CIVIL RIGHTS LEGISLATION OF THE 1960'S: THE SUPPORT OF REPUBLICAN CONGRESSIONAL LEADERS HELPED MAKE POSSIBLE ITS PASSAGE

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CIVIL RIGHTS LEGISLATION OF THE 1960'S: THE SUPPORT OF REPUBLICAN CONGRESSIONAL LEADERS HELPED MAKE POSSIBLE ITS PASSAGE

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CHAPTER I

INTRODUCTION

Without the support and efforts of Republican congressional leaders, it would have been extremely difficult, probably impossible, for civil rights bills to have been enacted into law during the 1960’s. Even though the Republican Party is usually considered the more conservative of America’s two major political parties, more of its members in both houses of Congress have voted for the controversial civil rights measures, usually introduced and strongly supported by liberal Democrats, than have Democrats in Congress. Several political analysts have been puzzled by the fact that such a high percentage of Congressmen and Senators from a conservatively oriented political party could support such liberal and far-reaching legislation as the civil rights measures which were enacted into law during the 1960’s.

The Republican Party was born as a champion of civil rights for Negroes, and from the time of the Civil War up to the New Deal its candidates received most of the votes cast by American Negroes.\(^1\) Even though there is not considerable difference in America’s two major political parties regarding civil rights legislation today, for some reason the vast majority of Negroes

now support Democrats for public office.² Although present-day Negroes seem to have abandoned the party of their ancestors, the fact remains that the leaders of the minority party, in large part, made possible during the 1960's the enactment of several pieces of civil rights legislation aimed at improving the plight of Negroes.

Because of the historic split in the Democratic Party concerning civil rights legislation during the decade of the 1960's, it was very necessary that considerable support for rights legislation come from the Republicans in order to ensure the enactment of such measures. Throughout the 1960's the Democrats had substantial majorities in both houses of Congress; but the Democrats were very divided on racial issues, much more so than the Republicans. In the House of Representatives, approximately one-third of the Democrats, throughout the 1960's, were Southern Democrats who nearly unanimously voted against civil rights measures even though their northern brethren in that party nearly unanimously voted for the measures. On the other hand, Republicans in Congress were, with very few exceptions, not civil rights zealots or die-hard opponents of civil rights measures. In the final analysis, during the 1960's nearly one-third of the House Democrats consistently opposed civil rights measures, which had generally been proposed by the leadership of their own party, while House Republicans, with

²Ibid., p. 136.
very few exceptions, voted heavily in favor of final passage of such measures. Much the same story holds true in the Senate. Throughout the 1960's approximately one-third of the Democrats in the Senate were from the South; and they consistently cast top-heavy votes against civil rights measures, while Northern Democratic Senators nearly unanimously favored civil rights measures. As in the House, Senate Republicans often expressed reservations about rights legislation but still consistently voted heavily for final passage of the measures.

Although most members of Congress would be reluctant to admit that party leaders in Congress might have decisively figured in their votes on important issues, it is very probable that party leaders often play a decisive role in influencing roll-call votes. America's two major political parties, the Republican Party and the Democratic Party, tolerate political mavericks in Congress; and party loyalty is not stressed nearly as much as it is in England and several other European countries. However, party unity does play an important role in American politics. "Party unity roll calls are those in which the majority of one party votes against the majority of the other party. Generally about 45 per cent to 50 per cent of all roll calls are of this type."3 Between 1949 and 1963, the overall average party unity score for Senate Republicans was 73.6 and it was 72.5 for the Democrats; and the overall party unity scores in

the House of Representatives for the same time period were
75.3 for the Republicans and 74.0 for the Democrats. Although
Republicans were only slightly more unified than Democrats
overall, House and Senate Republicans have been much more unified
on civil rights issues than the Democrats.

Party unity can be promoted by the Minority Leader. What
can the Minority Leader do to keep his flock in line? According
to political scientist Charles Jones,

The Minority Leader has a number of sanctions that can be
brought to bear on his party members. He is Chairman of
the Committee-on-Committees. Party mavericks may find that
their requests for transfer to other committees are denied.
The Minority Leader has close working relationships with
all ranking minority members of standing committees and
with other party leaders. The recalcitrant party member
may find that his legislation is bottled up, and that he
receives poor subcommittee assignments, that he has little
time for questioning of witnesses appearing before his
standing committee, has problems in scheduling his bills,
that his requests for travel are denied, and the like. The
Minority Leader also has a number of favors he can dispense.
Appointments to special boards and commissions, space
allocations, invitations—these and other special favors
go to the party regulars, not to those who stray.5

On the other hand, according to some political scientists,
such as Peter Odegard, "... differences within the party on
some issues are almost as sharp as the differences between Re-
publicans and Democrats."6 Odegard points out that very rarely
do Republicans and Democrats line up solidly on opposite sides,

4Ibid.
5Ibid., p. 104.
6Peter H. Odegard, "Presidential Leadership and Party
Responsibility," The American Party System, edited by John R.
but often the conservatives of both parties unite against the liberals of both parties.\footnote{Ibid.} Even though this is often the case, both liberal and conservative Republicans generally supported civil rights legislation during the 1960's; but this was not true of the Democratic Party. In this party, liberals and conservatives differed greatly in their votes on civil rights measures.

Some political scientists, such as Meg Greenfield, have done extensive research regarding the role and importance of congressional leaders in the minority party. Greenfield's conclusions are rather surprising. She finds that a passionate ideological leader can have more trouble mustering support for his point of view than a congressional leader who is much more moderate in his views. To support this conclusion, she cites some specific examples:

Knowland's [Dirksen's predecessor as Senate Minority Leader] dismal record attests that fiercely held views can all but disqualify a man from effective leadership in the Senate. Knowland is remembered with resentment by Republicans in the Senate for his arrogance and for his inability to tolerate discussion, much less dissent . . . . In many ways, the more patient, responsive Dirksen has done a better job for the Republicans with thirty-five votes than Knowland was able to do with forty-seven and a President in the White House.\footnote{Meg Greenfield, "Everett Dirksen's Newest Role," Politics U. S. A., 2nd ed., edited by Andrew M. Scott and Earle Wallace (New York, 1965), p. 366.}

In reference to Dirksen's leadership, she once said that he has had to avoid taking sharp and contentious positions. He has had to persuade them [Congressmen], cajole them,
rearrange bills to their liking. Even so, on certain
issues he is always likely to lose eight or ten senators
from one or the other end of the party that ranges from
Javits to Goldwater . . . . His cooperative attitude
toward the Democratic leadership has been dictated by
necessity too: on such boring but important matters as
the scheduling of bills, they could make life quite dis-
agreeable for Dirksen.9

There is no doubt that Dirksen had a great impact on
legislation during the 1960's. He was "widely regarded as
one of the most influential men in the Senate"10 and as the
"most effective leader the Republicans have had in years,—
and in view of his impact on administration legislation—as
the de facto Majority Leader."11

Because of his personality and easy-going manner of
conducting his job as Minority Leader, Dirksen was liked and
respected by Republicans and Democrats alike. Even though the
Republicans in the Senate were vastly outnumbered by the Demo-
crats during the 1960's, the Senate Republicans had a more
effective leader. Often Senator Mike Mansfield (D., Mont.),
the Senate Majority Leader, could not "coalesce a majority at
all without the support of the Minority Leader."12 Dirksen
was more "an initiator of action" and also "foxier than Mansfield
as a strategist."13

9 Ibid., p. 368.
10 Ibid., p. 364.
11 Ibid.
12 Ibid., p. 368.
13 Ibid.
Although Dirksen had strongly denounced certain portions of the proposed 1964 Civil Rights Act, Meg Greenfield, a political scientist who had previously studied his role in relation to civil rights legislation, predicted, "Very likely the bill will be somewhat trimmed to suit him [Dirksen] in the course of Senate floor action and then passed with his support."14

Greenfield's prediction proved to be accurate. The bill was trimmed and then passed with Dirksen's support because the Minority Leader possessed the qualities that Ralph K. Huitt, another political scientist who has researched the importance of congressional leadership, said were essential to a good senatorial leader. Huitt concluded that a good leader in the Senate must realistically consider "what could pass the Senate" and must be adept at using "friendly persuasion."15 This description of a successful leader certainly applied to Everett Dirksen, who always carefully distinguished between legislation that could probably be passed by the Senate and that which could not. Also, he was a great compromiser and was very adept at employing "friendly persuasion."

However, the 1964 legislation, which was passed under Dirksen's senatorial leadership, was not the first civil rights legislation of the twentieth century. The first civil rights act of the century was passed in 1957. In that year Congress

14 Ibid., p. 370.
passed a modified version of President Eisenhower's proposal for civil rights legislation. "The primary feature of the 1957 Act was a provision designed to enforce the right to vote by empowering the Federal Government, through the Attorney General, to seek court injunctions against obstruction or deprivation of voting rights." The bill also provided for the creation of an executive Commission on Civil Rights and for the establishment of a Civil Rights Division in the Department of Justice, to be headed by an Assistant Attorney General. The bill originally proposed by the Eisenhower Administration would have granted much broader powers to the Attorney General by allowing him to file suits for injunctions against deprivation of any civil right. The section of the bill providing for these broad powers, known as Title III, was eventually rejected by Congress.

Representative William McCulloch (R., Ohio), the ranking minority member on the House Judiciary Committee and leader of the Republican civil rights forces, supported Title III and urged other Republicans to do likewise. Title III was passed by the House of Representatives but was killed in the Senate. The Senate, under the leadership of Senator Lyndon Johnson (D., Tex.), the Majority Leader, eliminated Title III in order to help end a filibuster by Southern Democrats against the bill. Even though

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17 Ibid.
a civil rights bill was passed, McCulloch has never forgotten that Title III was "traded away" in the Senate, and he kept that fact in mind throughout the 1960's when dealing with civil rights legislation. Several times during the 1960's McCulloch assured House Republicans he would not ask them to "walk the plank" by supporting extremely controversial civil rights legislation only to see it "traded away" in the Senate. Possibly because of his unhappy experience with the realities of politics in 1957, McCulloch was of great moderating influence in obtaining passage of civil rights legislation during the 1960's. He made it a practice to discuss the civil rights proposals of the 1960's with Senate Republican and Democratic leaders so that the bills could be compromised to such an extent that passage by both houses would be possible. This way House Republicans would not have to bear all the criticism for the passage of controversial civil rights legislation that was unpopular with many white voters.

The efforts of Republican congressional leaders to secure passage of civil rights measures during the 1960's will be emphasized. Also, an effort will be made to present objectively the views of Republican congressional leaders toward civil rights measures and to show how they contributed, in the day-to-day legislative proceedings, to the passage of these measures. Although some attention is devoted to the attitudes of Democratic congressional leaders toward civil rights legislation and their
contributions toward its passage, the major emphasis is on Republican congressional leaders. For this information the Congressional Record served as the main source of reference, but some secondary sources were used, also. Numerous direct quotes and roll-call votes pertaining to civil rights measures are included in this survey of the roles and influence of Republican congressional leaders.

The minority party leaders discussed are Everett M. Dirksen (R., Ill.), Charles Halleck (R., Ind.), Gerald Ford (R., Mich.), and William McCulloch (R., Ohio). These men served as the leaders of the Republican Party in Congress during the 1960's. Dirksen until recently was the Minority Leader in the Senate, and Halleck was the House Minority Leader during the early 1960's. Ford is presently the House Minority Leader. McCulloch, the leading Republican on the House Judiciary Committee, is included as a congressional leader of the minority party because he is generally considered to be the leading Republican expert on civil rights legislation; and his support has been considered indispensable in the passage of civil rights legislation during the 1960's.20

Four major civil rights acts were passed during the decade of the 1960's. The 1960 Act had the purpose of enabling Negroes to vote in elections. This Act also provided criminal penalties for bombing and bomb threats and for mob actions which obstruct

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Republican leaders Dirksen, Halleck, and McCulloch were instrumental in the passage of this act. The Civil Rights Act of 1964 was the most far-reaching civil rights legislation passed since the days of Reconstruction. It contained new provisions aimed at guaranteeing Negroes the right to vote and to have access to many places of public accommodation. This law authorized the Federal Government to sue for desegregation of public facilities and schools, extended the life of the Civil Rights Commission, and required that most companies and labor unions grant equal employment opportunities. Passage of this act would probably have been impossible but for the efforts of Republican leaders. Senator Dirksen was especially instrumental in the passage of this act because of his successful effort to stop the Senate filibuster against the bill.

Next, the sweeping 1965 Voting Rights Act was passed. The main purpose of this bill was to eliminate voter discrimination against Negroes in the South. As was the case for the passage of other civil rights legislation of the 1960's, Republican leaders had much to do with the passage of this act.

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21 Congressional Record, CVI, 86th Congress, 2nd Session (Washington, 1960), 7811-7813.

22 Congressional Quarterly Service, Revolution in Civil Rights, p. 66.

23 Congressional Record, CXI, 89th Congress, 1st Session (Washington, 1965), 19187-19191.
Then, in 1968 one of the most controversial pieces of legislation in the history of the United States was passed. The Civil Rights Act of 1968, because of its open housing provision, provided that in approximately 80 per cent of the nation's housing it would be illegal to discriminate against someone in the sale or rental of housing because of his race or color. Passage of this bill would most likely not have occurred if not for the late-coming support of Senator Dirksen.

Throughout the year of 1959, several demonstrations resulted from allegations of voter discrimination against Negroes. Liberals in Congress responded to these demonstrations by demanding new federal legislation that would remedy existing voter discrimination practices. Liberals pointed out that "in half of Mississippi's counties, not even 1 percent of the Negroes could vote, and in those Alabama counties where Negroes outnumbered whites, the proportion was only 4 per cent."¹

The Administration bill was submitted on February 5, 1959. This bill would make it a federal crime to obstruct or interfere with federal court school desegregation orders. Voting records and registration papers for all federal elections were to be kept for three years; and federal district courts, in areas where voting records were located, could order voting officials to comply with the bill's provisions. The bombing or burning of churches and schools was to be a federal crime, and the life of the Civil Rights Commission was to be extended for two more years. The President's Committee on Government Contracts would be changed to a fifteen-member Commission on Equal Job Opportunity

Under Government Contracts, and the Commission could hold hearings and conduct investigations to ensure that there was no racial discrimination in companies under government contracts. There would be free education for the children of members of the armed forces when the public schools that those children regularly attended were closed to avoid integration, and the Commissioner of Education would have the power to rent the buildings of closed-down schools which received federal money. The Administration bill contained a general statement that the Constitution, as interpreted by the Supreme Court, is the supreme law of the land and that state and local governments would be obliged to eliminate segregated school systems. Congress would have the authority to pay one-half of the cost that schools incurred in eliminating segregation.\(^2\) "With the exception of a new provision empowering federal courts, with the aid of referees, to help Negroes register to vote, the Administration made no changes in this program in 1960."\(^3\) In the end the voting referee plan became the main part of the 1960 law.

On September 14, 1959, Senate Minority Leader Everett Dirksen (R., Ill.) and Senate Majority Leader Lyndon Johnson (D., Tex.) revealed their plan to bring civil rights legislation up for consideration about February 15, 1960.\(^4\)


\(^3\)Ibid., p. 187.

\(^4\)Congressional Record, CV, 86th Congress, 1st Session (Washington, 1959), 19430-19431.
Democrat-Republican coalition executed its plan, with Dirksen reiterating his support of past civil rights legislation and promising to press for consideration of future meaningful civil rights measures.

Thus, the controversy over the Civil Rights Act of 1960 was initiated. There was vigorous opposition in both houses of congress, but it was clear throughout the lengthy 1960 battle that the "moderate" civil rights group, under the leadership of Senate Majority Leader Johnson (D., Tex.), Minority Leader Dirksen (R., Ill.), House Speaker Sam Rayburn (D., Tex.), and House Minority Leader Charles A. Halleck (R., Ind.), was in control.5

Despite the bipartisan leadership, there was constant partisan bickering in the House of Representatives over the provisions of the bill. The House Judiciary Committee deleted the Administration provision which would have aided areas desegregating schools and another which would have established a Commission on Equal Job Opportunity.6

The House took up consideration of its own bill (HR 8601). This had been reported by the Judiciary Committee to the House Rules Committee, and it was held up there. While it was being held, a move was underway to obtain 219 signatures of House members on a discharge petition to force the bill out of the

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House Rules Committee to the floor. "Republican leaders charged that a Democratic Congress was holding up the bill; Northern Democrats charged Republicans with cooperating with Southern Democrats by not signing the petition and by holding the bill in the Rules Committee." By January 21 the discharge petition had gained only 176 of the 219 signatures necessary, and Democrats were pointing out that there were only 30 GOP signatures on the petition. The Republican leaders said they backed the legislation but did not want to circumvent House rules by signing the discharge petition. House GOP leader Halleck said he would not attempt to "persuade or dissuade" Republicans regarding signing the discharge petition but would talk to Republicans on the Rules Committee and suggest they vote to send the bill to the floor. Finally, on February 18 the Rules Committee cleared the bill by a 7-4 vote but postponed floor debate until March 10. In all probability the Rules Committee acted as it did because by that time it seemed nearly a certainty that the discharge petition would be successful. Nearly 50 House Republicans had signed the petition, and it was only 8 signatures short of the required number.

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9 Ibid., p. 21.
10 Ibid., p. 24.
11 Congressional Quarterly Service, Revolution, p. 32.
In the meantime, Southern Democrats in the Senate were filibustering the Administration proposals. The House of Representatives was considering its own bill (HR 8601), but "the Senate was considering the Administration plan section-by-section." The filibuster continued until March 8. Some Southern Senators were critical of Dirksen and other advocates of civil rights legislation for allegedly using undemocratic tactics in order to promote passage of the Administration bill. On March 7 Senator Hill (D., Ala.) said that an amendment which Senator Dirksen offered to the civil rights bill was "the product of the dynasty of desperation because the proponents of the bill . . . [had] succeeded in bypassing all committee consideration of the bill" and that the proponents of the legislation were engaged in "deliberate circumvention of established legislative processes and procedures." Senator Hill's comments stemmed from the fact that no civil rights bill had been reported by the Senate Judiciary Committee. Since no bill had been reported by this Committee, a minor House-passed bill (HR 8315) was called up from the calendar by Majority Leader Johnson, and Senators were invited to offer civil rights amendments to it.

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12 Congressional Quarterly Service, Congressional Quarterly Almanac, XVI, 195.


14 Congressional Quarterly Service, Revolution, p. 32.
Dirksen, being a realist, understood that strong civil rights legislation could not be passed at that time and was doing what he could to weaken the proposed legislation so that it would stand a chance of passing. He managed to remain on friendly terms with conservative Republican Senators by not attempting to persuade them to vote one way or the other on cloture and by voting against cloture himself. On March 8 Dirksen said, "When the time comes for the vote to be taken on the cloture petition, I shall not attempt to discourage any Senator from voting either for it or against it." On the Senate floor, Dirksen gave his own reasons for voting against cloture on March 10:

> Without too much delay, we can finally develop a bill which is moderate, which I think would please the President of the United States, and which he could sign, a bill which would please most of our Members, and which would indicate to the country that not only the Senate, but the House, had made a very definite and tangible step forward in the whole field of civil rights, without jeopardizing that cause. . . . We are on the threshold of passing a civil rights bill. I do not want to see that great cause jeopardized.

The Senate leadership of both parties, Johnson and Dirksen, opposed a cloture vote on the filibuster; and cloture was rejected on March 10 by a vote of 42-53. Democrats cast 30 votes for cloture and 33 against it. Republicans cast 12 votes for cloture and 20 against it. Two-thirds of the Senators present and voting must support the move for a cloture vote to be

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15 Congressional Record, CVI, 4934.
16 Ibid., p. 5113.
successful, according to Senate rules. The necessary two-thirds majority of votes was not achieved on March 10.\textsuperscript{17}

On the same day that the Senators refused to invoke cloture, the House of Representatives adopted the rule for debate on its civil rights bill by a vote of 312-93.\textsuperscript{18} Minority Leader Halleck had that day urged House Republicans to vote for the rule and to vote for final passage of the bill at a later date. He said, "... I am glad this measure is before us. I am glad it is before us by reason of the action of the Committee on Rules ... I trust that when the time comes to vote on adoption of the rule it will be adopted."\textsuperscript{19} He praised the bill by saying of its provisions that "... if they become the law of the land, it would just be a very definite advance in the direction of the protection of civil rights."\textsuperscript{20} He also added,

\begin{quote}
I said a long time ago that, speaking for the Republican side, we would have a good bill on the floor of the House, and that we would write meaningful civil rights legislation that would be supported by the overwhelming number of the Republicans of the House.\textsuperscript{21}
\end{quote}

In reply to many Democrats who had earlier criticized Republicans for not doing enough to get the bill out of the House Rules Committee, Halleck said he had made a check on the vote

\begin{itemize}
\item\textsuperscript{17}Ibid., p. 5118.
\item\textsuperscript{18}Ibid., p. 5198.
\item\textsuperscript{19}Ibid., p. 5194.
\item\textsuperscript{20}Ibid., pp. 5201-5202.
\item\textsuperscript{21}Ibid., p. 5206.
\end{itemize}
which provided for consideration of the bill and had found that "136 Republicans voted for the rule and only 9 against it. I think that is ample evidence of our desire to consider this legislation and to act properly upon it," he said.

Conservatives from both parties were nearly successful in an attempt to emasculate the bill for all practical purposes. Representative Hamer Budge (R., Idaho) offered an amendment on March 18 which would have limited the voting rights section to only federal elections. McCulloch was strongly opposed to this move and urged Republicans not to support the amendment. He said, "... I object to and oppose the amendment offered by my good friend from Idaho, and I think it is sufficient to say that my opposition comes from the 15th Amendment ... ."

On March 18 the amendment was narrowly rejected by a vote of 134-137. Southern Democrats voted nearly unanimously for the amendment, while about half of the Republicans voted for it.

Representative Meader (R., Mich.) on March 18 offered another amendment designed to weaken the bill; and, once again, McCulloch came to the defense of the bill and urged his fellow Republicans to vote against the amendment. Meader's amendment would have granted discretion to judges as to whether or not

22Ibid.
23Ibid., p. 6024.
24Ibid.
25Ibid., p. 6027.
the referees chosen by the judges should be told how to proceed. McCulloch said,

... I am of the opinion that the amendment serves no useful purpose in this bill and would slow the proceedings immeasurably, make it difficult if not impossible for people who are otherwise qualified to vote and who have been denied the right to vote by reason of race or color upon their application to do so.26

The Meader amendment was rejected by a vote of 91-119 the same day that McCulloch urged its defeat.27

McCulloch did have to make some concessions so the House conservatives from both parties would support the bill. He sponsored an amendment by which a Negro would have to prove he was discriminated against by a state registrar after a court found that a pattern of discrimination existed. Another concession specified that a judge could not direct the referee to oversee ballot counting to ascertain whether the ballots of court-qualified Negroes were counted. On the other hand, McCulloch also helped to strengthen the voting section of the bill to some extent. He and Emanuel Celler (D., N. Y.) sponsored an amendment by which court-appointed referees could help Negroes register and vote when the court found a "pattern or practice" of discrimination. This amendment passed on March 23 by a vote of 295-124. Democrats voting for the amendment numbered 172, and 100 voted against it. The Republican

26Ibid., p. 6016.

27Ibid., p. 6027.
vote was 123 for it and only 24 against it.28 This amendment only slightly modified the original Administration proposal for court-appointed voting referees.

The House bill (HR 8601) was passed on March 24 by a vote of 311-109. The vote count revealed that 94 Democrats voted against the bill and that 179 voted for it. Also, 132 Republicans voted for the bill; and only 15 voted against it.29 McCulloch had been very instrumental in the passage of this bill. He would have preferred a stronger bill but felt that the House version was meaningful enough; and, most important, it stood a very good chance of being enacted into law, especially if Dirksen could muster enough Republican support in the Senate.

The bill passed by the House (HR 8601) provided criminal penalties for obstruction of court orders in school desegregation cases. Criminal penalties were provided for fleeing from one state to another in order to avoid prosecution for destroying any building, not just church or school buildings as was originally proposed by the Administration. State officials were required to retain federal election records for two years, instead of three as had been proposed by the Administration, and make them available to the Attorney General. Included in the bill was a provision for federally subsidized education for children of military personnel in areas where local schools had been closed to avoid desegregation. The House bill did not

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28 Ibid., p. 6401.
29 Ibid., p. 6513.
include the original Administration provision which would have aided areas that were desegregating schools or another which would have established a Commission on Equal Job Opportunity.\textsuperscript{30}

The voting referee plan, very similar to that proposed by the Administration, was included in the bill. This plan stipulated that the Attorney General, after winning a civil suit brought under the 1957 Civil Rights Act, could ask a court to hold an adversary proceeding to determine if there was a "pattern or practice" of depriving Negroes of the right to vote in the areas involved in the suit. The voting referee plan provided for the provisional acceptance of ballots cast by persons who had applied for registration to a voting referee, who was a qualified voter in the judicial district appointed by the court, twenty or more days before an election and whose application had been challenged and was still pending. If the application had been filed less than twenty days before the election, the applicant could be permitted to vote at the discretion of the court. The referee could have some power to supervise voting and ballot counting. A Negro's appearance before a voting referee was to be \textit{ex parte} (without cross-examination by opponents). The bill required that a Negro seeking the protection of a federal referee would have to prove he had been turned away by a state registration official, but the voting referee plan did apply to all elections.\textsuperscript{31}

\begin{footnotes}
\item[30]Berman, \textit{A Bill Becomes A Law}, p. 95.
\end{footnotes}
Because it seemed that a filibuster could not be broken in the Senate, the Senators abandoned their bills and took up action on the House-passed bill (HR 8601), which it was hoped would not be filibustered. Senate liberals were hoping to strengthen the bill by the passage of various amendments. Senator Javits (R., N. Y.), a staunch civil rights advocate, had offered an amendment to establish a permanent Commission on Equal Job Opportunity. Dirksen was of the opinion that the passage of the amendment would weaken the bill's chances of passage, so he proposed a motion to table the Javits amendment. The Dirksen motion passed the Senate on April 1 by a vote of 48-38. Senate Democrats were evenly divided on the vote 27-27. Twenty-one Republicans voted for the motion, and eleven voted against it.32

Senator Javits, determined in his efforts to strengthen the bill, proposed an amendment which would have allowed the Attorney General to enter private suits for school desegregation. Once again Dirksen was successful in thwarting the efforts of Senator Javits. Dirksen proposed a motion to table the Javits amendment and was successful in doing so by a vote of 56-34 on April 4. Democrats voted 33-23 in favor of the Dirksen motion, and Republicans voted 23-11 in favor of it.33

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32 Congressional Record, CVI, 7166.
33 Ibid., p. 7225.
By April 8 Dirksen was confident that the House version had been modified to such an extent that Senate passage was almost certain. On April 8, the day of the Senate passage of the bill, Dirksen said, "I have high regard for our state-federal relationship, so I like to see caution exercised, as I think it was exercised in this long discussion . . . . What we have now wrought is a moderate bill, and yet it represents a significant forward step." Later the same day the Senate passed the modified version of the House's Civil Rights Act of 1960 by a vote of 71-18. All eighteen votes cast in opposition to the measure were cast by Southern Democrats.

Two sections of the Administration bill had been broadened in the Senate. The Senate permitted the Federal Government to prosecute the bombing or burning of any kind of building or vehicle, whereas the original Administration proposal had dealt only with the destruction of churches and schools. The original Administration proposal would have made it a federal crime to obstruct the carrying out of court orders for school desegregation, but the Senate broadened the court order provision to apply to the obstruction of any kind of court order. The result of these two changes made by the Senate was that the bill (HR 8601) was more general in nature and less obviously directed at racial incidents in the South.

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34Ibid., p. 7807.
Liberals unsuccessfully tried to add two of the original Administration proposals that were strongly opposed by Southerners. The bill passed by the House did not include either of these proposals. One of the proposals would have established a permanent Commission on Equal Job Opportunity Under Government Contracts, whose function would have been to investigate and attempt to eliminate racial discrimination in companies working under government contracts. The provision which would have provided federal assistance to schools going through desegregation was also eliminated. This provision would also have put the Federal Government on record as endorsing the Supreme Court's 1954 school desegregation decision.37

The Senate version of HR 8601 differed from the House version in that the Senate version made it a federal crime to obstruct any court orders. The Senate version required state officials to preserve election records for only twenty-two months instead of two years as the House version called for. The Senate would allow Justice Department officials to examine election records only at the place where they were regularly stored. The House version would have allowed the Attorney General to transport the documents elsewhere. The Senate eliminated the House-passed provision that would make it a federal offense to threaten a bombing or initiate a false bomb scare.38 The Senate version included the voting referee

37Ibid., p. 47.

38Berman, A Bill Becomes A Law, p. 102.
plan, but it had been modified because of a successful Dirksen amendment which provided that courts allow Negroes to vote provisionally, only if the applicants were qualified to vote under state law. The amendment passed on April 7 by a vote of 79-12. Democrats voted 52-8 for the amendment, and Republicans voted 27-4 for it.  

After the Senate had modified the House version, the bill went back to the House of Representatives. House Minority Leader Halleck had played his role quietly, for the most part, and had done most of his work behind the scenes, although he had previously endorsed the civil rights bill several times. On April 21, the day the House gave its approval to the Senate's amendments of HR 8601, thus sending the bill to the President, Halleck took an active and visible role urging the House to approve the bill. Calling it a "memorable day," he said,

_We have taken a decisive step toward protecting and furthering the civil rights of all our citizens . . . . Naturally the bill does not satisfy everyone. For some it goes too far. For others it does not go far enough . . . . But I believe that this bill basically represents the wishes of the American people in this year 1960._

The House approved the Senate amendments by a vote of 288-95. Eighty-three Democrats voted against the bill, but 165 voted for it. The Republicans voted greatly in favor of the bill by a vote of 123-12.

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39 Congressional Quarterly Service, Revolution, p. 35.
40 Congressional Record, CVI, 8499.
41 Ibid., p. 8507.
Some Southern Democrats were not very complimentary of the bill. Representative William H. Colmer (D., Miss.), in alluding to the joint efforts by the leadership of both parties for passage of the bill, said on April 21,

A lot of effort has been made on this side to call it a Democratic bill, on that side a Republican bill . . . . Someone wants to call it the Celler-McCulloch bill. Somebody else wants to call it the McCulloch-Celler bill; the Democratic bill, the Republican bill. Why not call it just what it is? The 1960 election bill, a bid for the minority bloc vote.42

Reaction to the passage of the Civil Rights Act of 1960 was mixed. Some Southerners said the act was punitive in nature and victimized the South, but several Southern civil rights opponents said the act was one they could "live with." In a newsletter which Senator Strom Thurmond (D., S. C.) sent to his constituents, he wrote that the act indicated "a pattern of defeat for the NAACP and its spokesmen."43 Senator John L. McClellan (D., Ark.) asserted on April 8 that the "far more odious and obnoxious proposals" had been defeated; and he also said, "We have repelled . . . vicious assaults on the rights and liberties of our people."44

Ardent civil rights advocates were not so kind. Senator Joseph S. Clark said that the civil rights bloc had "suffered

42Ibid., p. 8499.
44Congressional Record, CVI, 7763.
a crushing defeat" and that the bill was "only a pale ghost of our hopes." Roy Wilkins, the executive secretary of the NAACP, stated that the bill "makes it harder and not easier for Negroes to vote" and that "the Negro has to pass more check points and more officials than he would if he were trying to get the United States gold reserves in Fort Knox. It's a fraud."46

On May 6, 1960, the bill was signed into law by President Eisenhower.47

Title I of the Civil Rights Act of 1960 (HR 8601) provided that those who interfered with or obstructed any order issued by a federal court, or attempted to do so, by force or threat, could be punished by a fine of up to $1,000.48

Title II made it a federal crime to cross state lines to avoid prosecution or punishment for the bombing or burning of any building, facility, or vehicle, or to attempt to do so. The punishment could be a fine of up to $5,000, imprisonment of up to five years, or both.49

Title III required that voting records and registration papers for all federal elections, including primaries, must be

47Congressional Quarterly Service, Revolution, p. 33.
48Congressional Record, CVI, 7811-7813.
49Ibid.
preserved for twenty-two months. If the voting records should be stolen or destroyed, the penalty could be a fine of up to $1,000 and/or imprisonment for one year. The records upon written application were to be turned over to the Attorney General. 50

Title IV empowered the Civil Rights Commission to administer oaths and take sworn statements. 51

Title V stated that arrangements could be made to provide for the education of children of members of the armed forces when the schools they regularly attended had been closed to avoid integration and the U. S. Commissioner of Education had decided that no other educational agency would provide for their schooling. 52

Title VI provided that after the Attorney General won a civil suit brought under the 1957 Civil Rights Act to protect Negroes' right to vote he could ask the court to hold another adversary proceeding and make a separate finding that there was a "pattern or practice" of depriving Negroes of the right to vote in the area involved in the suit. 53

If a Negro was discriminated against on matters concerning voting, he could go to a court in that area and ask the court

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50 Ibid.
51 Ibid.
52 Ibid.
53 Ibid.
to declare him qualified to vote; and it could do so. State officials would be notified of the order and could be ordered to permit the person to vote. The court could appoint one or more voting referees who were qualified voters in the judicial district to carry out the provisions. 54

The court would not be limited in its powers to enforce its decree that Negroes be allowed to vote and their votes be counted, and it could authorize the referees to take action to enforce the decree. Also, the state was held responsible for the actions of its officials; and, in certain instances, the state itself could be sued. 55

In 1960 the most extensive civil rights legislation of the twentieth century, up to that date, was passed. The bill enacted in 1960 was based on Administration proposals, but the original bill had to be weakened in order to ensure its passage. The bill was first weakened in the House; next, it was somewhat weakened in the Senate. Then, the House approved the Senate version. Senator Dirksen helped make possible Senate passage of the bill because of his successful efforts to weaken it to the extent that it would receive the sufficient number of votes required for Senate passage. Minority Leader Halleck and Representative McCulloch, the leading Republican on the House Judiciary Committee, were successful in weakening the measure to such an extent that it could be passed by the House of Representatives.

54 Ibid.
55 Ibid.
Reality dictated that at that time a strong civil rights measure could not be passed because of the temperament of the times and the ideological persuasion of the majority of those in Congress. Even though that was the case, Republican congressional leaders did press for the enactment of some type of civil rights legislation. It is true that it was a relatively weak piece of legislation; but, even at that, it was the strongest civil rights legislation of the twentieth century up to that time. Perhaps Dirksen best summed up the realities of the times when he said, "When one cannot get a whole loaf, one gets whatever bread he can."\(^56\) A brief time later that same day he implied that eventually the legislation could be strengthened so as to make it more pleasing to the more ardent civil rights advocates by saying that "if he is impelled by conviction, he undertakes to get the rest of the loaf."\(^57\) Although the legislation was weaker than most civil rights advocates had hoped for, it did strengthen the hand of the federal government in enabling Negroes to vote.

The Congress that passed the 1960 civil rights legislation, the Eighty-sixth Congress, witnessed the efforts of Republican leaders working toward civil rights reforms. These leaders solicited support of a civil rights bill. The Civil Rights Act of 1960 might possibly have come into existence without the

\(^{56}\)\textit{Congressional Record, CVI, 16009.}  
\(^{57}\)\textit{Ibid.}
solicited Republican votes of approval that united with Democratic votes of approval, but the support mustered by House Minority Leader Halleck, Representative McCulloch, and Senate Minority Leader Dirksen added to the probability that controversial civil rights proposals would be enacted into law.
CHAPTER III
CIVIL RIGHTS ACT OF 1964

President Kennedy sent to Congress a draft of the Civil Rights Act of 1963 on June 19, 1963. Various means of eliminating discrimination against Negroes were proposed. The President's message to Congress said that every American had a "right to vote, to go to school, to get a job and to be served in a public place without arbitrary discrimination."\(^1\) The draft bill included provisions that would "secure the right of all citizens to the full enjoyment of all facilities which are open to the general public,"\(^2\) permit federal initiation of public school desegregation suits whenever such intervention was fairly requested by someone who was otherwise unable to sue, greatly increase federal aid to education, extend the anti-bias injunction to federal or federally-aided construction projects and implement it throughout all federal activities, establish a Community Relations Service, and make into law a provision according to which the federal government would not be required to furnish any financial assistance to any program or activity in which there was racial discrimination.\(^3\)

\(^2\)Ibid.
\(^3\)Ibid.
On June 19, 1963, Dirksen, acting in concert with Senate Democratic leader Mike Mansfield (D., Mont.), introduced legislation to enforce the right to vote, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Commission on Equal Employment Opportunity, and to prevent discrimination in federally assisted programs.⁴ Although Dirksen did favor the enactment of rights legislation, he wanted the Senate to follow a moderate course. He said the bill needed "the most careful scrutiny."⁵ He went on to say, "This bill is going to remake the social pattern of this country; . . . nobody should be fooled on that score."⁶

Republican support for the rights legislation was considered to be essential in order to obtain a two-thirds vote in the Senate to break the expected Southern Democratic filibuster, but many Republicans had deep misgivings about sections of the bill. Senate Minority Leader Dirksen said that he could support all of the Administration proposals except the public accommodations section. Regarding public accommodations, he said, on June 19, 1963, "... I do not believe it would be enforceable; second I think it would contravene the Constitution and would be an invasion of private rights."⁷ Dirksen opposed a public accommodations section.

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⁴Congressional Record, CIX, 88th Congress, 1st Session (Washington, 1963), 11084.


⁶Ibid.

⁷Congressional Record, CIX, 11076.
accommodations section until 1964. At that time his stance changed from opposition to support of this issue.

Civil rights advocates, assuming that most House GOP members were anti-civil rights, criticized the party. For example, Roy Wilkins of the NAACP said, in 1963, that only twelve House Republicans could be depended upon to support the public accommodations section. Actually, there was no need for Wilkins to be so apprehensive, because later, in 1964, 138 of the 177 House Republicans voted for a bill including such a section; and this was a much higher percentage of Republicans than Democrats supporting public accommodations.

During the summer of 1963, the House Judiciary Subcommittee drafted a bill which went far beyond the scope of the Administration's proposals. This bill contained a public accommodations section which was very comprehensive in scope, and its provisions would have given the Justice Department almost unlimited powers in filing suits to stop deprivations of civil rights. Those strongly in favor of new rights legislation feared that the Subcommittee proposals were so strong that the chances of enacting civil rights legislation could be seriously damaged. Attorney General Robert F. Kennedy appeared before the full Judiciary Committee and asked for a milder bill. Civil rights advocates


9Congressional Record, CX, 88th Congress, 2nd Session (Washington, 1964), 2804.
were well aware that it might prove difficult to obtain the essential Republican support unless a milder bill was supported. 10

Once again the leaders of the minority party went into action to weaken the civil rights proposals so that civil rights legislation would stand a chance of passing. A new bill was fashioned by McCulloch, Halleck, and other House Republicans acting with Administration officials. The new proposals made by the Republican leaders acting in concert with Administration officials strengthened the bill in some ways and weakened it in some ways.

The new bill's strengthening provisions would eliminate the temporary voting register formula in favor of special three-judge federal courts and would make the Civil Rights Commission a permanent body. The Commission would have the power to investigate vote frauds. Although these provisions would somewhat strengthen the bill, other provisions would make the bill much milder. The fair employment section would be enforced by court rather than administrative decisions, and the power of the Justice Department to file civil rights suits would be greatly limited. 11

President Kennedy and others praised the new proposals and said that they greatly enhanced the bill's chances of passage.

11 Ibid., pp. 39-41.
Attorney General Kennedy said that without the efforts and support put forth by Halleck and McCulloch "the possibility of civil rights legislation in Congress would have been remote." He went on to say the new bill was a "better bill than the Administration's in dealing with the problems facing the nation." 

Toward the end of 1963, the compromise bill was pigeonholed in the House Rules Committee, where chairman Howard Smith (D., Va.) was doing all he could to oppose the legislation. On December 5 Smith promised that hearings on the bill could be held sometime in January. That same day House Minority Leader Halleck announced that he would work vigorously for the bill. On January 30, 1964, the House Rules Committee voted 11-4 to clear the bill for House debate and voting. All five Republicans on the Committee voted for the bill; the only opposition came from Southern Democrats.

Realizing that they could defeat the civil rights bill only if Republicans gave them considerable support, Southern Democrats expressed dismay that McCulloch was vigorously supporting civil rights legislation. On February 3 Representative Whitton (D., Miss.) said,

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12Ibid., p. 41.
13Ibid.
14Sobel, Civil Rights, p. 178.
15Congressional Quarterly Service, Revolution, p. 42.
... we live in a political world. I was shocked when
I heard my friend Bill McCulloch, the Republican minority
leader, admit that he authored this bill. Mr. Chairman,
many folks had looked to the Republicans for some sem-
blance of protection from an all-powerful Federal

McCulloch, the ranking minority member of the Republican
rights force, was successful in "persuading the overwhelming
majority of House Republicans to support the bill."  
McCulloch worked in close concert with Halleck and kept him well informed,
and in return he received Halleck's general support. From time
to time, Halleck spoke out in favor of the bill and urged Repub-
licans to support it; but he left most of the work to McCulloch.

The actual House floor debate lasted from January 31 to
February 10. On the opening day of the debate, McCulloch per-
suasively stated his reasons for supporting the bill. He said
on January 31 that

... not force nor fear, ... but the belief in the
inherent equality of man induces me to support this
legislation ... . No one would suggest that the Negro
receives equality of treatment and opportunity in many
fields of activity today ... . Hundreds of thousands of
citizens are denied the basic right to vote. Thousands of
school districts remain segregated. Decent hotel and eat-
ing accommodations frequently lie hundreds of miles apart
for the Negro traveler ... . These and many more such
conditions point the way toward the need for additional
legislation ... . This bill is comprehensive in scope,
yet moderate in application. It is hedged about with ef-
fective administrative and legal safeguards.  

16Congressional Record, CX, 1684.
17Congressional Quarterly Service, Revolution, p. 46.
18Ibid.
19Congressional Record, CX, 1529.
On that same day, McCulloch attested to the constitutionality of the bill in order to relieve the fears of some of his conservative brethren; and he told why he favored this "moderate" legislation. He said,

A sincere effort has been made to eliminate from the bill all provisions which improperly invade personal liberty and the rights of States and other political subdivisions. The bill before you is basically a good bill and a bill that faces a pressing need for enactment. Where, then, individuals, or governmental authorities, fail to shoulder their obligations, and only stress their rights, it is the duty of Congress, under constitutional authority, to correct that wrong. The constitutionality of certain titles of this bill has been questioned. Whether or not we all concur in the evolution of the law as it has developed at every step, I am of the opinion that the Constitution, as presently interpreted by the courts, supports each title. The reason for moderation and necessary safeguards is obvious. Those of us supporting HR 7152, as amended, are desirous of presenting legislation which stands a good chance of enactment. Reality is what we live by and solid accomplishment is what we seek.

By a vote of 290-130, the House passed an amended version of HR 7152 on February 10. Of the 256 House Democrats, 152 voted in favor and 96 against. Of the 177 Republicans, 138 voted for the bill and 34 against. This means that only 59 per cent of the House Democrats favored the bill but 78 per cent of the House Republicans favored it. The bipartisan coalition leadership, McCulloch, Halleck, and Celler, had held firm; and no major changes had been inserted into the bill. Not a single amendment opposed by them was adopted.

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20 Congressional Record, CX, 1529-1530.
21 Ibid., p. 2804.
Only 28 of the 122 proposed amendments were accepted, and most of those accepted were technical in nature. Only once did the Republican House leaders threaten to cease support of the bill. On February 7 Representative Oren Harris (D., Ark.) offered an amendment which would have cut back Title VI, the title requiring an end to discrimination in all federally financed programs. House Democratic Whip Hale Boggs (D., La.) supported the Harris amendment. Republicans were suspicious that this might be the first of attempts to weaken the bill so that it could escape an expected filibuster in the Senate by Southern Democrats. When McCulloch heard about the Harris amendment and Boggs' support of it, he said that if the amendment passed his "individual support of the legislation" would "come to an end." McCulloch expressed the fear several times that he might be putting House Republicans on the spot by obtaining their support for the controversial legislation only to see the measure "traded away" in the Senate or by House Democrats hoping to avert a Senate filibuster. After McCulloch's statement Celler assured McCulloch that most Democrats opposed the amendment. The amendment was then defeated by a vote of 80-206.

22Ibid., p. 2488.
23Ibid., p. 2489.
24Ibid., p. 2492.
26Congressional Record, CX, 2492.
27Ibid., p. 2802.
On the day of the House passage of the bill, both Halleck and McCulloch received considerable praise for their successful efforts to obtain so much Republican support for the bill.

Representative Corman (D., Calif.) said,

The credit for this great accomplishment must go to Chairman Emanuel Celler and the ranking minority Member, Mr. William McCulloch. Throughout the consideration of this bill by the Judiciary Committee and by the House, it has been their joint efforts that have produced our success. . . . their brilliant leadership has defeated every attempt to weaken or destroy the effectiveness of the bill.  

Among others praising Halleck was Representative Cahill (R., N. J.) who said,

. . . the minority leader, the gentleman from Indiana, Mr. Halleck, courageously withstood the criticisms of many opposed to civil rights. These people urged him to support the more liberal subcommittee bill knowing that it would be defeated and that it could not pass this House of Representatives or the other body.

He chose to do the statesmanlike thing. He chose to ignore politics and to do what was the right thing and he chose, therefore, to oppose the subcommittee bill and support the bill presently before the House.

Therefore in my judgment, if an effective civil rights bill is enacted in this Congress, it will be because both major political parties and men of good will in the leadership of both parties wanted it. It is indeed and truly a bipartisan achievement and Robert Kennedy and the gentleman from Indiana, Charles Halleck, deserve the major portion of the credit.

Halleck and McCulloch were condemned by civil rights opponents for supporting the measure. They were under attack by both the right and the left. The right wing Congressmen

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28Ibid., p. 2802.
29Ibid., p. 1626.
criticized them for supporting the measure, and the left wing criticized them for not supporting stronger legislation.

McCulloch and Halleck had staked out a middle course in the hope that "moderate" but effective legislation could be adopted.

Conservatives . . . criticized Halleck for lending his support to the bipartisan coalition implementing civil rights legislation. On the day the civil rights bill was reported out of the Judiciary Committee, a black furled umbrella, symbol of appeasement, was placed on the Minority Leader's table on the floor of the House. 30

After House passage the Senate, on February 26 and by a vote of 54-37, placed HR 7152 directly on the Senate calendar rather than referring it to the Senate Judiciary Committee, headed by Senator James Eastland (D., Miss.), where Southern Democrats could have bottled up the bill. Republicans cast 20 votes in favor of placing the bill directly on the Senate calendar, as did 34 Democrats. Only 8 Republicans joined 29 Democrats in opposing the move. 31

Democratic leaders were well aware that a filibuster would ensue and that "Dirksen was the pivotal man who made the difference between cloture and no cloture. Without cloture, the leadership would have had to make major concessions to win any bill at all." 32 Dirksen had previously indicated that he

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31 Congressional Record, CX, 3719.

favored amending several portions of HR 7152, and civil rights advocates gave him considerable leeway because they were aware that he could weaken the measure to such an extent that he could persuade conservative Republicans to support cloture and final passage of the bill.\textsuperscript{33}

The Senate on March 26, by a vote of 67-17, voted to formally take up consideration of the House-passed measure. All 26 Republicans voting favored taking up consideration of the measure. All 17 of the nay votes were cast by Southern Democrats.\textsuperscript{34}

Dirksen, hoping that a civil rights bill could be passed, worked up a series of amendments which would weaken the measure to a small degree but would help in gaining more conservative Republican support. On April 16 Dirksen offered ten Title VII (fair employment section) amendments to the Senate. One of the amendments would forbid interested organizations from bringing charges of unlawful employment practices; only an aggrieved person or a member of the Employment Commission could bring the charges. Another of the amendments would exempt from the section permitting the EEOC to require full records on employment practices all employers in states that have fair employment practice laws and all Government contractors subject to the 1961 executive

\textsuperscript{33}Ibid.

\textsuperscript{34}Congressional Record, CX, 6417.
order on fair employment. These were the most important of
Dirksen's ten amendments. These amendments would be included
in a substitute bill to be introduced later. When Dirksen sub-
mitted the amendments, he explained that he had consulted with
many people who, as he, opposed several portions of the bill
but still wanted a fair and effective measure passed. He told
the Senators,

... I found most of the people who have come to consult
with me, and who would be widely affected by this measure,
hostile to the civil rights bill. They began by stating
that they would like to see a civil rights bill, but they
wish it to be sound and practical. They wish it to be
workable and, quite naturally, out of an abundance of their
experience, they seek the enactment of a measure that will
be fair ... . I do not believe that these amendments
which will be submitted directly would impair, weaken, or
emasculate the pending measure. They are not so designed
and they are not so inspired.36

In the meantime Dirksen and Mansfield, on April 24, offered
an amendment which would limit the sentence for criminal con-
tempt under any section of the bill to thirty days in prison or
a $300 fine unless the defendant had a jury trial. This amend-
ment was proposed as an alternative to an amendment proposed by
Senator Talmadge (D., Ga.) which would have entitled defendants
in any criminal contempt case, not just those arising under the
bill, to a trial by jury. The Talmadge amendment would have
greatly weakened the bill. After much heated debate, the Dirksen-
Mansfield jury trial amendment passed.37

35 Congressional Record, CX, 8193-8195.
36 Ibid., p. 8192.
37 Ibid., p. 9023.
Dirksen, acting with Democratic leaders and the Justice Department, worked out a series of some seventy amendments to the civil rights bill.

Only a small percentage of the 70-odd changes affected the original intent of the House-passed bill. The chief purpose of the amendments was to pick up the needed votes from conservative Republicans to produce the two-thirds majority to end the filibuster.38

To a small degree, Dirksen's amendments did weaken the civil rights bill. Because of one of Dirksen's amendments, "if there were a local public-accommodation law, an individual could not file a federal suit until thirty days after he had notified local officials of his complaint."39 Also due to a Dirksen amendment, in many instances "the Attorney General could not institute such suits for individuals. He could ask the court, however, to intervene in such cases."40 According to one of his amendments, an entire state could not be shut off of all federal programs if only a particular city discriminated. His amendments extended coverage to federal employment and union hiring halls, but Indian reservations were exempt from coverage.41

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40 Ibid.
41 Ibid., p. 316.
It was Dirksen's judgment that these amendments would make the bill palatable to enough Senators to bring the debate to a close. This "judgment proved correct." On May 26 the substitute for HR 7152 was introduced in the Senate. This measure contained Dirksen's numerous amendments. Also on May 26 Dirksen sought to reassure civil rights zealots that these amendments did not greatly weaken the legislation or dilute its effectiveness. He said,

... one might have been inclined to assume that we approached the task with the idea of watering down the bill; but we had no such intention. It has been said by some that we sought to weaken the bill structurally. But, ... we had no such intention. We had the fixed purpose and the fixed goal of arriving at a workable measure in every one of its titles. ... it has been wholly our purpose to make this measure a fair and workable one.

Dirksen went on to say,

We have now reached the point where there must be action; and I trust that there will be action. I believe this is a salable piece of work; one that is infinitely better than what came to us from the House. I doubt very much whether in my whole legislative lifetime any measure has received so much meticulous attention.

The Senate Minority Leader's statements brought forth much praise from civil rights advocates on May 26. Senator Jacob Javits (R., N. Y.) said that because of Dirksen's efforts "no title has been emasculated; and ... the fundamental structure


43 Congressional Record, CX, 11926-11935.

44 Ibid., p. 11936.

of the bill remains." Senator Hubert Humphrey (D., Minn.) said that Dirksen's efforts had "strengthened the responsibility for community action." Humphrey then went on to say "... I wish to join the distinguished majority leader in commending the distinguished minority leader on his statesmanship, his cooperation, and his diligence in this effort to bring before the Senate a constructive and workable piece of legislation." At a press conference, President Johnson said that he had been pleased with the House-passed version but that the Administration lawyers were of the opinion that the amendments were generally "helpful" and "acceptable."

Southern Democrats were not so generous in their remarks about Dirksen and his work. Senator Richard Russell (D., Ga.) said, on May 26, that the Dirksen amendments made the bill "purely sectional" and he would not add "bouquets to the praise" that covered Dirksen.

Some of the more conservatively inclined Republican Senators were not overly impressed with Dirksen's work on the civil rights bill. Senator Cotton (R., N. H.) said that the Republican meetings concerning the civil rights bill were "a farce," because

46 Ibid., p. 11936.
47 Ibid.
48 Ibid.
49 Congressional Quarterly Service, Congressional Quarterly Almanac, XX, 365.
50 Congressional Record, CX, 11943.
"when you offer an amendment that goes to the essence of the bill, they tell you that the Attorney General frankly doesn't approve." He complained that most of the amendments were technical or clarifying in nature and had no real effect on the bill. Conservative Republicans said they wanted their amendments to the measure discussed and voted on so they would better know how to vote on cloture. Senator Karl Mundt (R., S. D.) told reporters,

> We went to the leaders and told them we had the controlling votes for cloture and that we were insisting on these votes before we consider cloture . . . . We represent the mainstream of thinking in the party and we were getting tired of deals made by our leaders with Bobby Kennedy.

On June 8 Dirksen and Mansfield filed a cloture petition to shut off the filibuster by Southern Democrats. The same day the Senate voted cloture, June 10, Dirksen said that a "moral issue" was involved, and he quoted a line by Victor Hugo: "Stronger than all the armies is an idea whose time has come." Taking his cue from Hugo, he said, "This is an idea whose time has come. It will not be stayed. It will not be denied." For the first time in history, the Senate voted cloture on a civil rights

52 Ibid.
53 Ibid., p. 63.
54 Congressional Record, CX, 12922.
55 Ibid., p. 13319.
56 Ibid., p. 13320.
filibuster; it did this by a vote of 71-29. Democrats cast 44 votes for cloture, and 23 voted against the move. Republicans cast 27 votes for cloture, and only 6 voted against it. Many conservative Republicans who had expressed reservations about the bill, such as Mundt, Cotton, and Hickenlooper, followed Dirksen's lead and voted for cloture.57

Dirksen was instrumental in persuading Republican Senators not to emasculate the bill with amendments which would seriously weaken it. On June 9 the Senate rejected an amendment by Senator Sam Ervin (D., N. C.), which would have deleted Title VII (fair employment section), by a vote of 33-64.58 Dirksen urged that Title VII be retained and said that to delete it would "leave a gaping hole" in the bill.59 Democrats voted 21-44 against the Ervin amendment. Republicans voted against Ervin's amendment by a vote of 12-20.60 Next, on June 10, an amendment by Senator Gore (D., Tenn.), which would have deleted Title VI (section permitting cutoff of federal funds), was rejected by a vote of 25-69. Democrats cast 21 votes for the amendment and 42 against. Only 4 Republicans supported the amendment, and 27 opposed it.61

Another amendment offered by Senator Ervin (D., N. C.), which would have deleted Title I (voting rights section), was

57 Ibid., p. 13327.
58 Ibid., p. 13085.
59 Ibid., p. 12922.
60 Ibid., p. 13085.
61 Ibid., p. 13418.
defeated by a vote of 16-69 on June 13. Not one Republican voted in favor of this amendment.\textsuperscript{62}

On June 15 Senator Byrd (D., W. Va.) offered an amendment which would have deleted Title II (public accommodations section). His amendment failed by a vote of 23-63. Democrats cast 18 votes in favor of the amendment and 38 against it. Only 5 Republicans favored the amendment, and 25 opposed it. Several Republicans who had previously voiced reservations about this title followed the minority party leadership and cast votes in favor of retaining the title.\textsuperscript{63}

The defeat of an amendment by Senator Thurmond (D., S. C.) occurred on June 16 by a vote of 15-74. Thurmond's amendment would have crippled Title IV (desegregation of schools section) by deleting the part which gave the Attorney General authority to file desegregation suits. Not a single Republican voted in favor of this amendment.\textsuperscript{64} That same day Senator Ervin offered another amendment which would have deleted one of the bill's titles. This amendment, which would have deleted Title X (Community Relations Service section), lost by a vote of 16-69. Only one Republican voted for the amendment.\textsuperscript{65}

June 17 was the date on which Senator Thurmond offered another amendment to the bill. This amendment would have

\textsuperscript{62}Ibid., p. 13722.
\textsuperscript{63}Ibid., p. 13819.
\textsuperscript{64}Ibid., p. 13926.
\textsuperscript{65}Ibid., p. 13940.
deleted Title VIII (statistics on registration and voting section); it failed by a vote of 19-74. Only two Republicans voted for the amendment.66

Also on June 17, the Senate by a vote of 76-18 adopted the substitute bill worked up by Senators Dirksen and Mansfield. All 18 votes opposing the substitute bill which replaced the House-passed measure were cast by Democrats.67

The substitute bill was more acceptable to Republicans than the House-passed measure. The major differences were that it placed more specific authority in local agencies to work out problems of discrimination in public accommodations and employment; it authorized the Attorney General to sue only against patterns or practices of discrimination in these fields, and set out procedures for individuals to sue on their own behalf. It placed more emphasis on conciliatory efforts by two new Government agencies—the Community Relations Service and the EEOC.68

Dirksen on June 10 told the Senate he had long favored civil rights legislation but that the substitute measure should replace the House-passed measure because it was "imperfect" and "deficient." He explained to the Senators,

I am no Johnnie-come-lately in this field. Thirty years ago, in the House of Representatives, I voted on antipoll tax and antilynching measures. Since then, I have sponsored or cosponsored scores of bills dealing with civil rights . . . . At the outset, I contended that the House bill was imperfect and deficient. That fact is now generally conceded.69

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66 Congressional Record, CX, 14222.
67 Ibid., p. 14239.
68 Congressional Quarterly Service, Civil Rights Reviewing Acts, p. 66.
69 Congressional Record, CX, 13319.
Dirksen on June 19 told the Senators several reasons why the bill should be passed. He also challenged the accuracy of statements by several opponents of the bill that it was unconstitutional. Citing earlier measures which had also been called unconstitutional, such as food and drug laws, wage and hour laws, social security, etc., he said that, just as was the case regarding civil rights legislation, "there was latitude enough in that document [Constitution] ... to embrace within its four corners these advances for human brotherhood." Later that day, by a vote of 73-27, the Senate passed the civil rights bill. Only 6 Republicans and 21 Democrats voted against the measure.

After Senate passage the bill went back to the House for final House action. Although a large number of House Democrats were expected to oppose the bill, a larger percentage of Republicans were expected to support the bill this time because of the Dirksen amendments which had modified it. McCulloch and Celler, the main House leaders for the civil rights bill, issued a statement saying, "We will accept the Senate version ... Not all the amendments accepted by the Senate are to our liking. However, we believe that none of the amendments do serious violence to the purpose of the bill."
On July 2 McCulloch urged House members to support the Senate version of the bill. In his opinion the bill had not been seriously weakened but had been "tempered and softened by the sober judgment of the men of the other body."73 Because several Republicans had expressed misgivings about the constitutionality of the civil rights bill and had expressed fears that it would greatly enlarge the role of the federal government to the detriment of the individual, McCulloch, July 2, sought to alleviate their fears with his statement to the House. He said,

The Bill does not permit the Federal Government to transfer students among schools to create "racial balancing," . . . or to force religious schools to hire teachers they do not want, . . . to interfere with the course content or day-to-day operations of public or private schools. The Bill does authorize the Attorney General to bring civil suits to desegregate public schools where individual citizens are too poor or are afraid to bring their own suits.

The Bill does not permit the Federal Government to tell any home or apartment owner or real estate operator to whom he must sell, rent, lease, or otherwise use his real estate.

The Bill does not permit the Federal Government to interfere in a state's right to fix voter qualifications. The Bill does provide limited procedural safeguards to assure that citizens are not denied the right to vote because of their race, color, religion, or national origin.

The Bill does not permit the Federal Government to tell general retail establishments, bars, private clubs, country clubs or service establishments whom they must serve, . . . to interfere with or destroy the private property rights of individual businessmen, . . . to tell a lawyer, doctor, banker or other professional man whom

73Congressional Record, CX, 15893.
he must serve. All the Bill does is require that the
owners of places of lodging (having 5 or more rooms for
rent), eating establishments, gasoline stations and
places of entertainment are to serve all customers who
are well-behaved and who are able to pay. This require-
ment is weaker than the public accommodation laws of 32
states.

The majority of the states have enacted legislation
which is as strong or stronger than the major provisions
of the Civil Rights Bill. Nothing in the Bill interferes
with the effective enforcement of these state laws . . . .
Where the states do so, the Federal Government will have
no cause to enforce the Federal Civil Rights Law in those
states. Thus, for the Americans who do not discriminate
against their fellow citizens because of race, color or
religion, the Federal Civil Rights Bill will have no
effect on their daily lives.74

The Senate version of HR 7152 was approved by the House on
July 2 by a vote of 289-126. Democrats voting in favor of the
bill numbered 153, and 91 opposed it. Republican votes cast
favored the legislation by 136-35.75 Later that same day,
President Johnson signed the civil rights bill into law.76

The bill that became law on July 2 was the strongest civil
rights legislation that had been passed into law since Recon-
struction. This law, with its eleven titles, prohibited racial
discrimination in public accommodations and in many areas of
employment. Racial discrimination in voting was prohibited.
Statistics on registration and voting were to be kept, and
federal funds could be cut off to programs in which there was
racial discrimination. In certain instances the Attorney

74Ibid., pp. 15893-15894.
75Ibid., p. 15897.
76Congressional Quarterly Service, Civil Rights Reviewing Acts, p. 70.
General could intervene in private suits if persons alleged denial of equal protection of the laws under the Fourteenth Amendment and the Attorney General certified that the case was of "general public importance." A Community Relations Service was established to aid communities in resolving disputes related to discriminatory practices.77

In large measure the congressional leaders of the Republican Party, Halleck, McCulloch, and Dirksen, were responsible for the passage of the Civil Rights Act of 1964. Generally speaking, the Republican Party was, and is, a conservative party; and many conservative Republicans in both houses of Congress had expressed deep reservations about the bill. Even though that was the case, nearly all of the conservative Republicans in both houses followed their party leaders and supported the bill on roll-call votes. Although many congressional leaders in the Democratic Party were strong civil rights advocates, they were not successful in persuading many of their fellow party members who had expressed reservations about the civil rights bill to follow their lead and vote for the bill, as had been the case with the Republicans. In the House only about 60 per cent of the Democrats voted in favor of the legislation, whereas nearly 80 per cent of the House Republicans voted for it, even though that party is the more conservative of the two and this law greatly enlarged the role of the federal government.78

77 Congressional Record, CX, 15865-15867.
78 Ibid., p. 15897.
In the Senate 29 Republicans voted for cloture, and only 6 voted against it.\textsuperscript{79} Those favoring cloture received four more votes than were necessary for passage. Six Republican Senators who had long records of opposition to voting cloture on civil rights legislation voted for cloture for the first time. The vast majority of Democratic Senators who opposed cloture would not have changed their votes under any circumstances.

Some politicians expressed the view that the Republicans would lose national and state elections in 1964 because so many members of that party voted for the civil rights legislation. Senator Russell (D., Ga.) on May 26 expressed the view that the Republican presidential candidate, Barry Goldwater, would fail to win several Southern states because so many of his fellow party members supported the legislation.\textsuperscript{80}

It was unusual that the Republican leadership in Congress, Halleck, McCulloch, and Dirksen, who all supported Senator Goldwater in the presidential election, opposed their party's nominee on this extremely controversial issue. As columnist Robert Novak pointed out, Dirksen was the "hero of the civil rights fight and a principal author of the civil rights bill that Goldwater had opposed and denounced as unconstitutional."\textsuperscript{81}

\textsuperscript{79}Ibid., p. 13327.
\textsuperscript{80}Ibid., p. 11943.
\textsuperscript{81}Robert Novak, \textit{The Agony of the G. O. P. 1964} (New York, 1965), p. 188.
Even though many political observers were of the opinion that Republican backing of the legislation could lose the Republicans many votes in the forthcoming election, the Republican congressional leaders continued to back the legislation. There was great uncertainty about the possibility of a "white backlash" costing the Republicans many votes.82

Although the Republican party leaders had received much criticism, they continued to support the legislation. Dirksen, at a May 15 press conference, when asked about the criticism he had received, replied, "Civil rights—here is an idea whose time has come ... Let editors rave at will and let states fulminate at will ... but the time has come, and it can't be stopped."83

Senator Javits (R., N. Y.) has pointed out that many people mistakenly feel the Republican Party is anticivil rights because of its conservative leanings. He once said that the Republicans failed to "protest the Kennedy Administration's failures to make good on its promises and failed to expose the schism in the Democratic Party that made it nearly impossible for that party to give the country the needed leadership on civil rights."84 He also stated that Republicans may create an impression that the Republican Party itself is not keenly aware of its historic role as the foremost and

82Congressional Record, CX, 11945.
83Congressional Quarterly Service, Congressional Quarterly Almanac, XX, 365.
most unified advocate of civil rights in the Congress—an impression especially unfortunate since the party has within it probably the most eloquent and potent of all civil rights advocates in the Congress. 85

Senator Javits did an adequate job of explaining the rationale of his party toward the legislation:

At first, there seemed to be some tendency in the Republican House-Senate leadership to accept President Kennedy's package of civil rights legislation as the outermost limits of civil rights legislation and to seek to reduce it in size and impact by omitting the prohibition on discrimination in places of public accommodation. But as the hearings were held, the demands of the public heard, and the national interest in order and tranquility asserted itself, the Judiciary Committee of the House of Representatives, by a coalition of Democrats and Republicans, reported out a more substantial civil rights bill than the President had recommended. . . . the indispensable role Republicans such as Ohio's William M. McCulloch and New York's John V. Lindsay, with the backing of House Minority Leader Charles Halleck of Indiana, played in the House Judiciary Committee actions, and later on the House floor, demonstrated what can be accomplished if Republicans act responsibly when such opportunities arise. 86

85 Ibid., p. 227.
86 Ibid., p. 226.
CHAPTER IV

THE VOTING RIGHTS ACT OF 1965

In 1965 Congress passed a very controversial and sweeping voting rights bill. In large part Senate Minority Leader Dirksen, House Minority Leader Ford, and Congressman McCulloch, the ranking minority member on the House Judiciary Committee, were responsible for the passage of the act.

President Johnson requested a voting rights act to a televised joint session of Congress on March 15, 1965. He sent his draft version of the bill to Congress on March 17. Several people had assisted the President in drawing up the draft.1 "One of the principal drafters was Senate minority leader Everett M. Dirksen (R., Ill.)."2 This bill provided for direct federal action to enable Negroes to register and vote, whereas previous civil rights bills had provided for individual legal suits.3 The intent of the Administration bill was to strike down all restrictions to voting—Federal, State, and local—which were being used to deny Negroes the right to vote. The bill would provide for officials of the

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2 Ibid., p. 287.
federal government to register Negroes if state officials refused to do so.\(^4\) This bill also provided that the Attorney General have the power to appoint federal examiners to supervise voter registration in states where a literacy test or similar qualifying device was in force as of November 1, 1964, and where fewer than 50 per cent of voting age residents were registered or voted in the 1964 Presidential election. Another provision set stiff penalties for interfering with voter rights.\(^5\)

The catalyst for new federal action aimed at correcting voter discrimination was a series of marches, demonstrations and sit-ins. Civil rights advocates declared that several states were denying the vote to Negroes and pressed for new federal action to cure these iniquities. There were clergymen, labor union officials, members of the NAACP, and others demanding that the federal government pass a new civil rights law. "It was against this backdrop that the Administration submitted to Congress its voting rights proposals . . . ."\(^6\)

The Senate Judiciary Committee and a House Judiciary subcommittee approved broader versions of the bill than the Administration had requested. The Senate, in voting to send the Administration bill to the Senate Judiciary Committee, added instructions that the Committee report the bill no later than April 3. This tactic was employed because the Committee had

\(^{4}\text{Ibid., p. 90.}\)

\(^{5}\text{Ibid., p. 85.}\)

\(^{6}\text{Ibid., p. 84.}\)
never previously been willing to report a civil rights bill. Although many considered the Committee to be anti-civil rights, in 1965 over half of the Committee consisted of liberals who were civil rights advocates and anxious to report a bill stronger than the Administration proposals. The broader versions provided for an outright ban on state and local poll taxes. This ban on poll taxes was opposed by both Dirksen and Mansfield as being unconstitutional. On April 30 Dirksen and Mansfield introduced a substitute bill which would eliminate the poll-tax ban.

It was this bill, proposed by Dirksen and Mansfield, which was eventually passed by the Senate instead of the bill reported by the Senate Judiciary Committee. The Dirksen-Mansfield substitute bill did not call for elimination of the poll tax. The bill did provide that the Attorney General seek federal court orders against discriminatory poll taxes. This bill was essentially the same as that originally proposed by the Administration. Since both Dirksen and Mansfield had been instrumental in drafting the original Administration proposal, it was not surprising that their substitute bill was very similar in nature to the Administration bill as first proposed. The main purpose of the substitute bill was to eliminate the poll-tax ban which had been inserted into the Administration bill by the Senate Judiciary Committee.

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7Ibid., p. 85.
8Sobel, Civil Rights, p. 288.
9Congressional Record, CXI, 89th Congress, 1st Session (Washington, 1965), 9072.
Committee. On May 11, by a vote of 49-45, the Senate rejected an amendment by Senator Edward Kennedy (D., Mass.) which would have restored the poll-tax ban to the bill sponsored by Dirksen and Mansfield.

The Senate finally resolved the problem on May 19 by approving an amendment which stated that Congress declared that "in certain states" poll taxes were being used to deny people the right to vote. This amendment was approved by a vote of 69-20. This proposal sponsored by Dirksen and Mansfield also called for the Attorney General to seek federal court orders against the levying of discriminatory poll taxes. Dirksen on May 26 explained that the Twenty-fourth Amendment "was a partial step only, and it did not cover state and local elections."

Dirksen and Mansfield on May 21 filed a cloture petition to shut off the debate being conducted by Southern Democrats against the civil rights bill. By a vote of 70-30, the Senate invoked cloture on May 25. Democrats cast 47 votes for and 21 against it. Republicans cast 23 votes for cloture, and 9 voted against it.

10 Congressional Quarterly Service, Revolution, p. 86.
11 Congressional Record, CXI, 10081.
12 Ibid., p. 11018.
13 Ibid., p. 11744.
14 Ibid., p. 11188.
15 Ibid., p. 11466.
Dirksen, as he had previously done concerning civil rights legislation, tried to weaken the bill somewhat in order to make it more palatable to conservative Republicans. His proposal, which would allow states with literacy tests and low voter turnout in 1964 to exempt themselves from coverage if less than 20 per cent of the population was non-white, was written into the bill. This proposal also said that if states could prove in court that at least 60 per cent of their voting-age residents were registered they were exempt from the bill’s coverage.\(^{16}\)

On May 25, the same day cloture was invoked, Dirksen replied to his critics who had been saying that he was reducing the effectiveness of the legislation. He pointed out that his proposals would not destroy the effectiveness of the bill but could gain additional support for the legislation. He said,

\[\ldots\text{in the long discussion, someone thought I had condign designs upon the bill and wanted to stick a knife into it. They said that Dirksen was trying to "gut" the bill, a bill for which I was in part responsible. I cannot imagine "gutting" a bill which was partially my own brain child.}^{17}\]

Final Senate passage of the voting rights bill came on May 26 by a vote of 77-19. Only 2 Republicans joined 17 Democrats in opposing the measure.\(^{18}\) Earlier that day Dirksen

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\(^{16}\)Congressional Quarterly Service, Revolution, p. 85.

\(^{17}\)Congressional Record, CXI, 11484.

\(^{18}\)Ibid.
expressed his views to the Senate, pointing out why he felt
the bill was necessary:

I had a particular hand in shaping the Civil Rights Act
of 1964. I thought perhaps that the Act would be some-
thing of a remedy, but on the basis of experience it has
proved to be inadequate to solve the problem that still
faces the country. Therefore, we began our deliberations
early, in order to take another step to solve this un-
solved problem.19

In urging Senate passage, on May 26 Dirksen said,

I hope the bill will be passed by the Senate in due
course by a resounding vote, and that without delay the
House of Representatives can then go through the same
process, and that out of conference there will come a
good practicable, enforceable, and equitable measure.
That is the thing for which we have been striving.20

Later that day Dirksen tried to alleviate the fears of several
conservative Republicans concerning the constitutionality of
the bill by saying, "That question gave me no difficulty what-
ever," and "I can only express the hope and belief that the bill
is constitutional. But it remains for those who sit in the big
marble palace across the plaza to make the final determination."21

In his summation, urging passage of the bill, he said, "This may
yet be an epochal day in the life of this country. I am de-
lighted that I could have a small part in this situation."22

Senator Mansfield, on May 26, and others complimented
Dirksen for his efforts toward Senate passage of the bill.

19Ibid., p. 11743.
20Ibid.
21Ibid.
22Ibid., p. 11744.
Mansfield stated, "I commend the distinguished minority leader for the remarks which he has made and for the many contributions which were his in the drawing up of the proposed legislation which has been finally presented to this body. He deserves great credit." He also said, "While recognizing fully the indispensable role of partisan politics in our system of government . . . Dirksen has . . . the ability to rise above partisanship on issues of great national consequence . . . ." 23

After Senate passage the House of Representatives took up action on the civil rights bill. The House Judiciary Subcommittee, as the Senate Judiciary Committee had done, voted to broaden the bill; this action dissatisfied a large number of conservative Republicans. The House Judiciary Committee amended the Administration bill (HR 6400) so that it banned poll taxes, provided for poll watchers, and made private citizens criminally liable for interference with voter rights. This bill provided for a 50 per cent formula for "triggering" federal action (percentage of voter turnout determining which states or districts would fall under the bill). 24

The House GOP leadership, Ford and McCulloch, tried to obtain passage of a substitute bill, HR 7896, instead of HR 6400 and were nearly successful in their effort. It is quite likely that a speech by a Southern Democrat, William M. Tuck (D., Va.), urging civil rights opponents to support the substitute

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23 Ibid.

24 Congressional Quarterly Service, Revolution, p. 86.
bill cost the Republicans a victory. House Speaker John W. McCormack (D., Mass.) estimated that the Tuck speech cost the loss of fifteen Republican votes. He said that before the Tuck speech only three House Republicans had announced that they would support the Administration bill but that several Republicans eventually voted for it because they feared that an alliance with Southern Democrats would be taken as an alignment against civil rights.25

McCulloch on July 9, while asking the House to support the Republican substitute bill (HR 7896), pointed out that in some areas the Republican bill was stronger than the amended Administration bill being sponsored by Emanuel Celler (D., N. Y.) by saying that "there are some weak and watered down provisions in the committee-Celler bill in this field; they just do not begin to have the teeth or the coverage of the Ford-McCulloch bill."26

McCulloch was of the opinion that some of the Administration bill, as amended by the House Judiciary Committee, was unconstitutional and reported to the House that even President Johnson had some doubts about the constitutionality of some sections of the bill. He told the House about an interview that reporter John Henshaw had had with President Johnson in April. Henshaw had reported that Johnson said,

25Ibid.
26Congressional Record, CXI, 16208.
... after reading the section again, I can't believe it is constitutional. That provision is very discriminatory. If a state wants to regulate its own voting registration on the grounds that it has been free of discrimination, it must go to Washington to seek a judgment there. That has never been required before ... If that is going to be in the bill, I am sure glad the bill is not going to be known as the Johnson bill.

It was McCulloch's view that the amended Administration bill was unfair and discriminated against certain states. On July 9 he said,

... there is a provision in the Celler-administration bill requiring seven States and political subdivisions thereof to come to the Central Government to have validated laws ... I call upon any member of the Committee to furnish to the Committee the precedent forcing New York, or Ohio, if you please, or Alaska, if you please, to come to Washington with hat in hand and begging the Attorney General, please validate the law or a Federal court in the District of Columbia or ordinance we have passed ... If the Congress writes the Celler-administration bill into law, how long will it be before the States must come to Washington to have their laws and ordinances validated in faraway Washington?

The Ford-McCulloch bill is a measure that will immediately and effectively promote the ends we seek in any political subdivision where voter discrimination can be found. It will assure relief now and in the future with firmness, with uniformity, and with fairness to all people, providing a single standard to all of the 50 states.

Because some civil rights advocates were heaping criticism upon McCulloch for his coauthorship of the Republican substitute, House Minority Leader Ford felt compelled to defend McCulloch. On July 9 he told the House that McCulloch has been and always will be a staunch supporter of sound, constructive, civil rights legislation. It is most

27 Ibid.
28 Ibid.
unfortunate that some of the people he has helped over the years, some of the organizations that he has supported, are now casting indirectly if not directly adverse reflection on him because of his coauthorship of this legislation. I want the Members of this body to know that there is no better champion of civil rights and voting rights legislation than the gentleman from Ohio. Shame on those who are critical of him in this controversy.29

He also said,

I must say that some of the people who have been critical of the McCulloch substitute in effect are nitpicking and thereby being critical of a man who has stood in the well of this House and defended the cause of civil rights, not last year alone, but every time over the last 10 years that this basic issue has been before us.30

Ford then reiterated his opinions as to why the Republican bill would be preferable to the Administration bill which had been amended by the House Judiciary Committee. In reference to the poll tax, he said, "Let me say a word or two about the poll-tax provision that is in the McCulloch bill . . . . It will provide an expeditious consideration by the Federal courts of this country as to whether or not poll taxes in State and local elections are unconstitutional."31 When referring to another section of the substitute bill that same day, he said,

Some people have raised the question that it would be difficult to get 25 people to sign a petition that they have been discriminated against on the right to vote because of race or color. Let me make this crystal clear. Under the McCulloch substitute 25 people submit their petition to the Attorney General. There is no public disclosure of the petitioners at this time. As a result, there is no opportunity for coercion or intimidation.32

29Ibid., p. 16213.
30Ibid., p. 16214.
31Ibid.
32Ibid.
Ford then continued to tell the House about the imperfections of the amended Administration bill and how the Republican bill would be an improvement. In reference to the Ford-McCulloch bill, he said,

It is broad in application. It will apply without discrimination to every voting district in every State. No area of our country will be left out as far as this legislative tool is concerned. . . . The McCulloch substitute does not degrade a State or a smaller governmental body in a State to the problem of coming to the Nation's Capitol and putting itself at the foot of the Federal judiciary in the District of Columbia. The McCulloch substitute does not, as the gentleman from Ohio has so well stated, plant the seeds for elections being decided by people who are unqualified to vote. . . . The committee bill is harsh in its application, . . . it is ill-conceived, . . . it is a patchwork job; . . . the committee bill picks up, in effect, provisions that are in existing law. . . . The original recommendations from the White House did nothing about honest elections. 33

While appealing for support for the Republican substitute, July 9, Ford put forth a line of reasoning that had strong appeal to conservative Congressmen.

We had the Civil Rights Act of 1957. We had the Civil Rights Act of 1960. We had additional legislation in 1964. I believe it was the feeling on each occasion that a substantial step forward had been taken. On the other hand, most of those who believed that the legislation was sound realized that new laws will not always solve the problem, that adequate and strong action in the executive branch of the Government would not necessarily solve the problem. . . . Good will among our people in every state is a major ingredient to insure that everybody has the right to register and to vote, that there will be no discrimination in voting based on race or color. 34

Opponents of HR 7896, the Republican substitute, criticized the Republican leadership for proposing a measure which attracted

33 Ibid., p. 16213.
34 Ibid.
such considerable support from Southern Democrats. Representative Rodino (D., N. J.), in attacking HR 7896 on July 9, said,

I find it passing strange to reconcile that the gentlemen who are so sincerely interested in insisting that the right to vote is guaranteed by the Ford-McCulloch substitute are supported in this effort by gentlemen who are and have been opposed to the passage of any civil rights legislation . . .; the Ford-McCulloch substitute does not provide the automatic coverage which is necessary to do the job.

Literacy tests could continue to be applied to those who had not completed the sixth grade . . . . HR 7896 is fatally deficient in another area. It does not abolish the poll tax.35

For a period of time, it appeared that the Republican measure would pass because it had attracted so much support by moderates and conservatives of both parties. But mainly because of the Tuck speech, many Republicans who had previously leaned toward the Republican measure switched and voted for HR 6400. On July 9 the Republican measure was defeated by a 166-215 teller vote.36

Later that day a motion by Representative Harold Collier (R., Ill.) to recommit HR 6400 to committee was defeated by a vote of 171-248. Republicans voted for recommittal 115-21, but the Democrats voted 227-56 against recommittal.37 That same day, July 9, the House approved HR 6400 by a vote of 333-85. Although most Republicans had preferred the Republican measure to HR 6400, they followed their leadership in voting

35Ibid., p. 16218.
36Ibid., p. 16230.
37Ibid., p. 16285.
for the amended Administration bill when they realized their support of HR 7896 was futile. The Administration bill, as amended by the House Judiciary Committee, was passed because of the votes of 221 Democrats and 112 Republicans. Democrats cast 61 votes against the measure and they were joined by 24 Republicans. 38

Because of the differences in the Senate and House measures, the measure was sent to a conference committee, where it was decided that the poll-tax ban passed by the House would be dropped. The final bill included a provision exempting any state or political subdivision where more than 50 per cent of eligible Negroes were already registered and where a federal court found no discrimination. 39

The final version of the bill was supported by the Congressional leadership of the Republican Party; and even though many Republicans had previously expressed reservations about the bill, the vast majority from both houses followed the leadership of their party and voted for the measure. On August 3 the House of Representatives gave its final approval to the bill by a vote of 328-74. Democrats voting for the bill numbered 217. Also voting for it were 111 Republicans. Fifty-four Democrats and twenty Republicans opposed it. 40

38 Ibid.
39 Congressional Quarterly Service, Revolution, p. 86.
40 Congressional Record, CXI, 19201.
gave its final approval to the bill by a 79-18 vote. Only one Republican Senator cast a vote against the measure.\footnote{Ibid., p. 19378.}

The Voting Rights Act of 1965 suspended the use of literacy or other voter qualification tests in a few states, nearly all Southern, authorized the appointment of federal voting examiners for Negro registration in areas not meeting certain voter-participation requirements, and provided for federal initiation of court suits to bar discriminatory poll taxes.\footnote{Ibid., pp. 19187-19191.}

Although Congressman McCulloch and House Minority Leader Ford had reservations about the bill and did not wholeheartedly endorse it, they did urge House Republicans to vote for it on final passage. Many Republicans had favored the Republican substitute bill but went along with the Republican leadership when they switched to support of the stronger bill. Senate passage of the bill would have been much more difficult, maybe impossible, without the efforts of Senate Minority Leader Dirksen. On August 5 Senate Majority Leader Mansfield said of Dirksen, "... the distinguished minority leader has again demonstrated the qualities of leadership which history will not forget; without him this achievement may never have been realized."\footnote{Ibid., p. 19632.}
CHAPTER V

THE CIVIL RIGHTS ACT OF 1968:
OPEN HOUSING

In 1968 Congress, with unexpected Republican support, passed an extremely controversial civil rights bill dealing with open housing. It is very doubtful that this legislation could have passed without the unexpected late-coming support from Senate Minority Leader Everett M. Dirksen.

The background for the conflict over the controversial open housing legislation began in earnest during the latter part of April, 1966, when President Johnson proposed civil rights legislation that would prevent discrimination in the selection of juries and in the sale, rental, and financing of all housing. The provisions against housing discrimination were to be enforceable through civil suits brought by private individuals, or, in cases where a pattern of discrimination prevailed, by the Justice Department. Local and state open housing laws were to remain in effect, according to the Johnson proposal; and the Attorney General would be empowered to initiate school and public accommodation desegregation suits. The President also proposed that there be more federal legislation to protect civil rights workers.¹

Both Dirksen and House Minority Leader Ford were opposed to Title IV, the open housing section of the proposed civil rights bill in 1966. Ford stated that he supported much of the proposed legislation but opposed open housing, and he urged that the House of Representatives recommit the bill to the House Judiciary Committee. On August 9 he said, "I have mixed emotions about this bill. I expressed them concerning Title IV. I feel that the motion to recommit should be supported." ²

The majority of House Republicans also had reservations about open housing and tried unsuccessfully to delete the section and to recommit the bill to committee. The motion to recommit the bill to committee failed on August 9 by a vote of 190-222. ³

As submitted by the Administration, Title IV would have banned discrimination in the sale or rental of all housing; but there was so much opposition to this proposal that the Administration consented to accept an amendment proposed by Representative Charles Mathias (R., Md.). This amendment would have exempted from the section's provisions the sale of owner-occupied apartments with four units or less. Also exempted were real estate agents who discriminated if a home owner gave the agent written consent to discriminate.

² Congressional Record, CXII, 89th Congress, 2nd Session (Washington, 1966), 18727.
³ Ibid.
Altogether, about 60 per cent of the nation's housing would be exempted from the anti-discrimination provision of the bill. The Mathias amendment was passed on August 9 by a vote of 237-176. Democrats voted 168 for and 107 against the amendment, and the Republican vote was split evenly 69-69. That same day Representative Arch A. Moore, Jr. (R., W. Va.), offered an amendment that would have deleted the entire housing section. His amendment failed by a 222-190 vote. Earlier, on August 5, that same proposal had failed narrowly by a 198-179 vote.

The amended version of the Administration's proposed Civil Rights Act of 1966 was passed by the House on August 9 by a vote of 259-157 and was sent to the Senate. Although many House Republicans had deep reservations about the open housing section and the majority had earlier opposed it at one time or another, they, for the most part, voted for the bill that day. Of the House Democrats, 183 voted to pass the bill, and 95 opposed it. There were 76 Republicans who voted for the bill and 62 who voted against it. Even though most Republicans opposed one section of the bill, most could not bring themselves to vote against the bill, although they had failed to delete the unpopular open housing title.

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4Ibid., p. 18737.
5Ibid., p. 18739.
6Sobel, Civil Rights, p. 372.
7Congressional Record, CXIII, 18740.
After House passage the bill went to the Senate, where it met the staunch opposition of Everett Dirksen. Dirksen made many statements against open housing and said that his mind would not be changed on the subject. Democratic leaders, such as Senate Democratic Leader Mike Mansfield and President Johnson, often tried to curry Dirksen's favor, in the hope that he would change his mind and support open housing. They were well aware that a filibuster would ensue and that Dirksen's support would be essential if cloture were voted. On August 11 Mansfield said that Dirksen was "the key" to killing the anticipated filibuster. He reiterated this idea when he said, "Without him we cannot get cloture." President Johnson told reporters on September 12 that he had urged Dirksen by telephone to "find some way to give his support" to the bill. Johnson on September 13 spent a futile ninety minutes with Dirksen at the White House attempting to change Dirksen's opinion of the bill.

In September two attempts were made to invoke cloture, and both failed by substantial margins. In both instances Democrats voted about 2 to 1 in favor of adopting cloture, and Republicans voted about 2 to 1 opposing cloture. The first cloture attempt, which was on September 14, failed 54-42. Democrats voting for cloture numbered 42, and those voting against it numbered 21.

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8Ibid., p. 22609.
9Sobel, Civil Rights, p. 373.
10Ibid.
Republicans cast 12 votes for cloture and 21 against it. On September 19 the second unsuccessful attempt to invoke cloture was made. The vote was 52-41. Once again 42 Democrats supported cloture, and 21 opposed it; but this time only 10 Republicans voted for cloture. The number of Republicans opposed to it was 20. On both occasions Dirksen had vigorously denounced the bill and urged the Senate to defeat it by not invoking cloture.

Dirksen on September 13 expressed his views of the bill to the Senate. He said,

I suppose I should feel flattered by these frequent allusions in the press and elsewhere to the role I am supposed to assay in respect of this struggle on the Civil Rights Act of 1966.

Let me freely confess that I am no Atlas. I am not much good at juggling. I seek only to do and to perform the role according to my conscience, and that is all . . . . . from the day I saw the first copy of the original text of the Civil Rights Act of 1966 and had an opportunity to examine it, I asserted my opposition to it. I have not retreated one step from that day to this . . . . I do not intend to retreat one step, because this is a package of mischief for this country if I ever saw one.

On September 14 Dirksen, in an attempt to prove to Civil rights advocates that he was not opposed to civil rights legislation per se, explained that it was open housing he was opposed to and not civil rights legislation in general. He reminded them of his support of past civil rights legislation when he said,

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11Congressional Record, CXII, 22676.
12Ibid., p. 23042.
13Ibid., p. 22609.
I am reminded of the role I played in the civil rights bill of 1960. I joined with the distinguished majority leader who now graces the White House when we picked out a vehicle in the form of a bill to take care of funds for the Stella School District in Missouri, and we hitched the Civil Rights Act of 1960 onto that vehicle.

Then we go to 1964. That is when the majority leader and I worked on the rights bill. The distinguished Vice-president of the United States knows, the Attorney General knows, the subcommittee of the Committee on the Judiciary knows, not the days or the weeks but the months that we sat around the table in room 230, my Capitol office, on this corridor. There we sweated and strained, early and late, in order to beat out on the anvil of discussion and controversy a bill that would be workable and practical and feasible, and it has stood up. It was signed into law on July 2, 1964.

We had 57 days of debate. Then we had a cloture vote, and that cloture vote prevailed. It prevailed in part because the minority leader got on his knees to Members on this side and said: "Did I go to your State and campaign for you?" "Yes, you did." "Now pay me back. Pay me back with a vote."

That is how we got cloture on the act of 1964...

Then in 1965, we had another bill. That was the one dealing with voting rights. We had many conference sessions: the problem of the Puerto Ricans in New York, the problem of poll taxes.

Many knotty difficulties had to be ironed out, but by patient labor in one of the committee rooms downstairs, on this side of the Senate, we ironed it out, and the voting rights bill is in the law today. And the minority leader had some part in it.

Later that same day, Dirksen gave a lengthy speech to the Senate, giving various reasons why the civil rights bill should be defeated. He charged that the Administration was trying to blackmail the Senate into supporting the bill, and he charged

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14Ibid., p. 22610.
15Ibid., p. 22611.
the coverage of the bill would be enlarged later. Dirksen
queried,

What is going to happen to you all when there is a
project and you are not right with the Lord, so to speak?
You are not voting right? Then no project. What has
this government come to? I would like to know.

The court cases are numberless that hold an individual
as such cannot be charged with discrimination. Now the
bill says an owner can be exempted. But the original bill
did not exempt the owner; the owner of a home was included.

Accordingly, they changed it in the House. Will that
be the end of it? No. Let us not kid ourselves. There
will be a civil rights bill of 1967, and that will be in
it. So that those who write the maudlin editorials about
the 40 percent and the 60 percent are writing about con-
temporary mythology. Wait until we get through with this
business. The owners will be brought to heel. They had
them in the original bill, but finally the heat got so bad
they had to change it.\(^\text{16}\)

What are we doing in this bill? We are moving into
the private domain. If I am any kind of prophet, I merely
say to the Senate that there will be another Civil Rights
Act and the owners will be on top and vacant lots will be
in there. They will bring them into this great and almost
unlimited orbit. This will be the forerunner, if ever we
put this bill on the books—and I am not about to give my
hand or my vote to that kind of proposal \ldots \ldots \ldots
when I first uttered my opposition to the bill I put it on
constitutional grounds. I said, "No, this is not for me."\(^\text{17}\)

Dirksen went on to assert that a great deal of politics
was involved in the issue and that even if it meant the Repub-
lican Party would lose some votes that party should still put
principle above politics and oppose open housing. He expounded,

I would suggest—and this is honestly done—that a
political theme has been appealed to in order to get this
title in. It has been said to me, "Do not oppose Title IV.

\(^{16}\text{Ibid.}, p. 22613.\)

\(^{17}\text{Ibid.}, p. 22614.\)
You are going to hurt your party." What is to come first, the principle or what is good for the party? . . . . do we legislate in an atmosphere of pressure? Do we legislate under the intimidation of "Do it or else?" . . . . I do not want to hurt my party, but on the other hand, I do not want to commit my party to a miserable surrender and opportunism. When that happens I will look at the habilities of my party all over again and begin to wonder whether it is worthy of the suffrage of the people. Are we to follow the pontificators, the editorial writers, the social engineers, the world savers, who have been chanting all of these things? No; when we get down to it, it is the principle we must look at.18

If ever there was a can of worms, or two cans of worms, this is it . . . . The bill ought to be shelved, and it ought to be shelved for good at this session. I am confident that another start will be made next year; but we will have had our lesson, and we can come back and, if we have time, take ourselves a good look.19

Once again, on September 14, Dirksen reiterated that he would not cave in to political pressure; and he successfully fought against cloture. He recalled that he had told both the Attorney General and the President in forceful language that he would not lend his support to the legislation. He told them,

This bill is not for me . . . . Last night, at the White House I reaffirmed that to the President. So if there are any doubting Thomases who thought I would beat a miserable retreat, they can get it out of their heads, because the word "retreat" does not appear in my book. We should vote down any suggestion that there be cloture . . . .20

After Dirksen's lengthy and vehement denunciation of the civil rights bill, the Senate, on September 14, voted against invoking cloture. Although the Democrats voted about 2 to 1

18Ibid., p. 22622.
19Ibid., p. 22624.
20Ibid.
for cloture, the Republicans followed Dirksen's lead and voted nearly 2 to 1 against cloture. As was reported by the *Des Moines (Iowa) Register* on September 14, while referring to the failure of the Senate to invoke cloture, "The immediate roadblock in the Senate is Senator Everett Dirksen, the minority leader who has supported civil rights legislation in the past but is adamantly opposed to the housing section." 

On September 19, after the Senate had once more rejected cloture and Senate Republicans had followed Dirksen's lead and voted 2 to 1 against cloture, Senate Democratic leader Mansfield said, in reference to Dirksen,

> The attitudes are clear. The vote on cloture on whether or not to take up can only be interpreted as a vote against civil rights legislation in this session. In this connection, the Record should be clear insofar as the distinguished minority leader, the Senator from Illinois [Dirksen], is concerned. He has acted from conscience as, indeed, I hope we are all acting. Even had he changed his view on the procedural question, there is no certainty that cloture would have been obtained.

Of course, it is not a certainty that Dirksen could have swayed enough Republicans to change their votes so that cloture could have been invoked, but many political observers did feel that his refusal to support cloture had a great impact on the outcome of the vote.

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22 *Des Moines Register*, quoted in *Congressional Record*, CXII, 22626.


It is of great interest and importance that Dirksen, the man who so vehemently denounced open housing legislation, would eventually change his mind on the subject and be the major exponent of passage of the legislation that was much more extensive than that which he had vigorously fought in the past.

President Johnson again, in 1967, asked Congress to pass his civil rights proposals. "The President's only major new request was for enforcement powers for the Equal Employment Opportunity Commission (EEOC), which was currently only authorized to attempt to conciliate disputes." Once again he submitted an open housing proposal. Few people expected his new open housing proposal, which was considered to be more conservative than his earlier proposal that Congress had rejected, to be enacted by the Congress. Southern Democrats were still vehemently against the legislation. There was widespread fear of a "white backlash" against open housing; and in early 1968 Dirksen was still adamantly opposed to the proposal, and Ford had not endorsed it.

The House of Representatives passed a civil rights bill on August 16, 1967, by a 327-93 vote. This bill was much weaker than that which was eventually signed into law during the latter part of 1968. It did not contain an open housing

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25 Ibid.
26 Ibid.
section, and it extended for five years the life of the U. S. Commission on Civil Rights. The House also passed a bill to help protect civil rights workers. The vast majority of House Republicans had followed the lead of Ford and McCulloch and supported the bill. Democratic leaders in the Senate had not been able to bring the controversial open housing legislation to a vote in either 1966 or 1967; and few people expected that legislation to be passed in 1968, mainly because of opposition by Ford and Dirksen.

Civil rights legislation dealing with the same proposals pending from President Johnson's 1967 request was debated in the Senate from the middle of January, 1968, until mid-March.

On January 18 Senator Sam Ervin (D., N. C.) offered to the Senate his substitute version that was concerned with the protection of civil rights workers. His proposal was broader in coverage than the Administration proposal but was opposed by most civil rights advocates because it excluded the phrase "because of race, color, religion, or national origin." Even though Dirksen urged support for the Ervin substitute, it was defeated by the Senate on February 6 by a 54-29 vote.

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28 Congressional Quarterly Service, Congressional Quarterly Almanac, XXIV, 153.
29 Ibid.
30 Ibid.
32 Ibid., p. 2269.
That same day, February 6, Senator Walter Mondale (D, Minn.) proposed an open housing amendment to HR 2516, the Administration bill dealing with protection for civil rights workers. His amendment, opposed at that time by both Ford and Dirksen, covered about 91 per cent of all housing in the United States. There was considerable debate over the Mondale amendment.\(^3\)

Dirksen on February 20 reasserted that he would like to see the passage of some type of civil rights legislation but that he still opposed cloture to shut off Senate debate on the civil rights bill. That same day he told the Senate, "I have made it abundantly clear that I should like to see a civil rights bill. I am still in that frame of mind. I trust that before the session of the 90th Congress concludes, there will be a civil rights bill."\(^3\) But Dirksen was of the opinion that the Federal Establishment was growing too large and that the passage of the civil rights bill would increase the growth of the Federal bureaucracy. He stated,

> We are building such an enormous Federal Establishment today, with more than 3 million persons on the payroll, and more to be added, that I do not know where it is going to stop. So, where is the end to the enormous Federal growth, and when are we going to bring it in line and have a proper regard for the functions of the States in our Federal-State system?\(^3\)

\(^{33}\)Ibid., pp. 2270-2272.

\(^{34}\)Congressional Record, CXIV, 3423.

\(^{35}\)Ibid.
Regarding the cloture vote to be taken later that day, Dirksen said,

What, in effect, is a cloture motion? It says, "If it is approved, shut your mouth—hush your mouth—because debate is going to end except for the limitations imposed in the cloture rule." We are saying, in effect, that we are going to gag ourselves. That is one of the most distasteful things I know of.\(^{36}\)

He then went on to explain that the bill, in the form that it was in at the time, was unsatisfactory to him.\(^{37}\)

After Dirksen's speech on February 20, the Senate refused to invoke cloture by a 55-37 vote. Republican Senators split on the issue 18-18.\(^{38}\) The next day, by a 34-58 vote, the Senate refused to follow Dirksen's advice and defeated a motion to kill the open housing amendment.\(^{39}\) Senators Mansfield and Dirksen offered the motion to table Senator Mondale's open housing amendment. Mansfield on February 21 said that he proposed this motion "with regret" because it was "unrealistic to hope for success" as long as the bill included the open housing proposal. He said, I would hate to see that overwhelming bipartisan support gained in the House (for HR 2516) now be sacrificed in an effort—in my opinion futile at this time—to obtain the provisions of the Mondale (open housing) amendment."\(^{40}\)

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\(^{36}\)Ibid.

\(^{37}\)Ibid.

\(^{38}\)Ibid., p. 3427.

\(^{39}\)Ibid., p. 3807.

\(^{40}\)Ibid., p. 3806
Mansfield realized that the civil rights bill, certainly an open housing provision, could not be passed without substantial Republican support. However, the votes on February 20 and 21 "showed substantial Republican support for the civil rights bill and the open housing proposal in spite of Dirksen's opposition. Nevertheless, enough GOP Senators stayed with Dirksen on the cloture vote to prevent the issue from being brought to a vote of acceptance or rejection."\(^4^1\)

For some reason, following the February 21 vote, Dirksen modified his stand on open housing.

Over the weekend following the February 21 vote, Dirksen indicated to supporters of the Mondale amendment that he was ready to work on a compromise bill that would include open housing . . . . Dirksen's support for the open housing compromise was a surprise to most observers . . . . he had consistently opposed the Mondale amendment.\(^4^2\)

Dirksen changed his views regarding open housing and sounded like a different man on the subject, but on February 26 he still urged the Senate not to vote for cloture. He said,

> I see the prospect of some modifications that will bring the possibility of a bill much closer. I shall vote against cloture today because it will give us a little maneuvering time, but I actually believe we have now come to that point in connection with modifications of both Title I and Title II that make the prospect of success quite growing . . . . I say that to the Senate with the fond hope that at long last we seem to be approaching a common denominator and I am grateful to everyone who has been participating in these various conferences.\(^4^3\)

\(^4^1\) Congressional Quarterly Service, Congressional Quarterly Almanac, XXIV, 157.

\(^4^2\) Ibid., p. 158

\(^4^3\) Congressional Record, CXIV, 4049.
Later that day, February 26, the Senate again refused to vote cloture; the vote this time was 56-36. However, Republicans this time voted 19-17 in favor of cloture.\textsuperscript{44} "Dirksen was considered instrumental in the defeat of the second cloture motion February 26 as in the first. Of those who voted on both cloture motions, only Norris Cotton (R., N. H.) changed his vote. Cotton voted in favor of cloture February 26 . . . ."\textsuperscript{45}

Civil rights advocates were ecstatic about Dirksen’s changed position on the open housing question and heaped praise upon him. Their spirits were now raised. Whereas earlier they had virtually given up on the bill’s chances, they now felt that, because of Dirksen’s support, a compromise measure could be passed. On February 26 Senator Javits (D., N. Y.) said,

\begin{quote}
I have submitted to Senator Dirksen on behalf of the manager of the bill, Senator Hart, certain ideas with respect to modifications in the civil rights worker protection bill before the Senate and the Mondale-Brooke nondiscrimination in housing amendment. I am satisfied that these are receiving earnest and, I feel, sympathetic consideration from Senator Dirksen. It is my belief that there is a reasonable—I would say, good chance—that Senator Dirksen may be persuaded by his own views and the proposals which I have submitted to him to come again into the role which proved to be historic in respect of bringing about the enactment of the Civil Rights Act of 1964.\textsuperscript{46}
\end{quote}

Senator Edward Brooke (R., Mass.) sensed that Dirksen had changed positions regarding open housing and, on February 26, said,

\textsuperscript{44}Ibid., p. 4064.

\textsuperscript{45}Congressional Quarterly Service, \textit{Congressional Quarterly Almanac}, XXIV, 158.

\textsuperscript{46}Congressional Record, CXIV, 4049.
... I welcome the prospect of our distinguished minority leader bringing negotiations to a successful conclusion. ... I want to take this opportunity to commend our distinguished leader for the time he has put into these negotiations. The prospects that they will be successful are certainly very heartwarming to me and, I am sure, to the people of this country who know the importance of civil rights legislation involving housing at this time in the history of the United States of America. 47

Senator Hugh Scott (R., Pa.) joined his colleague Senator Brooke in praising Dirksen's changed position when he said,

I am delighted that our distinguished minority leader is lending his manifold talents and skills to the solution of this extremely important and difficult problem. I certainly join in the expression of great satisfaction because I think it is well known that unless we have the benefit of the great interest and ability of the distinguished minority leader in this matter, the opportunity to work out a satisfactory bill becomes infinitely more difficult. 48

On February 28 Dirksen offered his revisions concerning the civil rights bill to the Senate.49 His compromise measure elated the spirits of civil rights advocates. Senator Mondale, on February 28, said, "... the Dirksen proposal is a strong amendment—far stronger than we believed possible of passage even a few weeks ago ..." 50 He went on to call the compromise "a miracle," and he also said, "When I became involved with a fair housing proposal, I recognized that in the final analysis the judgment of the Senator from Illinois would be

47 Ibid.
48 Ibid.
49 Congressional Record, CXIV, 4570-4573.
50 Ibid., p. 4568.
critical to the disposition of the matter." Praise for Dirksen’s change of position also came from Senator Javits, who said,

... I feel very strongly that the Senator from Illinois, our minority leader, has performed precisely the role in connection with the legislation here involved in 1968 that he did in 1964. It represents a monumental contribution to the tremendous problem of the crisis of the cities.

Late on February 28, Senator Hart joined the chorus of praise for Dirksen and said,

... I think that, in view of what has been said, I should simply say to the Senator from Illinois in the simplest formula we have yet devised for the way we feel: "Thank you very much." If we manage to put on the statute books the bill that came from your office this afternoon, I think our consciences will be clear.

Although the Dirksen proposal was not quite as strong as the Mondale proposal, civil rights advocates readily and happily accepted it because they realized it stood a very good chance of passage, whereas the stronger measure had virtually no chance at all without more Republican support than had previously been obtained. Dirksen’s open housing proposal when fully implemented covered about 80 percent of all housing as compared with about 91 percent of all housing covered under the Mondale amendment. The compromise exempted single-family, owner-occupied housing from coverage if it was sold or rented by the owner rather than through real estate brokers or agents.

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51 Ibid., p. 4575.
52 Ibid.
53 Ibid.
54 Congressional Quarterly Service, Congressional Quarterly Almanac, XXIV, 159.
Why did Dirksen suddenly change his stand on this controversial issue he once so bitterly opposed? Several reasons were given for his sudden change on February 28. He explained, "... on the basis of past performances, it would require at least 15 years before all the States adopted some kind of a fair housing law that was reasonable good and enforceable."\textsuperscript{55} The summer riots of 1967 also prompted Dirksen to change his position. He stated that the riots "put this whole matter in a different frame," and, he continued, "I do not want to have this condition erupt and have a situation develop for which we do not have a cure and probably have more violence and damage done."\textsuperscript{56} The Senator also said that there was a need for open housing legislation for veterans returning home from Vietnam.\textsuperscript{57}

Dirksen, in addition to receiving praise for changing his stand, received some criticism from both the Senate's left and right wings. Senator Frank Moss (D., Utah), on February 29, said,

\begin{quote}
As has been the case many times in the past, the will of the majority has been blocked by a minority. Now, however, the minority, after causing weeks and weeks of delay on this bill and holding up all other floor work in the Senate, is ready to sweep in with their white hats to become the heroes of 1968 civil rights legislation.
\end{quote}

Senator Dirksen, after voting against cloture twice and securing similar votes from a sufficient number of his fellow Republicans to utilize the outmoded two-thirds rule of the Senate, is now ready in this election year

\textsuperscript{55}Congressional Record, CXIV, 4574.
\textsuperscript{56}Ibid., p. 4575.
\textsuperscript{57}Ibid., p. 4574.
to become "Mr. Civil Rights." Many of his fellow Republicans, some also up for reelection, are ready to follow suit. They want the best of two worlds. They want to be able to tell civil rights opponents they voted against civil rights, and they want to point out to civil rights leaders that they "saved the day" in the Senate.\footnote{Ibid., p. 4670.}

Southern Democrats were very unhappy about the Dirksen compromise because they realized it stood a very good chance of passage. For the most part, they challenged the bill as being an unconstitutional attack on property rights. On February 29 Senator Ervin said that "the proposed Dirksen substitute provided, in substance, that a man cannot sell or rent his own private property of a residential character" as he sees fit. He went on to say, "It is a tyrannical thing."\footnote{Ibid., p. 4689.}

Dirksen on February 28 explained why he changed his stand on open housing and urged other Senators to also change. He said that it would be "an exercise in futility for anyone to dig up the speech" he "made in September, 1966 . . . in which" he "took the firm, steadfast position that" he "thought fair housing was in the domain of the state because it was essentially an enforcement problem." He continued,

One would be a strange creature indeed in this world of mutation if in the face of reality he did not change his mind . . . . Now there are still some gaps and what we are dealing with are gaps in civil rights, and so long as they exist, I do not believe we can honestly conclude that we have properly consummated our labors.\footnote{Ibid., pp. 4574-4575.}
On March 1 the Senate, for the third time, refused to invoke cloture. This time Dirksen suffered a defeat because, for the first time, he had urged the Senate to invoke cloture. Dirksen's compromise bill was being filibustered in the Senate, and nearly all the Southern Democrats and a few conservative Republicans wanted to continue debate on the bill. The vote was 59-35. Democrats voted 37-21 for cloture, and Republicans favored it by a vote of 22-14. The Senate vote was a surprise to most observers and was seen by some as a personal defeat for Dirksen. Only two Republicans switched their votes with Dirksen.

Some conservative Republicans, such as Senator Roman Hruska (R., Neb.), felt that Dirksen had gone overboard in his sudden change on the open housing issue and that the democratic process was being thwarted by Dirksen's haste to pass the civil rights bill. Hruska on March 11 said,

... I explained to my good friend from Illinois that I shall not vote for cloture on any future occasion in which a cloture petition is filed 1 hour and 15 minutes after a bill is introduced, when the contents, titles, and provisions of that bill are different from that which has been under consideration by the Senate up until that time.

The Senate on March 4 voted on cloture for the fourth time; and this time, by the narrowest of margins, cloture was finally

61Ibid., p. 4845.
63Congressional Record, CXIV, 5990.
invoked. This cloture vote was also on the Dirksen compromise. The vote was 65-32. Democrats voted 41-20 in favor of cloture, and Republicans favored cloture 24-12. This vote reflected the fact that some Senators changed their positions. Conservative Senators Frank Carlson (R., Kan.) and Jack Miller (R., Iowa) had voted against cloture on March 1, but they voted for it on March 4. After this cloture vote, which was invoked by a narrow one-vote margin, civil rights advocates were overjoyed because passage of the civil rights bill was now practically ensured. On March 11, by a 71-20 vote, the Senate passed Dirksen's compromise civil rights bill. Even though numerous Republican Senators had previously opposed open housing, only three voted against this measure which covered about 80 per cent of the nation's housing.  

Civil rights advocates of the Democratic Party were lavish in their praise of Dirksen. On March 11 Senator Mansfield said, "Words cannot emphasize too much the great contribution of the minority leader [Dirksen] in this debate. He played a vital role in shaping this measure, as he did in 1964 and 1965 when the Senate last passed civil rights legislation. His motive was simple and straightforward. He urged an effective bill simply because it was the right thing to do. All America is again in his debt."  

There were numerous other comments about Dirksen and the new bill. Senator Hart, in reference to Dirksen, said, "Without

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64 Ibid., p. 4960.
65 Ibid., p. 5992.
66 Ibid., p. 5998.
him, there would have been no bill and no one need make any bones about it."67 Other Democrats expressed surprise that the Senate had passed such a strong measure. Senator Mondale said, "The coverage of the fair housing provisions is far greater than we had anticipated...."68 And Senator Hart exclaimed, "... my feelings today might best be described as those of mingled surprise and gratitude. I still feel at least a mild surprise that we have passed a strong housing bill."69

Republican advocates of civil rights legislation also praised Dirksen. Senator Javits, on March 11, said of Dirksen, "Without him, there would be no Civil Rights Act of 1968.... Just as he was one of the great architects of the Civil Rights Act of 1964, he must be recorded in American history as a major architect of the Civil Rights Act of 1968."70

However, Dirksen was also receiving considerable criticism from newspapers and civil rights opponents. On March 11 he responded to the criticism and also told how he helped ensure cloture. He stated,

I apologize to no one for my conduct, because I think it was right.... It took some prayerful thinking on my part to change position when I had stated in a rather long speech to the Senate in 1966 that it was my inner-most conviction the problem we deal with on occupancy should be the responsibility of the States.71

67 Ibid., p. 5999.
68 Ibid.
69 Ibid.
70 Ibid., pp. 5991-5992.
71 Ibid., pp. 5989-5990.
When explaining how cloture was invoked, he said, "... this time I ran out of merchandise, and so I could put only something of an entreaty in my voice and say 'Please, sir, couldn't you give us a cloture vote?' And so, by the narrow margin of one vote, cloture was invoked . . . ."72

In 1966 a large majority of Republican Senators had voted against imposing cloture on a filibuster aimed at preventing passage of open housing legislation. On September 14, 1966, 12 Republicans voted for cloture, and 21 voted against it.73 On September 19, 1966, a second unsuccessful attempt to invoke cloture was made. This time only 10 Republicans voted for cloture, and 20 voted against it.74 Dirksen, on both of these occasions, urged Republicans to vote against imposing cloture.

In 1968 four attempts were made to invoke cloture so that open housing legislation could be passed. Dirksen opposed invoking cloture on the first two of these four votes. The first of these votes, on February 20, was defeated by a vote of 55-37. Republicans were split 18-18 on this vote.75 The second vote, taken on February 26, was defeated by a 56-36 vote. This time only Morris Cotton (R., N. H.) changed his vote from opposition to support of the cloture motion; but the Republican vote was only 19-17 in favor of cloture, whereas Democrats continued to

72Ibid., p. 5990.
73Congressional Record, CXII, 22670.
74Ibid., p. 23042.
75Congressional Record, CXIV, 3427.
vote heavily in favor of the motion. The third attempt at cloture, which was on March 1, was defeated by a vote of 59-35. Republicans voted 22-14 for cloture. Dirksen and two other Republicans had now switched positions and cast votes for instead of against cloture as they had previously done. The fourth cloture vote, on March 4, was finally successful. The 65-32 vote was strongly supported by Dirksen, and two other Republicans who had previously opposed cloture now joined Dirksen in supporting it. This time Republicans voted 24-12 in favor of cloture.

The last time a cloture vote was taken in 1966, Republicans, following Dirksen's lead, cast only 10 votes in favor of a cloture motion; but in 1968 the number of Republicans voting for cloture had risen to 24. It is quite likely that Dirksen's support for cloture in March of 1968 made possible the eventual passage of open housing legislation. Coinciding with Dirksen's changed position concerning open housing, Republican Senators cast more than twice as many votes for cloture in 1968 as they did in 1966.

After Senate passage of the Dirksen compromise version, the bill went to the House, which could either accept the Senate changes or send the bill to conference. In the House Southern Democrats were still nearly unanimous in their opposition to

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76 Ibid., p. 4064.
77 Ibid., p. 4845.
78 Ibid., p. 4960.
open housing, and Republicans there were nearly evenly divided on the measure. Both Ford and McCulloch were now urging House Republicans to vote for open housing. McCulloch, as usual, was vigorously working for the enactment of civil rights legislation. House Minority Leader Ford, who, as Dirksen, had once strongly opposed open housing, was now supporting it. Those most strongly in favor of the legislation said the Senate-passed version should not be sent to conference but that the Senate's amendments should be accepted without change. Representative Ray J. Madden (D., Ind.) expressed their sentiments when, on April 10, he said that if the measure were sent to conference "this legislation is almost certain to be sent back to the other body for probable certain delay, filibustering, and stagnation. This procedure will mean no civil rights, housing, or anti-riot bill in the 90th Congress."79

House members in the Rules Committee were nearly evenly divided on whether or not to send the Senate version to conference. On April 9 Representative John B. Anderson (R., Ill.) provided the swing vote that blocked the move to send the measure to conference. Anderson, who previously had favored a conference, said he had decided that the full House should have the opportunity to make the choice. Another factor, he said, was the persuasiveness of a statement by Representative William M. McCulloch, the leading House GOP authority on civil rights, attested to the bill's constitutionality.80

79Ibid., p. 9554.

80Congressional Quarterly Service, Congressional Quarterly Almanac, XXIV, 168.
On April 10 Anderson, while referring to McCulloch, said, "I think his wisdom and his counsel in the matter of the splendid statement he made to the Committee on Rules on the constitutionality of this legislation was a very important factor as far as my own personal judgment in this matter is concerned." 81

McCulloch urged House Republicans to vote for the Senate version without change. On April 10 he said, "... I am convinced of the necessity for open housing legislation, without delay . . . . I am fearful that if this legislation is sent back to the other body for any reason, the bill's fragile chances of becoming law will be seriously impaired." 82

Although Ford said he now favored the legislation, he preferred to send the measure to conference because the House might be "rubber-stamping some far-reaching legislation that came from the other body . . . ." 83 That same day, April 10, in a speech to the House, he said, "... I favor the enactment of fair housing legislation and will vote for such legislation." 84 But he still referred to the Senate version as "poorly written legislation." 85 Even though Ford did favor sending the measure to conference, he did not attempt to make his position

81 Congressional Record, CXIV, 9557.
82 Ibid., p. 9558.
83 Ibid., p. 9609.
84 Ibid.
85 Ibid.
binding on other party members. He made his position on this matter clear when he said, "I speak only for myself. In this emotional atmosphere I would hesitate to claim that I speak for others."  

In the atmosphere to which Ford referred, two roll-call votes were taken on the civil rights legislation on April 10. By a vote of 229-195, the House accepted the Senate amendments without change. Voting for this proposal were 77 Republicans, and voting against it were 106 Republicans. Democrats voted for the proposal by a vote of 152-89. Later, by a 250-172 vote, the House accepted the Senate version and sent the measure to the President. Republicans cast 100 votes for the measure, and 84 cast votes against it. Democrats voting for the measure numbered 150, and those voting against it numbered 88.

Thus, Congress had passed civil rights legislation (HR 2516), drawn up mainly by Senate Minority Leader Everett Dirksen, which prohibited discrimination in the sale or rental of 80 per cent of all housing by 1970 when fully in effect. The open housing law also included provisions to protect civil rights workers. Also included in the law were a number of antiriot provisions which were added on the Senate floor.

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86Ibid.
87Ibid., p. 9620.
88Ibid., p. 9621.
89Congressional Quarterly Service, Congressional Quarterly Almanac, XXIV, 152.
Democratic leaders, with Democratic majorities in both houses, had been unable to pass the measure in both 1966 and 1967. The measure was passed in 1968 mainly because of the efforts of Everett Dirksen. McCulloch was instrumental in getting the bill out of committee and in persuading reluctant House Republicans to vote for the legislation. House Minority Leader Ford changed his position from one of opposition to one of support for open housing. Even though he expressed reservations about the Senate measure, he did not attempt to make his position binding on other party members. Although the measure might possibly have been approved anyway, it is highly improbable that it would have passed without the help of these influential Republicans.
CHAPTER VI

CONCLUSION

The Republican Party, being the more conservative of our two major political parties, has generally been adverse to rapid social changes but has supported civil rights legislation which has had a dramatic effect on American society during the 1960's. Although many people are of the impression that the Republican Party is rather anti-civil rights, that party's members in both houses of Congress have, with very few exceptions, cast a higher percentage of votes in favor of civil rights legislation than Democratic members of Congress have. "Currently, Republicans are somewhat divided on the race issues, but their divisions are not nearly so deep as those within the Democratic party."¹

Congressional leaders of the minority party have been very instrumental in securing the passage of recent civil rights legislation. Several times in recent years, when civil rights legislation has been in danger of defeat, Republican congressional leaders have shifted from opposition to support of the legislation and the legislation has then been passed by handy margins. Republican leaders in Congress, such as Everett Dirksen,

¹Conrad Joyner, The Republican Dilemma, Conservatism or Progressivism (Tucson, 1963), p. 93.
Charles Halleck, Gerald Ford, and William McCulloch, have generally favored taking a rather deliberate and moderate approach toward the enactment of civil rights legislation, as have most other Republican Congressional members. Several times when exceptionally strong civil rights measures were in danger of defeat, Republican leaders supported weaker and more moderate measures and carried enough Republican votes with them to ensure passage of the more moderate bills. Although Republican leaders in Congress have taken the position that civil rights legislation should be enacted, they have favored weaker and more moderate legislation than that favored by most non-southern Congressional Democrats because they feel that would be more in line with the attitudes of the American people and would stand a better chance of passage.

Although a few political observers, such as Charles Jones, would disagree, most would say that Congressional party leaders lack a significant amount of power. A party leader probably is most effective when he is not dogmatic and does not attempt to "twist arms." Because of the seniority rule system used in both houses of Congress, because of the power wielded by various committee chairmen, and because the filibuster can be employed in the Senate, it can be very difficult for party

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leaders to keep their fellow party members in line. Apparently, there is a lack of significant sanctions which can be imposed on those who do not follow the urgings of their party leaders.

Therefore, Republican leaders in Congress have not attempted to intimidate their fellow party members in Congress into voting for rights legislation. They have simply voiced support for such legislation and urged other members to do likewise, and numerous Republicans who had previously voiced opposition to civil rights measures followed the advice of their party leaders during the 1960's and eventually voted for the measures about which they had expressed reservations earlier.

Congress has often been criticized because of its failure to take quick, positive action to help solve the various problems faced by this nation. Many times minorities in Congress have been able to block action on legislation; the filibuster has often been used for this purpose in the Senate. Some political appraisers have said that a filibuster constitutes blackmail because the Senate is prevented from taking action on other bills unless it drops the bill that the filibusterers object to. According to Daniel Berman, a filibuster can alert Senators to the fact that vital national functions might have to grind to a halt for lack of funds unless the will of the minority is carried out.4

Woodrow Wilson, in attacking Senate rules, once said that "a little group of willful men, representing no opinion but their own, have rendered the great government of the United States helpless and contemptible." He went on to say that the Senate "is the only legislative body in the world which cannot act when its majority is ready for action."

In addition to the filibuster, minorities in both houses of Congress often have another powerful weapon at their disposal: the seniority system.

In each house, the party with a majority of the seats is given a corresponding majority on every committee. The majority party members of a committee then unite as a matter of course to select as chairman whichever one of them has the longest record of continuous service on the committee.

The seniority system has been critically referred to as "senility rule" because it has often resulted in the promotion of elderly members of Congress. This system tends to favor legislators from one-party states or districts, usually in the South.

Normally the chairman of a committee possesses a great deal of power. "When he consents to call the committee into session, he decides what it shall discuss. It is he who schedules public hearings, invites witnesses, and presides."

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5Woodrow Wilson, quoted in Berman, A Bill Becomes A Law, p. 61.

6Ibid.

7Ibid., p. 28.

8Ibid., p. 29.

9Ibid.
Even though Congress, under normal circumstances, is often very slow to act, during a time of crisis, Congress can, and often does, act quickly. Because of the revolution in public opinion toward civil rights which took place during the 1960's, Congress acted with unexpected swiftness. Although many Republicans in both houses of Congress and their party leaders in Congress had reservations about various civil rights proposals, partly because of public opinion, they usually voted for the controversial rights measures, as did liberal Democrats. Legislators like to be re-elected; so if they feel that the public is demanding swift action, normally they will respond.

The Dirksen approach toward the passage of civil rights bills seems to have been rather typical of the means used by other Republican leaders in Congress. They did not try to force party members to follow their desires; in a sense, they used "friendly persuasion." On February 28, 1968, Dirksen explained to the Senate how he was able to persuade some Republicans to vote for cloture which was essential for the passage of the Civil Rights Act of 1964. He said,

It was no easy chore to keep that bill and it was no easy chore to go hat in hand, and to be a little blunt, and to be a little selfish and say to a Member, "I went to your State and campaigned for you. I need a favor and I wish you would give me a vote on cloture." And so this body voted cloture and there was the Civil Rights Act of 1964.  

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10*Congressional Record, CXIV, 90th Congress, 2nd Session (Washington, 1968), 1882.*
Support from Republican leaders, especially from Dirksen, in 1964 and 1968 was essential for the passage of civil rights legislation. According to Newsweek magazine, "... in 1964, on the Civil Rights Bill dealing with public accommodations and fair employment, the Minority Leader [Dirksen] not only reversed his position but also took a critical majority of Republican senators with him."\(^\text{11}\) Political columnist Kenneth Crawford wrote that "Presidents Kennedy and Johnson were so grateful to him [Dirksen] for changing his mind in time to save the nuclear test-ban treaty and the civil rights bills of 1964 and 1965 ... that they were careful to place no obstacles in the way of his re-election."\(^\text{12}\)

Perhaps the favorite weapon Southern Democrats have used in the Senate to attempt to kill and weaken civil rights legislation has been the filibuster. In the opinion of Daniel Berman, filibusters "nullify majority rule" and "they constitute probably the greatest single obstacle to legislative protection of Negro rights."\(^\text{13}\)

Dirksen played a very important and significant role in determining the outcome of cloture votes in the Senate. Ordinarily when Dirksen opposed a cloture vote, cloture was not invoked; and, likewise, on most occasions when he favored

\(^{11}\) "The Last of a Rare Old Breed," Newsweek, LXXIII, September 22, 1969, 35.


\(^{13}\) Berman, A Bill Becomes A Law, p. 121.
a cloture vote, cloture was invoked. In 1960 Dirksen opposed cloture; and although Democrats were nearly evenly split on the cloture motion, Republicans followed Dirksen's lead and voted nearly 2 to 1 against cloture. Later, as Dirksen had hoped would happen, the rights measure was weakened and then passed with the votes of Dirksen and all other Republican Senators who voted.

In 1964 Dirksen favored cloture, and cloture was invoked. Several conservative Republicans acted as Dirksen did. The result was that the Democratic vote was not quite 2 to 1 for cloture, but Republicans voted nearly 5 to 1 for cloture.

Dirksen had previously been instrumental in preventing a civil rights proposal from being referred to the Senate Judiciary Committee, where it would have faced a very uncertain future. The Democratic vote was nearly evenly split on this issue, but Republicans voted 2½ to 1 to place the civil rights bill directly on the Senate calendar, which kept it from being referred to the Judiciary Committee. Republicans voted heavily in favor of final passage of the rights bill which Dirksen had been very instrumental in drafting.

Dirksen favored a cloture vote in 1965, and cloture was invoked with the votes of 47 Democrats and 23 Republicans. Only 9 Republicans opposed Dirksen on the cloture vote along with 21 Democrats. On the vote for final passage, only one Republican voted against the bill. Dirksen, as in 1964, had been very instrumental in drafting the bill.
In 1966 two attempts were made to invoke cloture, and on both attempts Republicans followed Dirksen's lead and voted about 2 to 1 against the unsuccessful cloture motions. It was not until 1968 that large numbers of Republicans failed to follow Dirksen's urgings on the matter of invoking cloture to shut off a filibuster. Four attempts to invoke cloture were made in 1968. Dirksen opposed cloture when the first two votes were taken, but he favored it on the last two attempts. Republicans were evenly split on the first vote. The second time a cloture attempt was made 19 Republicans opposed Dirksen and voted for it, but 17 voted against it. Dirksen then changed his position and urged Republicans to support cloture the third and fourth times that attempts were made to invoke it. On both of these occasions, some conservative Republicans who had previously opposed cloture changed their positions and voted for it, as did the majority of other Republicans. The third time cloture was voted on Republicans voted 22-14 for it, and the fourth time they voted 24-12 for it. Cloture was finally invoked by a narrow one-vote margin.

It is interesting to note that until 1968 the vast majority of Republicans voted as Dirksen did on cloture motions. These cloture votes were very significant in determining the outcome of civil rights legislation. Only once, and then only by two votes, did the majority of Republicans vote against Dirksen's desires. The last time a cloture vote concerning open housing legislation was attempted in 1966, Republicans followed Dirksen's
lead; and only 10 supported the cloture motion. However, in March of 1968 Dirksen changed his position on invoking cloture concerning open housing; and the number of his fellow party members voting for cloture rose to 24. Republican Senators cast more than twice as many votes for cloture in 1968 as they did in 1966. The open housing measure which was passed into law was primarily the handiwork of Dirksen.

Dirksen, as Senate Minority Leader, was a very pragmatic person on the issue of civil rights legislation. Even though he was usually classified as a conservative on most issues and normally expressed reservations about civil rights proposals at the offset, he was not at all dogmatic about civil rights. As political scientist Daniel Berman has observed, "Although Dirksen's conservatism is unrelieved, he is flexible . . . . As The New York Times wrote, in a scathing profile: 'Most politicians shift with the wind, but Mr. Dirksen shifts with the zephyr.'"

In the opinion of Senator Hugh Scott (R., Pa.),

... responsibility is reflected in the decisive support Republicans gave the procession of civil rights bills initiated under Eisenhower in 1957 and 1960 and continuing on to 1964 and 1965. None of these long overdue acts would have passed without vigorous support from the party that was born in the struggle for human rights.  

The same thing could certainly be said regarding the 1968 Civil


Rights Act. It is ironic that the Democratic Party, considered by some to be strongly pro-civil rights, is so divided on civil rights issues that Republican leaders had to "save the day" so many times in the 1960's for civil rights legislation.
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