

**Initial Policy Breakthroughs:
Congressional Action on Civil Rights, 1951-1960**

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Abstract:

New civil rights legislation, while on the congressional agenda in the 1920s, 1930s, and 1940s, was never enacted, thanks to the strident opposition of Southerners in Congress. In the 1950s, the civil rights coalition in Congress finally broke through and passed the Civil Rights Acts of 1957 and 1960. I explore the reasons for this success by focusing on perceptions of the electoral connection (by Northern Democrats, Republicans, and key individuals like President Dwight Eisenhower and Senate Majority Leader Lyndon Johnson) and key external events (the *Brown* decision(s) and the gradual leftward movement in the nation). And while the Acts of 1957 and 1960 were the first such laws passed since 1875, they could best be considered “semi-successful.” Critical features of both pieces of legislation were stripped away prior to enactment, as Southern Democrats used their waning influence in Congress to reshape the bills more to their liking. This had the effect of minimizing the impact the Acts could have on Jim Crow institutions in the South. That said, these victories, while tainted in the minds of reformers, laid the groundwork for more meaningful legislation in the 1960s.

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Introduction

The statutory civil and voting rights protections for black Americans in the current day trace their origins to the Civil Rights Act of 1964 and Voting Rights Act of 1965. These landmark acts swept Jim Crow-style discrimination away once and for all, and established conditions and protocols for the equal protection of black Americans under the law. Racial segregation in schools, the workplace, and “public accommodations” more generally was outlawed, and discriminatory voting practices at the state level that led to systematic disenfranchisement of black voters were prohibited. Additional Civil Rights Acts (in 1968 and 1991) and the renewal, amendment, and extension of temporary sections of the Voting Rights Act (in 1970, 1975, 1982, and 2006) further entrenched and expanded anti-discriminatory protections and enhanced the durability of the original statutes.

Yet while the Acts of 1964 and 1965 were “big bang” events, they did not arise out of thin air. The assault on the “Jim Crow State” had been ongoing for decades, and the liberalizing policies passed by Congress in the mid-1960s followed a clear path — one that was chock full of false starts and disappointing endings. To truly understand the landmark “successes” of the 1960s, then, requires a firm grasp of the “failures” and “semi-successes” in the preceding decades, as the form and content of the Acts of 1964 and 1965 were shaped by earlier political events and battles.

In previous work, I have started the process of tracing such a political-economic history of the modern Civil Rights State.¹ When the Federal Elections Bill sponsored by Henry Cabot Lodge (R-MA) went down to defeat in 1890, the post-Civil War Reconstruction “experiment”

¹ Jeffery A. Jenkins, Justin Peck, and Vesla M. Weaver, “Between Reconstructions: Congressional Action on Civil Rights, 1891–1940,” *Studies in American Political Development* 24 (2010): 57–89; Jeffery A. Jenkins and Justin Peck, “Building Toward Major Policy Change: Congressional Action on Civil Rights, 1941–1950,” *Law and History Review* 31 (2013): forthcoming.

was finally dead, and Jim Crow-style institutions were established in the South and not meaningfully challenged for the next three decades. In the early-1920s and again in the late-1930s, a grass-roots movement to enact an anti-lynching law was attempted; in each case, such legislation was passed in the House but failed in the Senate (due to the filibuster). In the 1940s, civil-rights initiatives broadened beyond anti-lynching, as anti-poll tax and fair employment legislation was considered; once again, such legislation was passed in the House only to be stymied in the Senate (by the filibuster). Thus, congressional action on civil rights between 1920 and 1950 largely ended in disappointment for liberal groups, as Southern Democrats successfully fought off any perceived threats to their discriminatory system.

To bridge the gap between the legislative failures of the 1920s, 1930s, and 1940s and the landmark successes of the 1960s, one must look to the critical decade of the 1950s. That is the focus of this paper. In the 1950s, the civil rights coalition in Congress finally broke through and was able to pass civil rights legislation. And while the Civil Rights Acts of 1957 and 1960 were the first such laws passed since 1875, they could best be considered “semi-successful.” Critical features of both pieces of legislation were stripped away prior to enactment, as Southern Democrats used their waning influence in Congress to reshape the bills more to their liking. This had the effect of minimizing the impact the Acts could have on Jim Crow institutions in the South. That said, these victories, while tainted in the minds of reformers, laid the groundwork for more meaningful legislation in the 1960s. While Southerners could adopt a game plan of “strategic delay,” they could not reverse liberalizing trends in the greater society, and thus could not forestall major change forever.²

² The strategic-delay thesis is described in Keith M. Finley, *Delaying the Dream: Southern Senators and the Fight Against Civil Rights, 1938-1965* (Baton Rouge: Louisiana State University Press, 2008).

In documenting congressional action on civil rights in the 1950s, I also examine the process of partisan “sorting out” on civil rights and contribute to an ongoing debate over the timing of the Democratic Party’s embrace of what would become known as the “civil rights agenda.”³ While considerable evidence suggests that a partisan-based racial realignment was well underway before the passage of landmark civil rights legislation in the 1960s — at the national level, for example, a majority of black voters had moved into the Democratic column in 1936, during Roosevelt’s first re-election campaign⁴ — it was far from complete.⁵ The Democrats inability to pass anti-poll tax and fair employment legislation in the 1940s, in large part because of the intransigence of their Southern wing, angered black civil rights leaders, and this left the door open for the Republicans. Representatives of the “Party of Lincoln,” however, had pursued a strategy of hedging on civil rights since the late-1930s — supporting symbolic initiatives when it was in their electoral interest, but often defecting on votes of substantive import. Thus, as the decade of the 1950s dawned, two related questions loomed: (a) could national Democrats redeem themselves in the eyes of black voters?; and (b) would Republicans change course and actively reach out to black voters?

³ The standard (or most widely accepted) account of partisan change is provided by Edward G. Carmines and James A. Stimson, *Issue Evolution: Race and the Transformation of American Politics* (Princeton: Princeton University Press, 1989). They point to a critical moment taking place in 1963–1964, revolving around choices made by Democratic President Lyndon Johnson and the Republican standard bearer, Barry Goldwater. In recent years, a number of studies have held that partisan sorting out on civil rights occurred (or began) much earlier than Carmines and Stimson contend — as early as the late-1930s. See David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009); Anthony Chen, *The Fifth Freedom: Jobs, Politics, and Civil Rights in the United States, 1941–1972* (Princeton: Princeton University Press, 2009); Brian D. Feinstein and Eric Schickler, “Platforms and Partners: The Civil Rights Realignment Reconsidered,” *Studies in American Political Development* 22 (2008): 1–31; and Eric Schickler, Kathryn Pearson, and Brian D. Feinstein, “Congressional Parties and Civil Rights Politics from 1933 to 1972,” *Journal of Politics* 72 (2010): 1–18; Jenkins, Peck, and Weaver, “Between Reconstructions.”

⁴ See Nancy J. Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton: Princeton University Press, 1983).

⁵ Or to use the language of Paul Frymer, blacks had not yet been “captured” by the Democratic Party. See Paul Frymer, *Uneasy Alliances: Race and Party Competition in America* (Princeton: Princeton University Press, 1999).

Factors that will prove to be important in revealing the legislative dynamics on civil rights in the 1950s are: (a) perceptions of the “electoral connection” and electoral politics more generally and (b) critical events.

The migration of millions of southern black to northern cities in the years surrounding the First and Second World Wars altered electoral dynamics substantially; in many House districts, blacks would prove to be the pivotal voting coalition. Northern Democrats, by the 1950s, understood full well the importance of appealing to these pivotal black voters; Republicans, on the other hand, often used their votes strategically to stymie Northern Democrats — and thus hamper their ability to produce policy — rather than vie directly for black votes. In 1952, Dwight D. Eisenhower was elected president, the first Republican to hold the position since the early-1930s. Eisenhower felt that it would be in the *party’s* interest to make inroads on civil rights, as he believed the GOP’s electoral future would hinge in part on winning some black votes. Thus, Republicans in Congress would be faced by a different scenario than in the recent past: a president of *their* party offering a civil rights agenda. As a result, strategically defecting on civil rights might no longer be possible.

Electoral considerations also influenced the behavior of Lyndon B. Johnson (TX), the Democratic majority leader in the Senate. But unlike Eisenhower, Johnson’s motivations were self interested rather than broadly partisan. By 1957, Johnson could see the writing on the wall — public opinion had moved in the direction of producing *some* kind of civil rights legislation. As a result, he decided that he would use his position in the Senate, and his relationship with Southern senators, to navigate filibuster politics and generate moderate civil rights bills. In so doing, he believed he could stay in the good graces of his Southern colleagues (protecting them against extreme threats to their most valued institutions) while also claiming credit with national

Democrats. This, he hoped, would make him a viable candidate for the Democratic presidential nomination in 1960.

In terms of events, the Korean War would push civil rights off the national agenda as Harry Truman's presidency was winding down. Thus, fresh from their defeat on fair employment, civil right advocates would see their influence wane as the 1950s opened. By 1954, however, the situation had changed, as the Supreme Court handed down their *Brown v. Board of Education of Topeka* decision. The Court ruled that "separate educational facilities are inherently unequal," which negated the separate-but-equal doctrine that had been in place since 1896 and *Plessy v. Ferguson*. Based on the decision, de jure racial segregation was ruled a violation of the Equal Protection Clause of the Fourteenth Amendment, and (a year later) the Court established a process for school desegregation. *Brown* emboldened civil rights advocates, returned civil rights to a prominent position on the national stage, and threatened the very core — segregation — of the South's Jim Crow system. As Southerners organized and fought to protect segregation, they would eventually give ground on another area: voting rights.

My analysis focuses on the five Congresses that convened during the 1950s: the 82nd (1951–52), 83rd (1953–54), 84th (1955–56), 85th (1957–58), and 86th (1959–60). In detailing the major civil rights initiatives (or lack thereof) during this time, I examine the congressional proceedings, individual roll-call votes, and eventual legislative outcomes. To guide the analysis, I break the remainder of the paper into four sections: (1) the 82nd and 83rd Congresses, when civil rights received minimal attention; (2) the 84th Congress, in which the House passed a civil rights bill; (3) the 85th Congress, which produced the Civil Rights Act of 1957; and (4) the 86th Congress, which produced the Civil Rights Act of 1960.

Relative Quiet: 82nd and 83rd Congresses

In his time as president, Harry Truman had been a proponent of civil rights,⁶ and most notably had released a 10-point civil rights program in advance of the 1948 election.⁷ The program was broad, and included (among other things) provisions for a Civil Rights Division in the Department of Justice, federal protections against lynching, and greater protections for the right to vote. But the provision that drew most of Truman's and Congress' attention in 1949-50, during the 81st Congress, was the creation of a permanent Fair Employment Practices Commission (FEPC).⁸ Such a commission would insure, in Truman's mind, economic equality for black workers. A lengthy battle in Congress commenced, but in the end, the effort was unsuccessful: the FEPC legislation was crippled in the House (where the commission's enforcement powers were stripped) and effectively filibustered in the Senate (where two cloture votes failed).⁹

Truman would face an even stiffer challenge in the 82nd Congress, as the election results from the November midterms saw the Democrats suffer significant losses in both chambers — while they maintained their majority status, their share of seats dropped from 263 to 235 in the House and from 54 to 49 in the Senate.¹⁰ And most of the Democratic losses occurred outside of

⁶ While some of Truman's interest in civil rights was objectively genuine, some was also instrumental. A Truman advisor, Clark Clifford, noted that at least 4% of the electorate in the key northern states of Illinois, Michigan, New York, New Jersey, Ohio, and Pennsylvania was black. And Truman and his advisors were also concerned about a possible third-party ticket headed by Henry Wallace, who had a strong following among black voters. See William C. Berman, *The Politics of Civil Rights in the Truman Administration* (Columbus: Ohio State University Press, 1973), 80-83.

⁷ Anthony Leviero, "Anti-Lynching Law, Civil Liberties Unit Sought by Truman," *New York Times*, February 3, 1948, 1, 22.

⁸ A temporary FEPC was created via executive order by Franklin Roosevelt in 1941. It lasted until the end of World War II, when Southern Democrats successfully defunded it. An attempt to create a permanent FEPC was launched in 1945-46, but it failed. See Jenkins and Peck, "Building Toward Major Policy Change."

⁹ Jenkins and Peck, "Building Toward Major Policy Change."

¹⁰ Kenneth C. Martis, *The Historical Atlas of Political Parties in the United States Congress, 1789-1989* (New York: Macmillan, 1989), 203, 205.

the South. Based on these results, Michael Gardner remarked: “Truman’s prospects for any legislative progress on his stalled civil rights program grew even dimmer.”¹¹

Consistent with Gardner’s claim were positions held and decisions made as the 82nd Congress convened. In the Senate, the Democratic leaders, Majority Leader Ernest McFarland (AZ) and Majority Whip Lyndon Johnson (TX), made clear that they were opposed to new FEPC legislation and any liberal revision to the cloture rule (Rule XXII).¹² In the House, Rep. Eugene Cox (D-GA) was successful in repealing the 21-day rule, which was used effectively in the 81st Congress to bypass the Rules Committee and bring FEPC and anti-poll tax legislation to the floor.¹³ As Table 1 indicates, Cox had tried unsuccessfully to repeal the 21-day rule in the second session of the 81st Congress; however, the replacement of more than two dozen liberal Democrats with conservative Republicans, and the conversion of a group of returning GOP members, proved to be the difference a year later.¹⁴

[Table 1 about here]

Thus, if Truman wanted to push Congress on taking up civil rights legislation, he would be in for an uphill battle. Whether this would have happened is unclear, as his attention was diverted to the widening military conflict in Korea. In late-October 1950, more than 200,000 Chinese soldiers swarmed into North Korea, which escalated the conflict and threatened the gains made by U.S. and South Korean troops. In his State of the Union address, on January 8, 1951, Truman announced another 10-point plan, this one to mobilize the country for the

¹¹ Michael R. Gardner, *Harry Truman and Civil Rights: Moral Courage and Political Risks* (Carbondale: Southern Illinois University Press, 2002), 157.

¹² Rowland Evans and Robert Novak, *Lyndon B. Johnson: The Exercise of Power* (New York: New American Library, 1966), 39, 43.

¹³ See Jenkins and Peck, “Building Toward Major Policy Change;” Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton: Princeton University Press, 2001), 177. Two other bills with civil rights overtones, the statehood bills for Alaska and Hawaii, were also brought to the floor under the 21-day rule, after inaction by the Rules Committee.

¹⁴ *Congressional Record*, 81st Congress, 2nd Session, (January 20, 1950), 719; 82nd Congress, 1st Session, (January 3, 1951), 18-19.

escalating Korean conflict; civil rights, by comparison, drew only a passing reference.¹⁵ And, a week later, in Truman's 1951 budget message, he recommended that Congress pass FEPC legislation but provided no allotment or funding plan.¹⁶ When pushed by civil rights leaders to expand his pressure on Congress for an FEPC, he instead issued Executive Order 10210, which prevented discrimination in war (defense) contracting. This Order was largely symbolic, however, as it lacked an enforcement clause. When pressed further by civil rights leaders later in the spring, Truman put them off or ignored them. As William Berman notes: "Truman had no intention of going beyond Executive Order 10210, as such a move would have precipitated a bitter row with Congress."¹⁷

While civil rights groups would be disappointed by federal government inaction during the remainder of the 82nd Congress, Truman took one positive action on their behalf. On November 2, 1951, Truman vetoed H.R. 5411, a federal aid bill for local schools on military bases. Hidden in the bill was a provision that would have required that such schools "conform to the laws of the states in which such installations are located."¹⁸ This provision effectively meant that integrated schools on federal property located in the South would have to conform to Jim Crow and segregate their school children. Truman characterized the proposal, if enacted into law, as "a backward step in the efforts of the Federal government to extend equal rights and

¹⁵ *Congressional Record*, 82nd Congress, 1st Session, (January 8, 1951), 98-101.

¹⁶ *Congressional Record*, 82nd Congress, 1st Session, (January 15, 1951), 279. The full budget appears on pages 270-88.

¹⁷ Berman, *The Politics of Civil Rights in the Truman Administration*, 186.

¹⁸ This and the later Truman quote are found in Walter White, "Segregationists Get Slap In Face As Truman Kills Jim Crow School Bill," *Chicago Defender*, November 17, 1951, 11. For more on the veto of H.R. 5411, see "Truman Kills Jim Crow School Bill," *Chicago Defender*, November 10, 1951, 1-2; Berman, *The Politics of Civil Rights in the Truman Administration*, 191-92; Gardner, *Harry Truman and Civil Rights*, 159-60.

opportunities to all our people.” His veto, while not making up for the lack of legislation on civil rights, earned him praise in the civil rights community.¹⁹

The 1952 presidential election saw Republican Dwight D. Eisenhower elected, and with him GOP majorities in both the House and Senate. The 83rd Congress would thus represent the first unified Republican government since the 71st Congress (1929-31).

From the outset of his presidency, Eisenhower was viewed as mixed bag by civil rights leaders. He was not a supporter of a compulsory FEPC, and did not believe that legislation could lead to social equality. His view was that discrimination was a moral issue, and problems between the races would be solved only with education, hard work, and time (i.e., population replacement). At his core, Eisenhower was a small government advocate and cautious to use federal authority unless guided explicitly by law.²⁰ That said, he was willing to use the power of his office when rights were trampled and the national government had a clear jurisdiction. As Steven Lawson states: “Whereas he considered enforcement of school integration in the states beyond his sphere of influence, Eisenhower had indicated that enfranchisement was a proper concern.”²¹ This dichotomous view would help shape the direction of civil rights legislation later in the decade.

The Republican-controlled 83rd Congress would be as ineffectual on civil rights legislation as the Democratic-controlled 82nd Congress. The Republicans had been a mostly reactive force on civil rights for nearly a generation, from the late-1930s through the early-1950s,

¹⁹ Albert Barnett, “Race Prejudice --- ‘Squints As It Looks And Lies When It Talks,’” *Chicago Defender*, November 24, 1951, 11; Vernice T. Spraggs, “Note Progress In 1951 Washington Report,” *Chicago Defender*, December 29, 1951, 3; Gardner, *Harry Truman and Civil Rights*, 160.

²⁰ On Eisenhower’s beliefs regarding federal power and civil rights, see James L. Sundquist, *Politics and Policy: The Eisenhower, Kennedy, and Johnson Years* (Washington: Brookings Institution Press, 1968), 223-24; Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (New York: Columbia University Press, 1976), 140-44; David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon & Schuster, 2007).

²¹ Lawson, *Black Ballots*, 144.

and had used their strategic position between the Northern and Southern Democrats to influence the course of policy and score symbolic credit with black voters. Now the Republicans were in a position to *set* the legislative agenda — with a president of their own party in place, unlike the 1947-48 term when they last controlled Congress — and their lack of response was revealing. Only one bill of any importance received any serious consideration, a measure to establish an investigatory Committee on Civil Rights introduced by Sen. Everett Dirksen (R-IL). And Dirksen offered his bill only because Sen. Hubert Humphrey (D-MN) had introduced a similar measure, and Dirksen hoped to steal Humphrey’s thunder and insure any credit went to the Republican Party.²² A Senate Judiciary Subcommittee held hearings on the Dirksen-Humphrey proposals in January 1954, but no further action was taken.²³

The failure of Republicans in Congress to enact new civil rights legislation was not admonished by the Eisenhower administration. In fact, Eisenhower did not ask Congress for any civil rights legislation in his first three years as president.²⁴ Part of this related to advice Eisenhower received from his aides, as they bore witness to Truman’s failed civil rights initiatives and suggested the president’s efforts in other areas would yield greater benefits. But a much larger part of this related to Eisenhower’s general beliefs about federal power and limited central government. Eisenhower was not interested in “legislating morality,” especially in matters reserved to states, which is what he saw in many civil right initiatives. He did act, however, in other realms, as he used his executive authority to hasten desegregation of hospitals, schools, and navy yards run by the federal government generally and in agencies, hotels, and

²² See Lawson, *Black Ballots*, 146-47; Sundquist, *Politics and Policy*, 222-23. Dirksen’s measure was S. 1, introduced on January 7, 1953, while Humphrey’s measure was S. 535, introduced on January 16, 1953. Both measures were referred to the Judiciary Committee. See *Congressional Record*, 83rd Congress, 1st Session, (January 7, 1953), 153; (January 16, 1953), 395. Remarks by Humphrey on his bill are on pp. 408-09.

²³ Lawson, *Black Ballots*, 147.

²⁴ Sundquist, *Politics and Policy*, 223.

businesses in the District of Columbia specifically. His executive efforts won him praise among civil rights leaders like Rep. Adam Clayton Powell (D-N.Y.) and Roy Wilkins, founder of the Leadership Council on Civil Rights (LCCR).²⁵

Liberals who were frustrated by congressional inaction on civil rights were given a boost by the *Brown v. Board of Education of Topeka* decision handed down by the Supreme Court in May of 1954.²⁶ In *Brown*, the Court overturned the “separate but equal” doctrine established in *Plessy v. Ferguson* (1896), and paved the way for the desegregation (and integration) of public educational facilities. A year later, the Court in *Brown II* delegated the job of desegregating public schools to federal district courts, with the charge that such desegregation should occur “with all deliberate speed.” These decisions threatened the very heart of Jim Crow society, and many in the white south responded with outrage and threats. Civil rights groups were undeterred and quickly began filing petitions to local schools, asking them to comply with the *Brown* decree. In response, the white Citizens Council emerged in Mississippi and spread to other Deep South states — its mission was to mount an organized resistance to *Brown* and efforts to integrate schools. Tensions ramped up into 1955, and violence broke out. Rev. George W. Lee and Lamar Smith, civil rights activists who encouraged black registration, were murdered in Mississippi, and their killers were never charged. Shortly thereafter, fourteen-year old Emmett Till was brutally murdered, also in Mississippi, and his killers were acquitted by an all-white jury — after which (protected against double jeopardy) they discussed the details of their murder of Till in *Look* magazine. Weeks later, Rosa Parks refused to give up her seat on a Montgomery,

²⁵ Jean Edward Smith, *Eisenhower in War and Peace* (New York: Random House, 2012), 710-11; Lawson, *Black Ballots*, 142-43. Powell would later endorse Eisenhower for reelection in 1956. See Nichols, *A Matter of Justice*, 124-25.

²⁶ The material in this paragraph is based on Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004), 292-320; James C. Cobb, *The South and America since World War II* (New York: Oxford University Press, 2011), 22-51.

Alabama bus to a white passenger, and she was subsequently arrested. Parks' act of civil disobedience led to the Montgomery bus boycott, organized by Dr. Martin Luther King.

What the events of 1954 and 1955 made clear to politicians was that civil rights was back on the national agenda — and in force. How and when they would respond was unclear, but public events suggested that the lack of response that had defined the 82nd and 83rd Congresses was no longer tenable going forward.

The House Acts: 84th Congress

The Democrats regained control of both chambers of Congress after the 1954 midterms. Thus, if any legislation was passed during the 84th Congress, it would be under divided government, at a time when the nation was struggling with racial turmoil.

The mix of violence and civil disobedience that swept through the South left all groups interested in civil rights legislation to proceed cautiously. Early in 1955, the Democrats introduced the same set of civil rights initiatives that President Truman first requested years earlier, but the Democratic-controlled Congress took no action in the first congressional session. As 1956 and the second session of the 84th Congress approached, civil rights groups demanded results. As a result, late in 1955, civil rights leaders met with some liberal members of Congress to try to hatch a plan. What came out of those meetings was a frame for future legislation — a focus on *voting rights* instead of desegregation. Rep. Richard Bolling (D-MO), a meeting participant, stated his logic of the voting rights frame this way:

If the Negro's right to vote were protected, he would achieve political power that would permit him to move toward other legitimate goals. Furthermore, I pointed out, voting legislation was far less susceptible than school desegregation to inflammatory opposition by racists. Perhaps, I even speculated, the southern opposition in Congress to voting rights could be reduced to a beleaguered group of fanatics who would be placed in the unenviable position of opposing legislation to provide effective legal guarantees that all Americans, properly qualified, be

allowed to register and vote. A number of Southerners, even if they could not vote for the bill, would not fight it. And a few border-state Democrats would be able to see their way clear to supporting it.²⁷

The civil right leaders at the meeting concurred with Bolling's strategy. In fact, civil rights advocates in the LCCR, NAACP, and Americans for Democratic Action (ADA) had come to a similar conclusion independently in late-1955.²⁸ Voter registration in the South had stalled after the *Smith v. Allwright* (1944) Supreme Court decision that abolished the white primary; while twenty percent of blacks in the South were registered in 1954, as compared to only five percent in 1944, most of those gains occurred early and in the more highly educated, affluent black areas in the upper South. Rural blacks were still effectively disenfranchised, and the tumult after *Brown* made it that much more difficult to register them. New voting rights legislation might provide the means to improve this situation.

Getting congressional Republicans on board would be crucial to achieve any kind of success, and here bringing Eisenhower into the mix — and getting his administration to *sponsor* a bill — would be key.²⁹ And there was reason to believe that this was possible. Despite his small government beliefs, Eisenhower was on record (going back to this initial campaign) that protecting the right to vote was within the president's sphere of influence.³⁰

While Bolling and his group would reach out to Attorney General Herbert Brownell, believing that any Republican-sponsored bill would be drawn up in the Justice Department, Brownell had already come around to the idea of new civil rights legislation. Part of the reason stemmed from a report that he commissioned after the murders in Mississippi; that report

²⁷ Richard Bolling, *House Out of Order* (New York: Dutton, 1965), 176-77.

²⁸ Lawson, *Black Ballots*, 129-39, 147-48.

²⁹ The following book (among other works cited) will be important for the remainder of this section: J. W. Anderson, *Eisenhower, Brownell, and the Congress: The Tangled Origins of the Civil Rights Bill of 1956-57* (University, AL: University of Alabama Press, 1964).

³⁰ Lawson, *Black Ballots*, 144.

detailed systematic efforts by white groups in Mississippi to disenfranchise black voters, using a variety of economic and physical threats. Thus, in Steven Lawson's view, "[Brownell] undoubtedly thought that introducing measures to shield the suffrage was the moral thing to do, as the strife in Mississippi appalled him."^{31, 32} But there was also a more distinctly political reason involved. The 1956 election was shaping up to be a close race, and black voters in the North could prove to be pivotal. This was especially true if the popular Eisenhower did not run for reelection (having just suffered a heart attack in September 1955); without his coattails many northern Republicans could lose by the margin of the black vote.³³ As Lawson notes: "As chairman of the Republican National Committee in 1948, Brownell had watched Dewey go down to defeat by running poorly in the nonwhite districts of the large northern cities."³⁴ If the Republicans could credibly claim they were responsible for new civil rights legislation, Brownell believed that the GOP could once again compete effectively for the urban black vote — and if they could do that, they might retain control of government (the presidency *and* the Congress) well into the future.³⁵

Eisenhower was warming to the idea of new civil rights legislation — but slowly. He was brought up to speed on racial problems in the South, and recognized that voting rights infractions were occurring. As a result, in his 1956 State of the Union address, he endorsed the Dirksen-Humphrey proposal from the 83rd Congress calling for the creation of a bipartisan

³¹ Lawson, *Black Ballots*, 150.

³² Brownell's own description of events is in keeping with this "moral" argument, although he characterizes the problem in pragmatic terms as one of enforcement: "In the wake of the *Brown* decision, I turned my attention to the enforcement of civil rights. I soon concluded that federal laws and appropriations were completely inadequate for effecting the civil rights promises of equal protection under the Fourteenth Amendment. Nor were the rather limited proposals that had been sent to Congress by the Truman administration adequate to the task. ... a new solution would have to be found." Herbert Brownell with John P. Burke. *Advising Ike: The Memoirs of Attorney General Herbert Brownell* (Lawrence: University Press of Kansas, 1993), 199.

³³ Sundquist, *Politics and Policy*, 226; Lawson, *Black Ballots*, 150-51.

³⁴ Lawson, *Black Ballots*, 151.

³⁵ Robert A. Caro, *The Years of Lyndon Johnson, Volume 3: Master of the Senate* (New York: Knopf, 2002), 776-771.

Commission on Civil Rights, to investigate voting rights infringements in the South and make recommendations.³⁶ Brownell, thinking more ambitiously, worked on a more elaborate legislative proposal. In early March, his staff in Justice had produced a draft with four major points: (1) the creation of a Civil Rights Commission to investigate charges of voting rights infractions (Title I); (2) the creation of a Civil Rights Division in the Justice Department, headed by an assistant attorney general (Title II); (3) authority for the attorney general to seek injunctions (initiate civil suits) against civil rights violations generally (Title III); and (4) the creation of enforcement mechanisms to protect voting rights in federal elections.³⁷

Brownell then went about the business of converting Eisenhower, his cabinet, and other party leaders to the more expansive policy. By the end of March, comments flowed in, and the consensus was: proceed cautiously and winnow the policy. Eisenhower himself only approved Titles I and II, believing the remainder of the proposal would needlessly ramp up racial tensions in the South.³⁸ Undeterred, Brownell continued down his ambitious path. He conveyed all four parts of his proposal to House Speaker Sam Rayburn and Vice President Richard Nixon, indicating that Titles III and IV should be considered by legislators along with the two parts approved by the president. And, on April 9, he appeared before the Judiciary Committee and advocated for the entire four-part proposal, implying that he also spoke for the administration. Thus, Brownlow, pursuing a course of “insubordination,”³⁹ managed to keep his whole proposal intact, as all parts would be considered by the Judiciary Committee.

While Brownlow was working on his draft, Southern members of Congress were organizing to express their formal opposition to the *Brown* decision. On March 12, 1956, Sen.

³⁶ *Congressional Record*, 84th Congress, 2nd Session, (January 5, 1956), 143. The full address appears on pages 137-43.

³⁷ Lawson, *Black Ballots*, 153; Nichols, *A Matter of Justice*, 121.

³⁸ Lawson, *Black Ballots*, 154-55; Sundquist, *Politics and Policy*, 226-27.

³⁹ Anderson, *Eisenhower, Brownell, and the Congress*, 43.

Walter George (D-GA) presented “The Declaration of Constitutional Principles,” complete with signatures from 19 senators and 77 House members, on the Senate floor and had it inserted in the *Record*.⁴⁰ The idea of such a “Southern Manifesto” (as it would go on to be called) was first conceived by Sens. Strom Thurmond (D-SC) and Harry Byrd (D-VA); the final draft (a somewhat more moderate document) was written by Thurmond, Sen. Richard Russell (D-GA), Sen. John Stennis (D-MS), Sen. J. William Fulbright (D-AR), and Sen. Price Daniel (D-TX). The document argued that *Brown* was an abandonment of legal precedent and that only the states under the Constitution possessed the power to regulate public school education.⁴¹ More generally, the document was meant to be a litmus test on segregation and produce a show of southern solidarity — and many moderates like Fulbright and Daniel, fearful of an electoral backlash, affixed their signatures.⁴²

House Democrats working with civil rights leaders were pleased with Brownlow’s actions. And while Bolling and his allies looked forward to the opportunity to pass a civil rights bill, they (like their Republican colleagues) were also surveying the politics of the situation. Bolling recognized that timing was critical; he had been in touch with Lyndon Johnson, Senate majority leader in the 84th Congress, and concluded that passage in the upper chamber was

⁴⁰ The full text of the Declaration, along with signatures, appears in *Congressional Record*, 84th Congress, 2nd Session, (March 12, 1956), 4460-61. Background on the Southern Manifesto (and its consequences for those who did not sign) can be found in Brent J. Aucoin, “The Southern Manifesto and Southern Opposition to Desegregation,” *Arkansas Historical Quarterly* 55 (1996): 173-93; Tony Badger, “Southerners Who Refused to Sign the Southern Manifesto,” *Historical Journal* 42 (1999): 517-34. Note that Aucoin notes that 82 representatives signed the document (not 77), and lists four individuals as signers that do not appear in the *Congressional Record*: William Cramer (R-FL), Charles Jonas (R-NC), Ross Bass (D-TN), and Martin Dies (D-TX).

⁴¹ Later in 1856, the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Texas, and Virginia passed laws to nullify the edict of the *Brown* decision(s) within the confines of their borders. Numan V. Bartley, *Rise of Massive Resistance: Race and the Politics of the South during the 1950’s* (Baton Rouge: Louisiana State University Press, 1969), 131. In addition, states like Virginia closed public schools, rather than submit to integration. See James W. Ely, *The Crisis of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance* (Knoxville: University of Tennessee Press, 1976).

⁴² Indeed, in Fulbright’s case, he agreed to be a drafter to moderate the document, as he found earlier versions too extreme. If he was going to have to be a signatory, he reasoned, he would invest the time to eliminate some of the most inflammatory language. See Randall B. Woods, *Fulbright: A Biography* (New York: Cambridge University Press, 1995), 209.

unlikely. And the worst possible scenario for the Democrats in advance of an election year was getting the bill through the House only to watch it torn apart (or filibustered) in the Senate. Thus, the best-case scenario would be to slow down the House process, pass a bill late in the session, and then send it to the Senate as the Congress was expiring. This would limit (relatively speaking) sectional animosity in the party but still allow Northern Democrats to claim credit with liberal groups in the November elections. Bolling explained his plan to Speaker Rayburn and received his tacit agreement.⁴³

The Brownell bill was ordered to be reported to the House by the Judiciary Committee on April 25. The Judiciary Committee then took nearly a month before it reported a bill, H.R. 627, on May 21.⁴⁴ The bill then went to the Rules Committee, where Chairman Howard W. Smith (D-VA) planned to sit on it for the remainder of the session. In early June, liberals led by James Roosevelt (D-NY) began a discharge petition; by the middle of the month they had collected two-thirds of the required signatures. Rather than lose control of the process, Smith relented and agreed to schedule hearings on June 20. Smith then tried to short-circuit the process using parliamentary sleight of hand, but the Republicans on the committee (pressured by their leaders) combined with the Northern Democrats to stymie him, and on June 27, the committee voted 8-3 to provide an open rule (H. Res 568).⁴⁵ Less than a week later, on July 2, H. Res 568 was referred to the House Calendar, and on July 16, after agreeing to the provisions of the rule, floor debate on H.R. 627 commenced.⁴⁶

⁴³ Bolling, *House Out of Order*, 179-80.

⁴⁴ *Congressional Record*, 84th Congress, 2nd Session, (May 21, 1956), 8603.

⁴⁵ Anderson, *Eisenhower, Brownell, and the Congress*, 68-72; Bruce J. Dierenfield, *Keeper of the Rules: Congressman Howard W. Smith of Virginia* (Charlottesville: University Press of Virginia, 1987), 150-51.

⁴⁶ *Congressional Record*, 84th Congress, 2nd Session, (July 2, 1956), 11586; (July 16, 1956), 12917.

Over the course of debate,⁴⁷ three main challenges were raised by Southerners and other members sympathetic to their cause.⁴⁸ First, that the attorney general (under Title III) was given broad power beyond investigating voting rights infringements — and, specifically, could under this law initiate desegregation suits. Rep. Emanuel Celler (D-NY), Chair of the Judiciary, concurred with this assessment, and also agreed that the attorney general could pursue a violation even if a party did not feel aggrieved or request any action.⁴⁹ Second, that civil suit provision was intended to eliminate the trial by jury right of defendants accused of civil rights violations. In a candid moment, Rep. James Roosevelt (D-NY) responded to this challenge with the following: “Criminal proceedings in the field of civil rights have been highly ineffectual. Local sentiment has made jury convictions almost impossible.”⁵⁰ Finally, that Eisenhower was only on record as favoring Titles I and II of the bill, and that Brownell independently pushed Titles III and IV. Rep. Kenneth Keating (R-NY) (during the discussion of the rule) brushed aside these accusations, assuring the members that “President Eisenhower and his Administration favor this bill.”⁵¹

The only controversy occurred on July 19, when Rep. William E. Miller (R-NY), a member of the Judiciary Committee who had supported the civil rights legislation, broke ranks with the reformers and voiced his opposition to the measure. Comparing the civil rights advocates to Hitler, he claimed that “This legislation in its present form will destroy more civil liberties and civil rights than it will ever protect.” Rep. Joseph W. Martin (R-MA), the

⁴⁷ Debate stretched over parts of four days. See *Congressional Record*, 84th Congress, 2nd Session, (July 16, 1956): 12923-57; (July 17, 1956): 13124-85; (July 19, 1956): 13528-65; (July 20, 1956): 13724-55.

⁴⁸ These challenges are summarized in Anderson, *Eisenhower, Brownell, and the Congress*, 85-89.

⁴⁹ *Congressional Record*, 84th Congress, 2nd Session, (July 17, 1956), 12925, 12927.

⁵⁰ *Congressional Record*, 84th Congress, 2nd Session, (July 17, 1956), 13175.

⁵¹ *Congressional Record*, 84th Congress, 2nd Session, (July 17, 1956), 12919.

Republican minority leader and a great supporter of the party reaching out to black voters,⁵² leaped to his feet and countered Miller, “I want to tell the Republicans in this House if they follow the southern democracy in the defeat of this bill, they will seriously regret it. ... the one group who will be blamed for the defeat of this bill, if it is defeated ... is the Republican Party.”⁵³ While Southerners tried to reap the Miller defection for all it was worth, it appeared that Martin had calmed matters on the GOP side of the aisle.

On July 20, during the last day of debate, a host of amendments (dealt with via teller or division votes) were offered to the bill in Committee of the Whole. J. W. Anderson summarizes the situation: “Some of them, on points of procedure, were accepted. Those that attacked the substance of the bill were defeated or ruled out of order. A good many were introduced merely *pro forma*, to give their sponsors a brief opportunity to make speeches for their constituents’ ears, and then withdrawn.”⁵⁴

Finally, on July 23, the House turned to the passage of H.R. 627. Rep. Richard Poff (R-VA) moved to recommit the bill, and Rep. Howard W. Smith (D-VA) called for the yeas and nays. The tabling motion failed, 131-275, with Northern and Southern Democrats almost perfectly opposed, and most Republicans joining with the Northern Democrats to defeat the motion (see Table 2). The vote on final passage was then successful, 279-126, and was nearly the mirror image of the recommittal vote, this time with Republicans joining Northern Democrats to pass H.R. 627.

[Table 2 about here]

⁵² Martin, in his role as Republican National Committee Chairman during the 1940s, sought to reach out to black voters and make the party competitive once again in the black community. See James J. Kenneally, “Black Republicans During the New Deal: The Role of Joseph W. Martin, Jr.,” *The Review of Politics* 55 (1993): 117-39.

⁵³ Why did Miller change his mind? Anderson suggests that Rep. Smith, upon hearing that Miller was growing sour on the civil right bills, let it be known that he would continue to oppose granting a rule to a bill on public works that Miller opposed. Whether an explicit quid pro quo was arranged is unclear. See Anderson, *Eisenhower, Brownell, and the Congress*, 94.

⁵⁴ Anderson, *Eisenhower, Brownell, and the Congress*, 95.

With only four days left before the conclusion of the second session, the strategy of delay adopted by Bolling and his colleagues appeared to have worked. H.R. 627 was referred to the Senate Judiciary Committee, chaired by James Eastland (D-MS), where it would certainly not be acted upon. However, a small group of liberal senators — Paul Douglas (D-IL), Thomas Hennings (D-MO), Herbert Lehman (NY) — hoped to intercept the bill and raise an objection to the referral to Judiciary.⁵⁵ But Lyndon Johnson and Sen. Lister Hill (D-AL) had already considered such an eventuality and had developed a plan to deliver the bill immediately after passage to the Senate. Douglas and his crew were too late. What’s more, Johnson had recessed rather than adjourned the chamber the previous day — and would continue to recess until the close of the session. This meant that the Senate was meeting in the “same legislative day,” thus preventing Douglas from introducing a discharge motion, which could only be offered during “morning hour” (the first hour of each legislative day).

Johnson could have let things lie at that point, but he wanted to rub Dirksen’s nose in the defeat. So after gloating and browbeating Douglas, Johnson asked the members of the Senate whether they supported Douglas’s request to adjourn for 5 minutes so that the body might consider his discharge motion. Before this, however, he and William Knowland (R-CA) made it known that they saw eye-to-eye on this matter, and that the discharge petition would be considered a “leadership vote.”⁵⁶ Thus, Douglas knew he was finished, even before the resulting 6-76 vote that would defeat his motion. The civil rights bill — for the 84th Congress, at least — was officially dead.

⁵⁵ This discussion of Senate events is taken from Caro, *The Years of Lyndon Johnson, Volume 3*, 792-99.

⁵⁶ Why did Knowland go along with Johnson? According to Caro, “Johnson had told Knowland that if a discussion on civil rights began, the bills considered indispensable by the President—*his* President—would never pass before adjournment.” See Caro, *The Years of Lyndon Johnson, Volume 3*, 797.

The First Policy Breakthrough: 85th Congress

The 1956 elections maintained the partisan status quo: Eisenhower was reelected and the Democrats maintained a slim majority in the Senate and a narrow (but larger) majority in the House. A deeper look at the vote distributions suggested that the Republican strategy of reaching out to black voters may have paid some dividends (and was something to continue building on for the future). While the Democrats still commanded sizeable majorities of black support, the Democratic share of the black vote for president and Congress was down 8 and 9 percentage points, respectively, from 1952.⁵⁷ Republicans who ran in large urban areas in the North did especially well, and Eisenhower won black majorities in such cities as Columbus, OH, Baltimore, MD, New Haven, CT, and Atlantic City, NJ.⁵⁸ Eisenhower was pleased by these results, and many politicians and political analysts believed that the GOP's efforts to reach out to black voters would only increase; Northern Democrats, on the other hand, believed that they needed to stem the tide, and producing a new Civil Rights Act was a necessary condition to maintain the allegiance of black voters.⁵⁹

As the first session of the 85th Congress (1957-58) was preparing to convene, Senate Majority Leader Lyndon Johnson was rethinking his own situation. He had engineered the best case scenario (in his mind) on civil rights in 1956, by making it impossible to consider the House-passed legislation before the 84th Congress had concluded its business. This kept him in

⁵⁷ Everett Carll Ladd, Jr. and Charles D. Hadley, *Transformations of the American Party System: Political Coalitions from the New Deal to the 1970s* (New York: Norton), 112. Vote totals are based on American Institute of Public Opinion (AIPO) surveys. Other estimates suggest Republican gains were even greater. See Richard Lyons, "Big Impact of Negro Vote Switch Was in South," *Washington Post*, November 18, 1956, E1, E3; Henry Lee Moon, "The 1956 Negro Vote," *Journal of Negro Education* 26 (1957): 219-30; Anderson, *Eisenhower, Brownell, and the Congress*, 137-39.

⁵⁸ Moon, "The 1956 Negro Vote," 220.

⁵⁹ Lawson, *Black Ballots*, 162-63; Marquis Childs, "New Republicanism Aims at Mass Party," *Washington Post*, January 8, 1957, A12; Arthur Krock, "In the Nation: A Mystery With a Simple Explanation," *New York Times*, July 18, 1957, 23; Samuel Lubell, "The Future of the Negro Voter in the United States," *Journal of Negro Education* 26 (1957): 408-17.

the good graces of conservative Southern Democrats. He also felt that his work on social welfare legislation (namely the expansion of Social Security) had endeared him to Northern liberals and positioned him as a “moderate” Southerner. Walking this tightrope, Johnson believed, had made an excellent compromise candidate for the Democratic presidential nomination in 1956. But he received a harsh wakeup call at the convention. Civil rights and labor groups held him in contempt for his positions (and his treatment of Douglas), and national party leaders saw him only as a sectional leader. Moreover, once he realized his own presidential hopes were dashed, his ability to leverage his position in Texas and use the state’s slate of delegates to influence presidential and vice-presidential jockeying ended in failure.

As the chastened but ambitious-as-ever Johnson stewed in the early days of 1957, Robert Caro sums up his situation this way:

...the lesson he had had pounded into him in Chicago—that you couldn’t win the nomination as the ‘southern candidate,’ that you had to have substantial northern support, and that northern antipathy to him ran very deep—had devastating implications for his chances to win the nomination in 1960. ... He knew now that the only way to realize his great ambition was to fight—really fight, fight aggressively and effectively—for civil rights; in fact, it was probably necessary for him not only to fight but fight and win; given their conviction that he controlled the Senate, the only way that liberals would be satisfied of his good intentions would be if that body passed a civil rights bill.⁶⁰

But Johnson also recognized that his nomination chances depended on maintaining a solid Southern base; he could never hope to win the hearts and minds of enough Northern liberals that he could write off the South entirely. He had to devise some “middle way” such that he could rally support in the North but remain a favorite of the South.

From the outset, the civil rights battle that was shaping up in the 85th Congress was going to be different than the previous year. First, President Eisenhower was no longer hedging on his commitment to positive change; where he was only prepared to back Titles I and II of the

⁶⁰ See Caro, *The Years of Lyndon Johnson, Volume 3*, 832.

Brownell plan in mid-1956, he had by mid-October come around to endorse the entire four-part proposal.⁶¹ And he made his views public in his 1957 State of the Union Address, where he urged Congress to enact the full Brownell civil rights plan.⁶² Second, the House liberals were not going to do all of the heavy lifting in 1957; Senate liberals were intent on acting and would not allow Johnson or Southern leaders to stifle them. And they would make their feelings known early, by seeking to revise Rule XXII, as a way to hasten the passage of civil rights legislation.

The Fight to Revise Rule XXII

On January 5, 1957, Sen. Clinton Anderson (D-NM) moved that the Senate adopt new rules for the 85th Congress.⁶³ Anderson's motion was a direct challenge to the prevailing precedent in the chamber of viewing the Senate as a continuing body. For Anderson, and the liberal colleagues he was representing, the rules governing the shutting off of debate (found in Rules XXII) needed to be revised. However, Rule XXII itself put up a roadblock to such a revision, as section 3 stipulated that there was no debate limit of any kind on a motion to change the rules. In effect, unanimous consent was necessary to effect a rules change. Anderson was attempting to sidestep this problem by getting the Senate to decide that it was *not* a continuing body, and like the House, had to adopt new rules at the start of each Congress. If agreed to, no rules would be in place and the Senate would be operating under general parliamentary law — in which case decision making (and adoption of rules) would be by majority vote.⁶⁴

For Southern senators, the Anderson motion was way-of-life threatening. If passed, the Senate could adopt a new set of rules, complete with a majority cloture rule. And if the

⁶¹ Anderson, *Eisenhower, Brownell, and the Congress*, 134-36.

⁶² *Congressional Record*, 85th Congress, 1st Session, (January 10, 1957), 410. The full address appears on pages 408-11.

⁶³ *Congressional Record*, 86th Congress, 1st Session, (January 5, 1957), 141.

⁶⁴ Howard E. Shuman, "Senate Rules and the Civil Rights Bill: A Case Study," *American Political Science Review* 51 (1957): 955-75; Sundquist, *Politics and Policy*, 230-31.

Southerners tried to filibuster the adoption of such rules, a simple majority was necessary to defeat the filibuster — subject to a determination by the presiding officer. And Richard Nixon, the vice president, suggested that in his role as presiding officer and in the interest of getting needed civil rights legislation passed, he would rule that such majority-based decision making was in order.⁶⁵

Majority Leader Johnson acted quickly and moved to table Anderson's motion. Debate ensued on the motions, the Senate rules, and on the need for civil rights legislation. The stakes in the procedural contest were clearly known by all. Minority Leader Knowland promised that if the Anderson motion were defeated, a liberalization of Rule XXII (back to its 1949 standard) would be made, while Johnson defended the need for a supermajority rule generally and assured the body that civil rights legislation could be adopted without resorting to such an extreme procedural change.⁶⁶ But liberals had heard such promises before, and they were not buying them. As Sen. Paul Douglas (D-IL) stated succinctly: "... unless we act under the procedure proposed by the motion of [Sen. Anderson] and defeat the pending motion [by Johnson] to lay it on the table, the chances for changing rule 22 are nil. A vote to table Senator Anderson's motion is, therefore, a vote against civil rights."⁶⁷

Finally, Johnson's motion to table Anderson's motion was considered, and it passed 55-38.⁶⁸ These results can best be understood relative to the outcome in 1953 (83rd Congress),⁶⁹

⁶⁵ Lawson, *Black Ballots*, 167; Sundquist, *Politics and Policy*, 231; Caro, *The Years of Lyndon Johnson*, Volume 3, 856.

⁶⁶ Sundquist, *Politics and Policy*, 232. Johnson also used the promise or loss of committee assignments to further build his coalition against Anderson's motion. See Caro, *The Years of Lyndon Johnson*, Volume 3, 858-61.

⁶⁷ *Congressional Record*, 85th Congress, 1st Session, (January 5, 1957), 187.

⁶⁸ *Congressional Record*, 85th Congress, 1st Session, (January 4, 1957): 215.

⁶⁹ Anderson did not make such a motion in 1955 (84th Congress). Caro contends that "Johnson tricked the liberals out of [reintroducing such a motion]," but does not elaborate. Anderson, in his memoirs, argues that Johnson talked to Hubert Humphrey (D-MN) and convinced him that the liberals should not push such a motion in 1955, so as to "not shatter party harmony." Paul Douglas in his memoirs supports Anderson's story, noting that Humphrey wanted to give Johnson a chance as majority leader. Douglas, not wanting to divide the liberals, deferred to Humphrey. See

when Anderson offered the same motion in the Republican-controlled House — in that instance, Majority Leader Robert Taft (R-OH) opposed him and successfully tabled the motion.⁷⁰ Vote results from 1953 and 1957 appear in Table 3. In the 1953 case, the margin of victory for the “traditionalists” was much larger, 71-20.⁷¹ So it was clear that the liberals were making gains in their push to reform Rule XXII. Eleven Republicans had switched their votes from 1953 (all of whom were from the eastern part of the country), and a clear majority of younger senators (elected beginning in 1948) were for reform (against Johnson).⁷² In addition, three senators who were absent — Jacob Javits (R-NY), Matthew Neely (D-WV), and Alexander Wiley (R-WI) — indicated that they were opposed to tabling. Thus, a switch of only seven senators (along with a positive ruling from Vice-President Nixon) would have eliminated the “continuing body” precedent and allowed a majority to enact a different set of rules.⁷³

[Table 3 about here]

Their victory notwithstanding, the Southerners realized this was a wakeup call. The very real possibility that the supermajority cloture rule could be abolished changed the game. Johnson, in many ways, had already seen this coming. The challenge for him, then, would be to get the Southerners to refrain from using the filibuster (for fear of losing it altogether), but also get a majority of the Senate to remove the most extreme parts of the coming civil rights bill — so

Caro, *The Years of Lyndon Johnson, Volume 3*, 856; Clinton P. Anderson with Milton Viorst, *Outsider in the Senate: Senator Clinton Anderson's Memoirs* (New York: World Publishing, 1970), 137; Paul H. Douglas, *In the Fullness of Time: The Memoirs of Paul H. Douglas* (New York: Harcourt Brace Jovanovich, 1971), 280.

⁷⁰ A summary of the 1953 case can be found in Martin B. Gold and Dimple Gupta, “The Constitutional Option to Change Senate Rules and Procedures: A Majoritarian Means to Over Come the Filibuster,” *Harvard Journal of Law & Public Policy* 28 (2004): 205-72.

⁷¹ *Congressional Record*, 83rd Congress, 1st Session, (January 7, 1953), 232

⁷² Sundquist, *Politics and Policy*, 233.

⁷³ Shuman, “Senate Rules and the Civil Rights Bill,” 958.

that the Southerners could accept it (without having to resort to the filibuster).⁷⁴ Johnson would mull this over, while the House started its work.

The House Passes H.R. 6127

On March 19, 1957, Rep. Emanuel Celler (D-NY), the Chair of Judiciary, introduced H.R. 6127, the four-part Brownell civil rights bill from the 84th Congress, and it was referred to the Judiciary Committee. Hearings were held, and two arguments that emerged in 1956 were repeated: Title III allowed the attorney general to initiate desegregation of public schools and no jury trial guarantee existed in the bill.⁷⁵ Conservatives on the committee offered amendments related to these concerns, but Celler and the liberals beat them back, and on April 1, H.R. 6127 was reported out of committee largely unscathed.⁷⁶ Rep. Howard W. Smith (D-VA), Chairman of the Rules Committee, now tried to stall the process; Rep. Richard Bolling (D-MO) opposed him on committee and argued for the rapid clearance of the bill. But Smith initially won out, thanks to the votes of two Republicans — Reps. Leo Allen (IL) and Clarence Brown (OH) — who advocated on April 8 for allowing the chairman to retain his agenda powers. Smith scheduled hearings to begin on May 2, and they covered nine days. Eventually Allen and Brown, pressured by the Eisenhower administration, relented, acceding that Smith had scheduled sufficient hearings (and had his delay), and on May 21 the committee voted to provide H.R. 6127 with a rule.⁷⁷

On June 5, the House considered H. Res 259, an open rule allowing for four full days of debate, which would govern floor consideration of H.R. 6127; after some cursory debate, the rule

⁷⁴ Evans and Novak, *Lyndon B. Johnson*, 125; Finley, *Delaying the Dream*, 168-69.

⁷⁵ Lawson, *Black Ballots*, 167-68.

⁷⁶ *Congressional Record*, 85th Congress, 1st Session, (April 1, 1957): 4951.

⁷⁷ Lawson, *Black Ballots*, 167-68; Bolling, *House Out of Order*, 184.

was adopted 291-117.⁷⁸ As Table 4 indicates, Northern and Southern Democrats were almost perfectly divided, with the vast majority of Republicans voting with the Northern Democrats to adopt the rule. Debate then commenced on H.R. 6127 the following day, covering portions of six days, until finally concluding on June 17.⁷⁹ Southerners raised the now typical arguments about attorney general aggrandizement and the lack of a jury trial guarantee. The jury trial issue, in particular, received a good deal of attention — Southerners characterized the right of trial by jury as a fundamental right that must be honored. Rep. John Dingell (M-MI), echoing James Kennedy’s remarks from the previous year’s civil rights debate, responded: “Southern juries will not convict a man charged with contempt of court in cases contemplated by this particular piece of legislation. That is the reason we seek to avoid the jury trial here.”⁸⁰

[Table 4 about here]

Finally, on June 17, the endgame was at hand. Rep. Richard Poff (R-VA) first moved to recommit H.R. 6127 to the Judiciary Committee with instructions to add a jury trial provision in criminal contempt cases. This was defeated 158-251, with Northern and Southern Democrats again almost perfectly divided, with most Republicans siding with the Northern Democrats to defeat the motion.⁸¹ This left only the final-passage vote on H.R. 6127, and it was successful, 286-126, with most Republicans joining with nearly all Northern Democrats to defeat nearly all Southern Democrats.⁸²

That the House passed H.R. 6127 was perhaps not a surprise. The House had, after all, passed H.R. 627 in the prior Congress, and momentum for civil rights legislation had only

⁷⁸ *Congressional Record*, 85th Congress, 1st Session, (June 5, 1957): 8408-17. The roll call is on pages 8416-17.

⁷⁹ *Congressional Record*, 85th Congress, 1st Session, (June 6, 1957): 8484-510; (June 10, 1957): 8643-712; (June 11, 1957): 8838-68; (June 13, 1957): 9018-45; (June 14, 1957): 9182-219; (June 17, 1957): 9365-98.

⁸⁰ *Congressional Record*, 85th Congress, 1st Session, (June 14, 1957), 9203.

⁸¹ *Congressional Record*, 85th Congress, 1st Session, (June 18, 1957), 9517.

⁸² *Congressional Record*, 85th Congress, 1st Session, (June 18, 1957), 9518.

increased considerably in the eleven-month gap. The key — and challenge — would be the Senate.

Struggle in the Senate

While the House was passing H.R. 6127, the Senate version of civil right legislation, S. 83, was in trouble. S. 83 was introduced by Sen. Everett Dirksen (R-IL) and referred to the Judiciary Committee on January 7, 1957.⁸³ The Judiciary Committee was chaired by James Eastland, and he had used his authority throughout the spring to bottle up the legislation; when the committee did consider it, their action was to append a jury trial amendment.⁸⁴ Thus, civil rights advocates in Congress needed to find another way to get legislation (and “clean” legislation at that) to the Senate floor.

The strategy the Senate liberals came up with was to focus on H.R. 6127, and in doing so work to bypass the Judiciary Committee using Rule XIV — this would put the bill directly on the calendar for consideration.⁸⁵ This move was led largely by Republicans in the chamber, fronted by Minority Leader Knowland and Vice-President Nixon.⁸⁶ On June 19, Knowland, backed by Sen. Douglas (D-IL), started a debate with Sen. Richard Russell (D-GA) about the Senate rules and how a bill could be referred; Knowland and Douglas argued Rule XIV provided a path around committee referral, while Russell argued that Rule XXV was clear that bills must be referred to committee.⁸⁷ This debate continued the following day; after the bill was read a

⁸³ *Congressional Record*, 85th Congress, 1st Session, (January 7, 1957), 250-51, 259.

⁸⁴ Lawson, *Black Ballots*, 172, 176.

⁸⁵ Shuman, “Senate Rules and the Civil Rights Bill,” 963-70.

⁸⁶ Lawson contends that Knowland and Nixon each had their reasons for playing such a leadership role – they were self-interested, as both were likely running for other offices in the near future (Knowland for governor of California in 1958 and Nixon for president in 1960) and wanted the support of black voters in those elections. See Lawson, *Black Ballots*, 177. See also, Cabell Phillips, “Knowland in New Role Leads a Liberal Bloc,” *New York Times*, July 14, 1957, 141; William S. White, “G.O.P. Seen as a Gainer in Fight on Civil Rights,” *New York Times*, August 18, 1957, E3.

⁸⁷ *Congressional Record*, 85th Congress, 1st Session, (June 19, 1957): 9618-24, 9634.

second time, Douglas raised an objection based on Rule XIV while Russell raised a point of order based on Rule XXV. Nixon argued that Rule XXV only defined committee jurisdictions and did not make committee referrals mandatory. He then put Russell's point of order to the entire Senate, which would be decided by a majority vote. A lengthy debate then ensued about rules, interpretations of rules (what is and is not debatable), and parliamentary precedent.⁸⁸ Eventually, the vote on Russell's point of order was reached. Sen. Douglas was then recognized and asked (probably to clarify for senators who might not have been paying close attention), "Do I correctly understand that a yea vote means a vote to send the House bill to the [Judiciary] committee, and a nay vote means to place it on the calendar?," to which Vice-President Nixon in his role of presiding officer replied, "The effect of the vote would be as the Senator has stated."⁸⁹

A vote on Russell's point of order was then had, and it failed 39-45.⁹⁰ As the first column of Table 5 indicates, Southern Democrats unanimously backed Russell, but Northern Democrats were evenly split. Republicans, though, threw nearly all their voting weight against Russell, and this proved to be the difference. Moreover, as Lawson states, "The thirty-seven Republicans furnishing the bulk of support included most of the conservatives who had helped the southerners block civil-rights proposals in the past."⁹¹ It was clear from this action that Republicans were going to support Eisenhower and insure that some kind of civil rights bill was passed in the 85th Congress.

[Table 5 about here]

Beginning on July 2, a debate began in anticipation of the Senate deciding to consider H.R. 6127. Sen. Russell (D-GA) and Sen. Sam Ervin (D-NC) played the leading role among the

⁸⁸ *Congressional Record*, 85th Congress, 1st Session, (June 20, 1957): 9778-97; 9779-826.

⁸⁹ *Congressional Record*, 85th Congress, 1st Session, (June 20, 1957): 9826-27.

⁹⁰ *Congressional Record*, 85th Congress, 1st Session, (June 20, 1957): 9827.

⁹¹ Lawson, *Black Ballots*, 177.

Southern faction. Rather than begin a filibuster, they determined to attack the bill on its merits. Russell, as de facto leader of the group, had bought into Johnson's arguments — that a filibuster might not work this time, that obstruction could turn public opinion against them and cost them the support of Northern Democrats, and that having cloture invoked could mean a greater defeat (a harsher bill) than they would have to face otherwise. Russell and Ervin believed they could alter the bill to make it palatable to the South, by eliminating Title III (and thereby preserve segregation) and adding a jury trial amendment to Title IV (and thereby safeguard white society against charges of voting rights infractions via rulings from the bench). Russell and Ervin, and their caucus members, attempted to frame the debate as broadly as possible, as a battle against federal power and an infringement upon liberty. Such unchecked federal authority might be directed at the South in this case, they argued, but it could be turned on anyone in any region.⁹²

The charge that the federal government was planning to use Title III (which gave the attorney general authority to seek injunctions, or initiate civil suits, against civil rights violations) to integrate public schools in the South rattled Eisenhower. While the language of Title III did not include any references to “desegregation” or “integration,” the provision’s ambiguous wording might allow such an interpretation — and, indeed, Attorney General Brownlow and House Judiciary Chairman Celler believed the provisions allowed for the federal government to pursue such a course. While Eisenhower, by this time, supported the full four-part plan, he believed the bill at its core was a voting rights measure. Therefore, as concerns about the expansive nature of Title III emerged, he began backing away from the provision; he even met with Russell to underscore that he had no intention of using the civil right bill to punish the

⁹² Finley, *Delaying the Dream*, 166-74.

South.⁹³ And Northern public opinion was moving in the same direction: a *New York Times* editorial and a *Washington Post* piece by Walter Lippmann argued that protecting voting rights in the South was the federal government's proper goal, not dismantling the social order of the region (which should instead occur endogenously over time).⁹⁴ Despite some Republicans, like Sen. Everett Dirksen (R-IL), claiming that southerners' fears of U.S. troops imposing school integration on Dixie were "without foundation," the damage was done. Eisenhower was prepared to sacrifice Title III, and many Republicans would follow him.

On July 16, the Senate voted 71-18 to consider H.R. 6127, with all Northern Democrats and Republicans voting in favor; Southern Democrats put up only token resistance.⁹⁵ Sen. Clinton Anderson (D-NM) then called up an amendment, jointly sponsored with Sen. George Aiken (R-VT), to strike out Title III from H.R. 6127.⁹⁶ Aiken was the perfect co-sponsor, as arranged by Lyndon Johnson, as his liberal bona fides were impeccable. And Aiken's decision to attach his name to the amendment was pragmatic: he wanted civil rights legislation and believed that it was unattainable unless Title III was stricken. Aiken's co-sponsorship and logical reasoning, in Johnson's mind, would give many Republicans the ability to vote yea on the amendment.⁹⁷

Anderson deferred from making a speech that night, and the Senate used the next week to ease toward a resolution on Title III. Some Republicans sought to alter Title III to make it more acceptable to the South — as a way to keep some semblance of the provision intact — but

⁹³ Lawson, *Black Ballots*, 178-81; Richard L. Lyons, "Won't Use Act to Punish Dixie, Ike Tells Russell," *Washington Post*, July 11, 1957, A1; See Caro, *The Years of Lyndon Johnson, Volume 3*, 926-27.

⁹⁴ "The Right-to-Vote Bill," *New York Times*, July 11, 1957, 24; Walter Lippmann, "Today and Tomorrow: Voting and Integration," *Washington Post*, July 11, 1957, A15.

⁹⁵ *Congressional Record*, 85th Congress, 1st Session, (July 16, 1957): 11832.

⁹⁶ *Congressional Record*, 85th Congress, 1st Session, (July 16, 1957): 11838.

⁹⁷ Caro, *The Years of Lyndon Johnson, Volume 3*, 935-41.

Southerners were not to be dissuaded.⁹⁸ Finally, on July 24, voting on the Anderson-Aiken amendment commenced, and it passed 52-38.⁹⁹ As column three of Table 5 indicates, 10 of 23 Northern Democrats and 18 of 43 Republicans voted for the amendment; these defections provided the forces of segregation with an easy victory, as Southern Democrats were unified behind the amendment. Eisenhower's pragmatism and Johnson's scheming made Title III vulnerable, and it was easy fodder for Senate moderates (and some liberals) to sacrifice for the sake of compromise.

With Title III eliminated, Johnson and Southern Democrats set their sights on Title V, the provision enforcing voting rights. As written, the attorney general had injunctive power (i.e., he could initiate actions) against violations of voting rights in the name of the United States. But there was no jury trial provision, which indicated that such voting rights violations would be tried before a judge in U.S. district courts. The issue on both sides was the presumption that an all-white southern jury would never convict a fellow white southerner charged with violating black voting rights. Southerners took comfort in this, liberals despised this. Southerners wanted an amendment to this effect, liberals knew such an amendment would gut the bill.

Johnson realized he had his work cut out for him. While he took advantage of Eisenhower's lukewarm (at best) feelings toward Title III, the same was not true of Title IV. As Lawson writes: "Title IV, protecting the ballot, was the core of [Eisenhower's] program, and he

⁹⁸ There were three such attempts: (1) a bipartisan amendment by Sens. Knowland and Humphrey to eliminate an 1866 statute that provided the president with authority to use military troops to enforce existing civil rights laws, which passed 90-0; (2) an amendment by Sen. John Bricker (R-OH) to permit the attorney general to use the injunctive power in Title III only when directed by the president, which failed 29-61; and (3) an amendment by Sen. John Sherman Cooper (R-KY) to permit the attorney general to use the injunctive power of Title III only in the presence of a conspiracy that hinders compliance with a U.S. court order issued to secure equal protection of the laws, which failed 8-81. See *Congressional Record*, 85th Congress, 1st Session, (July 22, 1957): 12314; (July 23, 1957): 12446; (July 23, 1957):12452. For background on these votes, see William S. White, "Senate, 90-0, Rids Civil Rights Bill of '70 Troop Issue," *New York Times*, July 23, 1957, 1; Robert C. Albright, "Ike Forces Fail to Alter Rights Bill," *Washington Post*, July 24, 1957, A1.

⁹⁹ *Congressional Record*, 85th Congress, 1st Session, (July 23, 1957): 12565.

would not tolerate any tampering with it.”¹⁰⁰ With this in mind, Johnson went about building a majority coalition.

His first move was to play up the “right to trial by jury” as a constitutional right, and portray the injunctive power of the federal government as arbitrary and dangerous. Johnson began reaching out to labor advocates in the Senate; organized labor had fought for decades against arbitrary court injunctions and put great faith in the common man — and the right to a trial by jury, comprised of your fellow men, was viewed as a fair institution and a great equalizer against the rich and powerful forces in society. He also began to fashion a legal argument for a jury trial in *criminal cases*, which would still allow judges to make rulings in civil cases.¹⁰¹ This would allow for federal injunctions, as most voting rights infractions would be considered civil charges, and thus sidestep the liberals’ concerns, but also provide southerners’ with a protection if more serious (criminal) charges were brought.¹⁰² In building this argument for a jury trial, he also recruited Sens. Joseph O’Mahoney (D-WY) and Estes Kevauver (D-TN), two well-respected senators with liberal backgrounds, to be amendment co-sponsors.

Many Northern senators were sympathetic to the jury trial argument. Even strong civil rights advocates like Sens. Paul Douglas and Hubert Humphrey admitted to being conflicted on the matter. But while they, and most liberals, chose protection of black voting rights over the sanctity of the right to a jury trial, Johnson didn’t need to convince everyone. He simply needed to draw in a few individuals at the margins. Moreover, on July 31, O’Mahoney and Kevauver consented to an alteration in their proposed amendment. Frank Church (D-ID) proposed a clause

¹⁰⁰ Lawson, *Black Ballots*, 183; Caro, *The Years of Lyndon Johnson, Volume 3*, 943-46.

¹⁰¹ Lawson, *Black Ballots*, 184-85; Caro, *The Years of Lyndon Johnson, Volume 3*, 948-53.

¹⁰² A criticism of this civil/criminal distinction, made by Sens. Clifford Case (R-NJ) and Paul Douglas (D-IL), was that charges of civil contempt would evolve into criminal contempt. If a white man failed to register a potential black voter, he could be charged with civil contempt; but if the white defendant did not comply and register the potential black voter once the registration period expired, he would be guilty of criminal contempt. Thus, a white man would have an incentive to maintain his defiance, and not comply, as time would insure him a jury trial (and presumably a “not guilty” verdict). See Lawson, *Black Ballots*, 188.

that would allow citizens over the age of 21 the right to serve on federal juries.¹⁰³ In effect, Church's amendment would provide blacks in the South with a "new" civil right, as lack of registration would no longer hamper them from being federal jurors. Thus, according to Church, the fears of all-white "nullification juries" would be diminished.

There were also rumors that Johnson had effected a running vote trade between Southern Democrats and their copartisans from the west. Western Democrats needed support earlier in the session for public power legislation (the building of a high dam at Hell's Canyon on the Idaho-Oregon border), and southerners uncharacteristically came to their aid — which proved to be the difference between winning and losing. Western Democrats would later support the South on the initial point of order vote. It was rumored that Johnson had several western votes that he could count on when the jury trial vote finally came around.¹⁰⁴

Late on August 1, 1957, the O'Mahoney-Kevauver-Church amendment came to a vote.¹⁰⁵ It passed 51-42.¹⁰⁶ Whereas this final tally resembled the vote to eliminate Title III (52-38), the internal breakdown was different. For example, only 12 of 45 Republicans voted for the amendment, compared to 18 of 43 who voted to delete Title III. For the amendment to pass, then, Johnson had to rely on the non-Southern Democrats. Whereas 15 of 24 non-Southern Democrats voted for the amendment, only 10 of 23 voted to delete Title III.

How did Johnson secure more non-Southern votes on the jury trial amendment? Roland Evans and Robert Novak argue that the vote-buying rumor was a reality — that the bump in non-Southern support came from the *West*:

¹⁰³ *Congressional Record*, 85th Congress, 1st Session, (July 31, 1957): 13154.

¹⁰⁴ Evans and Novak, *Lyndon B. Johnson*, 129-30; Lawson, *Black Ballots*, 189-91; Caro, *The Years of Lyndon Johnson, Volume 3*, 948-53

¹⁰⁵ Note that because the vote occurred after midnight, some sources cite this as an August 2 roll call. As it listed as occurring on August 1 in the *Congressional Record*, I list it as an August 1 vote.

¹⁰⁶ *Congressional Record*, 85th Congress, 1st Session, (August 1, 1957): 13356.

... just as Russell and Southerners had come to the aid of the Democratic West on the Hells Canyon bill six weeks earlier, now the Democratic West came to Russell's aid on the jury trial amendment. Out of fourteen Western Democratic Senators, all but two ... supported the jury trial amendment.¹⁰⁷

Steven Lawson contends that it was more nuanced than a simple western story — that discrete decisions made by Johnson (the reaching out to union leaders, the distinction made between criminal and civil contempt charges, the opening up of juries to black citizens) brought in sets of senators.¹⁰⁸

Regardless of how Johnson pulled it off, he *did* pull it off. On August 7, the now pared-down H.R. 6127, shorn of Title III and with a jury trial amendment tacked on, passed 72-18.¹⁰⁹ Seventeen Southern Democrats still voted against the bill, but they and their leaders (Johnson and Russell) were pleased. They avoided using the filibuster and managed to reshape the initial bill to something that they didn't quite like, but that they (and their region) could live with.

A New Civil Rights Act

Eisenhower was disappointed with the Senate-amended civil rights bill. Other prominent Republicans, like House Minority Leader Joe Martin and Vice-President Nixon, thought the president should let the legislation die and try again the following year. Civil rights groups, while not pleased, were happy that a civil rights bill appeared to be close to law. They felt that this would be an important first step in generating civil rights gains, and more would result from it. Liberal Democrats were generally pleased that they'd likely be able to provide their constituents with something in the 1958 midterms.¹¹⁰

¹⁰⁷ Evans and Novak, *Lyndon B. Johnson*, 138.

¹⁰⁸ Lawson, *Black Ballots*, 194.

¹⁰⁹ *Congressional Record*, 85th Congress, 1st Session, (August 7, 1957): 13900

¹¹⁰ Lawson, *Black Ballots*, 195.

In the end, after a few days to cool off, the president and his advisors weren't willing to write off all of their efforts, and they decided to continue to support the sub-optimal legislation. Eisenhower was not willing to let go of the jury trial issue, though, and sought to make Title IV stronger. He asked that in criminal cases where a penalty did not lead to more than 90 days of jail time or a fine of more than \$300, a judge rather than a jury would get to try the case.¹¹¹ He then directed Rep. Martin and Sen. Knowland to meet with Rep. Rayburn and Sen. Johnson and try to sell the change. After the four legislators met, a slighted altered deal was struck — where the 90 day stipulation was reduced to 45 days.¹¹²

On August 26, 1957, the Rules Committee reported the amended H.R. 6127, and it passed 279-97.¹¹³ As Table 6 indicates, a majority of Southern Democrats were still obstinately opposed, but few defections among Northern Democrats and Republicans led to a big margin of victory. As the amended version of H.R. 6127 moved its way over to the Senate, some Southern senators toyed with the idea of filibustering the bill. But they had come too far. It was still possible that a coalition could be formed to invoke cloture. Plus, they had successfully eliminated all the seriously objectionable elements in the bill. Only Sen. Strom Thurmond (D-SC) was an ultra until the end, as he waged a one-man filibuster for more than 24 hours. Finally,

¹¹¹ Lawson, *Black Ballots*, 197.

¹¹² William S. White, "Congress Chiefs Reach an Accord on Civil Rights," *New York Times*, August 24, 1957, 1, 34; Philip Dodd, "Compromise Reached on Civil Rights Bill," *Chicago Tribune*, August 24, 1957, 1.

¹¹³ *Congressional Record*, 85th Congress, 1st Session, (August 27, 1957): 16112-13. Note that the gap between the initial passage of H.R. 627 in the Senate, on August 7, and the consideration of the amended bill in the House, on August 26, was partly due to actions taken by Rules Committee Chairman Howard W. Smith. Knowing that he couldn't kill the bill or delay it indefinitely, Smith decided he would display his displeasure by disappearing for 10 days and thus shutting down the Rules Committee for business. Smith reportedly took a spontaneous family vacation in North Carolina, and left House and Senate leaders where he was and when he would return. When he did get back to Washington, he agreed to release the bill only after Speaker Rayburn agreed to kill several federal aid programs. See Dierenfield, *Keeper of the Rules*, 158-59.

on August 29, the Senate voted 60-15 to pass the amended H.R. 6127.¹¹⁴ The bill went to the president, he signed it, and it became Public Law 385 on September 9, 1957.¹¹⁵

[Table 6 about here]

While H.R. 6127, in the end, was considerably weaker than liberal reformers wanted, it was still the first civil rights bill passed into law since 1875. A Commission on Civil Rights was established and a Civil Rights Division was created in the Department of Justice. The attorney general could seek injunctions against those who sought to deprive a citizen of his/her voting rights, although the defendant possessed a right to a jury trial when the charge was reasonably serious. These were modest gains, but they were gains.

The Second Policy Breakthrough: 86th Congress

As the civil rights battle in the 85th Congress was winding down, a crisis was emerging in Arkansas. The court ordered desegregation of schools following the *Brown* decision(s) was slated to begin in Little Rock, Arkansas, in September 1957, and white resistance was fomenting to prevent the attendance of nine black students at Little Rock Central High. On September 4, 1957, Governor Orval Faubus instructed the Arkansas National Guard to keep the peace, which meant blocking the students from gaining access to the school. The incident drew national headlines, and President Eisenhower met with Faubus to try to defuse the situation and get him to comply with the court order. Faubus refused, which led Eisenhower to call in the 101st airborne to force compliance.¹¹⁶ This executive action resulted in a host of responses and largely hardened regional positions in Washington and the country. White Citizens Councils gained in

¹¹⁴ *Congressional Record*, 85th Congress, 1st Session, (August 29, 1957): 16478.

¹¹⁵ See 71 *Stat.* 634-638.

¹¹⁶ Cobb, *The South and America since World War II*, 46-51; Nichols, *A Matter of Justice*, 189-213.

numbers and strength, and incidents of racial violence continued to escalate with the bombing of black churches and schools in the South becoming almost commonplace.

Over the next two years, the fruits of the Civil Rights Act of 1957 — the Civil Rights Division in the Justice Department and the Commission on Civil Rights — would be on public display.¹¹⁷ The two entities would earn very different grades. The Civil Rights Division was viewed as a failure. It moved slowly — painfully so — and only tried three cases. Rather than playing the role of a forceful advocate, the Division was more concerned with generating airtight cases (even though it would essentially lose 2 of the 3 cases it pursued). It was not long before civil rights groups like the NAACP lost confidence and wrote off the Division. The Commission on Civil Rights, however, was considerably more active in investigating grievances. An investigation into voting records in Alabama, after complaints of unequal treatment in the registration process based on race, led to stonewalling by the state attorney general and other officials. The Commission responded by holding a public hearing, covered on national television, which helped expose the fraudulent system; in time, Commission members were granted access to voting records, and they discovered clear evidence of discriminatory practices in voter registration. The Commission's work served to embolden civil rights groups and fostered calls for more effort to protect the voting rights of black citizens.

Meanwhile, Eisenhower and his advisors were content to sit back and let the wheels of government work. Herbert Brownlow had stepped down as attorney general shortly after “Little Rock,” and his successor, William Rogers, was not in favor of proposing any new civil rights legislation. Eisenhower was therefore content to “let some time elapse ... and see how the 1957

¹¹⁷ See Lawson, *Black Ballots*, 205-21. On the shortcomings of the Civil Rights Division, also see Allan Lichtman, “The Federal Assault Against Voting Discrimination in the Deep South 1957-1967,” *Journal of Negro History* 54 (1969): 346-67.

items work.”¹¹⁸ Thus, as the second session of the 85th Congress was drawing to a close, the future was unclear on civil rights. Without strong White House urging, it was unlikely that congressional Republicans would on their own take up the call for civil rights; this left the liberal wing of the Democratic Party as the only certain civil rights advocates.

But change was otherwise in the air. The Democrats picked up 49 House seats and 16 Senate seats in the 1958 midterms, as the president’s party was punished for the high unemployment and high inflation amid a serious recession.¹¹⁹ And most of these Democrats were ideological (programmatic) liberals, which shifted the center of gravity in both chambers of Congress to the left. Indeed, this 1958 class would be a harbinger, as the influx of liberal members would continue into the next decade which would dramatically affect both the internal organization of Congress and lawmaking.¹²⁰

In the short term, though, national Democrats were giddy with excitement and wanted to make the most of their electoral windfall. Sen. Paul Douglas saw the election results as a “mandate” to generate additional legislation on civil rights, while Democratic National Chairman Paul Butler indicated that the Democrats could only win the White House in 1960 if they took a strong stand on civil rights.¹²¹ Moreover, civil rights advocates in the Senate were looking ahead to the start of the 86th Congress and a move to alter Rule XXII.¹²² Whether a major or minor rules change could be effected was the prevailing question.

¹¹⁸ Cabinet Meeting Minutes, December 4, 1957, as quoted in Lawson, *Black Ballots*, 220.

¹¹⁹ Partisan breakdowns are taken from Martis, *The Historical Atlas of Political Parties in the United States Congress, 1789-1989*, 211, 213. For more on the recession, see Richard W. Gable, “The Politics and Economics of the 1957-1958 Recession,” *Western Political Quarterly* 12 (1959): 557-59.

¹²⁰ Barbara Sinclair, *The Transformation of the U.S. Senate* (Baltimore: The Johns Hopkins University Press, 1989): 30-33; David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991): 7-8.

¹²¹ “Douglas Sees Mandate to Push Civil Rights,” *Washington Post*, November 9, 1958, A2; Russell Baker, “Butler Declares Rights is ’60 Issue,” *New York Times*, November 8, 1958, 11.

¹²² Anthony Lewis, “Election Brightens Prospects for Civil Rights Action,” *New York Times*, November 9, 1958, E4; “New Senate Facing Fight on Filibuster,” *Los Angeles Times*, November 9, 1958, 34.

The Fight to Revise Rule XXII

The opening of the 86th Congress was very much like the opening of the 85th Congress, as Sen. Clinton Anderson (D-NM) would attempt to change the rules in the upper chamber by getting the Senate to acknowledge that it was not a continuing body, and thus had to adopt new rules at the start of each Congress. If Anderson was successful, the Senate would be operating under general parliamentary law, which would allow a majority to decide what the new rules would be. Again, Anderson had Vice-President Nixon in his corner as presiding officer, which meant that points of order would be decided in his favor.

The difference between the 86th and 85th Congresses was that the membership had moved to the left. Would this be a meaningful difference? Before Anderson could be recognized on January 7, the first day of the new Congress, Majority Leader Johnson used his right of first recognition to propose his own rules change: the cloture rule would shift back to the pre-1949 standard (two-thirds of members present and voting), this cloture rule would apply on motions to change the rules (instead of unanimous consent), and a provision of the amended cloture rule would indicate that Senate rules are always in effect (that the Senate is a continuing body).¹²³ In offering a revision to Rule XXII, Johnson would hew to a promise that he and then-Minority Leader Knowland made in the prior Congress.

Johnson was adamant that his motion would be the first one considered by the Senate and moved an adjournment. When the Senate reconvened the following day, Johnson reconsidered and allowed Anderson's motion to be considered ahead of his.¹²⁴ Johnson's move was viewed

¹²³ *Congressional Record*, 86th Congress, 1st Session, (January 7, 1959): 8.

¹²⁴ *Congressional Record*, 86th Congress, 1st Session, (January 7, 1959): 103.

“as a show of confidence that he had amassed the needed votes.”¹²⁵ Robert Caro underscores this belief in recounting the recollection of an unnamed senator during the procedural tussle:

Jesus, it was rough. Lyndon was going around with two lists in his inside pocket. One was for committee assignments and anything else you wanted, and the other was for Rule 22. He didn't talk about the first until you'd cleared on the second, and that was all there was to it.¹²⁶

The remainder of January 8 was spent debating Anderson's motion. The following day, Johnson moved to table Anderson's motion — which passed 60-36.¹²⁷ As the first column of Table 7 indicates, Johnson's tabling motion received a majority of support from Republicans (this, after Minority Leader Dirksen endorsed Johnson's cloture amendment) and a solid percentage of Northern Democrats.

[Table 7 about here]

When Johnson's amendment to the cloture rule was considered on January 12, it passed 72-22.¹²⁸ While a majority of Southern senators voted against it, they did so out for symbolic reasons; most were in fact quite pleased with the outcome of the procedural struggle.¹²⁹ Keeping a supermajority cloture rule in place portended a course of moderation on civil rights legislation.

Proposals and Stalemate

Rather than just broker what he hoped would be mild compromise legislation on civil rights, Johnson wanted to get ahead of the process. Still looking ahead to the presidential election in 1960, and recognizing both the Northern public's demand for new civil rights legislation and the need to position himself as a moderate in the Democratic Party, Johnson

¹²⁵ Gold and Gupta, “The Constitutional Option to Change Senate Rules and Procedures,” 242.

¹²⁶ Robert A. Caro, *The Years of Lyndon Johnson, Volume 4: The Passage of Power* (New York: Knopf, 2012), 74.

¹²⁷ *Congressional Record*, 86th Congress, 1st Session, (January 9, 1959): 207-08.

¹²⁸ *Congressional Record*, 86th Congress, 1st Session, (January 12, 1959): 494.

¹²⁹ Finley, *Delaying the Dream*, 199-200.

offered his own bill (S. 499).¹³⁰ The Johnson proposal, introduced on January 20, 1959, would extend the life of the Commission on Civil Rights, provide for federal investigation and penalties into bombing cases, provide subpoena power to the attorney general's office to obtain voter registration records, and create a Federal Community Relations Service to mediate disputes between the races. While the proposal was lauded as "moderate and thoughtful" by some in the mainstream press,¹³¹ the response in the black press was quite negative. As the *Chicago Defender* stated: "The Johnson Plan is an indefinite postponement of the day when American citizenship would have no tag to limit its meaning and application."¹³²

In response to Johnson's plan, Rep. Emanuel Celler (D-NY) and Sen. Paul Douglas (and 16 of his colleagues) introduced more ambitious legislation (H.R. 3147 and 3148 on January 22 and S. 810 on January 29, respectively).¹³³ These liberal bills focused on desegregation rather than voting rights — they endorsed the *Brown* decision as the law of the land, provided federal money to help schools with integration (especially where state aid was unavailable), authorized the Department of Health, Education, and Welfare to provide assistance with the creation of desegregation plans (especially for communities that had been slow or resistant to do so), and resurrected the old Title III from the 1957 proceedings, which would give the attorney general injunctive power against civil rights violations. The latter provision was anathema to the South, of course, as it would provide (in theory) proactive power to the federal government (the attorney general) to dismantle Jim Crow.

President Eisenhower, who was reluctant to initiate more action on civil rights legislation in late-1957 and 1958, now entered the fray, partly to maintain his administration's legacy but

¹³⁰ *Congressional Record*, 86th Congress, 1st Session, (January 20, 1959): 871, 875-77.

¹³¹ See "Coup on Civil Rights," *Washington Post*, January 22, 1959, A16

¹³² "Arch Foe of Civil Rights," *Chicago Defender*, January 20, 1959, 11.

¹³³ *Congressional Record*, 86th Congress, 1st Session, (January 22, 1959): 1058 (January 29, 1959): 1317, 1361-84

also in response to a GOP research study that argued for the importance of competing for the black vote in the upcoming presidential election of 1960.¹³⁴ The Eisenhower proposal, presented as a message to Congress on February 5,¹³⁵ was viewed as a middle ground between the Johnson and Celler-Douglas proposals, and dealt with both voting rights and desegregation. It proposed extending the life of the Committee on Civil Rights, providing the attorney general with authority to inspect voting records (while requiring states to keep said records for three years), imposing federal criminal penalties on those performing bombings and seeking to escape across state lines, imposing federal penalties on those who sought to obstruct court orders in school desegregation cases, creating an equal jobs opportunity commission, and providing some money and technical assistance to state agencies to help in carrying out desegregation decisions. It did not seek to resuscitate some version of Title III; in this regard, Eisenhower overruled his cabinet advisors who sought such an addition.¹³⁶ Senate Minority Leader Everett Dirksen and Rep. William R. McCulloch (R-OH), ranking member on the House Judiciary Committee, introduced the president's proposals (S. 955 to S. 960 on February 5 and H.R. 4457 on February 12, respectively).¹³⁷

While the three aforementioned proposals garnered the most attention, the issue of civil rights was on many members' mind, as 39 different civil rights bills were introduced in the House and 17 in the Senate.¹³⁸ Thus, the position-taking benefits were deemed to be high. And all eyes turned to the committees in charge of conducting hearings and producing final bills that could be considered on the chamber floors — the House and Senate Judiciary Committee.

¹³⁴ See Lawson, *Black Ballots*, 222.

¹³⁵ *Congressional Record*, 86th Congress, 1st Session, (February 5, 1959): 1922-23.

¹³⁶ Lawson, *Black Ballots*, 224-25.

¹³⁷ *Congressional Record*, 86th Congress, 1st Session, (February 5, 1959): 1916, 1919-21; (February 12, 1959): 2271.

¹³⁸ Daniel M. Berman, *A Bill Becomes a Law: Congress Enacts Civil Rights Legislation*, Second Edition (London: Collier-Macmillan, 1966), 16-33.

In the House, after holding hearings, a Judiciary subcommittee controlled by Reps. Celler and McColloch combined their two bills — in effect, Title III from the Celler bill was attached to the McColloch bill. When referred to the larger Judiciary Committee, however, the strongest parts of the Celler-McColloch bill were stripped, including the Title III provision, the equal jobs opportunity commission, and financial aid/assistance to communities working toward desegregating.¹³⁹ While Celler chaired Judiciary, most of its Democratic members were Southern, and they would not sign off on the more controversial elements.¹⁴⁰ What was left were the penalties for interfering with school desegregation and fleeing across state lines after performing a bombing; Justice Department access to state voting records, which must be kept for two years; and a two-year extension of the Commission on Civil Rights. Late in the summer, this stripped-down bill, now labeled H.R. 8601,¹⁴¹ was then sent to the Rules Committee. Rep. Howard W. Smith (D-VA), chairman of Rules, had no interest in granting a rule to H.R. 8601 and sat on it. Celler, in response, filed a discharge petition and began collecting signatures.¹⁴²

In the Senate, after holding hearings, a Judiciary subcommittee chaired by Sen. Thomas Hennings (D-MO) could only produce a weak bill, essentially a portion of what the full Judiciary Committee in the House generated — the Justice Department was granted access to state voting records, which must be kept for three years, and the Commission on Civil Rights received a 15-month extension. This new bill, now labeled S. 2391, then sat in the full Judiciary Committee, as its Chairman, Sen. James Eastland (D-MS), had no interest in reporting it to the full Senate.¹⁴³ Eastland, like Smith in the House, had no use for civil rights and was a faithful guardian of the

¹³⁹ Berman, *A Bill Becomes a Law*, 20-21.

¹⁴⁰ Sundquist, *Politics and Policy*, 243.

¹⁴¹ *Congressional Record*, 86th Congress, 1st Session, (August 10, 1959): 15398.

¹⁴² “Celler Bid Seeks Action on Rights,” *New York Times*, August 27, 1959, 14; Willard Edwards, “Southerners Give Preview of Filibuster,” *Chicago Tribune*, August 27, 1959, 6.

¹⁴³ Berman, *A Bill Becomes a Law*, 33-35.

South's Jim Crow system. Talk of trying to discharge the committee was had,¹⁴⁴ but it did not lead anywhere.

Thus, as the first session of the 86th Congress came to an end, the civil rights forces had been mostly blocked: Celler was still collecting signatures for his discharge petition on H.R. 8601 but still had a ways to go to reach a majority, and there was little hope of drawing S. 2391 out of the Senate Judiciary Committee.

There was one victory, however, on the final day of the session. The Commission on Civil Rights' authorization was due to expire in November, before the second session would convene; thus, Democratic and Republican leaders in both chambers organized and agreed to push a reauthorization through.¹⁴⁵ The chosen strategy was to attach an amendment to 3.69 billion dollar foreign-aid appropriations bill, which would extend the Commission's life for two years; the appropriations bill was chosen as the "host" because it was sufficiently important to push aside the Southerners' concerns. With little time, the bipartisan group had to act fast. On September 14, suspension of the rules in the Senate was achieved, as a 71-18 vote produced the necessary two-thirds; then on the commission-extension amendment, offered by Sen. Carl Hayden (D-AZ), the Senate returned an identical 71-18 vote in support; and finally the amended bill was returned to the House, where it was considered in conference and passed 221-81.^{146, 147}

As the vote results in Table 8 indicate, only 1 senator and only 10 House members outside of the

¹⁴⁴ "2 Senators Press Rights Bill Drive," *New York Times*, August 26, 1959, 19.

¹⁴⁵ For additional details, see Robert C. Albright, "Conferees Iron Out Difficulties," *Washington Post*, September 15, 1959, A1; Russell Baker, "Congress Agrees on Rights Plan in Wind-Up Rush," *New York Times*, September 15, 1959, 1.

¹⁴⁶ *Congressional Record*, 86th Congress, 1st Session, (September 14, 1959): 19566; (September 14, 1959): 19567; (September 14, 1959): 19741-42.

¹⁴⁷ A Southern House member blocked unanimous consent, which required the Rules Committee to provide a rule. While Smith had no love for the Commission, "[t]he Rules Committee... yielded to leadership pressure and reported out a rule." See Berman, *A Bill Becomes a Law*, 43.

South opposed the Commission. Finally, President Eisenhower affixed his signature, and the Commission got a new lease on life — for two years anyway.

[Table 8 about here]

One last point deserves mentioning. Just prior to the vote on the Hayden amendment, Majority Leader Johnson stated: “I serve notice on all Members that on or about 12 o’clock on February 15, I anticipate that some Senator will rise in his place a make a motion with regard to the general civil rights question. I presume that several motions in that connection will be made.”¹⁴⁸ As senators were preparing to leave the capitol, how Johnson’s statement would end up playing out — and what form it would take — was uncertain.

Refocusing

As the first session was winding down, on September 8, 1959, the Committee on Civil Rights released a report of voting rights violations in some Southern states, based upon nearly two years of investigation.¹⁴⁹ The 668 page report, produced by the six commissioners (three Northerners, three Southerners), provided detailed statistics suggesting discriminatory behavior in some Southern electorates. Among other statistics, the report noted that in 16 counties that were majority-black, no blacks were on the registration rolls; in another 49 counties that were predominantly black, only 5 percent of registered voters were black.¹⁵⁰ Acknowledging that apathy on the part of black voters was part of the problem, the commissioners also made clear that various methods of discrimination were the major reason why black registration and voting in the South was so low. These methods included violence, economic intimidation, registration

¹⁴⁸ *Congressional Record*, 86th Congress, 1st Session, (September 14, 1959): 19567. See, also, Albright, “Conferees Iron Out Difficulties.”

¹⁴⁹ United States Commission on Civil Rights, *Report of the United States Commission on Civil Rights* (Washington: Government Printing Office, 1959). See, also, “Excerpts from Report and Recommendations of Commission on Civil Rights,” *New York Times*, September 9, 1959, 44; Richard L. Lyons, “Rights Board Recommends 14 Steps To Combat Discrimination,” *Washington Post*, September 9, 1959, A1.

¹⁵⁰ Berman, *A Bill Becomes a Law*, 45; Lawson, *Black Ballots*, 227.

purges by white Citizens Councils, unequal administration of literacy tests, and intentionally slow processing of black applications by registration boards. The Commission was also critical of the Civil Rights Division in the Department of Justice for its lack of effort and results.

As for recommendations, the Committee proposed a system built around federal registrars.¹⁵¹ The system would work as follows. If an individual was prevented from registering because of race, color, or national origin, he/she could file an affidavit with the president. Should the president receive at least nine affidavits from a single county, he would refer them to the Commission on Civil Rights for investigation. If evidence was uncovered to substantiate the accusations in the affidavits, the Commission would notify the president and recommend the designation of a federal officer in the area to act a temporary registrar. The officer would have the authority — working within the bounds of state law — to register all qualified individuals in federal elections. The officer would continue in this temporary registrar position until the president deemed that his presence and efforts were no longer required.¹⁵²

Whether the re-authorization of the Commission was affected by the release of the report is unclear. Evidence suggests that congressional leaders were already working on their plan before the Commission report was released.¹⁵³ That said, editorials in the *New York Times* and

¹⁵¹ The Commission recommended this plan by a 5-1 vote. The lone dissenter was former Virginia Governor John Battle. He would resign from the Commission in October, based on his disagreement with the registrar plan. See W. H. Lawrence, "Ex-Governor of Virginia Quits Civil Rights Board," *New York Times*, October 13, 1959, 1; Leon Burnette, "Battle Quits Rights Group," *Washington Post*, October 13, 1959, A11.

¹⁵² United States Commission on Civil Rights, *Report of the United States Commission on Civil Rights*, 141-42.

¹⁵³ For example, the Senate Appropriations Committee voted 13-7 on September 8 to attach the 2-year Commission reauthorization amendment to the foreign-aid appropriations bill. Excerpts from the report being were published, and Eisenhower had a copy of the record, but it had not yet been released generally. See Anthony Lewis, "Senate Unit Asks 2-Year Extension for Rights Panel," *New York Times*, September 9, 1959, 1.

Washington Post urged reauthorization after the release of the Committee's report,¹⁵⁴ so this may have helped inspire the bipartisan action as the session was coming to a close.

More important, though, is that the Commission's report refocused civil rights strategy as 1960 approached. Protecting the right to vote, rather than desegregation, became the number one priority for civil rights advocates inside and outside of Congress.¹⁵⁵ Ensuring the franchise was now seen as the proximate goal, from which others would follow. With the Commission's federal registrar proposal as the opening gambit, the question now was: what could Congress achieve?

The Referee Proposal

The registrar proposal suggested by the Commission on Civil Rights did not resonate with the Eisenhower administration. While Eisenhower respected the Committee's work, he had concerns about the constitutionality and practicality of registrar idea.¹⁵⁶ But disagreeing with the Commission's proposal wasn't enough — because the registrar idea was in the public sphere and resonated with some groups, Eisenhower would have to come up with his own plan as a substitute. This he did through his attorney general, William Rogers, in late January 1960. The Senate Committee on Rules and Administration had begun hearings to discuss the registrar bill. Rogers appeared before the committee and endorsed a system built around “voting referees.”¹⁵⁷ While in the “spirit” of the registrar plan, Rogers believed the referee plan would be more effective. In short, the referee plan was predicated on Judicial, rather than Executive,

¹⁵⁴ “Civil Rights Report,” *New York Times*, September 9, 1959, 40; “The CRC Looks Ahead,” *Washington Post*, September 12, 1959, A10; “Disappointing Record,” *New York Times*, September 14, 1959, 28; “Choice for the Senate,” *Washington Post*, September 14, 1959, A14.

¹⁵⁵ Lawson, *Black Ballots*, 231.

¹⁵⁶ Lawson, *Black Ballots*, 232.

¹⁵⁷ Anthony Lewis, “Rogers Calls for ‘Referees’ to Advance Negro Voting,” *New York Times*, January 27, 1960, 1; Richard L. Lyons, “Vote Rights Bill Offered by Rogers,” *Washington Post*, January 27, 1960, A1. See, also, U.S. Senate, Committee on Rules and Administration, *Hearings on Federal Registrars*, 86th Congress, 2nd Session, (Washington: Government Printing Office, 1960).

enforcement, that is, around court-appointed referees instead of presidential appointed registrars. Starting with the 1957 Act, if the Justice Department was successful in seeking an injunction against voting discrimination, the attorney general would then ask a federal district court to investigate whether there was a “pattern or practice” of disfranchisement. If so, the judge could appoint referees to determine whether the disfranchised voters were qualified; based on positive assessments by referees, the judge could issue voting certificates that would apply to both state and federal elections (the registrar plan only covered federal elections). The referees could then oversee the actual voting process (whereas registrars’ only role was in the registration process).

Concerns were raised about the referee process — that the process was legally cumbersome for disfranchised voters, and that the time involved in litigating would run counter to the goal of effecting speedy action in the voting process.¹⁵⁸ But the White House was firm in their endorsement, emphasizing the coverage benefits of the referee plan vs. the registrar plan (i.e., federal and state vs. only federal elections) as well as noting that, under the referee plan, elections would not become unduly “federalized” — that is, election procedures in the states would not be affected.

While no fan of either plan, Southerners preferred the referee plan. Officers of the executive would not be roaming the South and registering black citizens. Moreover, the hope from their perspective (and the fear from civil right advocates’ perspective) was that federal district court judges, born and bred in the South, would support the Jim Crow system — by limiting the appointment of referees, or when necessary, choosing referees with “traditional” southern views.¹⁵⁹ Nonetheless, Republicans in both chambers (Rep. McCulloch in the House

¹⁵⁸ Sundquist, *Politics and Policy*, 246.

¹⁵⁹ Lawson, *Black Ballots*, 234. See, also, “Civil-Rights Coup,” *Washington Post*, January 28, 1960, A22.

and Sen. Dirksen in the Senate), hoping to earn the party some electoral credit in November, planned to sponsor legislation consistent with the referee plan in the second session.

The House Acts

As the second session of the 86th Congress opened, H.R. 8601 was still blocked by the Rules Committee. By mid-January, the discharge petition filed by Rep. Celler in late-1959 had acquired 175 signatures; however, progress had stalled and despite intensive lobbying from liberal groups outside of Washington, it was unclear if the number of signatures could go any higher. A sticking point was the House custom (at the time) that the identity of the signatories was kept confidential until a majority was attained. At this point, a group of liberal Democrats (members comprised of the new Democratic Study Group) hatched a plan to expedite discharge.¹⁶⁰ Each member would approach the Speaker's desk and scan the signatures on the petition; over time, the liberals were able to reconstruct the list. They then leaked the list to the *New York Times*, which published it in full.¹⁶¹ As only 30 of the 175 names on the list were Republican, it became clear which party was holding up the process, and liberals and civil rights advocates blasted the GOP.¹⁶²

Embarrassed by the situation, additional Republicans began signing the petition, and GOP leadership urged Republicans on Rules to expedite the process of reporting a bill. The momentum for discharge forced Chairman Smith's hand, and he agreed to schedule hearings; two weeks after hearings commenced, on February 18, 1960, the Republicans on Rules joined

¹⁶⁰ See Bolling, *House Out of Order*, 209; Sundquist, *Politics and Policy*, 247; Berman, *A Bill Becomes a Law*, 89-90.

¹⁶¹ See "175 in House Sign Civil Rights Plea" and "List of Supporters of Civil Rights," *New York Times*, January 22, 1960, 11.

¹⁶² "A Test on Civil Rights," *New York Times*, January 25, 1960, 26; Russell Baker, "Halleck's Policy Snags Rights Bill," *New York Times*, January 28, 1960, 22; "Celler Says G.O.P Blocks Civil Rights Bill," *New York Times*, January 25, 1960, 17; "Blasts GOP 'Fooling Pills' in Civil Rights Issue," *Chicago Defender*, February 6, 1960, 1; "Challenges Nixon on 'Rights Bill,'" *Chicago Defender*, February 6, 1960, 3.

with the Northern Democrats to vote 7-4 to allow for floor consideration on H.R. 8601, to begin by March 10.¹⁶³ By instructing the Republicans on Rules to support a rule to release H.R. 8601, Minority Leader Halleck “tried to steal at least some of the thunder from the Democrats and make it possible to argue that it was Republicans who had brought civil right before the House.”¹⁶⁴

On March 10, the House considered H. Res. 359, an open rule providing 15 hours of debate on H.R. 8601 and disallowing non-germane amendments. One amendment, however, was privileged: H.R. 10035, which embodied the referee plan of Attorney General Rogers.¹⁶⁵ After a brief debate, the House voted 314-93 to adopt the rule.¹⁶⁶ As the first column of Table 9 indicates, no Northern Democrats voted against it, and only nine Republicans did so; a majority of the Southern Democrats was therefore on the losing side. The House then resolved itself into the Committee of the Whole (COW) for the consideration of H. R. 8601.

[Table 9 about here]

In the chair for the debate in the COW was Rep. Francis Walter (D-PA), who was handpicked by Speaker Sam Rayburn. Liberals now saw this as a chance to add amendments to give the civil rights bill “teeth.” As chair of Judiciary, Rep. Celler went first and moved an amendment that would add an equal jobs opportunity commission (a provision of the Eisenhower bill that was axed in committee during the first session). Rep. Smith raised a point of order, arguing that the amendment was not germane, as it dealt with work discrimination (not,

¹⁶³ Lawson, *Black Ballots*, 236-37; Berman, *A Bill Becomes a Law*, 89-90; Sundquist, *Politics and Policy*, 247; Russell Baker, “House Unit Agrees to Send Civil Rights Bill to Floor,” *New York Times*, February 18, 1960, 1; Robert C. Albright, “House Rights Bill Breakthrough Clears Way to 2-Party Support,” *Washington Post*, February 18, 1960, A2; “The House Takes the Ball,” *Washington Post*, February 19, 1960, A16.

¹⁶⁴ Berman, *A Bill Becomes a Law*, 94.

¹⁶⁵ For text of H. Res. 359, see *Congressional Record*, 86th Congress, 2nd Session, (March 10, 1960): 5192-93. H.R. 10035 was introduced by Rep. McCulloch on January 28. See *Congressional Record*, 86th Congress, 2nd Session, (January 28, 1960): 1575.

¹⁶⁶ *Congressional Record*, 86th Congress, 2nd Session, (March 10, 1960): 5198-99.

presumably, disfranchisement). Walter ruled in favor of Smith, and the COW sustained his ruling, 157-67.¹⁶⁷ This pattern was repeated three more times: Celler offered amendments providing federal aid to state and local agencies working toward desegregation, abolishing the poll tax, and adding Title III to the bill, and each time Walter ruled the amendments out of order (not germane).¹⁶⁸

In handing down his rulings, Walter was acting on the part of the House (and Senate) leadership, who were interested in preserving a moderate bill.¹⁶⁹ The Rogers referee plan was then added,¹⁷⁰ along with a two-part minor amendment to protect voting rights.¹⁷¹ All other attempts to strengthen the bill were defeated. And, on March 23, the COW concluded its work and reported the amended bill back to the House.

With the bill back in the House, Speaker Rayburn quickly drove it over the finish line. First up was the ratification of amendments passed in the COW. The minor amendments were handled by simple voice vote.¹⁷² The McCulloch-Cellar amendment, which incorporated the Rogers referee plan, was passed 295-124.¹⁷³ The next day, March 24, Rep. Richard Poff (R-VA) moved to recommit the bill to committee, with instructions to eliminate language in the provision regarding fines for opposing desegregation (and thereby weaken it). The House rejected Poff's

¹⁶⁷ For this entire episode, see *Congressional Record*, 86th Congress, 2nd Session, (March 14, 1960): 5477-79.

¹⁶⁸ *Congressional Record*, 86th Congress, 2nd Session, (March 14, 1960): 5479-81; (March 22, 1960): 6297-98; (March 22, 1960): 6308.

¹⁶⁹ As for Celler, Walter claimed he was playing his role as well. As Berman states: "Walter privately expressed the view that all along Celler knew his amendments would be overruled. His action in introducing them was designed merely 'to make a record.'" See *Berman, A Bill Becomes a Law*, 103.

¹⁷⁰ The Southerners, led by Howard W. Smith, had used some deft parliamentary maneuvers, and at one point eliminated the bill entirely. However, there was bipartisan support for a mild-to-moderate bill, and with Walters in the chair, the Southerners were overcome. For a detailed description of these events, see *Berman, A Bill Becomes a Law*, 106-08. See, also, "Revive Voting Rights Measure," *Chicago Defender*, March 26, 1960, 12.

¹⁷¹ First, the amendment allowed for "provisional voting." Should a potential black voter's qualifications be challenged, he/she could still vote provisionally. The vote simply could not be counted until the challenge was resolved. Second, the amendment provided for the referee to execute his oversight of casting and counting ballots; the referee could take any actions "appropriate and necessary" to do his/her job. See *Berman, A Bill Becomes a Law*, 108-09.

¹⁷² *Congressional Record*, 86th Congress, 2nd Session, (March 23, 1960): 6400.

¹⁷³ *Congressional Record*, 86th Congress, 2nd Session, (March 23, 1960): 6400-01.

motion on a 118-304 vote.¹⁷⁴ Finally, the House considered the amended H.R. 8601, and it passed 311-109.¹⁷⁵ As the last three columns in Table 9 indicate, in each of these votes, Northern Democrats and Republicans (with just a smattering of defections) joined to defeat a majority of Southern Democrats.

The House had passed a bill. It was comprised of the three parts of H. R. 8601 that had been reported out of the Judiciary Committee in the first session — criminal penalties for interfering with school desegregation; criminal penalties for fleeing across state lines after bombing or destroying a building; and a requirement that state officials allow the Justice Department access to state voting records, which must be kept for two years — plus the president’s referee plan that Attorney General Rogers had devised.

Thus, the House had done its job. Now it was up to the Senate.

Senate Gridlock and Then a Breakthrough

As Rules Committee hearings were winding down in the House in mid-February, as the country was reeling from the rise of “sit ins” that began in Greensboro and spread to Nashville and other cities, and just before the committee would report out a rule, the Senate moved. In keeping to a promise he made to the Senate at the end of the first session, and perhaps also to keep himself in the spotlight, Majority Leader Lyndon Johnson on February 15 injected civil rights into Senate proceedings. And he did so in an unorthodox and creative way. Under unanimous consent, the Senate was considering a very minor bill (H.R. 8315) “to authorize the Secretary of the Army to lease a portion of Fort Chowder, Mo., to Stella reorganized schools R-I,

¹⁷⁴ *Congressional Record*, 86th Congress, 2nd Session, (March 24, 1960): 6511-12.

¹⁷⁵ *Congressional Record*, 86th Congress, 2nd Session, (March 24, 1960): 6512.

Mo.” After no one objected to the consideration of the bill, Johnson moved to proceed to the bill’s consideration *with an amendment*.¹⁷⁶

Johnson announced this was the vehicle by which the Senate was going to consider civil rights in the current session. He stated: “My objective heretofore, now, and in the future, is to achieve a bill which the Senate’s collective conscience and judgment tell us is right; and this I believe we can do.”¹⁷⁷ He then recognized Sen. Everett Dirksen, with whom he had negotiated this plan, to introduce an amendment — and Dirksen introduced the president’s full plan from 1959 plus the Rogers referee plan.¹⁷⁸

Johnson’s strategy was to pick a minor bill, ask for unanimous consent when few senators were present or paying attention, and then add a non-germane amendment on the topic of civil rights. His choice of H.R. 8315 (afterward known as the “Stella” bill) was also strategic. As it had already been passed by the House, should the Senate tack on an amendment, it would be returned to the House and considered directly on the floor — thus bypassing the black hole that was the Rules Committee.

Sen. Richard Russell (D-GA) and other Southern senators were incensed by Johnson’s tactics, but they could little more than express their outrage. Eager to get his Southern brethren together and regroup, Russell moved to postpone consideration of civil rights legislation for a week. His motion was defeated badly, 28-61; and as Table 10 indicates, only 6 of the 28 votes for postponement came from outside of the South.¹⁷⁹ With little other recourse, Southern senators fell back on the chamber’s minority rights protection and geared up for a filibuster. Three days later, Johnson moved that the Senate move to round-the-clock sessions to break the

¹⁷⁶ *Congressional Record*, 86th Congress, 2nd Session, (February 15, 1960): 2444.

¹⁷⁷ *Congressional Record*, 86th Congress, 2nd Session, (February 15, 1960): 2445.

¹⁷⁸ *Congressional Record*, 86th Congress, 2nd Session, (February 15, 1960): 2470.

¹⁷⁹ *Congressional Record*, 86th Congress, 2nd Session, (February 16, 1960): 2620.

filibuster. He posed it as an adjournment motion, whereby the House was asked whether they should adjourn at 5 pm on February 29 instead of holding round-the-clock sessions — the House rejected the motion 10-67 thereby accepting the move to round-the-clock sessions.¹⁸⁰ A majority of the Southern senators actually approved of the move to round-the-clock sessions; as they cared deeply about this issue, and believed few Northerners really did, they felt they could wait out their opponents.

[Table 10 about here]

Johnson believed the process of committed engagement on the issue in the intensive format would help lead to a moderate bill. At the same time, he was eyeing the progress being made in the House, and saw the lower chamber as the second “front” in the “war.” As Steven Lawson argues:

Even if cloture failed and the Dixie forces thwarted a vote on the pending amendments, Johnson believed the Senate would still act on civil rights. He guessed that while his colleagues talked themselves hoarse the House would pass the limited bill reported by the Judiciary Committee and send it up for Senate deliberation. Hence, with most of the lawmakers worn out, this minimum progress might obtain swift approval.¹⁸¹

The hope from Johnson’s perspective was that the bill (as offered by Dirksen) could be moderated sufficiently so that cloture could eventually be invoked. The pattern at that point was the offering of amendments. Tabling motions on the amendments would then be made. If a tabling motion failed, the amendment wasn’t automatically successful — it would have to be passed separately. And it could be filibustered. But if a tabling motion was successful, then the amendment was dead. Johnson believed that, given time and patience, this process — killing extreme amendments and letting through some weakening ones — would eventually water down the bill enough so that a winning coalition could be formed. And more importantly from his

¹⁸⁰ *Congressional Record*, 86th Congress, 2nd Session, (February 26, 1960): 3580.

¹⁸¹ Lawson, *Black Ballots*, 237-38.

perspective, he would have a *bill* that he could showcase to the public and national Democrats looking for a presidential candidate in 1960.

But the liberals in the Senate grew weary of the endless debate and procedural motions. Sen. Wayne Morse (D-OR) had been collecting signatures for a cloture motion, and he successfully filed it. Johnson knew that the liberals were acting too soon — that the civil rights bill had not been reshaped sufficiently for a supermajority to favor it — but he couldn't stop the process at that point. He shut down the round-the-clock sessions and waited for the vote. On March 10, the Senate voted to limit debate (invoke cloture), and it failed 42-53.¹⁸² In this case, as indicated in column three of Table 10, a majority of Republicans joined with all Southern Democrats to defeat a majority of Northern Democrats. Later that day, a motion (pushed by the South) to add (via amendment) Title III to the civil rights bill was tabled, 55-38.¹⁸³ Again, the conservative coalition formed on this vote. Liberals had been crushed, and the Senate was at a stand still.

Thankfully for Johnson, the second front on the civil rights war had borne fruit, as the House had passed H.R. 8601 and sent it over to the Senate. From his perspective, and that of his partner Dirksen, H.R. 8601 “seemed an ideal piece of legislation.” As Daniel Berman writes:

... the southerners could be expected to fulminate against it, but the provisions it contained were weak enough to guarantee that their opposition would be token. As far the northern Democrats were concerned, they would probably be easy to mollify: the prospect of being able to celebrate enactment of the second civil rights act in three years might be so attractive that they would fix their interest on what the bill contained, not on what it omitted.¹⁸⁴

In pushing H.R. 8601 through the Senate, Johnson would brook no opposition. He viewed Sen. Eastland's Judiciary Committee as a potential graveyard, so he proposed referring

¹⁸² *Congressional Record*, 86th Congress, 2nd Session, (March 10, 1960): 5118.

¹⁸³ *Congressional Record*, 86th Congress, 2nd Session, (March 10, 1960): 5182.

¹⁸⁴ Berman, *A Bill Becomes a Law*, 115.

the bill to Judiciary but *with instructions* to report back in five days. The Senate backed Johnson on an 86-5 vote. The Judiciary Committee made several small changes (such as shortening the length of time that voting records must be kept from 2 years to 22 months; extending penalties to obstruction of court orders generally, not just obstruction of court-ordered desegregation; and limiting the “federal offense” designation to actual cases of bombings, rather than threats to bomb or bomb scares) and sent the bill back to the full Senate. A couple of additional small changes were made on the floor, but more significant amendments that would have likely doomed the bill were defeated. These included an attempt to replace the referee system with an enrollment officer system (similar to the Commission on Civil Rights registrar idea), attempts by Southerners to weaken the bill (by limiting referees to congressional elections or eliminating referees outright), and attempts by Northerners to strengthen the bill (by adding features from the president’s initial plan, like an equal jobs opportunity commission and Title III).

On April 8, 1960, the Senate voted on the amended version of H.R. 8601, and it passed 71 to 18.¹⁸⁵ As Table 11 indicates, Northern Democrats and Republicans voted *unanimously* for the bill, making the Southern Democratic opposition merely token. After some foot dragging in the lower chamber, on April 21, the House voted on the amended version of H.R. 8601, and it passed 288-95.¹⁸⁶ And on May 6, 1960, it was signed into law by President Eisenhower, and became Public Law 449.¹⁸⁷

[Table 11 about here]

Reactions to the new civil rights law were mixed. Liberals were disappointed. Sen. Joseph Clark called it a “crushing defeat.”¹⁸⁸ Thurgood Marshall of the NAACP called it a

¹⁸⁵ *Congressional Record*, 86th Congress, 2nd Session, (April 8, 1960): 7810-11.

¹⁸⁶ *Congressional Record*, 86th Congress, 2nd Session, (April 21, 1960): 8507-08.

¹⁸⁷ *74 Stat.* 86-92.

¹⁸⁸ *Congressional Record*, 86th Congress, 2nd Session, (April 8, 1960): 7768.

“fraud” and said that it and the 1957 act were “dribblets” meant to forestall real action on civil rights.¹⁸⁹ George Meaney of the AFL-CIO declared that “once again, a small minority in Congress has succeeded in thwarting the will of the vast majority of Americans.”¹⁹⁰ Sen. Paul Douglas, while disappointed, was both hopeful and defiant: “We shall carry this issue to the public and be back again.”¹⁹¹ Moderates, who were in favor of a bill, were pleased; they believed, per Steven Lawson, that “the referee plan had presented the least common denominator for agreement on a franchise measure.”¹⁹² Southerners like Harry Byrd, Richard Russell, and Strom Thurmond claimed victory, and framed the outcome as a triumph of constitutional government.¹⁹³

Finally, Johnson succeeded in getting what he wanted. He helped produce a mild civil rights law, one he could sell to the country as progress but that wouldn’t cost him his base of Southern support. He has also positioned himself as a Southern centrist in the Democratic Party, and in early polls was the frontrunner for the Democratic nomination in November. Johnson had, however, run afoul of northern white liberals and blacks, who believed he had sold them and their cause out to the South, and he would have to do considerable work to change their perception of him.¹⁹⁴

Conclusion

The 1950s were a decade of change for civil rights advocates. Used to losing in the previous three decades, they could now chalk up two policy successes: the Civil Rights Acts of 1957 and 1960. That said, the laws they had hoped for were not realized in the final legislation.

¹⁸⁹ Anthony Lewis, “Long Fight Ends,” *New York Times*, April 22, 1960, 1, 14.

¹⁹⁰ “A Modest Advance,” *Chicago Tribune*, April 23, 1960, 14

¹⁹¹ *Congressional Record*, 86th Congress, 2nd Session, (April 8, 1960): 7805.

¹⁹² Lawson, *Black Ballots*, 247.

¹⁹³ Finley, *Delaying the Dream*, 228-29.

¹⁹⁴ Caro, *The Years of Lyndon Johnson, Volume 4: The Passage of Power*, 77-80.

While a civil rights coalition, built around Northern Democrats and Republicans, had agreed on the need for new civil rights laws, the intersection of their preferences was for a mild-to-moderate legislation. This played into the hands of Southern Democrats, who desperately used their remaining influence (and knowledge of parliamentary procedures) to scuttle the most egregious demands of the liberal reformers. The true “civil rights” elements of the 1957 and 1960 Acts were removed — thereby protecting segregation in the Jim Crow South — leaving them essentially voting rights bills. And the voting rights protections for blacks were curtailed significantly in the amending process.

So, at best, the Acts of 1957 and 1960 can be characterized as “initial” or “semi-” successes. That said, their enactments were key in the pursuit of meaningful civil rights legislation. Only by identifying (acknowledging) the flaws in the legislation, based on observing outcomes post-enactment, could stronger measures eventually be passed. The push for a Civil Rights Act of 1960 occurred because liberal and civil rights groups recognized that the 1957 Act was insufficient for insuring civil rights. And it wouldn’t be long before liberal and civil rights groups began clamoring for something more than the 1960 Act. As Daniel Berman describes: “In the 1960 election, no use was made of the referee plan, though it had been heralded as the most important part of the bill. Southern judges were also reluctant to apply the law in 1962.”¹⁹⁵ In the end, it was not until the Civil Rights Act of 1964 that the South’s segregated society was dismantled. And it was not until the Voting Rights Act of 1965, when discriminatory state-level voting qualifications (specifically literacy tests) were prohibited, that registration and voting rates for southern blacks increased substantially.

¹⁹⁵ Berman, *A Bill Becomes a Law*, 135.

Table 1. House Votes on the 21-Day Rule, 81st and 82nd Congresses

Party	To Adopt 21-Day Rule (81st Congress)		To Repeal 21-Day Rule (81st Congress)		To Repeal 21-Day Rule (82nd Congress)	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	140	0	2	139	4	110
Southern Democrat	85	31	83	31	88	26
Republican	49	112	98	64	152	42
Other	1	0	0	1	0	1
Total	275	143	183	236	244	179

Source: *Congressional Record*, 81st Congress, 1st Session, (January 3, 1949): 10; 2nd Session, (January 20, 1950): 719; 82nd Congress, 1st Session, (January 3, 1951): 18-19.

Table 2. House Votes on the Civil Rights Bill (H.R. 627), 84th Congress

Party	To Recommit H.R. 627		To Pass H.R. 627	
	Yea	Nay	Yea	Nay
Northern Democrat	3	109	110	2
Southern Democrat	99	2	1	100
Republican	29	164	168	24
Total	131	275	279	126

Source: *Congressional Record*, 84th Congress, 2nd Session, (July 23, 1956): 13998-99; (July 23, 1956): 13999.

Table 3. Senate Votes on Motion to Adopt New Rules, 83rd and 85th Congresses

Party	To Table (83rd Congress)		To Table (85th Congress)	
	Yea	Nay	Yea	Nay
Northern Democrat	5	15	4	20
Southern Democrat	24	0	23	1
Republican	41	5	28	17
Independent	0	1	--	--
Total	71	21	55	38

Source: *Congressional Record*, 83rd Congress, 1st Session, (January 7, 1953): 232; 85th Congress, 1st Session, (January 4, 1957): 215.

Table 4. House Votes on the Civil Rights Bill (H.R. 6127), 85th Congress

Party	To Adopt H. Res. 259		To Recommit H.R. 6127 with instructions		To Pass H.R. 6127	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	111	1	6	112	116	2
Southern Democrat	2	106	107	0	2	105
Republican	178	10	45	139	168	19
Total	291	117	158	251	286	126

Source: *Congressional Record*, 85th Congress, 1st Session, (June 5, 1957): 8416-17; (June 18, 1957): 9517; (June 18, 1957): 9518.

Table 5. Senate Votes on the Civil Rights Bill (H.R. 6127), 85th Congress

Party	Point of Order (to prevent bypassing Judiciary Com.)		To Consider H.R. 6127		Amendment to Delete Title III		Amendment to Guarantee Jury Trials		To Pass H.R. 6127	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	11	11	23	0	10	13	15	9	22	1
Southern Democrat	23	0	6	18	24	0	24	0	7	17
Republican	5	34	42	0	18	25	12	33	43	0
Total	39	45	71	18	52	38	51	42	72	18

Source: *Congressional Record*, 85th Congress, 1st Session, (June 20, 1957): 9827; (July 16, 1957): 11832; (July 23, 1957): 12565; (August 1, 1957): 13356; (August 7, 1957): 13900.

Table 6. Votes on the Amended Civil Rights Bill (H.R. 627), 85th Congress

Party	To Pass H.R. 627 (House)		To Pass H.R. 627 (Senate)	
	Yea	Nay	Yea	Nay
Northern Democrat	106	1	19	0
Southern Democrat	22	81	4	15
Republican	151	15	37	0
Total	279	97	60	15

Source: *Congressional Record*, 85th Congress, 1st Session, (August 27, 1957): 16112-13; (August 29, 1957): 16478.

Note: H.R. 627 represents the Senate-amended version (from August 7, 1957) with the Johnson-Knowland-Rayburn-Martin amendment attached.

Table 7. Senate Votes on Rules, 86th Congresses

Party	To Table Anderson Motion to Adopt New Rules		To Amend Cloture Rule	
	Yea	Nay	Yea	Nay
Northern Democrat	16	22	34	5
Southern Democrat	24	0	10	14
Republican	20	14	28	3
Total	60	36	72	22

Source: *Congressional Record*, 86th Congress, 1st Session, (January 9, 1959): 207-08; (January 12, 1959): 494.

Table 8. Votes to Extend the Life of the Commission on Civil Rights, 86th Congress

Party	Motion to Suspend the Rules		Hayden Amendment		Motion to Concur in Senate Amendment	
	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	38	0	38	0	125	1
Southern Democrat	5	17	5	17	16	71
Republican	28	1	28	1	80	8
Independent Dem.	--	--	--	--	0	1
Total	71	18	71	18	221	81

Source: *Congressional Record*, 86th Congress, 1st Session, (September 14, 1959): 19566; (September 14, 1959): 19567; (September 14, 1959): 19741-42.

Table 9. House Votes on the Civil Rights Bill (H.R. 8601), 86th Congress

Party	To Adopt H. Res. 359		McCulloch-Cellar Amendment		To Recommit H.R. 8601 w. instructions		To Pass H.R. 8601	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	156	0	163	2	4	163	164	2
Southern Democrat	21	83	9	97	97	9	15	91
Republican	137	9	123	24	16	132	132	15
Independent Dem.	0	1	0	1	1	0	0	1
Total	314	93	295	124	118	305	311	109

Source: *Congressional Record*, 86th Congress, 2nd Session, (March 10, 1960): 5198-99; (March 23, 1960): 6400-01; (March 24, 1960): 6511-12; (March 24, 1960): 6512.

Table 10. Senate Votes on Civil Rights, 86th Congress

Party	Motion to Postpone Consideration		Motion to Adjourn at 5 pm on 2/29		To Invoke Cloture		To Table Title III Amendment	
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Northern Democrat	2	32	0	32	30	9	10	28
Southern Democrat	22	2	8	13	0	24	24	0
Republican	4	27	2	22	12	20	21	10
Total	28	61	10	67	42	53	55	38

Source: *Congressional Record*, 86th Congress, 2nd Session, (February 16, 1960): 2620; (February 26, 1960): 3580; (March 10, 1960): 5118; (March 10, 1960): 5182.

Table 11. Votes on the Amended Civil Rights Bill (H.R. 8601), 86th Congress

Party	To Pass H.R. 8601 (House)		To Pass H.R. 8601 (Senate)	
	Yea	Nay	Yea	Nay
Northern Democrat	37	0	147	2
Southern Democrat	5	18	18	80
Republican	29	0	123	12
Independent Dem.	--	--	0	1
Total	71	18	288	95

Source: *Congressional Record*, 86th Congress, 2nd Session, (April 8, 1960): 7810-11; (April 21, 1960): 8507-08.

Note: H.R. 8601 represents the Senate-amended version (from April 8, 1960), which the House then adopted.