"TO WRITE IT IN THE BOOKS OF LAW"*

1. Clarence Mitchell, Jr., interview, 30 April 1969, Tape 1, 29-30, Oral History Collection, LBJ Library.
2. Louis Martin, interview, 14 April 1969, 22, Oral History Collection, LBJ Library.
3. Nicholas Katzenbach, interview, 12 November 1968, 5-6, Oral History Collection, LBJ Library.
4. CQ Weekly Report, 29 November 1963, 2089.
5. Memorandum to the attorney general from Norbert A. Schlei, assistant attorney general, 4 June 1963, VI, Robert F. Kennedy General Correspondence, John F. Kennedy Library.
6. Lyndon Baines Johnson, The Vantage Point (New York: Popular Library, 1971), 29.
7. Whitney Young, Jr., interview, 18 June 1969, 9, Oral History Collection, LBJ Library.
8. Roy Wilkins, interview, 1 April 1969, 5, Oral History Collection, LBJ Library.
9. Clarence Mitchell, Jr., interview, 30 April 1969, Tape 1, 4, Oral History Collection, LBJ Library.
10. Memorandum, Lee C. White to President Johnson, Suggested Items for Discussion with Roy Wilkins, 29 November 1963, Appointment File (Diary Back-up), Box 1, 1, LBJ Library. See also Memorandum, Lee C. White to President Johnson, Possible Items for Discussion with Martin Luther King, 3 December 1963, and Memorandum, Lee C. White to President Johnson, Suggested Items for Discussion with Mr. James Farmer (national director of CORE, the Committee on Racial Equality, a civil rights group), 4 December 1963, EX/HU2,

TO END ALL SEGREGATION

Box 2, LBJ Library.

11. Memorandum, Lee C. White to President Johnson, 4 December 1963, Appointment File (Diary Back-up), Box 2, LBJ Library.
12. Memorandum, Lee C. White to President Johnson, Civil Rights Activities During the First 100 Days, 15 April 1964, EX/HU2, 1, LBJ Library.
13. Johnson, The Vantage Point, 29.
14. Clarence Mitchell, Jr., interview, 30 April 1969, Tape 1, 29, Oral History Collection, LBJ Library.
15. Rowland Evans and Robert Novak, Lyndon B. Johnson: The Exercise of Power (New York: New American Library, 1966), 162.
16. Off The Record Remarks to Governors, 25 November 1963, Appointment File (Diary Back-up), Box 1, 4, LBJ Library.
17. CQ Weekly Report, 6 December 1963, 2130.
18. CQ Weekly Report, 6 December 1963, 2118.
19. Off The Record Remarks to Governors, 25 November 1963, Appointment File (Diary Back-up), Box 1, p. 4, LBJ Library.
20. CQ Weekly Report, December 6, 1963, 2129.
21. Daniel M. Berman, A Bill Becomes a Law: Congress Enacts Civil Rights Legislation, 2nd ed. (New York: Macmillan, 1966), 95.

*"TO WRITE IT IN THE BOOKS OF LAW"*

22. Memorandum, Lee C. White to President Johnson, Subject: Assistance of Businessmen on the Discharge Petition, 9 December 1963, EX LE/HU2, Box 65, LBJ Library.
23. CQ Weekly Report, 6 December 1963, 2118.
24. Rauh manuscript, 15.
25. CQ Weekly Report, 6 December 1963, 2118.
26. Memorandum, Lawrence F. O'Brien to the President, 29 November 1963, EX LE/HU2, WHCF, Box 65, LBJ Library.
27. Notes on the First Congressional Leadership Breakfast Held by the President on 3 December 1963, Appointment File (Diary Back-up), Box 2, 3, 8, LBJ Library.
28. CQ Weekly Report, 13 December 1963, 2150.
29. CQ Weekly Report, 13 December 1963, 2150.
30. CQ Weekly Report, 20 December 1963, 2218.
31. CQ Weekly Report, 10 January 1964, 48.
32. For an analysis of subsequent refinements in the Rules Committee's role of providing a "dress rehearsal" for the subsequent debate on the House floor, see Bruce I. Oppenheimer, "The Rules Committee: New Arm of Leadership in a Decentralized House," Lawrence C. Dodd and Bruce I. Oppenheimer, Congress Reconsidered, 1st ed. (New York: Praeger, 1977), 105-113.

TO END ALL SEGREGATION

33. These and subsequent quotes from the House Rules Committee hearings are from CQ Weekly Report, 24 January 1964, 157.
34. CQ Weekly Report, 24 January 1964, 157.
35. Rauh manuscript, 15.
36. For a fuller discussion of this Rules Committee rule, see Berman, A Bill Becomes A Law, 2nd ed., 96.
37. Berman, A Bill Becomes A Law, 2nd ed., 95.
38. Rauh manuscript, 15.
39. Berman, A Bill Becomes A Law, 2nd ed., 96-97.
40. CQ Weekly Report, 10 February 1964, 250.
41. CQ Weekly Report, 7 February 1964, 250.
42. CQ Weekly Report, 7 February 1964, 250.
43. Time, 17 January 1964, 12.
44. CQ Weekly Report, 7 February 1964, 250.