

CBS REPORTS

"Filibuster - Birth Struggle of a Law"

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ANNOUNCER: CBS REPORTS tonight originates live and on film. From Washington, D.C. here is CBS News Correspondent Eric Sevareid.

SEVAREID: Good evening. This is Senator Hubert H. Humphrey, Democrat, of Minnesota. And this is Senator Strom Thurmond, Democrat, of South Carolina. These gentlemen have just come to this Senate Conference Room from the floor of the United States Senate. The entrance to the Senate is just a few paces behind me. And over there, in an extended night session, the warm-up for the expected filibuster on civil rights is now in its ninth day. Debate on the motion to take up the civil rights bill is continuing as we talk here. Senator Humphrey, the Democratic Whip, is the floor manager for this bill. It is his job to see that it passes the Senate. Senator Thurmond is a leader among the nineteen Southerners battling to defeat this bill. Seven years ago, he spoke against another civil rights bill in a non-stop, one-man performance for some 24 hours and 18 minutes - and that was a record. Later in this program, these two Senators will engage in a live debate, and that will be an extension, really, of the actual debate on the Senate floor. But first, we will see a report on the process by which the civil rights bill reached the Senate for what could be its burial or its last stop before the White House and President Johnson's signature.

(ANNOUNCEMENT)

ANNOUNCER: CBS REPORTS: "Filibuster - Birth Struggle of a Law" continues. Here again is Eric Sevareid.

SEVAREID: The long-awaited filibuster now about to begin on the floor of the United States Senate, 30 steps behind me, is a last-ditch effort on the part of Southerners to prevent this civil rights bill - H.R. 7152 - from becoming law. It was passed by the House of

Representatives on February 10th, it contains 55 pages of printed text - 11 separate provisions or titles, and it would, if passed by the Senate in its present form, represent the most significant civil rights law enacted since the post-Civil War Reconstruction. But long before this bill even reached the Senate, there were endless hurdles to be cleared. It all began with President John F. Kennedy, who did not live to see it end. He himself once put into words what this report is all about: The tortuous, complicated process that every President faces in trying to get controversial legislation through the Congress.

PRESIDENT KENNEDY: It's very easy to defeat a bill in the Congress, much more difficult to pass one. To go through a committee, say, the Ways and Means Committee of the House, subcommittee, get a majority vote - the full Committee, get a majority vote. Go to the Rules Committee and get a rule. Go to the floor of the House and get a majority. Start over again in the Senate, subcommittee and full committee. And in the Senate there is unlimited debate. So you could never bring a matter to a vote if there is enough determination on the part of the opponents, even if they're a minority, to go through the Senate with the bill. And then unanimously get a conference between the House and the Senate to adjust the bill, or if one member objects to have it go back through the Rules Committee, back through the Congress and have this done on a controversial piece of legislation, where powerful groups are opposing it, that's an extremely difficult task. So that the struggle for a President who has a program to move it through the Congress, particularly when the seniority system may place particular individuals in key positions who may be wholly unsympathetic to your program, may be - even though they're members of your own party - in political opposition to the President. This is a struggle which every President who's tried to get a program through has had to deal with.

SEVAREID: President Kennedy had been in the White House two and a half years before he finally asked Congress for a comprehensive civil rights law. His brother, Attorney General Robert F. Kennedy, explains why.

ROBERT KENNEDY: Well, really, President Kennedy sent some legislation up in '61 and '62 in the field of civil rights. It was basically voting legislation which is most elementary. There was a great need for it, and all of us went up and testified, asked for the legislation, the President mentioned legislation, but there wasn't any interest generally in the country except by civil rights groups. There wasn't any interest really by the media in having the legislation enacted. There wasn't any public - great public demand. When it finally came before the Senate, there was a short filibuster and there was an effort to obtain cloture and I don't think we even got 50 - half the members of the Senate. So it just died. I think in the past, it's always been that you are interested in civil rights if you sent legislation up, or voted for legislation even if it wasn't enacted. It showed you were interested. It didn't matter whether you made any progress or not. We felt that what was important was doing something, not just talking about it. When people look back at this time and say, well, we should have had this legislation enacted in '61 and '62, you couldn't possibly have had it enacted in 1961 and '62. Nobody was interested in acting in '61 and '62.

SEVAREID: But in the spring of 1963, suddenly everyone was interested, as Negro demonstrations broke out all over the country: A sit-in in Jackson, Mississippi - Demonstrations in Cambridge, Maryland - Anger and violence in Nashville, Tennessee - Pickets and signs at a hospital construction site in Brooklyn, New York - And

finally, Birmingham, Alabama. There, in May, city police resorted to police dogs and fire hoses to turn back the demonstrators. For days, the country's attention, and the world's attention was riveted on the Alabama city.

ROBERT KENNEDY: I think that Birmingham indicated more than any other event over the period of the last three and a half years - at least since this administration has been in - for the need for legislation, the need of legislative action in this field in order to deal with some of these problems. It's just a daily insult to some of our ten million of our fellow citizens that they go down a street and find that they can't enter a store or can't sit at a lunch counter or enter a hotel because they happen to be a different color than their white brethren. A Communist can go in, a bank robber, a prostitute, a narcotics pusher can stop at a hotel if he's white, but a Negro can be a college professor, a war hero, a diplomat, and he can't stop there.

SEVAREID: Late in May, President Kennedy decided to ask Congress for a new civil rights legislation. But even while a bill was being drafted in the Justice Department, a new crisis loomed at the University of Alabama, where the stage was set for a showdown that could lead to riots rivaling those at the University of Mississippi the previous fall. On June 11th, Alabama's Governor George Wallace carried out his campaign promise to stand in the schoolhouse door to prevent desegregation. Sent from his work on the civil rights bill in Washington to confront him was Deputy Attorney General Nicholas Katzenbach:

KATZENBACH: Two students who simply seek an education on this campus are presently on the campus, and those students will remain on

this campus. They will register today; they will go to school tomorrow, and they will go to school at this university at the summer session.

SEVAREID: At the end of the day, Governor Wallace backed down, and the two Negro students entered the University. That night President Kennedy addressed the country on television.

PRESIDENT KENNEDY: Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this country, to the proposition that race has no place in American life or law.

SEVAREID: Just hours later, in Jackson, Mississippi, almost as if in answer to the President's address, a Negro civil rights leader was killed. Medgar Evers, a field secretary of the NAACP, was shot in the back as he returned home from a mass meeting. The shock of this deliberate assassination still gripped the country when, a week later, President Kennedy's civil rights bill was completed. As drafted in the Justice Department the bill was so detailed and comprehensive that few Americans probably know today what it contained. Two men who wrote much of it describe its major provisions. What the bill would do in the area of school desegregation is explained by Assistant Attorney General Burke Marshall.

MARSHALL: It gave the Department of Justice, the Attorney General, the power, the authority, to bring school suits to further desegregation through the courts; and secondly, it provided for a system of financial and technical assistance to be given to school districts that are undergoing desegregation.

SEVAREID: What the bill provided to deal with discrimination in voting and public accommodations is described by Deputy Attorney General Nicholas Katzenbach:

KATZENBACH: First, a provision which would expedite and simplify somewhat the voting cases by building on the legislation which Congress did enact in 1957 and in 1960. Secondly, provisions which would make it unlawful to discriminate on account of race in various places of public accomodation which were of major importance. For example in hotels, motels, restaurants, theaters, that kind of place, telling the managers and proprietors of these places that they had to serve everybody on the same basis.

SEVAREID: How the bill could result in the loss to states of Federal funds is explained by Burke Marshall.

MARSHALL: It contained a very important provision, providing for the elimination of any discrimination in the administration of programs that are financed by the Federal Government. That is, programs normally that are operated by the states but are financed by tax money taken by the Federal Government from all of our citizens.

SEVAREID: In addition, the bill provided for the extension of the life of the Civil Rights Commission for four more years, and for the establishment of a Community Relations Service and a Commission on Equal Employment Opportunity. On June 19th the completed bill left the White House for the Capitol. In the Senate, the titles, or sections, of the bill were broken down into separate pieces of legislation and referred for hearings to three different Senate Committees. Testifying before the Senate Commerce Committee, Governor George Wallace of Alabama:

WALLACE: And I ask you to ignore political pressures which will destroy our entire free enterprise system. That you determine that this country will not have government by intimidation, and that's all that is. The matter of taking a mob in the streets, after

they've broken windows, and stuck knives in policemen, and burned buildings down, and shooting people, and then say we'll sit down and discuss that which you want.

SEVAREID: James Farmer of CORE:

FARMER: We do not want the wash of blood and anguish that some predict. But we do want our simple freedoms: To live, to learn, to work.

SEVAREID: Governor Rose Barnett of Mississippi:

BARNETT: It's the same old Communist offensive of attack with a hammer, and then withdraw. Attack with a hammer and then withdraw each time, causing more ill-will, more racial unrest, and pushing a wedge further between existing good relations of the people of this great nation.

SEVAREID: Attorney General Robert Kennedy told why the Administration favored the public accommodations section of the bill.

ROBERT KENNEDY: What the President has proposed in this bill is a law which will eliminate one of the most embittering forms of racial discrimination. The law will set no precedent in the field of governmental regulation, nor will it unjustly infringe on the rights of any individual. The only right it will deny is the right to discriminate - to embarrass and humiliate millions of our citizens in the pursuit of their daily lives.

SEVAREID: At this same hearing, Senator Strom Thurmond of South Carolina made a prediction.

THURMOND: Mr. Attorney General, I want to say that I do not think your bill is going to pass the Congress. Incidentally, I have a document here which I think is the finest document that's ever been written next to the Bible; it's the Constitution of the United

States. This is the entire document, and it says what everyone should know about the Constitution of the United States. It's written in such an interesting way so that anyone can understand it. I'd like to present you one of these when the meeting is over.

ROBERT KENNEDY: Thank you, Senator. (laughter)

SEVAREID: Senate hearings continued. In the meantime, the civil rights bill had been introduced in the House of Representatives and referred to the House Judiciary Committee, which meets in a third floor room of the Old House Office Building. Here a subcommittee of eleven members held hearings much like those in the Senate. One difference - the cameras were barred. These hearings ended on August 2nd.

Chairman of the Subcommittee, Democratic
Congressman Celler:

CELLER: The very avid civil libertarians, they wanted a very powerful, drastic bill, one of the most powerful that they could conjure up. On the other hand, the Southerners on my committee wanted no bill at all, and they naturally would offer obstructions to any kind of a civil rights bill. And then there were those, and I'm among them, who feel that you just can't get everything you want legislatively. You have to sometimes be satisfied with a half a loaf.

SEVAREID: Behind closed doors, the debate among the three forces that Chairman Celler described went on for days. Then, something happened: an event unparalleled in the history of American Negro protests - the March on Washington. On August 28th, two hundred thousand Americans, most of them Negroes but many of them whites, marched through the streets of Washington to assemble

at the Lincoln Memorial. Less than three weeks later, on Sunday, September 15th, a Negro church in Birmingham, Alabama, was bombed in the midst of Sunday School classes - four children killed.

The effect of these events on the Judiciary Subcommittee is recalled by a member, Wisconsin Democrat Robert W. Kastenmeier:

KASTENMEIER: I perceived a change in attitude among at least a critical number of members of the Subcommittee toward a more fuller commitment in terms of what the bill ought to be like, and while this wasn't satisfactory to all in the Subcommittee, gradually the bill shaped into something even stronger - in fact much stronger - than the Administration bill.

SEVAREID: The Subcommittee's bill was reported out to the full Judiciary Committee on October 2nd. It was hailed by civil rights leaders as the finest bill of its kind - much better than the original Administration bill. It was denounced as stringent and drastic by others, including key Republican Congressmen whose votes the Administration believed were essential for the passage of any civil rights bill. One of these was the ranking Republican member of the Judiciary Committee, Congressman William M. McCulloch of Ohio.

McCULLOCH: There was some likelihood that if the drastic, strong subcommittee bill were reported to the House, that it would there be amended unto death and probably the final result would have been referring the bill back to the committee for further study.

SEVAREID: When the full 35-man Judiciary Committee assembled in their third-floor committee room to consider this hotly contested bill, Attorney General Robert Kennedy responded to a request that he come and give his opinion of it.

ROBERT KENNEDY: Well, I thought it was a wrong bill, and as I say, I think that it hurt the original bill in some places and also gave power which I thought - to the Executive branch of the government and the Department of Justice - which was very dangerous. So I was opposed to it for those two reasons. Then, also, even if they had reported the bill out, because of the obvious deficiencies in the bill, the bill wouldn't have passed.

SEVAREID: Manhattan Republican John V. Lindsay, who had first opposed this stronger subcommittee bill:

LINDSAY: The votes were there for the subcommittee bill to report it out, and the Administration refused to allow the Chairman of the Committee to call a meeting. We had a revolution of young Turks, on the majority side and the minority side, Democrats and Republicans who decided to go ahead and get the bill out. I would include myself in that.

ROBERT KENNEDY: It was then that President Kennedy had the conferences with the leadership of the Republicans and of the Democrats, discussed the need for legislation, and asked them once again to make an effort to come together and work out legislation that would be satisfactory, and the Republicans and the Democrats came together, met for several days, and worked out a bill which would be satisfactory to all, which was a strong piece of legislation.

SEVAREID: The ranking Southerner on the Committee, tells how this new compromise bill was introduced. Louisiana Democrat Edwin E. Willis:

WILLIS: The Chairman of the committee presented for the first time a 59-page document which he said would be offered as in the nature of a substitute or amendment, and he very frankly said,

"It'll be read hurriedly," and it was. I don't think anyone knew exactly what he was voting for, but it was prepared and they were determined to get it out and get it out they did.

SEVAREID: But even with the compromise bill finally out of the committee, the struggle for a civil rights bill was far from over. For in order to reach the floor of the House of Representatives for debate and a final vote, the bill had first to go to the House Rules Committee. And before it reached the Virginia Democrat, Howard W. Smith, who heads the Rules Committee and has a long record of bottling up civil rights bills, the Commander in Chief of the legislation was struck down. The country was staggered by the tragic loss, and for days a shocked people thought of little else than the fallen President. Then, on November 27, the new President, Lyndon Baines Johnson, addressed a joint session of the Congress:

PRESIDENT JOHNSON: No memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long.

SEVAREID: With Congress back at work, Chairman Smith of the Rules Committee considered a rule for the civil rights bill.

SMITH: Well, what we call a rule is a resolution reported from this committee to the floor of the House saying that upon the passage of that resolution, such-and-such a bill shall be in order, which means may be considered immediately. This was one of the most important pieces of legislation as it affects the rights of citizens that we've had in a long time. Much more drastic than the '57 bill or the 1960 bill, both civil rights bills, and I decided I was going to hold hearings on it and I wasn't going to be too much in a hurry about it. Now, I don't want to be reticent about it. I was opposed to the bill, violently opposed to the bill,

still am, always have been, and I wasn't going to give it any encouragement or move any faster than I had to in order to help it along.

SEVAREID: The promised hearings before the House Rules Committee began on January 9th. Three weeks later, debate began on the House floor. It lasted for nine long days. Congressman Smith opposed the bill on the House floor as he had in his Rules Committee.

SMITH: Well, I was just rolling around and throwing as much confusion in it as I could and fighting and scratching all the way through. Now, that was about all the program that I had because we knew what the result was going to be.

SEVAREID: On February 10th, the House passed the civil rights bill by two hundred and ninety to one hundred and thirty votes, a stunning victory for the Administration - and for Congressmen Celler and McCulloch who engineered the triumph on the House floor. Attorney General Kennedy had an explanation for this success.

ROBERT KENNEDY: It was really because of the conferences that the President had back in October with Congressmen Halleck and Congressman McCulloch and others that brought about the legislation. They gave their word, at that time, to him, and they kept their word. The legislation would not have been passed if it hadn't been for the support by the Republicans.

SEVAREID: Three days later, the House Enrolling Clerk, James Kent, brought the newly printed bill to Ralph R. Roberts, Clerk of the House of Representatives. Assuring himself that the engrossed copy of the bill contained all of the thirty-seven amendments adopted on the House floor, Roberts signed it and turned it over to Reading Clerk Charles Hackney. On Monday, February 17th, the next

day of Senate business, Hackney walked down the long hall that connects the two Houses of Congress and delivered the signed bill to the floor of the United States Senate. His words, as recorded elsewhere:

HACKNEY: Mr. President, I am directed by the House to inform the Senate, that the House has passed H.R. 7152, the civil rights act, in which concurrence of the Senate is requested.

SEVAREID: It was now up to the Senate to work its will.

ANNOUNCER: CBS REPORTS will continue with a live debate from the United States Senate between Senator Strom Thurmond and Senator Hubert H. Humphrey after this message.

(ANNOUNCEMENT)

ANNOUNCER: CBS REPORTS continues. Here again is Eric Sevareid.

SEVAREID: For nine days the United States Senate has been debating a motion to take up the civil rights bill and a vote to do that could come at any time. When it does, debate on the merits of the bill developing into a filibuster will begin. Now, Senate rules allow a Senator to talk as long as he wants to, or he's able to, on any question at issue. And when several Senators try to talk a bill to death the resulting filibuster can go on for days, weeks or even months. For decades Southerners have used the filibuster successfully to defeat or at least to water down civil rights bills. Tonight nineteen Southern Senators are ready to try that again. One of them is Senator Strom Thurmond of South Carolina. Leading the opposition to them is Senator Hubert H. Humphrey of Minnesota. Now these two men have been on opposite sides of this civil rights question at least since the Democratic Presidential Convention in Philadelphia in 1948. Hubert Humphrey was a delegate then - he was also Mayor of Minneapolis - and he led a floor fight for a very strong civil rights plank in that Democratic platform. That fight was won, and a good many Southern delegates walked out of the Convention to form the States Rights party. And Strom Thurmond, then the Governor of South Carolina, became their Presidential candidate. So, in a way this live debate we are having is a continuation of one that began sixteen years ago. It's also a prelude, in a way, to the one about to begin in the Senate. Right now each of the two Senators with me will have about three minutes for an opening statement in this short debate. Senator Humphrey drew the longest straw. Would you begin?

HUMPHREY: Well, thank you very much, Mr. Severeid, and my colleague Senator Thurmond. I believe that what we've seen and heard tonight is a challenge to the conscience of this nation. We simply have to face up to this question: Are we as a nation now ready to guarantee equal protection of the laws, as declared in our Constitution, to every American regardless of his race, his color or his creed? The time has arrived for this nation to create a framework of law in which we can resolve our problems honorably and peacefully. Each American knows that the promises of freedom and equal treatment found in the Constitution and the laws of this country are not being fulfilled for millions of our Negro citizens and for some other minority groups. Deep in our heart we know - we know that such denials of civil rights, which we have heard about and which we've witnessed are still taking place today - and we know that as long as freedom and equality is denied to anyone, it, in a sense, weakens all of us. There is indisputable evidence that fellow Americans who happen to be Negro have been denied the right to vote in a flagrant fashion. And we know that fellow Americans who happen to be Negro have been denied equal access to places of public accomodation - denied in their travels the chance for a place to rest and to eat and to relax. We know that one decade after the Supreme Court's decision declaring school segregation to be unconstitutional that less than two percent of the Southern school districts are desegregated. And we know that Negroes do not enjoy equal employment opportunities. Frequently, they are the last to be hired and the first to be fired. Now, the time has come for us to correct these evils - and the civil rights bill before the Senate is designed for that purpose. It is moderate - it is

reasonable - it is well designed. It was passed by the House 290 to 130. It is bipartisan. And I think it will help give us the means to secure, for example, the right to vote for all of our people - and it will give us the means to make possible the admittance to schoolrooms of children regardless of their race. And it will make sure that no American will have to suffer the indignity of being refused service at a public place. This passage of the civil rights issue or bill to me is one of the great moral challenges of our time. This is not a partisan issue. This is not a sectional issue. This is in essence a national issue, and it is a moral issue, and it must be won by the American people.

SEVAREID: Senator Humphrey that takes your three minutes, I think. And now, Senator Thurmond, three minutes for you.

THURMOND: Mr. Sewareid and my colleague Senator Humphrey. This bill, in order to bestow preferential rights on a favored few who vote in bloc, would sacrifice the Constitutional rights of every citizen and would concentrate in the national government arbitrary powers, unchained by laws, to suppress the liberty of all. This bill makes a shambles of Constitutional guarantees and the Bill of Rights. It permits a man to be jailed and fined without a jury trial. It empowers the national government to tell each citizen who must be allowed to enter upon and use his property without any compensation or due process of law as guaranteed by the Constitution. This bill would take away the rights of individuals and give to government the power to decide who is to be hired, fired and promoted in private businesses. This bill would take away the right of individuals and give to government the power to abolish the seniority rule in labor unions and apprenticeship programs. This bill would

abandon the principle of a government of laws in favor of a government of men. It would give the power in government to government bureaucrats to decide what is discrimination. This bill would open wide the door for political favoritism with federal funds. It would vest the power in various bureaucrats to give or withhold grants, loans and contracts on the basis of who, in the bureaucrat's discretion, is guilty of the undefined crime of discrimination. It is because of these and other radical departures from our Constitutional system that the attempt is being made to railroad this bill through Congress without following normal procedures. It was only after lawless riots and demonstrations sprang up all over the country that the Administration, after two years in office, sent this bill to Congress, where it has been made even worse. This bill is intended to increase - to appease those waging a vicious campaign of civil disobedience. The leaders of the demonstrations have already stated that passage of the bill will not stop the mobs. Submitting to intimidation will only encourage further mob violence and to gain preferential treatment. The issue is whether the Senate will pay the high cost of sacrificing a precious portion of each and every individual's Constitutional rights in a vain effort to satisfy the demands of the mob. The choice is between law and anarchy. What shall rule these United States, the Constitution or the mob?

SEVAREID: Senator Thurmond, thank you very much. Well, gentlemen, it seems rather clear, from these two statements at least, that the room for agreement is going to be a little cramped. From here on in this brief debate we'll let this be free-swinging. You can interrupt one another at will, though I hope each of you

allows the other to finish whatever sentence he's engaged upon. But we'll get to that part of the debate right after this message.

(ANNOUNCEMENT)

SEVAREID: Gentlemen, this is now open debate. Let's start with the public accomodation section of this civil rights bill. Now this section, if passed, would forbid racial discrimination in hotels and motels, restaurants, theaters and similar places all over the country. Senator Humphrey, would you start?

HUMPHREY: Well, yes, Mr. Severeid. What Title 2 does - and that's the title to which you referred - the Public Accomodation's Title - is to declare as a national policy what already exists in thirty-two states as state policy. I would repeat that thirty-two of the states of the Union already have what we call strong and effective public accomodations laws that forbid racial discrimination in public places. Now Title 2 of this bill has but one purpose, and that's to guarantee to every American citizen, regardless of his place of residence or his race, equal access to public places. And this is as old as common law itself - since the time of Chaucer, as a matter of fact. I don't think it's really unusual that the Government of the United States should want to have the 14th Amendment, which insists that no state may deny any citizen of the United States equal protection of the laws or life, liberty or property without due process of law - I don't think it's unusual that this should be now effectuated by a public policy in statute.

THURMOND: This title is entirely a misnomer. It's not public accomodations, it's invasion of private property. This will lead to integration of private life. The Constitution says that a man shall

not be deprived of life, liberty or property. We should observe the Constitution. A man has a right to have his property protected. A similar bill to this - almost word for word - was passed by Congress in 1875 and was declared unconstitutional by the United States Supreme Court in 1883. The Howard Johnson Case from Virginia is a case in which a man wanted to be served. Howard Johnson refused to serve him, and he went into court. But the court held that a man did not have to serve anybody on his own private property that he did not wish to. Now that was only in 1959. Why do we want to push an unconstitutional piece of legislation - one that has already been held unconstitutional by the Supreme Court? And especially since it denies people the right of trial by jury. Title 1, Title 2, Title 3, Title 4, and Title 7 have provisions that deny people the right of trial by jury.

HUMPHREY: Well now, may I say to my friend, the Senator from South Carolina, that Title 2 - number one, relies for its enforcement upon the courts of the United States. Title 2 is related to the citizens of the United States, and Title 2 merely says that a man, because of his race, shall not be denied access to a public place where there is - advertisements for the public to come in and do business - and it limits it to hotels, to motels, to filling stations and to places of - restaurants or eating places. And why? Because these are the facilities that are necessary in a sense for life itself and for interstate travel.

I've often wondered, Senator, why it is that we're so anxious to keep good American citizens, who pay their taxes, who defend their country, who can be good neighbors, out of a place like a restaurant, and yet we will permit people who may be very unsavory characters - people that have a little or no good

reputation - people who come from a foreign country - to come into the same place? It seems to me that what you've had here is an invasion of property rights by enforced segregation. Let me give you an example. In the city of Birmingham, Alabama, up to 1963, there was an ordinance that said that if you were going to have a restaurant and you were going to permit a Negro to come in, you had to have a seven-foot wall, down the middle of the restaurant, dividing the white from the colored. Now, how foolish this is, and isn't that an invasion of private property?

THURMOND: Senator, we live in a country of freedom - and under our Constitution a man has a right to use his own private property as he sees fit. The Mayor of Salisbury, Maryland, said that if they had had a law on the books, as we're trying to pass here now, they would not have been able to have desegregated their business. Now, he says they were able to get the business people to do it voluntarily. You can't do some things by law. Some things have got to come in the hearts and minds of people. And we mustn't think that we can regiment and control and regulate the lives of people. After all we have a Constitution that guarantees freedom, and we must observe that Constitution, and we don't want to require people to live in involuntary servitude. And I think it is involuntary servitude for a woman of one race to have to give a massage to a woman of another race if she doesn't want to do it.

HUMPHREY: That is not provided for in this bill, may I say most respectfully. And I want to say to the good Senator from South Carolina -

THURMOND: Oh, it's provided for.

HUMPHREY: I want to say to the Senator from South Carolina that all that Title 2 does is to say that you shall not deny a person access to a public place like a hotel because of race.

THURMOND: Suppose there's a barber shop or a beauty shop in the hotel?

HUMPHREY: Ah, then it might - then it is -

THURMOND: Suppose -

HUMPHREY: If it is in a hotel, which is an interstate facility that accommodates transients -

THURMOND: Exactly.

HUMPHREY: Now, why not?

THURMOND: And any store and any place is covered too, also. And so if a lady ran a massage place in a hotel, and a woman of one race went there and wanted a massage -

HUMPHREY: Right.

THURMOND: - by a woman of another race, she'd have to give it to her whether she wanted to or not. Isn't that involuntary servitude?

HUMPHREY: Well, may I say -

THURMOND: Isn't she being forced to do what she doesn't want to do?

HUMPHREY: May I say, my friend, most respectfully, that many people that have private property do not have full rights to do what they want to do. If you operate, for example, a bar, you don't have the right to have juveniles in it. If you operate a restaurant, you don't have a right to have unsanitary conditions. There are rules of public regulation, and I would add this: How is it that this nation can call upon our colored people, for example, to help win us the Olympic contests, to help win our wars, to pay taxes, to do everything that a citizen of this country is required to do, but when he wants to come to a hotel and have a night's rest he's told that he can't come because he's colored.

SEVAREID: Senator, I'm going to have to break off this part of it here, much as I hate to. We would like to have a minute or two here, and it will be abbreviated, on this section of the bill that deals with equal employment opportunities. That's a very widely disputed matter. It makes racial discrimination by employers and unions unlawful. Senator Thurmond, would you start on that? I'm going to have to keep this section of the debate -

THURMOND: I know of no more eloquent and convincing argument in opposition to F.E.P.C. than a statement by President Johnson on the Senate floor on March the 9th, 1949. These are President Johnson's words: "This to me is the least meritorious proposal in the whole civil rights program. To my way of thinking, it is this simple. If the Federal government can, by law, tell me whom I shall employ, it can likewise tell my prospective employees for whom they must work. If the law can compel me to employ a Negro, it can compel that Negro to work for me. It might even tell him how long and how hard he would have to work. As I see it, such a law would do nothing more than enslave a minority. Such a law would necessitate a system of Federal police officers such as we have never before seen. It will require the policing of every business institution, every transaction made between an employer and employee and virtually every (indistinct) employers and employees association while it worked. I can only hope sincerely that the Senate will never be called upon to entertain seriously any such proposal again." Those are the words of President Johnson only a few years ago.

HUMPHREY: Now Senator, may I say that one of the real qualities of greatness of President Johnson is that he learns and that he is able to understand the developments in our country in

terms of the changes that have taken place in our society, and isn't it interesting that President Johnson, as Vice President of the United States, was Chairman of the President's Committee on Equal Employment Opportunities and the proudest moment in his life has been when he has assured equal employment opportunities regardless of race, to thousands, yea millions of workers that work in industries where the United States Government does business.

Now, what does Title 7 do in this bill? It does but one thing. It merely states that race shall not be a barrier to fair treatment and employment. It does not put any enforcement power in any commission. Enforcement is left to the courts of the United States. The only thing that a commission can do is to investigate and then if there is a valid case to bring it to the courts; and finally, twenty-five states in this Union, Senator, have their Employment Practices Commissions and in those states, you have the highest rate of employment. You have the highest per capita income, you have the highest - the best economy and the most expanding economy. I think it's a pretty good proposition.

THURMOND: We must remember that this bill creates no jobs, so therefore, whose jobs are these Negroes, the minority, going to take? Other Negroes' jobs, or white people's jobs? Now, I want to say that this bill tells a man who he can hire, who he can fire, who he can promote, who he can demote. And we must remember that the Commission decides what is discrimination and if the Commission sees fit to define discrimination in such a way that there is a racial balance, then they would destroy seniority rights in unions and in other wages -

HUMPHREY: Senator -

THURMOND: - if they will try to bring about a racial balance, as they are doing now in New York schools. The people in New York don't like it. I don't believe the American people are going to want people to tell them who they have to fire and who they have to promote -

HUMPHREY: Senator, this bill prohibits that very thing that you're talking about. Express language prohibiting any action by the government for so-called racial balance. This bill -

THURMOND: Oh, no, that's the section on education -

HUMPHREY: This bill does not permit any Fair Employment Practices Commission to interfere with seniority, with the right of an employer to employ. What it does prohibit is that a man shall not be denied a job because of his color, his race, or his national origin. And I don't believe that any self-respecting American can say that he believes a man ought to be denied a job because of his color, or his race, or his religion. I would add further -

THURMOND: What the Senator is referring to, I am sure, is section - is the section on education about the racial balance. There's nothing in this section, I am sure the Senator will find if he reads it carefully, along the lines about which he just spoke -

HUMPHREY: And there is nothing in this section that calls for racial balance, as the Senator spoke of.

THURMOND: But the Commission defines what is discrimination and if the Commission says that there is discrimination, unless you have racial balance, then you have it. The Commission makes that definition.

HUMPHREY: Senator -

THURMOND: And then, of course, you can appeal to the court but unless the court finds that the Commission is capricious, or arbitrary, very probably they will uphold the Commission.

HUMPHREY: I'm glad the Senator used the word "probably," because the Senator knows that the provisions of statute do not say that, that what the provision of statute says is that the Commission shall investigate as to whether there is discrimination. If there is reasonable evidence that there is discrimination, then the case is referred to a Federal Court for adjudication.

THURMOND: They have to define the word discrimination.

(Two voices at once)

SEVAREID: Gentlemen -

THURMOND: I'm sure you've read it. The word discrimination is not defined at all. It's left to each agency of the government to define discrimination itself.

SEVAREID: Senator -

THURMOND: We can imagine what these bureaucrats will do.

SEVAREID: Senator, may I interrupt, because I would like, before we finish this all too brief debate, to get to another very controversial part of that bill, and that's the section that permits the cutting off of Federal funds from state programs administered in a discriminatory way. Senator Humphrey, would you start that?

HUMPHREY: Well, yes, I have here the copy of the bill and here's what we're talking about. Here's what is said in the bill. "Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Now, that's rather plain. What it merely says is that public monies out of the Federal Treasury will not be used to promote discrimination, to insure discrimination, or to carry on any discriminatory act, and I

don't understand how we can ask people to pay taxes, regardless of their race or color and then deny them the benefits of the payments of those taxes when those monies are given back to the respective states and what this provision does is simply to say that there can be no discrimination provided for by the use of - through the use of Federal funds, and then there are a number of legal protections to see to it that if such an order is made that the President of the United States must personally sign that order. There must be voluntary compliance to the degree that it's possible to obtain it, and before any such order can go into effect, the Congress must be notified thirty days in advance and then there's Federal review.

THURMOND: This is - this is one of the most despicable provisions in the entire bill. Let me tell you what President Kennedy said about this provision. The late President Kennedy, in his news conference on April the 24th, 1963, rejected the proposal of this Civil Rights Commission for funds-withholding with these words, and these are his words, "I said that I didn't have the power to do so, and I'm not. I don't think a President should be given that power, because it could be used in other ways differently." Those are the words of President Kennedy. Why, this - this provision attempts to amend more than a hundred laws on the books. It would give unprecedented power. It would give multi-billion dollar blackjacks against the people. If this is passed, you don't need the rest of the bill, not at all. This provision affects farmers, hospitals, schools, local government loans, social security, veterans, banks, all government contractors, welfare and wherever the Federal dollar comes from, and that's just about everywhere. And now it says, "any recipient" - it refers to any recipient. That means an individual, or it means a state or a political subdivision of the state as explained in the bill. Now -

HUMPHREY: Senator, yield at that point?

SEVAREID: One more minute on this. Senator Humphrey?

HUMPHREY: Yes, I would just simply say that the Senator from South Carolina regrettably did not read all of President Kennedy's statement, which I read in the Senate here only three days ago or four days ago. The President went on to say that he was opposed to a program that cut off all assistance for an entire state, and he made it crystal clear, and what the Senator read is that part of it. Then he went on to say, however, that he didn't have the power and it was public policy that where there was discrimination, in a particular activity or program that the Federal Government should cut off the Federal funds. But may I say this: I think this ought to be done with restraint. I don't think it ought to be precipitous and that's why there have been certain protections and limitations written into this section of the bill. But I don't believe, Senator, that you can justify collecting Federal taxes from a colored person and then denying him the benefits of Federal assistance when funds are made available to his state. I don't think you can justify -

THURMOND: This is pure socialism. It is government control of the means of production and distribution and that is socialism. Title 6 fits this definition of socialism.

SEVAREID: Senator Thurmond, we have a little time left. I would like to give each of you the opportunity for a short summation of your feelings about the bill as a whole. We won't have more than about a minute and a half for each one of you, I'm afraid, but since Senator Humphrey started at the beginning, would you start the summation, Senator Thurmond?

THURMOND: To persons in such a state as Minnesota, it may seem feasible to accomplish total integration of the races. In Minnesota, there are only seven Negroes for one thousand persons. It is an entirely different matter, however, where there are two hundred and fifty to four hundred Negroes for one thousand persons. Now, no one should believe that he has learned all about the ... bill before the Senate from this brief discussion. The public accommodations, the F.F.P.C. and the fund-withholding sections, which we had discussed here, comprise only three of eleven titles of this bill. We have not even mentioned the powers of the Attorney General to bring suits in the field of education. President Johnson led a successful fight in the Senate in 1957 and in 1960 to reject this provision because it was so extreme and unwarranted. Nor have we had time to mention the section which attempts to override the constitutionally reserved right of each state to determine the qualifications of voters. No bill is a civil rights bill if it takes away basic liberties and constitutional rights and guarantees, and replaces them with arbitrary government powers. The so-called civil rights movement in America has often been called a revolution. Whatever defines a revolution? Webster has defined a revolution as "a fundamental change in political organization or a government or constitution."

SEVAREID: Senator, I'm going to have to let Senator Humphrey have his very few remaining moments here for his summation.

HUMPHREY: First of all, I would like to say thank you to my colleague for this discussion. Secondly, President Johnson vigorously, wholeheartedly supports this bill and he supported it before he became President. Then I would add that the purpose of this bill is to close a citizenship gap in this country that has existed far too

long. America has been weakened because we haven't given full opportunity to all of our people and the purpose of this bill is to try to lay down a legal framework within which we can work out our problems peacefully and honorably through law, through courts, rather than through violence and through demonstrations. I happen to believe that the issue before us is the great moral issue of our time and I don't think we can avoid it. I am perfectly willing to discuss every feature of this bill and I hope every American will look into every feature of this bill, but I cannot believe that two hundred and ninety members of the House of Representatives, one hundred and fifty-two Democrats, a hundred and thirty-eight Republicans, would have voted for this bill if it was as evil as it has been described by my opponent here tonight. I just can't believe it. Two hundred and ninety to a hundred and thirty. It is my view that this legislation is a good beginning towards making America a little better of a country, a little stronger, a little greater and with a better and a more wholesome spirit.

SEVAREID: Thank you Senator Humphrey.

THURMOND: It's a pleasure to be with you.

SEVAREID: And Senator Thurmond.

THURMOND: It's a pleasure to be with my colleague.

SEVAREID: It's a pleasure to have you both here. The bill itself is some fifty-five pages long, as I recollect. We have had fewer than that many minutes to talk about this enormously complicated piece of legislation tonight. I think perhaps this discussion, however, has given people some idea, not only of the intellectual clash that's involved in this monumental piece of domestic legislation, but the enormous emotional cargo that lies behind it on both sides. This filibuster, or debate, or whatever is to be called in the Senate, could go on for weeks, probably for months.

THURMOND: Educational debate!

SEVAREID: We have no certainty that it will come out in its present form, or even indeed that it will come out. It will certainly change the lives, if it does, of a great many Americans in rather intimate ways. Should it not be passed, we may have disorder on our streets, even as bad or worse as we have had before. Careers and elections could be affected. Well, I'm sorry we don't have unlimited debate on television, so I will have to say goodnight now. This is Eric Severeid. Good night to you all.

(ANNOUNCEMENT)

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