The Civil Rights Act of 1964

The Passage of the Law
That Ended Racial Segregation

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Chapter 1

Introduction
The Background and Setting of the Civil Rights Act of 1964

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The first permanent English colony in North America was founded at Jamestown, Virginia, in May 1607. Twelve years later, in 1619, a Dutch ship sailed into the harbor at Jamestown and sold twenty African slaves to the Virginia colonists. Thus did “slavery” and “involuntary servitude,” as they are referred to in the United States Constitution, come to the American South.

Negro slaves, brought in chains from their original homelands in central and southern Africa, proved useful and profitable in what was to become the southern United States. The flat farmlands, served by meandering tidewater rivers, were ideal for creating large plantations for growing cotton and other agricultural products. The African slaves provided a cheap and reliable source of agricultural and household labor for the emerging southern economy.

North of Virginia, where there were more hills and a harsher climate, the use of human slaves was not as successful. This part of the American colonies, the North, harnessed the labor of yeoman farmers and men and women working for wages. This created one of the great sectional differences of United States history—a group of southern states that relied heavily on slave labor and a group of northern states emphasizing the work and industry of free citizens.
By the time of the Declaration of Independence in 1776 there were almost half a million black persons in the colonies. A thriving slave trade had developed in which men, women, and children were sold, often at public auction, from one owner to another. Thomas Jefferson, a slave holder from Virginia, had included a condemnation of the human slave trade in the original draft of the Declaration of Independence, but his impassioned words were deleted to keep the support of the southern colonies during the Revolutionary War against Great Britain.

The United States next confronted the slavery problem at the time of the drawing up of the federal Constitution at Philadelphia, Pennsylvania, in the summer of 1787. The delegates provided for the abolition of the importation of slaves twenty years after the Constitution was adopted, but the institution of slavery was allowed to remain. In addition, in a famous compromise, each slave was to be counted as "three-fifths" of a person for establishing how many representatives each state could have in the lower house, the House of Representatives, of the national Congress.

Throughout the early 1800s the South and the North drifted progressively further apart over the issue of allowing the institution of human slavery to continue in the United States. As the nation expanded westward across the North American continent, particularly hard political battles were fought over the issue of "slavery in the territories." Finally, after Abraham Lincoln was elected president in 1860, the southern states seceded from the federal union rather than run the risk of having the U.S. Congress in Washington abolish slavery outright.

The Civil War

President Lincoln refused to let the southern states "go in peace," and the result was the American Civil War. The
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North achieved by force of arms that which it had not been able to achieve through legislative politics. On January 1, 1863, President Lincoln issued his Emancipation Proclamation, thereby freeing the slaves in those states that had seceded from the Union.

After the Civil War was over, large Republican Party majorities in the national Congress passed and sent to the states for adoption the three great "Civil War Amendments." The 13th Amendment abolished "slavery" and "involuntary servitude." The 14th Amendment guaranteed the newly freed Negroes equal protection of the laws and the right to "life," "liberty," and "property." The 15th Amendment guaranteed all American citizens the right to vote no matter what their "race, color, or previous condition of servitude." It is important to note that all three Civil War Amendments—the 13th, 14th, and 15th—expressly gave Congress the power to enforce the provisions of the amendment by appropriate legislation.¹

The Black Codes

The Civil War Amendments "worked" but only for a short while. During a twelve-year period of "Reconstruction" in the South following the Civil War, blacks were allowed to vote and a number were elected to important state and national political offices. But, after the Civil War ended, white southern politicians and government officials went to work subverting and reducing the position of blacks in the American South. As early as 1865, the year the Civil War ended, a number of southern state legislatures began passing Black Codes, laws designed to put black citizens in a state of near slavery by limiting their rights and privileges.

The Republican majority in the United States Congress responded to the Black Codes with the Civil Rights Act of 1866, which made it illegal to deprive a person of his civil
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rights regardless of race, color, or previous servitude. Additional civil rights laws were passed by Congress in 1870, 1871, and 1875, all of them designed to have the national government in Washington, D.C., protect black Americans from white-dominated southern state governments. Throughout this period, the Republicans in Congress sought to "nationalize" the issue of black civil rights so that southern white-state legislatures could not undo the work of the Civil War.²

THE END OF RECONSTRUCTION

This effort to have the United States Government protect black rights in the South received a major setback in 1876. In the presidential election that year (the famous Tilden-Hayes contested election), the Republicans garnered the necessary electoral votes to elect Rutherford B. Hayes by agreeing to remove all Union troops from the southern United States. As Republican fortunes continued to wane in the late 1870s and the 1880s, the Republican Party became less and less interested in protecting black civil rights in the South and more and more interested in winning white votes anywhere they could be found. This problem was further complicated by the fact that the more "civil rights oriented" Republicans of the Civil War period, those most committed to the cause of the recently freed slaves, were growing old and retiring from active politics. The younger members of the Grand Old Party simply did not share their deep devotion to protecting black civil rights in the South.

The nationalization of black civil rights came to a complete end in 1892 when the Democrats gained control of the presidency and both houses of Congress for the first time since the Civil War. By 1894 this Democratic Congress had succeeded in repealing most of the civil rights laws that had
been enacted during the post-Civil War period, most importantly the provisions that had to do with voting rights. This wholesale removal of protections left the black citizen in the South almost completely at the mercy of southern state governments, and the result was a rash of state laws protecting the right of white citizens to segregate themselves from black citizens in many aspects of social and political life. Southern whites particularly used state law to deny black citizens access to places of “public accommodation,” such as restaurants, hotels, and swimming pools, which could be designated by their private owners as “for whites only.”

THE POLITICAL PARTY PROBLEM

The change in the Republican Party attitude toward black Americans that occurred in the late 1870s was an important event in the history of civil rights in the United States. It marked the beginning of a long period of time in which the interests of black Americans were made secondary to the needs of the two major political parties to win national elections. Time and again over the following ninety years, both the Republican and Democratic parties would sacrifice civil rights programs and civil rights bills on the altar of “not losing white votes” in the next election. This situation was exacerbated, of course, by the fact that, after the 1890s, southern whites were eligible to vote but most southern blacks were barred from voting by poll taxes, literacy tests, and “white-only” primary elections.

Thus black Americans were faced with what could be called the “political party problem.” The political power to pass civil rights laws rested with the two major political parties—the Republicans and the Democrats—but both parties had more to gain by appealing to the votes of enfranchised
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segregationist southern whites rather than the non-votes of
disenfranchised southern blacks.

THE CIVIL RIGHTS CASES OF 1883

Although the United States Supreme Court played a significant role in the mid-twentieth century where protecting black civil rights was concerned, such was not the case in the late nineteenth century. In fact, the protections guaranteed by the constitutional amendments and congressional statutes enacted following the Civil War were largely taken away by the court.

In the Civil Rights Cases of 1883, the Supreme Court ruled that the protection of rights guaranteed by the 14th Amendment applied only to the states and not to individuals. Thus an 1875 act of Congress prohibiting discrimination against blacks in inns, public conveyances, theaters, and other public accommodations or amusements was declared unconstitutional because it was limiting private behavior rather than state behavior.

In retrospect, it is interesting to ponder how different United States history might have been if the Supreme Court had not ruled as it did in the Civil Rights Cases of 1883. Congress, after all, passed a public accommodations law, much the same law that members of the civil rights movement worked for so diligently in the 1950s and early 1960s. If the Supreme Court in the early 1880s had upheld the power of Congress to pass such a law and prohibit racial discrimination in public places throughout the entire nation, the course of civil rights history in the United States could have been completely different.

A careful reading of the relevant portions of the 14th Amendment, however, reveals why the Supreme Court ruled as it did. "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens
of the United States; nor shall any state deprive any person of life, liberty, or property, without the due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Clearly the 14th Amendment prohibitions were on the state governments and not upon the private individuals who lived within those states.

The impact of this decision on the position of blacks in the South was extensive. It meant the 14th Amendment could not be used to protect black Americans from mistreatment by southern individuals—it could only be used to protect black Americans from official actions by the states. The result was a system of oppression in which private individuals could not only discriminate against blacks but could actually terrorize them, confident in the knowledge that the power of the United States Government in Washington, D.C., would not be used to punish them. The state governments, which were limited by the 14th Amendment, thus needed only to stand aside and let private individuals do the discriminating and/or terrorizing, simply being careful not to pass any state laws or initiate any state actions that took away any of the rights protected by the 14th Amendment.

This was the legal situation that made the beating, the lynching, and the assassination such effective weapons for subjugating blacks to white majority rule in the South. Beatings, lynchings, and assassinations were carried out by individuals rather than by state governments, thus preventing the national government in Washington, D.C., from using the 14th Amendment as an excuse to intervene. Throughout the late nineteenth and early twentieth centuries, national law enforcement officials were unable to act to stop lynchings and racial murders in the South because, according to the Supreme Court, the 14th Amendment only limited the states. If white individuals who beat, lynched, or murdered blacks were to be caught and punished for their crimes, it would be up to the state governments, and not the national government, to do it.
Another part of the southern system of black oppression was "the free white jury that will never convict." In most southern states, white citizens who beat, lynched, and murdered blacks could do so with almost complete confidence that state and local police, being committed themselves to the doctrine of white supremacy, would be less than zealous about investigating the crimes and catching the perpetrators. In the few cases where arrests were made and trials were held, lynch mobs and race murderers could be certain that a jury of their white neighbors and friends would find them "Not Guilty" and let them go free. The end result of the Civil Rights Cases, therefore, was to give white individuals in the South almost complete license, including lynching and murder, to personally enforce racial segregation, all of it done without any sense that there would ever be any official punishment.

Beatings, lynchings, and racial murders were not isolated instances in the American South during the late nineteenth and early twentieth centuries. By the early 1890s a black was lynched in the South an average of every three days. By the turn of the century it was well known that even "respectable" white leaders "tolerated" lynching as a way of enforcing racial segregation in the South.

Although the number of lynchings had decreased by the middle of the twentieth century, murders and assassinations remained an ever-present personal technique for frightening southern blacks into submission to white supremacy. On Christmas night in 1951, Harry T. Moore, the Florida secretary of the National Association for the Advancement of Colored People (NAACP), was killed along with his wife when a bomb was thrown into their home. Moore had been organizing Florida blacks to register and vote. No one was arrested or tried for the crime. Clarence Mitchell, Jr., the Washington, D.C., representative of the
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NAACP, put the role of state government in perspective when he charged: "The state of Florida for political reasons does not try to stop that kind of thing."  

Separate but Equal

In 1896 racial segregation in the American South was upheld by a decision of the United States Supreme Court. This landmark decision, Plessy v. Ferguson, arose when a railroad company refused to provide a sleeping car berth to a black train passenger. The Supreme Court ruled the railroad could segregate white sleeping car passengers from black sleeping car passengers, but the railroad had to provide sleeping accommodations for blacks that were equal to similar accommodations for whites. This decision promulgated for the first time the famous "separate but equal" doctrine. That doctrine was used extensively by southern states to justify racially segregated public schools, from kindergarten to graduate school, throughout all of Dixie.

Plessy v. Ferguson did produce a stirring dissenting opinion. In a lone voice strongly opposed to the majority opinion, Justice John Marshall Harlan wrote: "Our Constitution is colorblind and neither knows nor tolerates classes among citizens."

Renationalizing the Civil Rights Issue

Despite Justice Harlan's inspiring words, the major characteristic of southern blacks at the beginning of the twentieth century was that they were "governmentally isolated." They lived in a world in which, by both congressional action and Supreme Court decision, the protections of the national government had been removed from them. They were subjected simultaneously to the will of segregation-oriented
state governments and, more threateningly, white individuals who could beat, lynch, or murder them with no fear of substantial punishment by either the national or state governments. After 1892, when the Congress repealed national voting rights laws, black southern males were even denied the vote, guaranteed by the 15th Amendment to the Constitution, as a way of improving their position in society.

It thus was clear to many by the start of the twentieth century that, if southern blacks were ever to be freed from southern white oppression, both official and unofficial, the national government in Washington, D.C., would have to do the job. There thus arose a constant call by those interested in black civil rights for action by the national government. Simultaneously, southern segregationists, realizing that the only potential threat to their "peculiar institution" came from Washington, D.C., became strong advocates of states' rights and dedicated opponents of national power. If southern blacks were to ever be free, the national Congress in Washington, D.C., would have to "renationalize" the civil rights issue.

But any new national laws protecting black civil rights would have to pass both houses of Congress—the Senate as well as the House of Representatives. In the Senate was a rule guaranteeing unlimited debate, the famous filibuster rule. Any civil rights bill to come before the U.S. Senate would face a filibuster by a determined group of southern senators, and the filibuster could only be stopped by a "cloture vote," which required a two-thirds vote in the Senate. Thus, from the very beginning of the black civil rights movement, the Senate filibuster was regarded as the great obstacle—and a successful cloture vote to stop a civil rights filibuster was the great goal.

**The Early Civil Rights Movement**

Following a particularly violent race riot in Springfield, Illinois, in 1908, a group of humanitarian whites formed a new
organization to help combat racial discrimination. Joining forces with a group of black intellectuals, they met in New York to organize the National Association for the Advance-ment of Colored People (NAACP).

It is important to note the NAACP was formed by both blacks and whites. Integration of the races was the goal and practice of the organization from the moment of its found-ing. Even more important was the principal technique adopted by the NAACP—the use of the Constitution and the court system of the United States to bring equality for African-Americans through law. This emphasis on having lawyers file lawsuits to guarantee blacks their legal rights as United States citizens identified the NAACP as a “conven-tional” and “mainstream” American interest group.  

Some early gains for blacks came from the Supreme Court. In 1938 in Missouri ex rel. Gaines v. Canada, the court took up the question of whether the “separate” black facili-ties were indeed “equal” to the white facilities. The facility in question was the University of Missouri’s whites-only law school, and Missouri had no equivalent black law school. The court ruled that Missouri must provide its black citizens with a black law school equal to the white law school.

This decision was a step forward in the cause of black civil rights. Anywhere it could be shown that segregated black facilities were not equal in quality to the equivalent white facilities, a suit could be filed seeking improved facili-ties for blacks.

Throughout the early twentieth century, there was a slow but steady movement of blacks out of the South and into the North, particularly into the central cities of large northern metropolitan areas. In 1900 only 10 percent of American blacks lived outside the South, but by 1930 more than 20 percent of blacks lived outside of Dixie.  

In the South most blacks were prevented from voting by literacy tests, a technique by which white election judges
Civil Rights Section began building a strong base of support throughout the country, particularly in the South. Although its initial focus was on securing the end of the Reconstruction era, the Civil Rights Section of the Justice Department focused on achieving this goal. This was a critical period in the history of the United States, as the Supreme Court's ruling in Plessy v. Ferguson had led to the widespread practice of segregation. The Civil Rights Section worked to challenge these practices, and its efforts were largely successful.

The New Deal economic programs under President Franklin D. Roosevelt and his administration were a key part of the fight against the Great Depression. These programs were designed to provide relief to the unemployed, stimulate economic growth, and create new jobs. They included the establishment of the Civil Works Administration, which employed millions of workers to build public works projects. These projects included roads, bridges, and other infrastructure, which helped to boost the economy and create jobs.

The New Deal also included the establishment of the Social Security Administration, which provided benefits to the elderly, disabled, and unemployed. These programs were a key part of the New Deal's efforts to address the economic crisis of the 1930s and lay the foundation for the modern welfare state.

Because the Southern Democrats were a key part of the New Deal coalition, the success of the New Deal was closely tied to their support. This was particularly true in the South, where the Democratic Party had a strong hold. The New Deal's programs were designed to address the economic needs of the South, and the Southern Democrats worked to ensure that these programs were implemented in a way that benefited their constituents.

President Franklin D. Roosevelt was a key figure in the New Deal. He was a skilled politician and a strong leader who was able to unite the American people behind the New Deal. His administration was able to pass a number of important pieces of legislation, including the Social Security Act and the Civil Works Administration Act.

The New Deal was a critical period in American history. It marked a turning point in the country's approach to economic policy, and its impact was felt for decades to come. The New Deal's programs helped to lay the foundation for the modern welfare state, and they continue to shape American economic policy today.
At the end of World War II, the Fair Employment Practices Commission (FEPC) was created to oversee the implementation of executive orders issued by President Franklin D. Roosevelt. The FEPC was charged with enforcing anti-discrimination laws in the workplace, particularly in the defense industry. However, the FEPC was never fully effective, and its work was largely overshadowed by the broader social and political changes of the period. This chapter explores the history and legacy of the FEPC, and its role in shaping American labor law and civil rights.
president of the United States. A Republican, Eisenhower followed Roosevelt's and Truman's example of using the powers of the presidency to further the cause of black civil rights.

One achievement of President Eisenhower in the civil rights field was the appointment of Earl Warren to be chief justice of the United States. Eisenhower had promised Warren the first vacancy on the Supreme Court but had not expected that vacancy to be the chief justiceship. Nonetheless, when Chief Justice Fred Vinson died of a heart attack, Eisenhower named Warren, the Republican governor of California, to lead the high court.

The appointment of Warren as chief justice of the United States is significant because of Warren's subsequent leadership in the Supreme Court's unanimous decision to declare racial segregation in public schools unconstitutional (Brown v. Board of Education of Topeka, Kansas). Although many scholars pointed out that Eisenhower later expressed regrets about appointing Warren and questioned the wisdom of integrating public education in the segregationist South, the fact remains that Eisenhower appointed the chief justice of the Supreme Court who produced the Brown decision.9

Almost as important as the appointment of Earl Warren to the Supreme Court was Eisenhower's decision to allow his attorney general, Herbert Brownell, to argue the case against racial segregation before the Supreme Court. Although Eisenhower separated himself publicly from Brownell's arguments supporting public school integration, in private he helped Brownell write his opinion.

Having the attorney general, or an assistant attorney general, be the strong administration spokesperson for civil rights was an Eisenhower trait that was continued by the Kennedy and Johnson administrations in the 1960s. As Eisenhower relied on Brownell (and his successor, William Rogers) in the civil rights area, President Kennedy relied on his attorney general—his brother Robert Kennedy—to be
the "front person" on civil rights. Following President Kennedy's assassination, President Lyndon Johnson placed equally heavy and public civil rights responsibilities on Deputy Attorney General (later Attorney General) Nicholas Katzenbach.

**Brown v. Board of Education of Topeka, Kansas**

When handed down in May 1954, the landmark decision, *Brown v. Board of Education of Topeka, Kansas*, called for the desegregation of all public school systems in the nation "with all deliberate speed." The court unanimously ruled that separate facilities were, by definition, unequal and, therefore, unconstitutional. Most important, however, was the breadth of the decision. In outlawing segregation in all public education throughout the entire nation, the court thereby implied that all forms of segregation were illegal. It could now be assumed that the court would uphold new civil rights legislation banning all forms of public discrimination, provided, of course, Congress could be persuaded to pass such legislation.¹⁰

The *Brown* decision was a turning point for the executive branch of the United States Government as well as the judicial branch. Minority Americans had won much more than the right to seek a court order to integrate any public school at any educational level anywhere in the United States. The court order would have to be enforced, and the obvious group to do the enforcing would be the Civil Rights Section of the United States Department of Justice. Civil Rights Section lawyers, when needed, could begin moving into the American South to oversee the orderly desegregation of public schools. Desegregation orders from U.S. courts would be enforced, if enforcement became difficult, by U.S. marshals. The judicial branch of the United States democracy had given the executive branch the legal justification—if
it cared to use it—to go into the South and become directly involved in the enforcement of public school integration.

The Eisenhower Administration responded—and with a great deal of foresight—to the fact that U.S. marshals were the logical instruments to enforce public school integration. As more and more efforts to integrate public schools in the South resulted in strident white opposition, the Eisenhower Justice Department began training a sizable group of U.S. marshals to be used in the South. Herbert Brownell's successor as attorney general, William Rogers, trained an elite crew of six hundred marshals whose significance reached well beyond the Eisenhower years. When President John Kennedy needed marshals to enforce school integration at the University of Mississippi and the University of Alabama in the early 1960s, he was able to draw on the elite crew of U.S. marshals trained under Eisenhower.11

MASSIVE RESISTANCE

It was originally hoped that state and local governments in the South would comply voluntarily with the Brown decision. In many areas, however, the decision was met with "massive resistance." White political and governmental leaders worked to put off as long as possible the racial integration of their local schools. Segregationist-dominated southern state legislatures soon joined the act, enacting state laws that cut off state educational funding to any school system that had the temerity to racially integrate. In some cases, amendments to state constitutions were adopted that required shutting down public schools rather than allowing them to desegregate.

President Eisenhower often vacationed and played golf in the South. He thus was well aware of the strength of southern attitudes on the race issue, particularly as they applied to school integration. Eisenhower often expressed the
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fear that, if the U.S. Government pressed too hard on the issue of public school integration, many communities in the South might abandon public education altogether. Whites would then have their own private or church-related schools while blacks, particularly poor blacks, would have no schools at all. Eisenhower frequently used the word dilemma to describe this problem of total southern intransigence on the subject of public school integration.12

The Brown decision thus had two simultaneous but contradictory effects. On the one hand, it inspired northern liberals and black political activists to press ever more strongly for racial integration in the American South and the Border States. On the other hand, it unified much of the official white South in its all-out opposition to race mixing in any form. Conflict between these two forces became ever more inevitable during the later years of the Eisenhower administration.

By the early 1960s, the lack of progress on school integration in the South became one of the strongest arguments for the Civil Rights Act of 1964. As the tenth anniversary of the Brown decision approached in the spring of 1964, civil rights supporters pointed out that a decade had gone by since the Supreme Court’s landmark decision but very few southern blacks were attending integrated schools. Such a conspicuous example of lack of state action on desegregating schools dramatized the need for congressional—and thus national government—intervention.

THE NONVIOLENT MOVEMENT

The Congress of Racial Equality (CORE) was founded in Chicago, Illinois, in 1942 and became a national organization in 1943. Based on the nonviolent principles of Mahatma Gandhi of India, CORE sought to integrate restaurants, snack bars, lunch counters, and public rest rooms through-
out the North, the border states, and the upper South. (Any attempt to integrate such facilities in the "Deep South" states of South Carolina, Georgia, Alabama, Mississippi, and Louisiana was regarded as too dangerous and very unlikely to be successful.) CORE was dedicated to pushing southward the "Jim Crow" line, an indeterminate east-west line across the United States above which black customers could be served along with whites in public places and below which they could not.

CORE's preferred techniques for pressing the cause of integrated public facilities were the "freedom ride" and the "sit-in" demonstration. The first freedom ride was staged in 1947. The Supreme Court had outlawed segregation in buses and bus stations operating in interstate commerce (across state lines), so CORE sent a group of its members through the upper South by bus to see if the court decision was being obeyed.

Socio-dramas were used to train CORE members. Acting out the roles of demonstrators and arresting officers, experienced CORE members would teach newcomers how to curl their bodies and put their arms around their heads so as to reduce the effects of physical violence. CORE members were taught to be nonviolent but determined. They were trained not to leave a demonstration site unless actually arrested. If restaurant or snack bar personnel would not serve the demonstrators, they were to remain in their seats until they were either served or arrested. No matter how hard a CORE demonstrator might be struck with a fist or a club, the CORE demonstrator was never to strike back.

Similar to the NAACP, CORE had both black and white members and would send "integrated" teams on freedom rides and to sit-ins. Only half the members of a CORE team would actually participate in the demonstration. The other half would behave legally in order to be able to render medical assistance if necessary or bail arrested demonstrators out of jail.
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When traveling through the upper South in the late 1940s, CORE freedom riders held their meetings and stayed overnight in local black churches. This was because the local black church was the only place where CORE members were reasonably safe from being harassed by southern opponents of racial integration.

The NAACP frowned on CORE’s form of nonviolent direct action because of the NAACP’s preference for using court suits as the best method of securing black civil rights. After CORE began drawing significant national press attention in its efforts to integrate public facilities throughout the South, however, the NAACP began to take over the role of defending CORE demonstrators in southern court rooms after they were arrested and came to trial.

In addition to freedom rides through the upper South, CORE in the late 1940s was busy integrating the swimming pool at Palisades Amusement Park in New Jersey. By 1949 CORE was working at integrating all downtown eating places in St. Louis, Missouri, and by 1953 they were working toward the same goal in Baltimore, Maryland.

By the mid-1950s CORE had refined the sit-in demonstration into a highly perfected and effective technique. Integrated groups of demonstrators would fill a certain number of tables and chairs in the restaurant or lunch counter in question, thus denying the owner the income that those tables and chairs would ordinarily be earning. One demonstrator would have a sign on his back stating the number of hours and minutes the demonstrators had sat there without being served. In some instances CORE would use a “trying on” technique, sitting in at the particular restaurant for only one or two hours, one day a week, in order to show the restaurant owner that having blacks in his or her eating place did not really harm business.

Throughout the 1940s and early 1950s, CORE did not generate much national or local publicity with its various freedom rides and sit-in demonstrations. In the South and
the border states, newspaper editors simply did not bother
to cover CORE demonstrations or report on CORE’s isolat-
ed victories in integrating a snack bar here and a bus station
rest room there. Until the year 1955, fighting for black civil
rights was neither a popular cause nor a hot news item.

It can be argued that those CORE demonstrators who
labored in relative obscurity during the 1940s and early
1950s were some of the real heroes of the civil rights move-
ment. They did win some important victories, but their
most important contribution may have been that, when the
civil rights movement did become a big national news story,
the nonviolent techniques of the freedom ride and the sit-in
demonstration were perfected, tested, and ready to go.13

THE MONTGOMERY BUS BOYCOTT

Although blacks and whites were permitted to ride the
same city buses in Montgomery, Alabama, seating on the
buses was racially segregated. Whites were to sit at the front
of the bus and fill seats toward the rear. Blacks were to sit in
the back of the bus and fill seats toward the front. If the bus
was so crowded that a white person had to stand, a black
bus rider was required by Montgomery city law to give up
his or her seat to the white person.

Riding the bus home after a tiring day at work, Mrs.
Rosa Parks, a black seamstress, refused to give up her seat
on a city bus to a white man. The date was December 1,
1955, now regarded by many observers as the beginning of
the modern civil rights movement. Mrs. Parks was arrested.
Subsequently, she was bailed out of jail by E. D. Nixon, the
Montgomery representative of the Brotherhood of Sleeping
Car Porters and a local leader of the NAACP. Later that
evening Nixon was struck with the idea of having Mont-
gomery’s black citizens boycott the city’s segregated bus
system.
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Other groups, including an organization of black women known as the Women's Political Council, also decided a bus boycott was the best way to respond to the arrest of Rosa Parks. An organizational meeting was held at the Dexter Avenue Baptist Church, and subsequently the minister at that church, the Reverend Martin Luther King, Jr., was elected to lead the bus boycott. Montgomery's forty thousand blacks stayed off the city buses for more than a year, vowing not to return until the buses were totally desegregated. Many of the boycotters walked to their destinations. Others rode in car pools or received free automobile rides from volunteer drivers supporting the bus boycott.

The major accomplishment of the Montgomery bus boycott was that it turned a nonviolent demonstration for racial integration into a national news story. Because of the large number of boycotters involved, and because boycotters carpooling and walking made good television film, the national television networks covered the bus boycott extensively. When the white community in Montgomery reacted with random acts of violence (buildings bombed, buses fired upon, physical harm to boycotters, etc.), there was even more national coverage. It was this news attention that made Martin Luther King, Jr., a national symbol of the new black resistance to segregation and enabled him to present to the American people his ideas on the nonviolent demonstration as a means of producing political and social change.14

The bus boycott failed to convince the white political and governmental leadership in Montgomery to desegregate the city's buses. In November of 1956, almost one year after the bus boycott had begun, the United States Supreme
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Court ordered the city bus system in Montgomery to integrate racially. The court proved willing to act when the local white leadership would not. On December 21, 1956, with every word and move recorded by national and international television news, Martin Luther King and his supporters boarded a Montgomery city bus and were able to sit in any empty seat they wanted.

The most important result of the Montgomery bus boycott was that "it made nonviolent forms of protest against racial segregation big news items, both in the national and the local press. After Montgomery, no longer would demonstrators work in relative obscurity. Race relations, civil rights demonstrations, and violent white reactions to demonstrations henceforth were big news and played accordingly."\(^{15}\)

The emergence of Martin Luther King, Jr., in the mid-1950s was a key event in the escalating fight for civil rights. Through the experience gained during the Montgomery bus boycott, King learned that the northern and western United States were most likely to press for civil rights reform when a dramatic instance of racial segregation was presented on the news media, particularly television. King quickly became adept at organizing racial protests in southern cities, specifically choosing as his opponents racist public officials who would react against the demonstrators with violent means such as police clubs, police dogs, high pressure fire hoses, etc.\(^{16}\)

Two of these massive racial protests in the 1960s produced major civil rights bills. The impetus for Congress to enact the Civil Rights Act of 1964 (which banned racial discrimination in public places) occurred following brutal white suppression of racial demonstrations led by Dr. King in Birmingham, Alabama, in the spring of 1963. An equally brutal reaction to a voting rights march led by King in Selma, Alabama, in 1965 produced the Voting Rights Act of 1965 (which gave the U.S. Government the power to register blacks to vote in southern states).\(^{17}\)
During Dwight D. Eisenhower's first three years in office—1953 to 1955—he presented no civil rights bills to Congress. The president and his cabinet members were well aware that Eisenhower's predecessor in office, Democrat Harry S. Truman, had not only failed to get a civil rights bill from Congress but had ruined his relationships with the southern Democrats by his efforts to get a bill passed. Eisenhower also believed that strongly held political opinions—such as a firm belief in racial segregation—could not easily be changed, even by U.S. Government legislation. Eisenhower told a new conference in 1954: "I believe there are certain things that are not best handled by punitive or compulsory Federal law."\(^1\)

Although he declined to ask Congress for a civil rights bill in his first years in office, President Eisenhower was quietly determined to eliminate racial discrimination in those areas where the president had clear-cut authority and there was no question of overriding states' rights. Eisenhower therefore issued executive orders ending any segregationist practices that remained in the District of Columbia, in the military, and in the U.S. Government bureaucracy. He was the first president to appoint a black, Frederic Morrow, to an executive position on the White House staff. Eisenhower's record of achievement in the civil rights field was sufficiently impressive that he gained considerable support among black voters when he successfully ran for reelection to the presidency in 1956.\(^1\)

Eisenhower's policy of minimizing legislative requests and maximizing executive action was followed by his successor as president, John F. Kennedy. It can even be argued that President Kennedy, by delaying signing an executive order to racially integrate public housing in the United States for more than two years, was less willing to use executive action on behalf of civil rights than Eisenhower was. To
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Kennedy’s credit, following the violent and well-publicized racial demonstrations in Birmingham in 1963, he sent a major civil rights bill to Congress and worked diligently for its passage.

The Civil Rights Act of 1957

On March 9, 1956, Attorney General Herbert Brownell circulated to Eisenhower and his cabinet a four-part civil rights bill to be presented to Congress. Part I provided for creation of a bipartisan United States Commission on Civil Rights for the purpose of studying racial discrimination in the United States and recommending remedial legislation to Congress. It was hoped the Civil Rights Commission’s investigations and written reports would provide factual data and reasoned arguments for civil rights supporters in subsequent legislative fights.

Part II provided for transforming the small Civil Rights Section of the Justice Department into a Civil Rights Division headed by an assistant attorney general. The proposed Civil Rights Division would enjoy the enhanced status of being created by congressional legislation rather than executive order. It also would have more lawyers and more money with which to pursue civil rights objectives.

Part III of Herbert Brownell’s proposed civil rights bill provided that the attorney general of the United States be granted the power to secure court injunctions in civil rights cases and that such cases be removed from state courts to United States courts. Civil rights supporters had long argued that only intervention by the United States Government would end civil rights violations against blacks in the South.

This provision soon became known on Capitol Hill as “Part III” because it was the third title of
the proposed Eisenhower administration civil rights bill. Part III was an extremely important proposal to civil rights supporters. It would permit the U.S. attorney general to file civil rights suits, thus relieving the black individual in a hostile southern community of the responsibility of filing such a suit. Many black individuals would not think of filing a civil rights suit, mainly because the threat of white retaliation, possibly in the form of a bombing or a lynching, was so great. The attorney general and the Civil Rights Division of the Justice Department would have no such fears, however, and could pursue civil rights cases in a vigorous and public way that would never occur if such cases were left to the individual initiative of isolated southern black citizens.

The Eisenhower Part III was not adopted until 1964, but almost all civil rights bills brought to Congress in the 1957-1964 period contained a provision similar to Part III. This provision invested the attorney general with the power to seek court injunctions to protect the civil rights of African-Americans throughout the South. The concept retained the identifying label “Part III” even when it was not the third part of the particular bill in question.

Part IV would increase the power of the Justice Department to seek injunctions against actual or threatened interference with the right to vote. It also extended U.S. election laws to cover primary elections and special elections as well as general elections.

At first President Eisenhower endorsed only the first two points of Brownell’s proposed legislation. By October of 1956, however, late in his successful campaign for reelection, Eisenhower declared his support for all four provisions. In his 1957 State of the Union message he urged Congress to enact all four points into law.
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Congressional Action

Because there is no filibuster rule in the United States House of Representatives, the southerners opposed to civil rights had no way of stopping the Eisenhower civil rights bill in the House. All four of Herbert Brownell’s recommended provisions were, with only minor amendments, passed by the House on June 18, 1957.

Easy passage in the House of Representatives became, from this point on, one of the established principles of legislative strategy making for enacting civil rights bills. By the early 1960s civil rights supporters assumed passage in the House was a foregone conclusion. They would schedule a civil rights bill for passage in the House when it suited their strategy for getting the bill through the Senate, which was much more difficult. When the bill that became the Civil Rights Act of 1964 was before the House of Representatives in February 1964, civil rights strategists added and deleted provisions according to how it would effect passage in the Senate rather than the House of Representatives.23

The first major problem confronting the Eisenhower civil rights bill was the Senate Judiciary Committee and its strongly segregationist chairman, James O. Eastland of Mississippi. Eastland had used his powers as committee chairman to kill every civil rights bill that came to the committee during the 1950s. Eastland and his Judiciary Committee thus were famous as the “burial ground” in the Senate for civil rights bills.

The strategy devised in 1957 for bypassing the Senate Judiciary Committee was used repeatedly with civil rights bills during the 1960s. The House-passed civil rights bill was intercepted at the moment a clerk carried it over to the Senate from the House of Representatives. Before the bill could be routed to the Senate Judiciary Committee, the Senate leadership took the bill and put it directly on the Senate calendar for debate at a future time.
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The vote to bypass the Senate Judiciary Committee in 1957 received only lukewarm support from Democratic senators. Only ten of them voted to bring the bill directly to the Senate floor for debate. The Republicans in the Senate were virtually unanimous in their support for the 1957 bypass motion, however, and that support is what enabled it to be narrowly adopted. Senate Republicans probably supported the bypass motion so strongly because it was a Republican president’s civil rights bill.

This technique for bypassing the Senate Judiciary Committee, pioneered in the Eisenhower years, was quite well established by 1964. When the bill that became the Civil Rights Act of 1964 reached the Senate from the House, the southerners decided to filibuster the motion to bypass the Judiciary Committee. Incredibly to civil rights supporters, this southern filibuster of the motion to bypass the committee lasted for almost three weeks. Then the filibuster of the civil rights bill itself began.24

The southern attack on President Eisenhower’s 1957 civil rights bill centered on Part III, the provision permitting the attorney general to file suits in civil rights cases. Georgia Senator Richard Russell, the post-World War II leader of the pro-segregation southern Democrats in the Senate, condemned Part III as an all-out invasion of states’ rights. Russell told the Senate:

The bill is cunningly designed to vest in the attorney general unprecedented power to bring to bear the whole might of the federal government, including the armed forces if necessary, to force a commingling of white and Negro children in the state supported schools of the South.25

Russell concluded his speech by noting that many Americans living outside the South “would not approve of another Reconstruction at bayonet point of a peaceful and patriotic South.”
In this speech, Senator Russell established the expansion of U.S. Government power as the principal issue on which civil rights bills would be opposed during the late 1950s and 1960s. This issue had particular appeal to pro-segregationists because it rested on constitutional grounds—the U.S. Government should not be given too much power at the expense of the states—rather than on racial segregation as such. By the early 1960s Russell was referring to the tendency of all civil rights bills to expand the powers of the national government over the state governments as the "Federal blackjack."26

Russell’s attack on Part III in the 1957 bill was successful. Even President Eisenhower, after analyzing Russell’s interpretation and seeing its effect on public opinion, told a news conference he could not support giving the attorney general such vast powers. With Part III eliminated, the southerners no longer considered the bill a threat and let the other three provisions pass into law without a filibuster. Russell called the removal of Part III “the sweetest victory in my twenty-five years as a senator.”27

The most important lesson learned from the 1957 Civil Rights Act by civil rights supporters was that any deal with the southern senators on a civil rights bill would result in “cutting the heart out” of the bill. By the early 1960s, this had produced a “no compromises” attitude on the part of civil rights supporters where the southerners were concerned. The lesson of 1957 was that any bill that the southerners approved of would not be worth having. A favorite expression at the time was that the bill would have been “gutted.” In both 1964 and 1965, pro-civil rights forces adopted the strategy that a meaningful civil rights bill would have to undergo a determined southern filibuster in the Senate and that filibuster would have to be ended by a successful cloture vote (two-thirds of senators present and voting).

President Eisenhower’s 1957 Civil Rights Act should not be regarded as a failure, however. The new law estab-
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lished a Civil Rights Commission to study racial problems in the United States and, based on the results of the study, make recommendations to Congress. In 1961 the Commission issued a major report to Congress thoroughly documenting the effects of racial segregation and oppression in the South. The Commission's findings served as the basis for the Kennedy administration civil rights bill that eventually became the Civil Rights Act of 1964.28

Equally important in the 1957 Civil Rights Act was the creation of the Civil Rights Division in the Department of Justice. Under both President Kennedy and President Johnson, the Civil Rights Division worked to further the civil rights of blacks in the American South and sought to reduce the conflict and violence produced by civil rights demonstrations. Under the leadership of Assistant Attorney General Burke Marshall, a Kennedy appointee, the Civil Rights Division of the Justice Department accomplished many important civil rights tasks in the early 1960s.

Little Rock

In an effort to voluntarily comply with the Supreme Court’s Brown decision, the school board in Little Rock, Arkansas, began the process of desegregating that city's Central High School.29 As school opened in September of 1957, nine black students were scheduled to attend classes at the previously all-white high school. Before the African-American students could even enter the building, however, the governor of Arkansas, Orval Faubus, sent in the Arkansas National Guard to “maintain law and order” by keeping the black students out of school. By sending in the National Guard to prevent racial integration, Governor Faubus was directly challenging the authority of the U.S. Supreme Court. Indirectly, he was challenging the ability of the U.S. Government to enforce the orders of its highest court.

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President Dwight D. Eisenhower responded immediately to this challenge to court-ordered school integration. Acting under his authority as Commander in Chief of all U.S. armed forces, he “federalized” the Arkansas National Guard, thus putting it under his control rather than Governor Faubus’s control. The Arkansas National Guard was ordered out of Little Rock, and regular U.S. Army troops were sent in to occupy the area around Central High School and see that school integration proceeded in an orderly and peaceful manner.

These decisive actions at Little Rock by a U.S. president made a significant impact on public opinion throughout the nation. For the first time since the Civil War period, United States military forces had entered a southern city and state to enforce a national policy (racial integration) strongly opposed by a state government official (Governor Faubus).

For southern blacks, this national intervention was a critical development. Up until the time President Eisenhower acted so swiftly and decisively at Little Rock, there had been no guarantee that national government power would be used to uphold the Supreme Court’s order on school integration. After Eisenhower’s actions at Little Rock, however, “the precedent was set.” From that point forward, blacks could always hope for United States Government intervention on behalf of their efforts to integrate public schools. Little Rock motivated black civil rights leaders in the South and their white supporters to work even harder to end racial segregation.30

Little Rock’s Central High School was integrated by military force for the 1957-1958 school year. The following year, however, Governor Faubus closed the schools rather than allow them to be desegregated. For a brief period, therefore, President Eisenhower’s powerful intervention in the school integration crisis in Little Rock resulted in Little Rock public schools being closed. President Eisenhower’s fear that going too rapidly with integration might result in
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closed public schools in the South had proven to be realistic, at least in the short run.

The Civil Rights Act of 1960

In 1959 the Eisenhower administration presented a civil rights bill to Congress which, among other things, extended the life of the Civil Rights Commission and gave the U.S. attorney general the power to inspect state and local voting records in elections for U.S. Government offices. The bill received immediate consideration in the House of Representatives, where House Judiciary Committee Chairman Emanuel Celler referred it to a special subcommittee headed by himself. Celler had very carefully appointed a number of pro-civil rights supporters to this subcommittee—Subcommittee No. 5. Southern members of the House frequently charged that the subcommittee had been "stacked" in favor of civil rights.

As would be expected, the subcommittee took the Eisenhower proposals and added to them. A Part III was included in the subcommittee bill, even though President Eisenhower had refused to include Part III in the administration proposals.

The creation and use of Subcommittee No. 5 was one of the important civil rights developments during the Eisenhower years. In the years following 1960, House Judiciary Chairman Celler continued to groom the subcommittee as a strong pro-civil rights group. When the bill that eventually became the Civil Rights Act of 1964 came before Subcommittee No. 5 in the fall of 1963, the subcommittee reported out one of the strongest civil rights bills that had ever been presented to the U.S. Congress. The subcommittee bill was so pro-civil rights that President Kennedy called Chairman Celler to a series of meetings at the White House at which the bill was toned down so that it would have a better chance of eventual passage in the Senate.
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Following consideration by the House Judiciary Committee, President Eisenhower’s 1959 civil rights proposal ran into a stone wall of opposition in the House Rules Committee. The chairman of the House Rules Committee, Representative Howard Smith of Virginia, would disappear from Washington for long periods of time when a bill he disliked was supposed to be under consideration by his committee. With the Rules Committee chairman absent, no action could be taken on the bill in question. When the 1957 civil rights bill came before his committee, Chairman Smith left town for his Virginia farm because, he said, his dairy barn had caught fire and burned down. He went back to the farm again in 1959, arguing that his dairy cattle were sick and needed him close by.

House Judiciary Chairman Celler sought to solve the problem of Smith’s stalwart opposition by circulating a discharge petition. If one-half of the members of the House signed the discharge petition, the 1959 Eisenhower civil rights bill would move automatically from the Rules Committee to the House floor for debate and passage. The petition came within 10 names of the 218 required signatures when Chairman Smith relented and allowed the Rules Committee to vote out the bill. Apparently only the “threat” of a successful discharge petition was enough to shake the bill free.33

This technique for overcoming the obstacle of Chairman Smith and the House Rules Committee was used over and over again during the 1960s. For instance, when the Civil Rights Act of 1964 was mired in the House Rules Committee in January 1964, circulation of a discharge petition helped to inspire Chairman Smith to let the committee majority release the bill.34

By February 1960 the Eisenhower civil rights bill was, as expected, mired in the Senate Judiciary Committee. At this time Eisenhower’s attorney general, William P. Rogers, proposed that court-appointed referees be sent into the
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South to register black citizens to vote. The Rogers proposal, which had the support of President Eisenhower, called for U.S. judges to send in referees wherever they found a "pattern or practice" of discrimination in the voter registration process.

Democratic members of the Senate criticized the Eisenhower voting rights plan. They pointed out that blacks would have to go through lengthy and legally treacherous court proceedings in order to get court-appointed referees sent into the South to register black voters. The Democrats argued the president of the United States, and not the courts, should dispatch U.S. registrars down into Dixie to put blacks on the voting rolls.

This controversy over how to register blacks to vote in the South, first aired publicly in early 1960, would continue until the enactment of the Voting Rights Act of 1965. In the end, it was the president-appointed registrars rather than the court-appointed referees who were sent into the South to put large numbers of blacks on the voter registration rolls.

Perhaps more important was the development of the concept of "pattern or practice" for determining when the U.S. Government should override states' rights and enforce national civil rights laws. In the final stages of the Senate debate on the Civil Rights Act of 1964, an aide to Republican Senator Everett M. Dirksen of Illinois proposed that U.S. Government laws banning racial segregation in public accommodations and employment only apply in those states where there was a "pattern or practice" of discrimination. This compromise language, first proposed in 1960 by Attorney General Rogers, broke a stalemate and helped gain needed votes to cloture a southern filibuster and enact the 1964 civil rights bill into law.35

A legislative maneuver was used to get Eisenhower's 1960 civil rights bill past Chairman James Eastland (Dem., MS) and the Senate Judiciary Committee. On February 15, 1960, the civil rights bill came up for debate on the Senate
floor as an amendment to a minor bill concerning the leasing of a surplus U.S. Army building to a school district in Missouri. The southern Democrats in the Senate immediately began a filibuster, primarily against the prospect that Part III would be adopted and would give the U.S. attorney general the power to intervene directly in racial relations in the South.

Late in February, in an effort to break the filibuster, the Senate went into round-the-clock sessions. The eighteen filibustering southerners, divided into six teams of three senators each, had no trouble keeping one three-person team on the Senate floor while the other five teams rested. Those opposing the filibuster, however, had to keep fifty-one senators (a quorum) at the Capitol ready to meet a quorum call at any time. The result of round-the-clock sessions was to exhaust the pro-civil rights senators, not the southerners.

The failure of round-the-clock sessions to break the filibuster of the 1960 civil rights bill was a lesson to civil rights supporters that dominated their thinking during the early 1960s. The southerners could not be exhausted by twenty-four-hour-a-day sessions, but the pro-civil rights senators could be. It meant that there was only one way to end a filibuster—get two-thirds of the Senate to vote cloture. Thus, when the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were undergoing southern filibusters in the Senate, round-the-clock sessions were not attempted to break the filibuster. In both cases civil rights supporters, from the very beginning, saw a successful cloture vote as the only way to end the filibuster and get meaningful civil rights legislation passed in the Senate.

Once it became clear that round-the-clock sessions would not stop the southern filibuster of the 1960 civil rights bill, pro-civil rights senators attempted a cloture vote even though they did not know if they had enough votes for cloture. The results were disastrous. The cloture motion did not even receive a majority vote, let alone come close to the required two-thirds vote. The Senate quickly defeated Part
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III, the southerners ended their filibuster, and the Civil Rights Act of 1960, which now dealt weakly with voting rights, was enacted into law. 36

The failed cloture vote on the 1960 Civil Rights Act strongly influenced civil rights legislative strategy making in both 1964 and 1965. The lesson was clear: Never attempt a cloture vote until absolutely positive that two-thirds of the senators are going to vote for cloture. Neither the Civil Rights Act of 1964 nor the Voting Rights Act of 1965 were brought to a cloture vote until civil rights supporters were certain they had the necessary votes. Attempts to hold cloture votes before the votes were in hand were assiduously avoided. 37

Student Sit-in Demonstrations

One of the most visible forms of racial discrimination in the late 1950s and early 1960s was the refusal of snack bars, lunch counters, and restaurants to serve African-Americans. On February 1, 1960, four black college students staged a "sit-in" at a lunch counter in Greensboro, North Carolina. Although the Congress of Racial Equality (CORE) had been using sit-ins to publicly oppose racial segregation since the early 1940s, this particular sit-in, perhaps because it involved college students, received extensive coverage in the national news media, particularly on network television news.

All at once students at other black colleges throughout the South began staging sit-ins in an effort to end racial segregation in nearby eating places. Students at white colleges often joined these sit-in demonstrations, as did sympathetic high school students and adults of both races. Frequently these demonstrations resulted in white segregationists taunting and beating up the persons sitting-in, thereby producing even more coverage by the news media. By January 1961, as Eisenhower was leaving office, over seventy thousand black and white youngsters had participated in the
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sit-ins. A new civil rights organization, the Student Nonviolent Coordinating Committee (SNCC), was formed to organize sit-in demonstrations throughout the South.\textsuperscript{38}

It can be argued there is something of a connection between President Eisenhower's swift intervention in the Little Rock school crisis in 1957 and the rise of the sit-in movement early in 1960. Eisenhower had made it clear that, in the end, the U.S. Government would support, militarily if necessary, those who were working for civil rights in the southern United States. Although the sit-in demonstrators were protesting local and state laws, Little Rock had given them much reason to believe that the U.S. Government would eventually come into the dispute on their side.

President Eisenhower's support for civil rights might have been considerably more positive and dramatic if the sit-in demonstrations had occurred early in his administration rather than at the very end. The civil rights issue so completely divided the American body politic that no president took action on meaningful civil rights legislation until a dramatic national event forced him to take action. Thus President Kennedy did not persuasively support what was to become the Civil Rights Act of 1964 until civil rights demonstrations and riots erupted in Birmingham, Alabama. President Johnson did not press for the Voting Rights Act of 1965 until the violent suppression of the voting rights march to Selma, Alabama. If the sit-in demonstrations had begun taking place earlier in the Eisenhower years, and Eisenhower had been presented with a serious situation involving equal access to public accommodations, there well could have been considerably more action by Eisenhower in the civil rights field.

\textbf{The Kennedy Administration}

John F. Kennedy succeeded Dwight D. Eisenhower to the presidency on January 20, 1961. The racial unrest that had charac-
terized the Eisenhower years continued and increased.\footnote{39}

In the fall of 1962 James Meredith, a black, sought to be admitted to the all-white University of Mississippi. Furious legal manipulations by Mississippi Governor Ross Barnett and the Mississippi state legislature to keep Meredith out of "Ole Miss" resulted in Meredith's legal case being taken up by both the NAACP and the Civil Rights Division of the Department of Justice. As a result, when Meredith came onto the Ole Miss campus the day before he was to register for classes, the case had been extremely well publicized and Meredith was under the personal protection of United States marshals.

A large mob of white demonstrators gathered on the Ole Miss campus to protest Meredith's entrance. Time and again the mob assaulted the U.S. marshals as they stood guard in front of the building in which Meredith was to register the next day, pelting both the marshals and the building with eggs, rocks, and bottles. One marshal was severely wounded in the neck. A bystander was killed by a stray bullet, and a news correspondent was mysteriously shot to death at close range. Although snipers fired bullets repeatedly at the university building in which Meredith was to register, miraculously none of the U.S. marshals or Justice Department lawyers there were killed.

As the evening riot increased in intensity, President John F. Kennedy went on national television to explain why the court order admitting Meredith to the University of Mississippi had to be carried out: "Americans are free, in short, to disagree with the law," the president told the nation, "but not to disobey it." President Kennedy subsequently realized that Governor Barnett was not going to send adequate police or National Guard troops to relieve the beleaguered U.S. marshals at Ole Miss, so he "federalized" the Mississippi National Guard and dispatched twenty-five thousand U.S. Army troops to the campus. After they arrived, Meredith was registered at the University of Mississippi without incident.\footnote{40}

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Eight months later the U.S. marshals and the Justice Department lawyers would play much the same scene at the University of Alabama, only this time the confrontation would be with Alabama Governor George Wallace rather than a mob of segregationist rioters. In a well-publicized political speech, Wallace had pledged to the people of Alabama that he would "bar the schoolhouse door" rather than permit school integration in their state. Wallace stood in a doorway at the University as two black students, Vivian Malone and James Hood, sought to register for classes. The students were closely guarded by Justice Department officials and U.S. marshals. After reading a short speech condemning "the trend toward military dictatorship" in the United States, Wallace "stood aside" and permitted the students to register. Wallace did so, however, only after being ordered out of the doorway by the general in command of the Alabama National Guard. The Alabama Guard had been "federalized," and the orders to the general had come directly from President Kennedy.  

A UNIQUE LEGISLATIVE ENVIRONMENT

It can be said of the Civil Rights Act of 1964 that, short of a declaration of war, no other act of Congress had a more violent background—a background of confrontation, official violence, injury, and murder that has few parallels in American history. By late 1962 and early 1963 the South was the site of many confrontations between black demonstrators on the one hand and segregationist whites on the other. Justice Department personnel were traveling through Dixie enforcing school integration orders, looking for civil rights violations in the arrests and trials of sit-in demonstrators, and working to mediate peaceful settlements between the warring forces.

Several factors contributed to the confrontational background of this legislation. Franklin D. Roosevelt's executive
order creating the Civil Rights Section of the Justice Department (later the Civil Rights Division) provided a government agency to aid southern blacks in their efforts to gain integration. The 1954 Supreme Court school integration decision had given black leaders a legal basis for arguing for equal treatment, not only in the school room but in the community generally. The Montgomery bus boycott had legitimized the nonviolent demonstration as an acceptable, and effective, means of gaining black rights.

Also important was the use of television to dramatize racial repression in the South. Network television news in the 1950s and 1960s originated and was edited almost totally in the North. Most networks news chiefs sent liberal, northern reporters down South to cover the civil rights movement rather than recruiting local reporters in the South who might have been more sympathetic to the segregationist cause. When white segregationist rioters realized they were being presented in an unfavorable light on the television screen, they made the mistake of beginning to rough up reporters and television crews and to destroy cameras and film. Such physical attacks on the press simply made northern editors more determined than ever to carry the civil rights story to the American people in terms as favorable as possible to the integrationists.

The impact of television on the civil rights movement was not limited to television viewers in the North and the West. Newspapers and local television and radio stations in the South, being local businesses and edited locally, tended to play down civil rights stories or edit them out altogether. There was no such local editing of network television news reports. People in southern cities who heard little about racial problems through their local news media were exposed to a constant barrage of civil rights stories on the national news on TV. The “Cotton Curtain” which used to prevent unpleasant racial items from getting into local southern news media was completely torn asunder by national network television news.
It has been argued that Martin Luther King, Jr., and his associates had an unspoken strategy of using nonviolent demonstrations to deliberately provoke attacks from violence-prone white southern officials and white segregationist mobs. It was well known to King and his associates, so the argument goes, that it was the opposition white violence that would attract widespread and sympathetic media coverage of their activities.

Whether or not King and his associates had such an unspoken strategy, their efforts resulted in the media coverage they needed. The civil rights movement thus became one of the most publicized events in United States history. It set the stage for the Civil Rights Act of 1964 to be one of the most extensively publicized legislative battles in United States history.

In June of 1963, following particularly violent demonstrations and counter-demonstrations in Birmingham, Alabama, President Kennedy sent a very strong civil rights bill to Congress designed to end all racial segregation in places of public accommodation (hotels, motels, restaurants, etc.). Due to the awesome power of the southern Democrats, particularly in the Senate, a major civil rights bill had not been enacted in Congress since the aftermath of the Civil War. A great legislative showdown was about to begin.

Notes

1. For discussion of the 13th, 14th, and 15th Amendments, with selections from congressional debates on these amendments, see Bernard Schwartz, Statutory History of the United States: Civil Rights (New York: Chelsea House, 1970), Part I, pp. 3-439.

2. For discussion with selections from congressional debates on the various civil rights acts of the 1870s, see Schwartz, Statutory History of the United States: Civil Rights, Part I, pp. 443-799.
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7. Statistics on blacks moving north are from Lubell, White and Black, pp. 35-36.


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17. For a discussion of the effect of the Birmingham demonstrations on the Civil Rights Act of 1964, see Loewy,
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To End All Segregation, pp. 10-16. For the relationship between the Selma march and the Voting Rights Act of 1965, see David J. Garrow, Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965 (New Haven, Conn.: Yale University Press, 1978).


19. Lubell, White and Black, pp. 75-76.


21. Loevy, To End All Segregation, p. 29.


23. Loevy, To End All Segregation, pp. 317-318.


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30. This analysis of the effect of President Eisenhower’s actions at Little Rock on the civil rights movement is based on Lubell, White and Black, pp. 101-102.


34. Berman, A Bill Becomes a Law, pp. 32-33, 95-97. See also Loewy, To End All Segregation, pp. 90-95.

35. The Dirksen assistant who made the proposal was Clyde Flynn, Republican Counsel, Subcommittee on Constitutional Amendments, Senate Committee on the Judiciary. See Loewy, To End All Segregation, pp. 258-259.


37. Berman, A Bill Becomes a Law, pp. 77-81; Loewy, To End All Segregation, pp. 276-286; Garrow, Protest at Selma, pp. 123-126.
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40. For a detailed description of the riot at the time of James Meredith’s admission to the University of Mississippi,

41. For a detailed description of U.S. efforts to integrate the University of Alabama, see Dorman, *We Shall Overcome*, ch. IX, “Tuscaloosa,” pp. 270-334.
