

# THE CONGRESS PROJECT

## *Assignment Prompt Sheet*

### **Civil Rights Act of 1964**

**Act Title:** Civil Rights Act of 1964

**Congress:** 88<sup>th</sup> Congress (1963-1964)

**Session/Sessions:** 1-2

**Statute No:** 78 Stat. 241-268

**Public Law No:** 88 PL 352

**Eid:** 880352

**Gid:**

**Bill:** HR 7152

**Sponsor:** Rep. Emmanuel Celler (D-NY)

**House Committees:** Judiciary

**Senate Committees:** None

**Companion Bill:** None

**Related Bills:** HR 980; HR 405; HR 24; HR 25; HR 185; HR 870; HR 871; HR 625; HR 187; HJR 3; HJR 85; HR 543; HR 548; HR 1689; HR 1632; HR 7611; HR 7702; S 1937; S 1937; HR 7771; HR 7771; S 2037

**House Rules:** Hres 616; Hres 789

**Past Bills:** 84 HR 5205; 84 S 1089; 85 S 506; 86 HR 352; 86 HR 1902; 86 S 499; 86 S 810; 86 S 958; 86 S 942; 86 HR 4169; 86 HR 4248; 86 S 1998; 86 S 2041; 87 HJR 3; 87 HR 262; 87 HR 668; HR 1361; 87 S 479; 87 S 480; 87 HR 3536

**Introduced Date- Law Date:** June 20, 1963-July 2, 1964

**House Floor Days:** 9

**Senate Floor Days:** 57

**Roll Call Votes:** 123 (three in the House; 120 in the Senate)

**Issues:** civil rights; voting rights

**Procedures:** filibuster; rule xiv; point of order; self-executing rule; conference; Rules Committee; open rule; amendments; discharge threat

**Last Updated:** 11/6/23



*(Above) Rep. Harold "Judge" Smith (D-VA), who as chairman of the House Rules Committee succeeded in blocking or substantially altering many proposed civil rights bills until the Civil Rights Act of 1964.*

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## Legislative History Comments

Congress had failed to pass substantive civil rights legislation in a large number of congresses before enacting *the Civil Rights Act of 1957*. However, it was largely toothless after southerners succeeded in eliminating Part III, which expanded the powers of the Attorney General by allowing him/her to file civil suits, and adding an amendment ensuring jury trials. The 1957 act was updated with the passage of the *Civil Rights Act of 1960* during the 86<sup>th</sup> Congress. While the 1960 act included some voting rights protections and extended the Civil Rights commission (which was established by the 57 act but was set to expire) it was substantially weakened during another Senate filibuster.<sup>1</sup>

The following Congress (87<sup>th</sup>), progress on the issue was stifled through a combination of factors that included Southern Democratic obstruction in the Senate and rules committee opposition in the House. The only modest substantive victory was the passage of a one-year extension of the Civil Rights commission.<sup>2</sup> *The Civil Rights Act of 1964*, passed in the 88<sup>th</sup> Congress, rectified many of the problems from the Civil Rights Act of 1957. It has been widely praised—both contemporaneously and retrospectively—as a fair reaching, significant victory in the civil rights movement. For example, upon its enactment, the New York Times dubbed it “the most far reaching civil rights law since reconstruction days.” And President Lyndon Johnson (D-TX) asserted it would help “eliminate the last vestiges of injustice in America.”<sup>3</sup> The Act has been featured in countless books and articles and is listed as the most impactful law of the 88<sup>th</sup> Congress by Clinton and Lapinski (2006).

As you might expect, this bill is an unholy nightmare of epic proportions from a process standpoint. Which is awesome! The cloture vote in the Senate on the bill gets a great deal of attention (there’s a nice, [short discussion of the bill on the Senate website](#)), but wrangling and pressure in the House Rules Committee seems equally important.

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<sup>1</sup> The majority leader in the Senate, LBJ, managed to bypass an initial Senate filibuster on the bill through some unorthodox maneuvering, but this did not last long. A longer filibuster led to compromises in the House-passed bill. School segregation provisions, the Part III Attorney General language and employment discrimination measures were all struck from the final bill.

<sup>2</sup> Perhaps more importantly, the House did succeed in expanding the size of the rules committee through the narrow passage of Hres 127. The maneuver added three seats to the committee and gave liberals an 8-7 majority. I believe Carl Albert played a fairly substantial role in this.

<sup>3</sup> Kenworthy, E.W. 1964, “President Signs Civil Rights Bill.” The New York Times, July 3.

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Again though, don't kill yourself on the process questions. Focus on the background and aftermath questions. The Zelizer book in the scholarly sources section is phenomenal on those. And the Mann book, as well as [CQ Almanac \(1964\)](#), are great sources if you do have process questions. Don't hesitate to use what I've provided below.<sup>4</sup> Or ask me if you do additional issues.

Don't hesitate to e-mail me with questions! [CQ \(1963\)](#), as well as [CQ \(1964\)](#), are also worth consulting.

## Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

**#1.**

**#2.**

**#3.**

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<sup>4</sup> Additional past bills: 87 S 1258; 87 HJR 403; 87 S 1817; 87 S 1819; 87 HR 6875; 87 HR 6890; 87 HJR 424; 87 HJR 426; 87 HR 7084; 87 HR 7111; 87 HR 7143; 87 HR 7253; 87 HR 8219; 87 HR 8901; 87 HR 9012; 87 S 2595; 87 HJR 600; 87 HR 9727; 87 HR 9730; 87 HR 9824; 87 HR 9928; 87 S 2750; 87 HR 9986; 87 HR 10034; 87 HR 10056; 87 HR 10056; 87 HR 10141; 87 HR 10144; 87 HR 10144; 87 HR 10259; 87 HJR 640; 87 HR 10394; 87 HR 10392; 87 HR 10483; 87 HR 10516; 87 HR 10616; 87 HJR 658; 87 HJR 662; 87 S 2981; 87 S 2979; 87 HR 10783; 87 HR 11161; 87 HR 11456; 87 HR 11465; 87 HR 13316

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## Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

The Stathis (2014) piece might worth a citation here.

2. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify?

Why was this law needed? Was it successes from the Civil Rights movement? Did Kennedy's death help? [CRS \(2012\)](#) might be helpful with this question.

3. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation? Why were previous Civil Rights laws ineffective? What about gender equality legislation? Why include Title VII?

You might want to contextualize this bill by discussing some of the Civil Rights efforts considered in previous years.

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## Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. Below are the Congressional Record indices for HR 7152 in the second session of the 88<sup>th</sup> Congress.

### H.R. 7152—Continued

in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Made special order (H. Res. 616), 1511.—

Debated, 1516, 1582, 1677, 1899, 1961,

2250, 2462, 2548, 2705.—Amended and

passed House, 2805.—Read the first time

in Senate, 2882.—Read the second time,

3692.—Ordered placed on the calendar,

3719.—Reference to Committee on the

Judiciary objected to, 3830, 6455.—

Motion to consider bill, 4742, 4754, 4758,

4782, 4816, 4851, 4994, 5016, 5058, 5078,

5081, 5219, 5220, 5243, 5246, 5263, 5328,

5337, 5403, 5427, 5431, 5458, 5600, 5636,

5642, 5686, 5690, 5720, 5725, 5789, 5792,

5829, 5857, 5871, 5930, 5933, 5956,

5989, 6042, 6056, 6071, 6196, 6197, 6199,

6249, 6415.—Motion to consider agreed

to, 6417.—Debated, 6417, 6428, 6441, 6527,

6573, 6641, 6713, 6746, 6775, 6792, 6796,

6810, 6812, 6837, 6857, 6862, 6950, 6951,

6969, 6994, 7008, 7045, 7051, 7069, 7098,

7190, 7198, 7227, 7230, 7240, 7372, 7375,

7397, 7417, 7495, 7508, 7557, 7601, 7667,

7685, 7691, 7728, 7736, 7770, 7868, 7870,

7898, 8043, 8052, 8081, 8169, 8192, 8197,

8200, 8221, 8243, 8253, 8292, 8333, 8343,

8410, 8420, 8441, 8482, 8499, 8613, 8626,

8649, 8697, 8714, 8749, 8886, 8887, 8912,

8929, 8934, 8991, 9023, 9024, 9048, 9082,

9565, 9586, 9640, 9644, 9661, 9680, 9783,  
9816, 9847, 9897, 9786, 9810, 9899, 9916,  
9938, 10073, 10077, 10081, 10089, 10110,  
10157, 10158, 10186, 10188, 10212, 10340,  
10346, 10370, 10383, 10415, 10423, 10502,  
10508, 10563, 10579, 10626, 10628, 10667,  
10783, 10794, 10839, 10905, 10931, 10938,  
10954, 11002, 11003, 11022, 11028, 11030,  
11044, 11081, 11087, 11102, 11193, 11204,  
11225, 11228, 11284, 11310, 11504, 11513,  
11531, 11534, 11571, 11584, 11594, 11614,  
11737, 11756, 11771, 11775, 11854, 11875,  
11917, 12127, 12151, 12161, 12196, 12215,  
12304, 12334, 12381, 12435, 12564, 12569,  
12593, 12613, 12669, 12673, 12680, 12699,  
12702, 12722, 12807, 12822, 12831, 12859,  
12863, 12873, 12877, 12943, 12966, 13050,  
13118, 13125, 13307.—Vote to end cloture  
agreed to, 13327.—Debate continued,  
13327, 13419, 13420, 13434, 13442, 13447,  
13469, 13473, 13641, 13652, 13666, 13694,  
13708, 13723, 13799, 13825, 13830, 13834,  
13871, 13873, 13875, 13878, 13880, 13904,  
13909, 13913, 13930, 13935, 14179, 14195,  
14200, 14215, 14219.—Mansfield-Dirksen  
substitute (amendment No. 1052) as  
amended agreed to, 14239.—Debate con-  
tinued, 14275, 14283, 14291, 14294, 14299,  
14310, 14326, 14335, 14432, 14443, 14506.—  
Amended and passed Senate, 14511.—  
Concurrence in Senate amendment ob-  
jected to in House, 14631.—Pursuant to  
House Resolution 789, House concurs in  
Senate amendment, 15869.—Examined  
and signed, 15831, 15981.—Presented to  
the President, 15981.—Approved [Public  
Law 88-352], 17783.

H.R. 7152—To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination

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## #1. House Consideration of HR 7152 (January 31-February 10, 1964)

HR 7152<sup>5</sup> was introduced in the House of Representatives by Rep. Emanuel Celler (D-NY) on June 20, 1963.<sup>6</sup> It was referred to the House Judiciary Committee, which Celler chaired shortly afterwards.

*Some additional questions to consider: Who was Celler? How many times did he sponsor civil rights bills? What all happened in the Judiciary Committee? Did this bill have the voting rights component in it at any point? I legitimately don't know.*

The Judiciary Committee reported HR 7152 to the House floor on November 20, 1964. Prior to considering the bill on the floor, however, action needed to be taken by the House Rules Committee. The Chairman of the House Rules Committee, Rep. Howard Smith (D-VA), was an outspoken opponent of Civil Rights legislation who had used his position in the past to delay and defeat earlier bills. Smith announced his intention to take his time in considering HR 7152, charging it as “unconstitutional,” and being “as full of booby traps as a dog is full of fleas.”<sup>7</sup> Spurred in part by President Lyndon Johnson (D-TX), supporters of the bill began to circulate a discharge petition to force a rule to the floor.<sup>8</sup> Largely in response to threats from the discharge

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<sup>5</sup> This measure has a nearly countless list of related bills. See also: HR 1633; HR 1635; HR 1636; HR 1637; HR 1638; HR 1623; HR 1625; HR 1766; HR 1767; HR 1768; S 666; S 445; S 484; HR 2115; HR 2126; HR 1984; HJR 135; HR 2095; HR 2027; HR 2147; HR 1983; HR 1985; HR 2583; HR 2497; HR 3104; HR 3140; HR 3141; HR 3143; HR 3144; HR 3145; HR 3146; HR 3147; HR 3148; HR 3149; HR 3150; HR 3151; HR 3152; HR 3153; HR 3154; HR 3155; HR 3156; HR 3157; HR 3158; HR 3159; HR 3160; HR 3161; HR 3162; HR 3139; HR 3142; HR 3330; HR 3341; HJR 231; HR 3390; HR 3481; HR 3482; HR 3483; HR 3485; HR 3525; HR 3526; HR 3572; HR 3570; HR 3524; HR 3510; HR 3484; S 773; S 772; HR 3767; HR 3829; HR 3879; HR 4031; HR 4023; HR 4034; HR 4052; HR 4036; HR 4147; HR 4391; HR 4575; HR 4553; HR 4628; HR 4783; HR 4852; S 1117; HR 5010; S 1209; S 1210; S 1211; S 1214; S 1215; S 1217; S 1218; S 1219; HR 5314; HR 5455; HR 5456; S 1281; S 1283; HR 5547; HR 5603; HR 5604; HR 5741; HR 5863; S 1389; HR 6027; HR 6028; HR 6029; HR 6031; HR 6030; HR 6077; HR 6089; HR 6090; HR 6121; HR 6122; HR 6119; S 1519; HR 6288; HR 6300; HR 6301; HR 6331; HR 6332; HR 6333; HR 6334; HR 6335; HR 6336; HR 6345; HR 6328; S 1591; S 1590; HR 6502; S 1622; HR 6639; HR 6721; HR 6722; HR 6723; HR 6724; HR 6725; HR 6726; HR 6727; HR 6728; HR 6729; HR 6730; HR 6731; HR 6732; HR 6733; HR 6734; HR 6735; HR 6736; HR 6737; HR 6738; HR 6739; HR 6740; HR 6741; HR 6742; HR 6743; HR 6720; S 1644; S 1665; HR 6757; HR 6758; HR 6768; HR 6769; HR 6778; HR 6779; HR 6781; HR 6787; HR 6801; S 1689; HR 6938; HR 6973; HR 6972; HR 6971; HR 6970; HR 6969; HR 6968; HR 6967; HR 6966; HR 6965; HR 6964; HR 6963; HR 6962; HR 6961; HR 6960; HR 6959; HR 6958; HR 6957; HR 6956; HR 6955; HR 6954; HR 6953; HR 6952; HR 6951; HR 6950; HR 6949; HR 6948; HR 6947; HR 6946; HR 6945; HR 6944; HR 6943; HR 6942; HR 6941; HR 6940; HR 6939; HR 7003; HR 7004; HR 7005; HR 7076; HR 7115; S 1750; S 1732; S 1732; S 1731; HR 7146; HR 7162; HR 7157; HR 7163; HR 7182; HR 7197; HR 7204; HR 7205; HR 7208; HR 7212; HR 7223; HR 7226; HR 7224; HR 7246; HR 7255; HR 7266; HR 7281; HR 7298; HR 7338; HR 7328; HR 7375; HR 7453; HR 7515; HR 7521.

<sup>6</sup> Some additional questions to consider: Who was Celler? How many times did he sponsor civil rights bills? What all happened in the Judiciary Committee? Did this bill have the voting rights component in it at any point? I legitimately don't know.

<sup>7</sup> “Rep. Smith 'Afraid' Bill on Civil Rights Will Pass,” *Washington Post*. December 23, 1963.

<sup>8</sup> House Rule XV, clause 2, provides for the contemporary House discharge rule. It allows members to bring a measure to the floor if it has been referred to committee but not reported. The measure must have been in committee for at least 30 legislative days. Successful petitions necessitate the signature of a majority of House members (Davis 2018; Pearson and Schickler 2009).

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petition, Smith and the Rules Committee reported a special rule to the floor by an 11-4 vote (Zelizer 2015).<sup>9</sup>

The House considered Hres 616, an open rule, on January 31<sup>st</sup>.

*So amending in the House on this thing is a nightmare. 142 amendments considered, 38 of which were adopted. Skim the newspaper coverage and highlight the ones the papers felt were the most controversial.*

*An obvious choice here is going to be title VII.*

*The title VII amendment expanded protected classes under the Civil Rights Act to include gender. It was actually offered by Rep. Howard “Judge” Smith (D-VA), the longstanding Southern Chairman of the Rules Committee. It’s often argued that Smith, probably best characterized as the leading opponent of the Civil Rights Act in the House, proposed it with the idea of it being a “killer” amendment. Specifically, it argued that Smith and other southern Democrats didn’t actually support the concept, but felt that the amendment would be (1) supported by enough liberals to get added to the bill and (2) turn off so many centrists it would ultimately lead to the Civil Rights Act’s defeat. Or as Pedriana (2009, 3) puts it: “Many (but not all) legal scholars and women’s movement historian concur that Title VII’s prohibition was a historical accident.” I think the amendment was defeated in committee, but passed in the full chamber narrowly. Some liberals and proponents of the concept, like Rep. Edith Green (D-OR) opposed it on the floor for strategic reasons.*

HR 7152 passed the House by a [vote of 290 to 130](#). 35 Republicans and 97, mostly Southern Democrats, voted against the bill.

## ***#2. Senate Consideration of HR 7152 (February 17-June 19, 1964)***

The Senate Judiciary Committee Chairman, Senator James Eastland (D-MS) had used his position to kill civil rights legislation in the past. Accordingly, the Senate Majority Leader, Senator Mike Mansfield (D-MT), had the bill placed directly on the Senate calendar under Rule XIV.<sup>10</sup> The move was met by a point of order from Senator Richard Russell (D-GA) (Mann

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<sup>9</sup> See also Kenworthy, E.W. 1964. “House to Take up Rights Bill Today,” *New York Times*. January 31; Lyons, Richard. 1963. “Petition to Force Civil Rights Vote Draws Early Surge, Then Lags,” *Washington Post*, December 10.

<sup>10</sup> The Senate does not have to send a bill to a committee. Rule XIV of the Senate’s rules state that: “Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the Calendar in the order in which the same may be reported; and every bill and joint resolution introduced on leave, and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the Calendar.” During consideration of the Civil Rights Act of 1957, the Senate Majority leader objected to the second reading of the bill in order to keep it on the calendar and cut Eastland and the Judiciary Committee out of the proceedings.

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1966).<sup>11</sup> However, the chair, Senator Lee Metcalf (D-MT), overruled the point of order and Mansfield moved to table Russell's appeal. The motion to table was agreed to, 54-37, resulting in the bill being "placed on the calendar (*Congressional Record*, 88<sup>th</sup> Congress, February 26, 1964, 3719)."<sup>12</sup>

After several weeks of informal discussion, Southern Democrats permitted two votes to be taken on whether to formally consider the Civil Rights bill on the floor.<sup>13</sup> On March 26, 1964, the Senate agreed to consider the bill by an 80-19 vote. All 19 "no" votes were from Southerners. A motion to refer HR 7152 to the Judiciary Committee with instructions it be reported back April 8 was then offered by Senator Wayne Morse (D-OR). This motion was killed by a successful Mansfield motion to table, [60-40](#). Debate on the bill commenced shortly afterwards.

Cloture is adopted (voteview rnum 302) on June 10th, but afterwards they still needed to dispense with pending amendments. This took almost a full week. As with the House, focus only on the amendments that generated the most media attention/coverage. Gore (D-TN) also offers a motion to recommit.

In total, 120 roll calls in the Senate and 122 amendments considered.

*This Claire Engle story about the cloture vote is awesome:*

[https://www.senate.gov/artandhistory/history/minute/Civil\\_Rights\\_Filibuster\\_Ended.htm](https://www.senate.gov/artandhistory/history/minute/Civil_Rights_Filibuster_Ended.htm)

The bill passes 73 to 27 on June 19<sup>th</sup>.

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<sup>11</sup> See also Kenworthy, E.W. 1964. "Russell is Ready for Rights Fight." *New York Times*, February 20.

<sup>12</sup> Debate on the bill begins on March 26<sup>th</sup> after the Senate adopted the motion to consider, 81-19.

<sup>13</sup> Kenworthy, E.W. 1964. "Rights Bill Faces Senate Test Today." *New York Times*, March 26. It is honestly a mystery as to why Russell agreed to this.

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## *#3. Secondary House Consideration of HR 7152 (July 2, 1965)*

Celler requested “unanimous consent” that the House concur in the Senate amendment to HR 7152 on June 22, 1964. This request was objected to. Accordingly, on July 2, 1965, the House considered Hres 789, a self-executing rule.<sup>14</sup> Specifically, Hres 789 provided that “immediately upon the adoption of this resolution [HR 7152] with the Senate amendment thereto, be, and the same is hereby taken from the Speaker's table, to the end that the Senate amendment be, and the same is hereby agreed to (*Congressional Record*, 88<sup>th</sup> Congress, July 2, 1965, 15869).”

The House concurred in the Senate’s amendment to HR 7152 by a [289-126 margin](#).

### **Member Spotlight**

Choose one of the following for your member spotlight:

**#1.** Rep. Emanuel Celler (D-NY); Rep. Edith Green (D-OR); Rep. William McCulloch (R-OH); Rep. John V. Lindsay (R-NY); Rep. John Ashbrook (R-OH); Rep. John Bell Williams (D-MS)

**#2.** Sen. Clair Engle (D-CA); Sen. Mike Mansfield (D-MT); Sen. Paul Douglas (D-IL); Sen. Jacob Javits (R-NY); Sen. Frank Church (D-ID); Sen. Everett Dirksen (R-IL); Sen. Richard Russell (D-GA); Sen. James Eastland (D-MS)

**#3.** Rep. Richard Bolling (D-MO); Rep. Homer Thornberry (D-TX); Sen. Strom Thurmond (D-SC)<sup>15</sup>; Sen. Sam Ervin (D-NC); Rep. Howard “Judge” Smith (D-VA); Rep. Martha Griffiths (D-MI); Rep. Richard Poff (R-VA)

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<sup>14</sup> Sometimes referred to as a “deem and pass” rule. A self-executing rule is a special rule that provides “the House—upon adoption of the special rule—is considered or “deemed” to have taken some other action as well (Binder 2011).” Typically the other action is the passage of the bill itself. This type of rule is sometimes used for strategic reasons to avoid another direct vote on the bill. This rule can also be used to speed up the passage of legislation on uncontroversial measures. See Binder (2010) here:

- <https://www.brookings.edu/blog/up-front/2010/03/17/a-primer-on-self-executing-rules/>

<sup>15</sup> In addition to setting the filibuster record, a few years later, Thurmond would get into a wrestling match in a committee during a dispute over civil rights (see Senate.gov, “[Senators Wrestle to Settle Nomination](#).”) For more on Thurmond, see [Roll Call \(2003\)](#); [Washington Post \(2013\)](#).

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## Aftermath Questions

1. How has this law evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?

Additionally, why was the Voting Rights Act not included in this law? Was this strategic?

2. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

In this prompt question, address how this bill was able to overcome obstruction from Southern Democrats. Why was it so successful when previous laws had failed? And I'm not sure if you can answer this, but it's a bit of a mystery as to why Russell agreed to allow a vote on the motion to consider. Some have argued he essentially "laid down" in the fight against this bill.

3. How relevant is this law currently? Are there additional issues related to it that reformers have been pushing to change? Why was section VII included? Was it an intentional decision Southern Democrats? Were they trying to kill the bill? I've suggested some literature on Title VII as well below (Menard-Krimmel citations).
4. How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Discuss the relevance of this act as it pertains to contemporary policy.

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## Suggested Sources

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## *Newspaper Pieces*

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# THE CONGRESS PROJECT

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