PERIODIC LOG MAINTAINED
DURING THE DISCUSSIONS
CONCERNING THE PASSAGE
OF THE
CIVIL RIGHTS ACT OF 1964

by

STEPHEN HORN

Legislative Assistant to
United States Senator
Thomas H. Kuchel (R-Calif.)
Minority [Republican] Whip
of the
United States Senate
Civil Case

For closure (19) need work (7)

- Aiken 0
- Allott 0
- Bessell 0
- Bosz 0
- Case 0
- Cooper 0
- Dominick (FPC) 0
- Fong 0
- Haines 0
- Keating 0
- Kuchel 0
- Martint (prob.) 0
- Pearson 0
- Poage 0

6/10/64
GOP 27-6
Dem 44-23
71-29

GOP against closure
Bennett (for bill)
Goldwater
Mecham
Simpson
Tower
Young (W. Dab) (for bill)

against bill, but
for closure:
Cotton
Hickenlooper
for bill, but against closure
Young (W. Dab) Bennett
Friday, February 14, 1964, 1:30 p.m.  

HORN LOG

The legislative assistants to the key Republican senators involved in the passage of the Civil Rights Act of 1964 hold a brief session prior to the meeting of the bipartisan staff at 2 p.m. Present for the pre-meeting are Milton Eisenberg, Administrative Assistant to Senator Kenneth B. Keating (R-N.Y.); Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel (R-Calif.); Stephen Kurzman, Legislative Assistant to Senator Jacob K. Javits (R-N.Y.); and Jay N. Price, Legislative Assistant to Senator J. Glenn Beall (R-Md.).

Kurzman's review of the parliamentary procedure is that to place the House-passed civil rights legislation on the calendar we have to catch it when it is submitted to the Senate on Monday morning. The measure could stay at the desk for a first and second reading. A senator can object to a second reading on the same legislative day. It is easy to delay the measure by having it read once and then recessing. So an early vote might occur on the issue of adjournment. The motion to take up would come after the first and second reading and after the morning business and before the morning hour is over. He thinks any device to get to the merits of the bill would be okay.

Eisenberg comments that Clarence Mitchell (Director of the Washington Office of the NAACP) says that President Johnson's idea is to enforce the two-speech rule. Since most of the opponents are old men, simply wait them out.

Horn suggests putting in the strengthening amendments the first day so that we do not get criticism of offering them after 30 days and then are accused of wanting the moon and, therefore, jeopardizing the whole bill.

Price sees us faced with a long filibuster no matter when you do it.

Horn points out that you cannot ask for a cloture vote for at least 30 days or you will get clobbered. He notes that we have to work over Lyndon Johnson or forget the ballgame. We need to keep our strengthening amendments to ourselves and not dilute them with Democrats. We need amendments where Johnson will say "no," and ought to remember that Humphrey wants to be Vice President. The Negro Registration Drive depends on this effort.

Price agrees with Horn, pointing out that civil rights is controversial in Maryland.

Eisenberg would put the heat on Johnson to take the leadership John F. Kennedy would have taken and invoke the rule against dilatoriness. He would have a motion that the presiding officer rule that a senator is dilatory.

After those brief comments, all of us go over to attend the Bipartisan Staff Caucus.
Friday, February 14, 1964, 2 p.m.

Meeting of the Bipartisan Democratic and Republican Staff for the Civil Rights Act of 1964 in Room 1300, New Senate Office Building. The following staff members are present:

DEMOCRATS

Senator Hubert H. Humphrey (D-Minn.)
John G. Stewart,
   Legislative Assistant
Lewis A. Froman, Jr.,
   APSA Congressional Fellow
Senator Joseph S. Clark (D-Pa.)
Harry Schwartz,
   Legislative Assistant
Senator Paul H. Douglas (D-Ill.)
Kenneth Gray,
   Legislative Assistant
Senator Philip A. Hart (D-Mich.)
William B. Welsh,
   Administrative Assistant
Senator Harrison A. Williams, Jr.
   (D-N.J.)
Ardee Ames, Legislative Assistant

REPUBLICANS

Senator Thomas H. Kuchel, (R-Calif.)
Stephen Horn, Legislative Assistant
Robert Loey, APSA Congressional Fellow
Senator J. Glenn Beall (R-Md.)
Jay N. Price, Legislative Assistant
Senator Clifford P. Case (R-N.J.)
Frances Henderson, Executive Secretary
Senator John Sherman Cooper (R-Ky.)
Bailey Guard, Administrative Assistant
Senator Jacob K. Javits (R-N.Y.)
Stephen Kurzman, Legislative Assistant
Senator Kenneth B. Keating (R-N.Y.)
Milton Eisenberg,
   Administrative Assistant
Patricia A. Connell, Counsel
Senator Leverett Saltonstall (R-Mass.)
Charles L. Clapp, Legislative Assistant

John Stewart opens the meeting of the combined staff.

Clapp notes, "My boss is a follower, and I'm sure that your creative-thinking boss has a line of procedure."

Stewart replies that the thesis was that we have to handle the tax bill, but cannot leave civil rights legislation in the House. So the first reading will be on Monday morning. Mansfield would then object and recess until the tax bill is approved which might be done by Wednesday or Thursday of next week. Then when the tax conference report is agreed to, the Senate would come back and have the second reading of the House-passed Civil Rights Act. Then an objection would be made and the legislation would be placed on the Senate calendar. Senator Russell's point of order will be that Rule 25 was enacted after Rule 14 and all bills should be referred to committee. However, he lost that point of order in 1957. Once the House-passed Act is on the calendar, then a motion can be offered to take up the bill. The Democratic Policy Committee says the Department of Agriculture wants the wheat bill, and it cannot wait until June. We also want the view on the strategy of the Leadership Conference on Civil Rights and that depends on the enforcement of the two-speech rule and how much compromise is involved in securing a motion of cloture.
Welsh wonders if there is any leverage in holding up the wheat and cotton legislation.

Schwartz understands that wheat planting will be ready by March 15, and wonders if anybody in the room knows anything about cotton planting.

Guard enlightens him that cotton is a year overdue now.

Stewart thinks that maybe some senators would object to any delay on civil rights of even two days.

Froman reports that Thomas J. Kenan, the Legislative Assistant to House Majority Leader Carl Albert, believes the House will act on the tax bill by Friday; and since they want the measure to go to the President on Friday, the Senate will also act by then.

Stewart does not believe that anyone knows the thinking on the farm situation.

Kurzman finds it conceivable that Senator Russell would ask for a quorum and prevent a first reading.

Welsh feels we must make sure that the bill stays at the desk. The Chair is in a position to lay the House-passed bill before the Senate at any time. The Chair could have a first and second reading and refer the measure to committee unless we are all awake.

Gray stresses that we must have our people watching the floor. "Barry Goldwater was watching for us at one point last time!"

Clapp comments that, "This is the responsibility of leadership!" Amid laughter, Welsh cracks, "That is the second political speech."

Welsh sees the first vote occurring on the second reading.

Eisenberg wonders if anybody will object to a plan to recess rather than to adjourn.

Kurzman believes that if there is no control over when the second reading occurs, Russell could carry the point of order. In 1957, then Majority Leader Johnson got unanimous consent agreements.

Guard: Why couldn't you simply object and get it on the calendar and then take up the tax bill and the farm bill?

Schwartz fears that anybody could motion up the measure.

Kurzman wonders if the motion to take up the bill could be maneuvered in such a way as to be nondebatable.
Guard reminds him that during the morning hour the motion to call up is not debatable; if a recess occurs, the pending business has priority. If the Senate adjourns and there is no pending business, then one could motion up the bill and that is not debatable; but probably you would get a reading of the Senate Journal and maybe a filibuster.

Welsh points out that on any day but Monday at 1 p.m., the Majority Leader gets recognized and he moves that you move to Calendar X. At 2:00 you go out of the morning hour and if there is no pending business, then that continues as the pending business until disposed of. The essence is that the Leader has 51 votes with him and a friendly person in the Chair.

Guard has talked to Charlie Watkins [the Senate Parliamentarian] on the morning hour procedure.

Stewart suggests that we could offer petitions.

Welsh thinks there are disadvantages in not letting the Southerners talk about the motion to take up. You get into the fear of the steamroller and then have to read articles by William A. White on the irresponsible majority. That will affect the views of senators from the border states and the mountain states.

Stewart is impressed by the way the Civil Rights Bill was steamrollered through the House. Joe Rauh [Washington attorney and Chairman of Americans for Democratic Action] says the only way to go is to enforce the two-speech rule. Humphrey has not written off cloture as a procedure although the Leadership Conference has. If we go to a 10 a.m. to 10 p.m. schedule, that would mean two filibusterers might each take 12 hours per speech and that would use up 8 to 10 weeks.

Price thinks 10 or 12 months would be more likely.

Schwartz wonders if we will offer any amendments before cloture with the intention to call them after cloture.

Gray asks if the assistants to the leaders [Stewart and Horn] may not want to comment on that, but we intend to put in such amendments.

Eisenberg: You can put amendments in between the filling of the petition and the vote on cloture and that will preserve them.

Welsh reminds us that a lot of senators are running for reelection in the period March through May, and the Senate will look ludicrous with senators running for reelection.

Gray stresses that Senator Douglas believes you cannot break a filibuster without invoking cloture.
Welsh reports that the Leadership Conference on Civil Rights assumes that the Senate can only get cloture by weakening the bill. He sees the doubtful, but necessary votes coming from Senators Alan Bible (D-Nev.), Howard W. Cannon (D-Nev.), J. Howard Edmondson (D-Okla.), Carl Hayden (D-Ariz.), A. S. Mike Monroney (D-Okla.), and Daniel K. Inouye (D-Hawaii). Joe Rauh says there is nothing you can do with the Mountain State Democrats except hope that maybe they will be absent if they are feeling well. There is some encouragement in that Senators Frank Church (D-Icaho) and Gale W. McGee (D-Wyo.) are now coauthors.

Eisenberg would let the debate go on until it is shown that the two-speech rule will not work.

Welsh cannot figure out whether Rauh and Clarence Mitchell do not want cloture because then Vice President Johnson in 1963 burned their ears on how they didn't know how to run the Senate. He only knows one man who might vote for cloture if one section was touched. He fears that irrational view.

Eisenberg sees no chance for success on precipitous cloture.

Stewart thinks that both Rauh and Mitchell "sold" Johnson. Rauh saw Johnson several times a day during the fight in the House.

Horn cracks that he thought Johnson did not see Joe on those airplane trips to New York. He tells Schwartz that he can forget "early cloture."

Welsh stresses that the votes lie for cloture with Dirksen's group and Johnson's western colleagues. He thinks we will have to focus on where we will get an extra 10 votes. Cannon and Senator E. L. (Bob) Bartlett (D-Alaska) supported strong public accommodations legislation coming out of the Committee on Commerce; Monroney supported the measure with reservations; and Ernest Gruening (D-Alaska) coauthored the Omnibus Bill.

Eisenberg suggests that the most useful thing that either Democratic Leader Mansfield or Republican Leader Dirksen can do is to say that he does not care how long it takes, but we are going to stay until we pass this bill.

Stewart and Welsh agree with that suggestion. Stewart notes that "With all due respect for the Majority Leader [Mansfield], the order should come from the President."

Eisenberg recalls that Johnson said he would set the climate.

Welsh notes that Deputy Attorney General Katzenbach has the analysis and briefing materials prepared and suggests that as floor managers of the bill, Humphrey and Kuchel issue a joint letter.
Friday, February 14, 1964, 3 p.m.

Meeting of Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel; Stephen Kurzman, Legislative Assistant to Senator Jacob K. Javits; John G. Stewart, Legislative Assistant to Senator Hubert H. Humphrey; and Kenneth Teasdale, Assistant Counsel to Senate Democratic Policy Committee, representing Democratic Majority Leader Mike Mansfield.

We review the schedule which includes a 10 a.m. meeting on Monday for the staff of all Senators with a briefing on the House-passed civil rights legislation. We need to clue in Senator Dirksen on the arrangements.

Kurzman suggests that the four of us meet and then split up and meet on a partisan basis but do not tell our partisans we are doing that.

Teasdale would keep our coordination to a small group. He reports that all non-Southern Democrats but Bible, Cannon, and Hayden will be okay for cloture. Horn will meet with the Republican staff and work the right-of-center and moderate group. We agree to meet when any one of the four of us wants to.

Teasdale thinks the farm bill should be put off until after the civil rights legislation. If we start the Civil Rights debate by February 25th, then we should finish by Easter. He does not think we should wait for wheat and cotton but just the tax bill. If Senators Frank Carlson (R-Kans.), Roman Hruska (R-Neb.), and James B. Pearson (R-Kans.) all vote for cloture, then they will get a chance to vote for the wheat bill.

Horn, joined by Kurzman, fears that the result would be dropping important sections of the civil rights legislation.

Teasdale reports that Mansfield feels there is only one chance in ten of getting action on the wheat and cotton legislation this week.

Horn worries about the use of leverage. To pick on wheat is to hurt our friends. The cotton can wait anyhow.

Teasdale replies that the Southerners could trade the Republican wheat people regarding civil rights. He thinks this could go on forever since they can offer amendments at the end of a speech, and you can't table a speech. He does not think the two-speech rule will work. The need is very simply for cloture.
Monday, February 17, 1964

Luncheon of Albert Abrahams, former Executive Secretary to Senator Clifford P. Case (R-N.J.), now Director of a national Progressive Republican group located on Capitol Hill; Milton Eisenberg, Administrative Assistant to Senator Kenneth B. Keating (R-N.Y.); Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel (R-Calif.); and Robert Kimball, Legislative Assistant to Representative John V. Lindsay (R-N.Y.).

Kimball volunteers to be available for advice along with William H. Copenhaver, Associate Counsel of the House Committee on Judiciary, who advised Representative William M. McCulloch (R-Ohio) during House action on the bill. The feeling is that Kuchel should get together Case, Javits, Keating, and Scott along with Cooper and agree on a strategy. We should then sit down with the House staff and discuss relations with the Democrats and the Leadership Conference on Civil Rights. We are advised not to be flattered by Andy Biemiller [a former member of Congress and now a long-time Director of Legislation for the National AFL-CIO] since "they are out for Democrats only." Our senators should sit down with various opinion leaders such as columnists for The New York Times and The New York Herald-Tribune and try out our strengthening amendments on them. We want to try for a meeting on late Tuesday, but Javits is out of town until Wednesday.

Before going to the meeting, I learned that Javits called Dirksen regarding the various floor managers for portions of the bill. Javits said he would consult Kuchel. Our thinking is that besides Kuchel, as General Floor Manager on the Republican side, Keating would handle voting; Case would handle fair employment practices; Javits would be responsible for Part III and the administration of justice sections; and Scott would handle public accommodations. Our Democratic counterparts will be Humphrey, Clark, Hart, and Magnuson.
Monday, February 17, 1964

Meeting of the Bipartisan Democratic and Republican Staff for the Civil Rights Act of 1964 whose senators are providing floor management for the Civil Rights Act of 1964.

Present are John Stewart, Legislative Assistant to Senator Humphrey; Lewis A. Provan, Jr., APSA Congressional Fellow with Humphrey; Ardee Ames (Williams of New Jersey); and Harry Schwartz (Clark) for the Democrats; and Stephen Horn, Legislative Assistant to Senator Kuchel; Charles Clapp (Saltonstall); Milton Eisenberg and Patricia Cornell (Keating); Bailey Guard and Merom Bradman (Cooper); Frances Henderson (Case); Stephen Kurzman (Javits); Richard Murphy (Scott); and Jay N. Price (Beall) for the Republicans.

Stewart indicates that the first reading will occur at noon, and there will be an objection and this time the leader will be for us. He provides us with the telephone numbers of David Filvaroff (187:2101) and Joe Dolan (187:2105) in the Department of Justice should we need some rapid advice. William B. Hatch, Professional Staff Member of the Senate Republican Policy Committee, has copies of the analysis.

Eisenberg asks if there are any amendments which Justice wants.

Filvaroff replies there are no amendments that Justice wants to the House bill except for technical amendments. Welsh elicits that the differences between the House-passed bill and the public accommodations version reported by the Senate Committee on Commerce is that the House bill relies on both the Commerce Clause and the Fourteenth Amendment, whereas the Senate bill relies only on the Commerce Clause. Both the Senate and the House bills apply to specifically listed categories, but the Senate bill is much broader. For example, the Senate measure covers all retail stores including the grocery, the department store, hardware, variety stores, et cetera. The House bill does not apply to retail stores unless there is a lunch counter or restaurant within them. The feeling in the House was that they should get a bill which reached the most troublesome areas of discrimination. The Administration feels that Title II is perfectly satisfactory as it comes from the House; separate drinking fountains and separate fitting rooms are "marginal discrimination." It has the advantage of not getting at every retail store.

Price asks the Justice representatives if they will be against the Senate version.

Dolan replies that they will not be against the Senate version. But if you visualize a restaurant and a farmer's market, maybe they should be excluded. Mrs. Murphy's wording was different, but the intent was the same. They are against the amendment offered by Representative George Meader (R-Mich.) having to do with the Interstate and primary road systems not being broad enough in mileage. They have the same view on the Monroney amendment which concerns the service of interstate travelers when the establishment is part of an interstate chain. Price wonders if beauty parlors and barbershops would be included.
Dolan replies that they are covered only if they are in an establishment which is covered, such as a hotel. The theory is that if the hotel is open to someone staying there then all the services there should also be open. If you want to cover barbershops, we won't object.

Eisenberg asks if Justice would cover any segregation furthered by state law.

Dolan believes Section 202 (pages 8-9) of the House bill reaches that. The Senate bill would not. He cites the Peterson case.

Kurzman wonders why the Peterson rule was not extended.

Dolan replies that there is less precision in state-supported segregation; 202 goes across the board; Justice wanted to avoid any cry of vagueness and not have a catchall; Justice wanted a device to get these laws repealed since they are used by local authorities to intimidate local store owners who might wish to desegregate.

Eisenberg recalls that Keating had an amendment which the Attorney General did endorse concerning law, custom, usage, et cetera, and it was not limited to specific establishments.

Dolan does not think the Administration would object, but it would raise a problem with McCulloch and the Republicans on the House side. He could be wrong, but there are many on the House side—on both sides of the aisle—who might say it was vague.

Eisenberg thinks there is more acceptance of the position that all segregation should be struck down, whereas the bill only has a remedy for specified establishments in terms of the power of the Attorney General to intervene.

Dolan: As a practical problem, if Title II is passed, relatively few situations which you described will occur. It is simply a question of judgment as to political palatability.

Eisenberg stresses that on the Republican side of the Senate the more you get under the Fourteenth Amendment, the better.

Dolan reminds us that the legislation, as it came out of the House, was more Fourteenth Amendment oriented than the original Administration bill. Welsh: Isn't this academic? The Constitution has a whole sweep! Dolan replies "yes." To what extent the Supreme Court might require the use of the Fourteenth Amendment to validate the Senate bill, we don't know since it is based on the Commerce Clause. This type of debate will be in evidence early in consideration of the bill.
Eisenberg does not believe his argument is academic since the Fourteenth Amendment is not as involved in the Senate.

Horn does not believe the Commerce Clause covers the farmer's market, whereas the Fourteenth Amendment does cover it. Despite the Wickard case, we might get laughed out of Court. The practical political judgment is that some Republicans who are against segregation might not want to go the Commerce Clause route since they can see it being used on a labor bill a year hence.

Dolan would not object to broader coverage.

Eisenberg notes that 35 states have public accommodation laws, and we are talking about a few hardcore Southern states where it is a pattern of state-supported discrimination.

Horn cites "barbershops" and Eisenberg adds "bowling alleys" as examples of facilities which are not covered by the commerce clause.

Guard raises the issue of discrimination supported by state action.

Dolan admits that a licensed druggist is not held at this point to be sufficiently involved, and the Justice view is that the Court would not agree.

Horn observes that sex and atheists are involved in Title VII and asks the relevance to protective labor laws.

Dolan feels sex is workable, and Horn asks him about Schroeder's Restaurant in San Francisco which has all male waiters and serves males only at lunch time.

Schwartz observes that cases on sex discrimination will take up the whole Civil Service Commission budget.

Kurzman asks about age discrimination.

Dolan asks what other technical problems we see.

Horn thinks the atheists will have a problem, and Dolan says the Supreme Court will probably hold their inclusion unconstitutional.

Horn asks if Justice has any authority beyond the second year. He is worried that there will be an argument that there is no authority after the second year.

Dolan indicates that there is a blanket authority which will cover it, and the question could be solved by building a suitable legislative history. Also Section 715 (page 49) could be struck.
Eisenberg refers to Title I and wonders what is the Attorney General's position regarding state elections being included.

Dolan sees no substantive problem. The Attorney General felt it was unnecessary to extend Title I to state elections. As a practical matter, the registration process for both state and federal elections occurs at the same time.

Eisenberg notes that Judge Aron was a write-in for Governor in Mississippi, and the Department of Justice said it could not help the participants try to register people.

Dolan adds that there is nothing in the bill which would help state campaigns unless Section 302 was involved. That would be true even in federal elections.

Horn asks if Negroes, who are demonstrating to secure registration for a federal election are arrested by local authorities, could the Attorney General initiate an action to protect these people?

Dolan agrees that he could under the Equal Protection of the Laws clause.

Eisenberg stresses that that provision is in the Fourteenth, not the Fifteenth Amendment.

Dolan believes both Amendments would cover the situation.
Tuesday, February 18, 1964, 4:30 p.m.

The Legislative Assistants to the key Republican Senators involved in the passage of the Civil Rights Act of 1964 met with Clarence Mitchell, Director, Washington office, NAACP. Present for the meeting are Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel; Milton Eisenberg, Administrative Assistant to Senator Kenneth B. Keating, who is accompanied by Patricia Connell, counsel to Senator Keating; Frances Henderson, Executive Secretary to Senator Clifford P. Case; Stephen Kurzman, Legislative Assistant to Senator Jacob K. Javits; Richard Murphy, Legislative Assistant to Senator Hugh Scott; and Jay N. Price, Legislative Assistant to Senator J. Glenn Beall.

Mitchell indicates that the House-passed bill would be okay with the NAACP. He states that the ACLU may object to the atheist and communist amendment. As for the cease and desist authority for the FEPC, on constructive amendments, he would try to clear them with Representatives Celler and McCulloch to see what the House would take. If that is a problem, then we should not try the amendments. He does not want any weakening amendments. He feels that not wanting any changes in the House-passed bill would put us on the defensive.

Price indicates that by virtue of the bills which Senator Beall has coauthored, he is committed to offer strengthening amendments.

Mitchell wants a meeting of Senators Kuchel and Humphrey with himself and Joe Rauh as to what amendments should be offered without amendment. After that meeting, we would meet with a larger group.

Price pursues the communist amendment. Mitchell replies that they try to accommodate all groups in the Leadership Conference on Civil Rights, but doing that is a problem.

Horn notes that you'll get stuck with a roll call and play into the hands of those who will say it is a God-less, atheistic Civil Rights Bill.

Eisenberg does not understand how the Leadership Conference could be for striking the communist and atheist amendment from the bill when it was voted in on the House side and then say that it does not want strengthening amendments which might not be bought on the House side.

Mitchell personally thinks it is better to get strengthening amendments. McCulloch's big fear is not that the bill will be strengthened but rather that it will be weakened.

Eisenberg wonders if there is any danger that if you put in a broader Part III and a mandatory cut-off provision, that the Leadership Conference would say we are jeopardizing the bill.
Mitchell would hope not. He recalls that on the House side, the GOP wanted seven FEPC amendments. Everybody who was for the bill was for them.

Eisenberg feels the impression is being created that this is the greatest bill since Reconstruction. What senator will stand up and say he wants a broader Part III, mandatory cut-off of federal funds, and control of state elections?

Mitchell recalls that McCulloch said on Title VI that if it was not kept in as he had it, he would withdraw his support of the bill. This is no longer an Administration bill; it is a bipartisan House product. He adds that he, Joe Rauh, Andy Biemiller, and Jim Hamilton of the National Council of Churches are a four-man group that will handle the details on the legislation for the Leadership Conference on Civil Rights.

Eisenberg raises the issue of the wheat and cotton legislation.

Mitchell understands that the President has asked the Secretary of Agriculture to try and get the agricultural bill out since March 1st is the planting deadline.

Price and Eisenberg think that the non-civil rights types would be for the Civil Rights Bill to get at wheat. Humphrey would think that such legislation was of benefit to Minnesota; and if one of the main advocates of civil rights legislation thinks that, then there could be trouble. Eisenberg recalls that we lost Senator Wayne Morse on the Civil Rights Act of 1957 over the issue of Hell's Canyon.

Price adds that in Maryland the farmers are a major part of the civil rights opposition. He thinks the Midwest would vote for the priority of civil rights over wheat.

Mitchell believes that if we were to be effective, we would have to tell The White House to delay it.

Kurzman would not do that with reference to the farm bill. He would use it as a carrot. Lots of Southerners are for the cotton bill.

Mitchell observes that Senators Humphrey and McGovern are for wheat and they feel there is a time problem. On Friday, The White House staff expected the farm bill to come up first.

Eisenberg reminds him that the conference report is privileged and it could come up any time. They are keeping the tax bill out in order to get the farm bill up.

Horn would utilize the strengthening amendments to the Civil Rights Bill to serve as a lightening rod so that there would be less compromise on the legislation as passed by the House.
Mitchell agrees with that approach. He notes that when questioned in the House, the APL said it wanted the bill "as is." He feels that if we said the bill is good but it needs strengthening, we would be in trouble with the House.

Horn reminds him that the Senate is a co-equal body with the House and the House did not ask us what we thought.

Henderson believes we should work on achieving a consensus or otherwise we will look silly. Eisenberg sees trouble in clearing with the House in advance, but the matter could be worked out in conference.

Mitchell agrees. He says that the Administration people feel that if the legislation goes to conference, it will be in trouble. If he felt we can have a conference between the two Houses and to get a good bill, then he would be for a conference. He believes the Senate bill on public accommodations is better than the House bill, yet McCulloch's language is what is in the bill.

Price would use the Senate bill plus the Fourteenth Amendment in dealing with public accommodations.

Mitchell reminds him that Representatives McCulloch and Clarence Brown [(R-Ohio), who is the ranking Republican on Rules] said that they would not accept a weaker bill. Mitchell is ready to say "yes" on the Senate public accommodations legislation and the Fair Employment Practices bill proposed by Senator Clark, but the feeling in the Leadership Conference is that "we don't want to lose what we have by being for something we cannot get."

Horn hopes that the Leadership Conference does not say "no amendments" or the lid will blow off since the Senate feels rather strongly about its prerogatives. That position will really give them something to filibuster about. Horn points out that the conferees will be chosen from among the Democratic and Republican floor managers in the Senate so the conference will be favorable to a strong bill.

Henderson agrees with Horn on the need for strengthening amendments.

Eisenberg regrets that the impression is already around that the Leadership Conference is happy with what is in the House-passed bill and that the Senate should leave it alone. The APL has accepted the bill but the United Auto Workers does not accept it as is; however, it would probably do what the NAACP wants done.

There is a feeling that the big question would be the church groups which are very nonpartisan and want to do things "on the merits." In the House, the church groups at various times felt that they were being unfair to the Attorney General. If the church groups thought Curtis and Hruska would stay with us, then strengthening amendments might be in order but that is the Administration's club over us.

Price wonders where Senator Monroney stands on the legislation.
Wednesday, February 19, 1964, 3 p.m.

Meeting of Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel, and Stephen Kurzman, Legislative Assistant to Senator Jacob K. Javits.

Senator Keating will handle the voting-rights section and the problems of state elections. With regard to public accommodations, the Monroney approach should be fought. That will have to be checked with Senator Dirksen and Representative McCulloch.

Senator Javits will handle Part III and the House would intervene in privately-brought suits under the Fourteenth Amendment. We want the power to initiate and speed in demonstration cases, and it is not enough to wait for a private suit. Police brutality and peaceful demonstrations should be included. The House bill indicates that these are second-class suits.

Currently there are no plans for filing amendments on school desegregation. The proposal is made in the Democratic platform of 1960 but is not in the Republican platform. We could embarrass the Democrats by saying it is in the Democratic platform, but not in the bill.

As for the extension of the United States Commission on Civil Rights, then Senator Lyndon Johnson was pedaling a Conciliation Commission in 1960. There was a fear he would replace the Fair Employment Practices Commission with that. The Judiciary Committee tossed out the proposal in the House and it was put back in on the floor. The role of the Civil Rights Commission could be strengthened and not fragmented in the belief that the agency which knows the issues should handle them. The Civil Rights Division of the Department of Justice is already off in one direction.

Title VI is mandatory which provides a right of action to enforce the section.

Title VII, the Fair Employment Practices Commission, while we think the Clark bill is not the greatest, Humphrey would put the administration in the Department of Labor. Perhaps we should go back to an individual commission.

In summary, we are hopeful that the following issues will be covered by the Senators listed below:

Voting—Keating
Public Accommodations—Javits, Cooper, and Cotton
Public Facilities—Prouty
Education—Scott
Civil Rights Commission—Saltonstall, Hruska, and Fong
Federal Funds—Kuchel or Hruska
Fair Employment Practices Commission—Case
Administration of Justice—Javits
We might see if there is a role for Senator Peter H. Dominick (R-Colo.)

We need to review how firm is our alignment and the role of Minority [Republican] Secretary of the Senate Mark Trice.

We agree that each issue should have a vote on its merits rather than on the motion to table, which should be used sparingly unless there is dilatorious action.
Meeting of the RAMS [Republicans Allied for Mutual Security] at breakfast. Speaker is Robert E. Kimball, Legislative Assistant to Representative John V. Lindsay (R-NY).

Kimball does not believe the Democrats will agree to a strong civil rights measure unless they are pushed. They simply will not share any credit. Out of 90 Republicans who supported the Bill in the House only two of the districts had large Negro populations. Representatives William C. Cramer (R-Fla.) and Richard H. Poff (R-Va.) were consulted by other Republicans. The value of unity was crucial in exercising leverage on the final product. There are no Southern Democrats on Subcommittee 5 of the House Committee on the Judiciary which had jurisdiction on the civil rights legislation. Yet one third of the Democrats on the full committee are Southern Democrats. Representative Emanuel Celler (D-NY) and the Northern Democrats will strengthen the legislation and let the Republicans and Southern Democrats cut it back. Celler wouldn't recognize Representative McCulloch for more than 30 seconds in subcommittee. It is assumed that Celler was forced to retreat by the Department of Justice and The White House, yet that is only partially true. The Republicans decided not to compromise and let the Democrats cut the measure back. They opposed all the amendments offered by the Southern Democrats at the full committee level so they would not be accused of being anti-civil rights. Celler tried to cut back Title III but the Republican members plus Representative Robert W. Kastenmeier (D-Wis.) and one other Northern Democrat objected. There was no consideration of the Civil Rights Bill in full committee. After the Attorney General's testimony which was requested by the Republicans, Representative Roland V. Libonati (D-Ill.) withdrew his amendment. The motion to recommit was defeated in committee. The result was the report of the subcommittee bill to the House. The Northern Democrats, Civil Rights groups, and the Department of Justice had refused to recognize the Republican role in the civil rights fight. Trying to amend legislation on the House floor is very difficult.

Celler's Part III included all constitutional rights. The Northern Democrats only originated one amendment which was to cut the Civil Rights Commission back to a four-year extension. The Democrats do not want to be caught in a sellout. If there is a deal on the Bill, it would be that the Fair Employment Practices Commission would probably go out. As for Title VI, the Department of Justice says that as far as federal programs are concerned, it is not contemplated that individuals will be affected. The Republicans could strengthen Title VI.

In the House, the original weakening amendments were to be offered by Representative Edwin Willis (D-La.), who is a member of the Judiciary Committee, and that was to be done with Celler's blessing. The Republicans said they would not approve any amendment offered by a Southern Democrat.

Deputy Attorney General Nicholas deB. Katzenbach said he thought he knew how Senator [Everett McKinley] Dirksen would go since "he had never let us down." McCulloch said he thought he knew Dirksen pretty well and he wasn't sure. After Katzenbach left, McCulloch said, "Nick is tired and optimistic."
Thursday, February 20, 1964, 10:30 a.m.

Telephone conversation of Milton Eisenberg, Administrative Assistant to Senator Kenneth B. Keating, to Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel.

Eisenberg is anxious to line up floor managers since Clarence Mitchell is anxious to know. I tell Milt what I told Mitchell last night: that Kuchel gave a list to Dirksen and that he ought to have patience.

Thursday, February 20, 1964, 11:35 a.m.

Telephone conversation of John Stewart, Legislative Assistant to Senator Hubert H. Humphrey, to Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel.

Stewart reports that Clarence Mitchell and Joe Rauh are having second thoughts on Civil Rights re the two-speech rule. They want to meet Saturday afternoon at 2 p.m.

I told John, "To hell with it. I'll be glad to meet today or Monday." I also told Eisenberg and Kurzman my position. They agreed and will duck such a meeting. Eisenberg said Dirksen had called Keating concerning the management of the voting rights section of the Bill.

Thursday, February 20, 1964, 3:20 p.m.

Senator Thomas H. Kuchel to Stephen Horn, Legislative Assistant. Kuchel thinks Dirksen will have him "serve as Major Domo of the Civil Rights Bill when it is in the Senate."

Thursday, February 20, 1964, 3:45 p.m.

Telephone conversation of Robert Kimball, Legislative Assistant to Representative Lindsay, to Stephen Horn, Legislative Assistant to Senator Kuchel.

Kimball reports that McCulloch's main objection is that the Bill might be gutted. The Senate can improve where it wants including public accommodations. He would let the Leadership Conference think what it wants and just play along. McCulloch did not mean to imply that the Senate should sit on its hands: "improvements are welcome."

Kimball has a good clipping collection on the legislation. I told him that the building trades' leaders were objecting to Titles VI and VII in terms of the mail from California. I had told this to Kuchel earlier. They are citing the speech by Senator [Lister] Hill (D-Ala.) as their source.
Monday, February 24, 1964

Javits' Legislative Assistant, Stephen Kurzman, tells me that he got to
the Saturday 2 p.m. Leadership Conference late. It was reported that the
Satterfield material was generating adverse mail. The President's Lawyers
Committee has gotten an answer on the constitutionality. The members of the
Committee would like Dirksen to sponsor these answers. I told Kurzman to get
the answers but I cannot see the sense in Dirksen sponsoring them.

Later in the day I chat with Robert Kimball, Legislative Assistant to
Representative Lindsay. Kimball reports that Representative Fred Schwengel
(R-Iowa) has told Lindsay that there is no real worry about Senator
Jack Miller's (R-Iowa) support for the Civil Rights legislation but that he is
very worried about Senator Burke B. Hickenlooper (R-Iowa). Dirksen is going
to stay on the fence because of the NAACP attack on the GOP and Dirksen.
Hickenlooper agrees with that stance. Senator Roman Hruska (R-Neb.) should be
used to counter Sam Ervin (D-N.Car.)

I plan to get Kuchel and Kimball together so Kuchel can get a thorough
briefing from him on the House background on the legislation.

Monday, February 24, 1964, 5:25 p.m.

Telephone conversation between Senate Democratic Policy Committee
Assistant Counsel Kenneth Teasdale and Stephen Horn, Legislative Assistant to
Senator Kuchel.

Teasdale reports that Joe Rauh said at the Saturday meeting that we should
make sure to have 51 Senators present at all times. So we need 35 Democrats
and 15 Republicans on call. We need to know when each person will be gone so
that we can have substitutes to assure 51 votes.

Tuesday, February 25, 1964, 2:30 p.m.

Telephone conversation between Mary King of SNICK in Atlanta and
Stephen Horn, Legislative Assistant to Senator Kuchel. King reports that
Judge Pye has refused to accept $5,000 in cash for bail and wants unencumbered
property or time in jail will be six months since appealing the sentence will
not be counted in his favor. I promise to send her the Justice Blue Book.
Her address is 6 Raymond Street, Northwest, Atlanta 14, Georgia. She is an
18-year-old student from the Connecticut College for Women. She got six
months in jail and 12 at Public Works. Bail was set at $15,000 with a bond on
unencumbered property. That is the maximum sentence for a misdemeanor.
Briefing notes of the meeting held by Deputy Attorney General Nicholas deB. Katzenbach with Senate legislative assistants in Room 1202 of the new Senate Office Building. Pages not dated but presumably between February 25, 1964 and February 27, 1964.

Katzenbach reviewed the legislation, title by title. In the case of Title I concerning voting, he sees the problem as one of the time that it has taken to get people registered. Title I would expedite a judicial hearing and allow the Attorney General or the defendant to ask for a three-judge court. In the case of the Literacy Test, there is a presumption as a rule of evidence that any person with a sixth-grade schooling is literate.

In the case of Title II concerning public accommodations, one could not discriminate because of race or religion in hotels or motels (except those that are owner-occupied and are not over five rooms), restaurants, movie theatres, gasoline stations, and sports arenas. Public accommodations would be covered under both the Commerce Clause and the Fourteenth Amendment. If the facility was covered under the Act, then everything on the premises would be covered. The Senate version is based entirely on the Commerce Clause and is broader in terms of food and retail establishments. The House version covers retail establishments only if they are serving food.

In terms of Title III, public facilities, the Attorney General could initiate suits concerning discrimination on playgrounds and government facilities, et cetera.

With regard to Title IV, public education, the Attorney General could initiate suits. The Commissioner of Education could provide financial assistance asking for aid to desegregate. There would be no money for busing students or seeking racial balance.

Title V extends the life of the Civil Rights Commission to four years and permits it to investigate vote frauds.

Title VI would provide for non-discrimination in federal programs. In the case of each department and agency, it would be mandatory for them to make rules and regulations consistent with the purpose of the Act. It would be mandatory that funds be cut off. The rules and regulations would have to be reviewed by the President before they were put into effect. There would be an effort to resolve problems with state and local agencies and provide a 30-day notice to the committees of the Senate and the House which have jurisdiction. If the funds are to be cut off, there would be need for a written record.

In the case of Title VII concerning the Fair Employment Practices Commission, it would be composed of five members. The Commission would only have the power to investigate firms of 100 or more. That would be phased down to 25 in extending the coverage. Enforcement would be left to the courts. The individual could bring suit if one Commission member believed it should be brought. This is a mild proposal compared to state FEPC legislation.
Other provisions include the transfer of a case from the state to the federal courts with the right of appeal which is now remandable to a state court. The Conciliation Service in the Department of Commerce would be limited to six employees.

If a Negro is drunk or not dressed properly, some say you cannot bounce him because you will be accused of doing it on the grounds of race. That does not make sense if the restaurant has not discriminated in the past.

As far as Fair Employment Practices, there are now 25 million jobs covered by the President's Committee. Title VII would add 15 million jobs to the coverage, especially those subjected to union discrimination.

One of the questions is that someone has said those opposed to the bill will be charged with a felony. Katzenbach indicates that there was an "incite" clause in the House bill as reported but that was struck out on the floor. It would not cover such a case, but it is out of the bill anyhow.

In response to a second query, Katzenbach indicates that a court would probably order that an individual be hired if the only grounds for not hiring him were that of race. If you fire somebody for organizational activities under the National Labor Relations Act, the NLRB can require you to hire him since that is protected activity.

Katzenbach indicates that the Attorney General brings suit because of the public interest which is involved. It is not a matter for a legal aid society. The reason the individual can do it is that traditionally individuals can vindicate their own constitutional rights by bringing suit. The Attorney General can say "no" and the individual can go ahead with his suit. If one had to have judicial review of the Attorney General's judgment on the financial capacity of the individual, it would be a tremendous delaying device. The Attorney General now brings antitrust suits because of the national interests involved even though they might be based on competitor complaints.

Katzenbach assures the group that the individual can sell his home to anybody he wants to since the Bill does not touch that. If a farmer employs over 100 people or more than 25 in the fifth year after passage of the legislation, he would be subject to the FEPC provisions. If the court has appointed a federal registrar, then those voters registered by that registrar are qualified to vote in both federal and state elections. The presumption of literacy operates only in federal elections. If the state kept separate voter rolls, then there would be a list of federal election literates who are not on the state rolls. Katzenbach does not think the registrar would want to run that risk.

If the farmer's operation went from 25 to 50 employees, he could not discriminate when he is under the Act; he could, when he is not under the Act.
Someone wonders if a private country club which had accepted local or state public funds for a road to be built to the club would be covered. Katzenbach indicates that the private country club would not be covered. In terms of the implementation of Title III, the facility has to be owned, operated, or managed by the municipality. The exception would be if the municipal club had been turned over for $1 to a group of local citizens. Then that would be evasion and would be covered.

FEPC cases would have a complete trial de novo in court.

Barber shops, beauticians, or health clubs—if in a hotel—would be covered by the Act. The concept is that it is not enough to provide a room; a hotel also has available a package of services.

If a restaurant is located in a shopping center, then the beauty shops would not be covered because of that restaurant, unless they were located in the restaurant.

In the Morgan case, the taxpayer is not permitted to sue. The individual cannot make that judgment since those decisions would clutter up the courts.

The constitutional situation does not permit you to assign students to schools on the basis of race, whether they are white or Negro. The school board has to work out a plan which does not take into account race. One way is as bad as the other. If you meet the entrance requirements and the only reason you have not been admitted is that you are a Negro, then the court—as in the Meredith case at Mississippi—can order your admission.

How would this affect 100 percent Indian schools cut West? Katzenbach is not familiar with the Indian situation; but David Filvaroff, a Special Assistant to the Attorney General, notes that the Indians are a separate nation and have treaty arrangements with the United States government. The Civil Rights Act would apply to Indians in the public schools in an area not under a treaty relationship with the federal government.

Katzenbach indicates that the section on municipalities does not go any further than the Supreme Court has gone. It permits the Attorney General to initiate a suit. If you had an appointing authority on municipal land that was discriminating, then that authority would be subject to suit.

The federal government cannot discriminate on grounds of race any more than anybody else. Thus, there is no quota system.

Katzenbach claims that there is nothing in the Act which states that one must exhaust state remedies. However, a state could not establish a phony state FEPC so that the federal FEPC could not operate in that state for years.
Thursday, February 27, 1964, 10:30 a.m.

Telephone conversation between Clarence Mitchell, Director, Washington office of NAACP, and Stephen Horn, Legislative Assistant to Senator Kuchel.

Mitchell indicates that after a highly successful bipartisan effort in the House, the Civil Rights Bill now awaits Senate action. He advises that we not object to the cotton-wheat bill being considered; "even if we are not unduly delighted—just don't." He hopes that Senator Kuchel will object to referral of the House-passed bill to a Senate committee. He has told Democratic Leader Mansfield that he and the NAACP will regard reference of the House-passed act to the Senate Committee on Judiciary "as betrayal."

Later in the day, Columnist Bob Novak asked me if the Mansfield action came as a surprise.
Friday, February 28, 1964, 4 p.m.

Meeting of Democratic and Republican Civil Rights legislation floor leaders in the Office of Senate [Democratic] Majority Whip, S-309, Senate Wing of the Capitol.

Present for the meeting are Senators Hubert H. Humphrey (D-Minn.) and Thomas H. Kuchel (R-Calif.); Stephen Horn, Legislative Assistant to Senator Kuchel; Clarence Mitchell, Director, Washington office of NAACP; Joseph Rauh, Washington attorney and Chairman of the Leadership Conference on Civil Rights; John Stewart, Legislative Assistant to Senator Humphrey; Kenneth Teasdale, Assistant Counsel to the Senate Democratic Policy Committee; and Raymond Wolfinger, Congressional Fellow of the American Political Science Association assigned to the Office of Senator Humphrey.

It was agreed that it was very important to have a bipartisan effort just as that which occurred on the House side. Democratic Leader Mansfield agrees with this. Our problem is how to keep senators here to meet the needs as they arise on the floor.

Senator Kuchel wonders how long debate can occur on motion to set the bill, and Senator Humphrey indicates that it would be five days. Humphrey feels that if we cannot get a motion to take up the bill within five days, we should move for cloture. Mitchell advises against cloture unless we are sure we can win. Humphrey feels that five days of snorting is enough and then we should get the bill up. Kuchel argues that we ought to permit the Southerners to filibuster since the American people will get disgusted with them. He thinks a prolonged filibuster on the motion to set the legislation for action works to our advantage. Humphrey would still give them only a week. Humphrey indicates that Senator Wayne Morse will move to send the bill to the Committee with instructions. He notes that he never sees Wayne except for the body blows as he goes by. Mitchell advises to let the Southerners talk. Rauh is for enforcing the two-speech rule. He does not believe that the Southerners can carry on the debate physically since their average age is 65.

Kuchel is against the Senate permitting any committee meetings to occur while this debate is going on. "It doesn't bother me if the committees do not meet. This should be a show. Let them [the Senators] sit in their offices and answer quorum calls. They have nothing else to do."

Humphrey believes that ultimately we will be meeting from 9 a.m. to 12 midnight for 15-hour-a-day sessions.

Mitchell indicates that "we've talked to the President off the record, and he felt that it would be hard to get 25 Republican senators to help. Thus, we urge the President to advocate the system whereby we would let the people talk. He said let them talk until summer."

Rauh believes that the less talk about cloture, the better. Kuchel agrees. Rauh feels that all talk of cloture brings compromise, and the House bill is a good bill which should not be compromised. Kuchel points out that there are some fence-sitters and some would vote for cloture at the very end if they were tired of it all. He advises the Civil Rights leadership to meet together and then meet with our boys [Horn and Stewart!], and we will hold their hands.
Teasdale points out that if the Senate adjourns, that ends the legislative day. Thus, a morning hour would occur the next day; and if unanimous consent was not secured, it could be required that the Senate Journal be read. We might force the Southerners to amend the Journal until after 2 p.m., otherwise we could bring up the bill. After 1 p.m. and before 2 p.m., we can move to take up the bill and that can be decided without debate. But we would have to send things to the desk.

Humphrey feels the two-speech rule goes.

Kuchel: "I'll be able to use some new stories in my speeches. The current ones are worn out."

Humphrey would object to unanimous consent on speeches. One can always make speeches in the hallways or issue statements to the press.

Kuchel indicates that on Monday he will get hold of "Senate Republican Leader [Dirksen] and tell him that he will have to forego the pleasure of speaking."

Teasdale advises that Humphrey and Kuchel get together on television and stress the bipartisan nature of the effort.

Mitchell indicates that the Leadership Conference has said that they oppose weakening the bill, and he would like to recommend that when anyone has an amendment they bring it to Celler or McCulloch.

Kuchel mentions the atheism and sex provisions and wonders if we have plenty of time to make agreements. He is willing to take the oath of nonpartisanship. Rauh stresses two kinds of strengthening amendments. One would knock out the atheism provision and the other would introduce a real Part III. Kuchel believes it will take longer on the atheism amendment. Rauh looks down the road one month from now and amendments to strengthen the bill are not tableable. Each amendment we offer will create a new filibuster. We can table their amendments, but not our amendments. We will have to decide if we can get the bill through fast as it is. Our objective is that the bill be as strong at the end of the debate as it is today.

Kuchel asks if we cannot agree today, that we take nothing less than was passed in the House. On both sides there are guys in good faith who have amendments to improve the bill.

Mitchell feels that if he can get the Humphrey Fair Employee Practices Commission substituted for the House FEPC, that would be much better.

Humphrey stresses that a constant working relationship with both Celler and McCulloch is essential. Any amendment offered by our people should be cleared with Kuchel and myself. Once an amendment is offered, any Senator can call it up. This bill is a minimum. If we want to strengthen the bill, we should clear those provisions with the leadership and the captains of the particular sections before drawing judgment on them.
Kuchel indicates that he and Humphrey will work closely together and that he has "fondness and admiration for my leader Ev Dirksen. I want to be fair."

Rauh wonders if there are any differences except over Title II.

Humphrey replies that Dirksen has some concerns on the FEPC provision.

Mitchell indicates that Representative Bernie Sisk (D-Calif.) and others wanted a preemption clause.

Kuchel indicates that "Dirksen told me the other day that he wanted to rethink the bill."

Humphrey: "I told Dirksen that it is not Hubert F. Humphrey that can pass this bill, ultimately it boils down to what you do. Dirksen doesn't want somebody picketing him."

Mitchell indicates that "we were surprised as anybody when Mansfield wanted to send the bill to the Judiciary Committee. We do have groups who want to show their concern by demonstration."

Kuchel: "I've got every faith that we will win this fight."

Humphrey: "We need faith and perseverance. I went to see Tommy [Kuchel] and we've got the votes. [Senator Richard] Russell runs a war of nerves. He will yell Benedict Arnold, traitor, and lynch law. He is like that French general who always said, 'Attack, Attack, Attack!' If he were on a bear hunt, he would let rabbits out of the cage and have the hounds chase them. He doesn't want us to get bear."

Mitchell: "Negroes in this country have had a tremendous change. They aren't afraid of dogs. They just try to figure out how to keep them from biting. This isn't the old game where one could say rough stuff in the [press] gallery and nobody would pay attention."

Humphrey: "Javits told us disconcerting news concerning the situation in New York City. The Chief of Police of New York City is worried about demonstrations. We can't lose our temper. We need to state our case. The opposition has more of a record than the proponents of the legislation."

Kuchel: "Okay, Hubert, I agree."

After the others leave, Humphrey, Kuchel, Stewart, and Horn agree with Humphrey as he indicates that we will meet three times a week with the leadership group, Humphrey and Kuchel. We will acquaint our captains at 9:30 a.m., Monday morning. We will set up a meeting with Deputy Attorney General Katzenbach and Kuchel for Monday at 3 p.m. and later go over the bill with the various Republican floor leaders. After that, we will explain the legislation to any Democratic senator who wants it explained, and representatives of Justice, Labor, and Commerce will be available in the Democratic Policy Committee offices.
Minutes of Civil Rights Meeting, 4 p.m., February 28

Present: Senators Humphrey & Kuchel, Messrs. Horn, Mitchell, Rausch, Stewart, Teasdale, Wolfinger.

The motion to take up the civil rights bill will be offered Wednesday or Thursday. It was agreed that cloture will not be attempted unless we are certain of success. However, cloture will not be considered on the motion to take up for the time being. There are several considerations behind this decision:

1. Since the motion to take up cannot be amended, the two-speech rule will have some effect in limiting debate.
2. If the Southerners talk at some length on this motion there may be a public reaction against their refusal even to let the bill be considered.
3. Ken Teasdale suggested a way to increase public revulsion. If the Senate adjourned each night there would be a morning hour on the succeeding legislative day. A motion to take up a bill made during morning hour is not debatable, hence the Southerners would be forced to amend the journal until the expiration of morning hour, and will not look good if they do this for several days running. This proposal was accepted.

Senator Morse is expected to move to send the bill to committee once it is taken up. The civil rights groups will try to dissuade him.

The Senate will meet on Saturdays. Hours will be progressively lengthened until they extend from 9 a.m. to 12 p.m.

It was decided that nothing weaker than the House bill would be acceptable. Decisions will be made later about the sex and atheism clauses, and about strengthening amendments offered by Senators. It will be suggested to civil rights Senators that strengthening amendments be cleared with Senators Humphrey & Kuchel. Once amendments are offered, the decision to call them up will rest with the leadership.

The civil rights campaign in the Senate will be cooperative and bipartisan. There will be frequent regular meetings between Senators Humphrey & Kuchel, Administration officials, and civil rights groups. Congressmen Cellar & McCulloch will be consulted often. In the same spirit, it was realized that some Senators' reservations about particular points in the bill did not indicate their opposition to the bill's principles.

Civil rights supporters will visit Congress by states. Clergymen will be prominent in such delegations.

The disposition of Negroes in both North and South is such that inflammatory speeches in the Senate could lead to violence. Hence it would be unwise to let passions rise, or to let speeches get over-emotional.

It was agreed that unanimous consent would not be granted for ungermane business or remarks.
Telephone conversation between Robert Kimball, Legislative Assistant to Representative John V. Lindsay, and Stephen Horn, Legislative Assistant to Senator Thomas H. Kuchel.

Kimball spoke to Representative McCulloch this morning. Roy Wilkins of the NAACP was cutting the Republicans up in Boston. Wilkins said he is a Republican. I told Kimball that Kuchel got Saltonstall out of a sick bed to get him involved in the bill.

The Democrats want all the time they can get and use up before the Republican Convention. Then they can get a weaker bill. Democratic Majority Secretary Bobby Baker says that President Johnson and the Southerners are frozen in position. Johnson hopes and prays that Republicans will come out for a weaker bill. The Evans and Novak story about Dirksen and Hruska was motivated by The White House. The Leadership Conference keeps saying that it must clear any changes with Representative McCulloch. They are trying to divide up the Republicans to their advantage. If the Republicans controlled Congress and had this delay, all hell would be breaking loose.

I told Kimball that Kenneth Teasdale said that Democratic Leader Mansfield was for a seven-day referral to the Senate Judiciary Committee because that would pick up the vote of Senator Ernest Gruening (D-Alaska); but when pressed, Mansfield could not name any more Democratic senators who would be picked up by that device.

After talking with Kimball, Horn talked with Joe Sullivan of the Wall Street Journal at length and gave him the pitch that the Republicans would attempt to strengthen the bill and that Johnson is hoping that they will weaken it.