

SUBTLE REVOLUTIONIST: THE LIFE AND POLITICAL CAREER
OF SENATOR EDWARD W. BROOKE

by

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ABSTRACT

In the second half of the twentieth century, Edward W. Brooke became one of the best known and respected African American political leaders in the nation. He stood against the national pattern, when many black politicians and voters turned Democratic during FDR's New Deal and then strongly endorsed President Harry S. Truman's decision to desegregate the military in 1948. The old, moderate strand of the Republican Party, the party of Lincoln, appealed to Brooke, who sought to protect civil rights and perceived the Republican Party as the most consistent way to achieve that goal. In so doing, Brooke ignored the direction of his party since the early twentieth century. He knew these patterns but remained wedded to the Republican Party. Brooke believed that he could achieve more for civil rights within the party than without. For Brooke, Republican Party membership was more than a tool to ensure re-election in a state where black Americans only comprised two percent of the population. As a Republican, he shaped the civil rights legislative agenda. Brooke has fallen so far out of the dialogue of mid-twentieth century civil rights leaders because that was a banner he felt uncomfortable wearing. Therefore, assessments of Brooke and civil rights been in the wrong direction. He did not seek to be a civil rights hero—thus those looking for heroes and heroines ignore him—instead he advocated a third path, one of bipartisanship, cooperation and enlightened policymaking. This dissertation pursues these answers through an analysis of the late senator's commitment to government reform, bipartisanship and protection of civil rights during his tenure in Congress from 1967 until 1979.

INTRODUCTION

In the second half of the twentieth century, Edward W. Brooke became one of the best known and respected African American political leaders in the nation. His career in politics began modestly enough. In 1950, Brooke campaigned as a “cross-filer” for the Republican and Democratic nominations as the state representative from the Twelfth Ward in Roxbury, Massachusetts.¹ Brooke campaigned diligently, speaking with diverse groups, such as the Jewish, black, and Italian communities, as well as white Roxburians. He won nomination on the Republican ticket, but then lost in the general election.² Observers believed Brooke ran a good campaign, which made him a potential candidate for future office.

In 1952, he announced as a candidate for the Republican nomination for state representative.³ Although he campaigned persistently, Brooke lost in the general election.⁴ Nevertheless, he clearly identified himself as a Republican. Brooke was drawn to the Republican Party for a number of reasons. First, his parents were Republicans.⁵ Second, he considered the Democratic Party, at the local and state levels, to be corrupt.⁶ Third, on the state level, Democrats had long ignored black Americans’

¹ Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 51.

² Brooke, interview, October 31, 2001, 55; Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University, 2007), 56.

³ Brooke, *Bridging the Divide*, 55–57.

⁴ Brooke, interview, October 31, 2001, 51–52; Brooke, *Bridging the Divide*, 60.

⁵ Brooke, interview, October 31, 2001, 55.

⁶ Brooke, *Bridging the Divide*, 55, 64–65.

needs and consistently undermined civil rights legislation, as Brooke noted, “It was a Republican governor and a Republican legislature that enacted antidiscrimination laws and Democrats who resisted them.”⁷ From his perspective, the example of genuine, Republican state leaders working on behalf of Massachusetts residents reinforced Brooke’s decision.⁸ For example, “the Republican Party had desegregated the National Guard” in Massachusetts and was “... much more progressive than was the Democratic Party.”⁹

Brooke stood against the national pattern, when many black politicians and voters turned Democratic during FDR’s New Deal and then strongly endorsed President Harry S. Truman’s decision to desegregate the military in 1948. The old, moderate strand of the Republican Party, the party of Lincoln, appealed to Brooke, who sought to protect civil rights and perceived the Republican party as the most consistent way to achieve that goal.¹⁰

In so doing, Brooke ignored the direction of his party since the early twentieth century.¹¹ The Republican Party effectively abandoned black Americans for northern, European immigrants whom party leaders deemed hard working, loyal and the

⁷ Brooke, *Bridging the Divide*, 58.

⁸ Ibid., 55, 57–58.

⁹ Brooke, interview, October 31, 2001, 55.

¹⁰ Brooke, *Bridging the Divide*, 6, 55, 57–58, 60; Brooke, interview, October 31, 2001, 55–56, 73–74; Edward W. Brooke, *The Challenge of Change: Crisis in Our Two-Party System* (Boston: Little, Brown, and Company, 1966), 64–77, 148–159, 160–169, 184–215, 266.

¹¹ Heather Cox Richardson, “Chapter 4: Abandoning Equity,” 79–107; “Chapter 5: Republicans and Big Business,” 109–138; “Chapter 6: Republicans Become Liberals,” 194–195, in *To Make Men Free: A History of the Republican Party* (New York: Basic Books, 20014), accessed April 4, 2019, ProQuest Ebook Central.

embodiment of American citizenship, although the national coalition gradually adopted a more nativist approach during the 1920s.¹² Consequently, some Republican officials viewed some black Americans as lazy, insolent and undeserving of first-class citizenship.¹³ Incipient Jim Crowism spread throughout the Republican Party in the 1920s and 1930s and often limited black Americans' work opportunities to menial jobs.¹⁴

Secondly, black Americans looked for new allies. As political historians Joshua Farrington and Elizabeth Gritter both noted in their monographs, *Black Republicans and the Transformation of the GOP* and *River of Hope: Black Politics and the Memphis Freedom Struggle, 1865–1954*, black Americans initially received patronage from the federal government, in the form of jobs through the postal service, but that pattern began to diminish in the 1920s.¹⁵ Black Republicans throughout the South organized black/biracial political coalitions, known as Black-and-Tan groups, to ensure protection of civil rights and job opportunities for black communities as white Republicans became indifferent to civil rights injustices.¹⁶ Intense lobbying and

¹² Richardson, "Chapter 4: Abandoning Equity," 79–107; "Chapter 5: Republicans and Big Business," 109–138; "Chapter 6: Republicans Become Liberals," 194–195, in *To Make Men Free*, accessed April 4, 2019, ProQuest Ebook Central.

¹³ Richardson, "Chapter 5: Republicans and Big Business," 109–138; "Chapter 6: Republicans Become Liberals," 194–195, in *To Make Men Free*, accessed April 4, 2019, ProQuest Ebook Central.

¹⁴ Richardson, "Chapter 6: Republicans Become Liberals," in *To Make Men Free*, 194–195.

¹⁵ Joshua Farrington, *Black Republicans and the Transformation of the GOP* (Philadelphia: University of Pennsylvania Press, 2016), 11–20; Elizabeth Gritter, *River of Hope: Black Politics and the Memphis Freedom Struggle, 1865–1954* (Lexington, KY: University of Kentucky Press, 2014), 13–31.

¹⁶ Gritter, *River of Hope*, 40–50, 51–77, esp. 55–70; Donald J. Lisio, *Hoover, Blacks, and Lily-Whites: A Study of Southern Strategies* (Chapel Hill: University of North Carolina Press, 1985), 37–38, 54, 68–69.

politicking by Black-and-Tan groups helped influence congressional and state Republican politicians' decisions to award patronage in their respective states.¹⁷ However, the rise of Lily-White factions signaled a recurrence of Jim Crowism in a new format.¹⁸ Many of these political coalitions became jealous of the unmitigated favor that black Americans received, especially federal patronage.¹⁹ They felt deserving of these jobs but refused to work alongside their black American counterparts. Thus, many Lily-White factions framed Black-and-Tan leaders, such as Robert R. Church of Memphis, for various crimes, such as embezzlement and misappropriation of funds.²⁰

As the Republican Party increasingly distanced itself from the cause of civil rights, advocated stricter immigration policies and gained favor with big businesses, many black Americans felt that Herbert Hoover's handling of two different situations involving black political leaders was a direct attack on their community. In 1928, Assistant Attorney General Mabel Walker Willebrandt, the first high-ranking female official in the Department of Justice, indicted Perry Howard, a lawyer, colleague, and special assistant to the Justice Department, on false charges of bribery.²¹ During the

¹⁷ Gritter, *River of Hope*, 40–50, 51–77, esp. 55–70; Lisio, *Hoover, Blacks, and Lily-Whites*, 37–38, 54, 68–69.

¹⁸ Lisio, *Hoover, Blacks, and Lily-Whites*, 37–38, 54, 68–69, 73; Gritter, *River of Hope*, 40–50, 51–77, esp. 55–70.

¹⁹ Gritter, *River of Hope*, 55–70; Lisio, *Hoover, Blacks, and Lily-Whites*, 69–71, 73.

²⁰ Lisio, *Hoover, Blacks, and Lily-Whites*, 42–47, 50–53, 59–73; Gritter, *River of Hope*, 101–110, 115–124, 137–151.

²¹ Lisio, *Hoover, Blacks, and Lily-Whites*, 65–71, 94–96, 100–101, 109, 112–113, 128–132, 134–135, 166, 175, 179, 278.

1928 presidential election between Democratic nominee Al Smith and Republican candidate Herbert Hoover, Willebrandt brought Hoover evidence that Howard was most likely innocent (indeed, her evidence to convict him was scant). Nevertheless, Hoover told her to prosecute the black Republican official anyway.²² Black reporters ran with the story, which dominated the front pages of respected black newspapers, such as the *Chicago Defender*. Many black Republican voters in the North, and in scattered areas of the South, became disillusioned with the Republican Party in general, and the Hoover campaign, in particular. Howard successfully proved his innocence in court, and he was acquitted.²³ Willebrandt unsuccessfully attempted to prosecute him for the same crime in 1929. He proved his innocence and was acquitted in the second trial. After these experiences, Howard resigned from his federal position while remaining active in the Republican Party.²⁴

Nevertheless, the damage was done as the black press vilified Willebrandt, and subsequently Hoover, for his (and the federal government's) perceived persecution of their community, which led many black Americans to believe that Hoover was intent on pushing forth a "Southern strategy" focused on government reform and creating a two-party South (from their perspective, the elimination of Black-and-Tan groups from the national, as well as state, Republican coalitions, loss of federal patronage –

²² Lisio, *Hoover, Blacks, and Lily-Whites*, 65–71, 94–96, 100–101, 109, 112–113, 128–132, 134–135, 166, 175, 179, 278.

²³ *Ibid.*, 128, 131–132, 176, 262.

²⁴ *Ibid.*, 128–135.

i.e. post office jobs, and the persecution of black federal officials, such as Perry Howard), thereby encouraging them to leave the Republican Party.²⁵

Hoover's unwillingness to condemn civil rights injustices throughout his presidency signified the Republican Party's abandonment of black Americans during the 1920s. Political historian Donald J. Lisio, in his work *Hoover, Blacks, and Lily-Whites: A Study of Southern Strategies*, argues that Hoover was incognizant of Jim Crowism due to his Midwestern, poor, Quaker upbringing.²⁶ However, the Secretary of Commerce and later, President, was not completely unaware of legalized segregation, which historian Simon David Topping argues in *Lincoln's Lost Legacy: The Republican Party and the African American Vote, 1928–1952*.²⁷

For example, Hoover's decision to not act on a report of white planters and Red Cross officials abusing black Americans in the aftermath of the 1926 Mississippi Delta flood demonstrated political shrewdness and a lackadaisical attitude for human suffering in that moment, a reflection that he was a product of his times.²⁸ Shortly after he won election, in 1929, First Lady Lou Hoover had tea with the congressional leaders' wives, as is customary. However, she did not invite the wife of Oscar DePriest, the first black American elected to the House of Representatives in 1928.²⁹

²⁵ Lisio, *Hoover, Blacks, and Lily-Whites*, 128, 131–132, 134–135, 137, 139, 160, 176, 178–186, 232–245, 246–258.

²⁶ *Ibid.*, 24–33.

²⁷ Simon David Topping, *Lincoln's Lost Legacy: The Republican Party and the African American Vote, 1928–1952* (Gainesville, FL: University Press of Florida, 2008), 11–28.

²⁸ Lisio, *Hoover, Blacks, and Lily-Whites*, 4–20, 178–186.

²⁹ Topping, *Lincoln's Lost Legacy*, 17–18; Gritter, *River of Hope*, 106; Annette B. Dunlap, “Tea and Equality: The Hoover Administration and the DePriest Incident,” *Prologue*, Summer 2015,

Offended by the Hoovers' actions, DePriest told the story to black newspapers, and black Americans who read the account for themselves were irate. Consequently, they wanted the Hoovers to offer an apology to the DePriests and correct their behavior. After facing much criticism from the black community, the Hoovers invited Mrs. DePriest to a segregated tea, a symbolic act designed to demonstrate good faith with the black community.³⁰ Nevertheless, the event demonstrated the President and First Lady's insincere commitment to civil rights despite having humanitarian philosophies, influencing many black Americans to leave the Republican Party, which no longer valued their votes and support.³¹

Subsequently, Hoover's administration of the Great Depression demonstrated his inability to translate philosophies of self-help into acts of genuine compassion, empathy and tangible solutions for those in need. When stressed, he had a caustic tone in conversations with people. Furthermore, he vetoed various legislation that would have provided economic relief to thousands of Americans because he stubbornly adhered to his philosophical ideologies, which did not always read well on paper. Moreover, he did not always confer with his advisors, creating more difficulties. Thus, when Herbert Hoover was photographed wearing a tuxedo and smoking a cigar at a charity event in either 1930 or 1931, that image sealed his fate among voters,

17, National Archives and Records Administration, accessed April 17, 2020, <https://www.archives.gov/files/publications/prologue/2015/summer/depriest.pdf>.

³⁰ Lisio, *Hoover, Blacks, and Lily-Whites*, 135–136; Topping, *Lincoln's Lost Legacy*, 18; Dunlap, "Tea and Equality," 16, 17, 18–19, accessed April 17, 2020.

³¹ Lisio, *Hoover, Blacks, and Lily-Whites*, 135–140; Dunlap, "Tea and Equality," 17–19, 22, accessed April 17, 2020.

especially black Americans, who felt that he was out of touch with the people. In the 1932 presidential election, the people, including black Americans, wanted economic relief and jobs, which Democratic nominee Franklin D. Roosevelt promised to bring if he were elected.³² Rank-and-file black Republican voters deserted the party in droves while many of their leaders remained committed to the coalition.³³ Although they experienced discrimination at the hands of Democrats, black Americans realized that the Republican Party abandoned their needs for big business and white supremacy (purging the national and state coalitions of Black-and-Tan groups while embracing Lily-White factions).³⁴ Thus, when the Republicans proved themselves unwilling to provide tangible solutions during the Great Depression and no longer committed to civil rights, black Americans demonstrated their anger to the ungrateful coalition by supporting a candidate who could give them what they needed the most – jobs, economic security and civil rights protection, as well as enforcement.³⁵

Brooke knew these patterns but remained wedded to the Republican party. His strategy for Massachusetts in the 1950s worked: he was the first popularly elected, African American senator since Reconstruction. Once in office, Brooke remained committed to the Republican Party even as the party moved further away from the

³² David M. Kennedy, “Chapter 3: The Ordeal of Herbert Hoover,” in *Freedom from Fear: The American People in Depression and War, 1929–1945*, 70–94, accessed May 28, 2020, EBSCOhost.

³³ Gritter, *River of Hope*, 93–136; Lisio, *Hoover, Blacks, and Lily-Whites*, 128–140, 166–177, 196–204, 232–245.

³⁴ Lisio, *Hoover, Blacks, and Lily-Whites*, 128, 131–132, 134–135, 137, 139, 160, 176, 178–186, 232–245, 246–258, 259–273.

³⁵ Kennedy, “Chapter 3: The Ordeal of Herbert Hoover,” in *Freedom from Fear*, 70–94, accessed May 28, 2020, EBSCOhost.

Black Freedom Movement in the 1960s. This dissertation asks why? Why did Brooke believe that he could achieve more for civil rights within the party than without? Was Republican Party membership strictly a tool to ensure re-election in a state where black Americans only comprised two percent of the population?³⁶ As a Republican, did he shape the civil rights legislative agenda or was he more of a follower? The dissertation also asks why has Brooke fallen so far out of the dialogue of mid-twentieth century civil rights leaders? Was that a banner he felt uncomfortable wearing? Or have assessments of Brooke and civil rights been in the wrong direction? He did not seek to be a civil rights hero—thus those looking for heroes and heroines ignore him—instead he advocated a third path, one of bipartisanship, cooperation and enlightened policymaking.

This dissertation pursues these questions through an analysis of the late senator's commitment to government reform, bipartisanship and protection of civil rights during his tenure in Congress from 1967 until 1979. This study explores the 1968 Brooke–Mondale Fair Housing Act with then–Senator Walter Mondale and the challenges to passing this monumental piece of civil rights legislation. This study also explores Brooke's role in organizing bipartisan coalitions in the Senate to reject Clement Haynsworth's and G. Harrold Carswell's nominations to the Supreme Court in the late 1960s and early 1970s.

³⁶ Massachusetts Advisory Committee to the United States Commission on Civil Rights, "Chapter 1: The Demography of Negro Housing in Boston," in *Discrimination in Housing in the Boston Metropolitan Area* CR1.2:H81/2 (Boston, 1963), 2, <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12h812.pdf>, accessed May 26, 2020; Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

Brooke's position in history has been unfairly forgotten and his career illustrates important developments in mid-twentieth century U.S. politics and policy. Therefore, his political papers, which are housed in the Library of Congress, will help contextualize his work as Massachusetts' attorney general, and later, a U.S. Senator, during pivotal moments in the nation's history, such as *South Carolina v. Katzenbach*, which reaffirmed the constitutionality of the 1965 Voting Rights Act, the Brooke-Mondale Fair Housing Act, the Haynsworth and Carswell Supreme Court nominations, and the Boston busing crisis in the late nineteen seventies. Memoranda and reports from Brooke's tenure as attorney general demonstrate a commitment to bipartisanship, egalitarianism and isonomy. His correspondence with constituents during his two terms in the Senate also reflects his dedication to these principles. Brooke's 1966 political treatise, *The Challenge of Change: Crisis in Our Two-Party System*, his 2007 political memoir, *Bridging the Divide: My Life*, political historian Heather Cox Richardson's work, *To Make Men Free: A History of the Republican Party*, and *The Loneliness of the Black Republican: Pragmatic Politics and the Pursuit of Power* by Leah Wright Rigueur, a scholar of African American political history, helped create a foundation for research. An oral history interview with Dr. Richard Arenberg, a political science professor who served as a campaign pollster for Representative Paul Tsongas, who defeated Senator Brooke in the 1978 Massachusetts Senate race, will serve as a foundation for this scholarly work. Simultaneously, archived newspaper articles from the *Boston Globe*, *New York Times*, and *Washington Post* as well as archived oral history interviews from Senator Brooke, provide further historical context for his legacy. Last, archived articles from the *Chicago Defender*, *Jet*

Magazine and *Ebony Magazine* offer different perspectives of his civil rights work by a diverse black readership.

Many black Americans in Boston, Massachusetts, viewed Brooke as an anomaly, especially as a Republican. To them, he seemed distant from their struggles and concerns because Brooke did not participate in any marches or demonstrations. However, as the first, popularly elected, African American attorney general, and later, U.S. senator in Massachusetts, with a majority white electorate, Brooke was determined to protect everyone's civil liberties and rights. Some members of the black community were displeased with his election to the U.S. Senate in 1966. A friend of Brooke noted that, "Everybody wants Ed to be the instant Negro hero. Single-handedly he made it to the top in politics and he's not going to change his system and his way of life for a few hurrahs or backslaps now."³⁷ Despite their expectations, Brooke's middle class background and experiences with Jim Crowism during World War II instilled in him a desire to ensure fairness, egalitarianism and isonomy for all people. In addition, he preferred to work quietly, instead of participating in formal ceremonies or press conferences, because publicity did not always ensure socioeconomic or racial equality.

To dispel the black community's hesitancy of his political views, he participated in a 1967 interview with *Ebony Magazine* shortly after entering the Senate. Brooke commented that he was a "soul brother" who not only ate "soul food"

³⁷ Simeon Booker, "I'm a Soul Brother – Senator Edward W. Brooke," *Ebony*, April 1967, 152, accessed March 5, 2020, https://books.google.com/books?id=McZ4NxLQF70C&pg=PA150&source=gbs_toc_r&cad=2#v=onepage&q&f=false.

but also refused to acquiesce to the obsolete mindset, “stay in your place,” a familiar, condescending phrase used by southern whites to deter black Americans from violating Jim Crow social mores.³⁸ He never accepted this ideology because “[y]our place is anywhere you want to make it,” a perspective that informed his desire to transform the political system from within.³⁹ Therefore, he “refuse[d] to become cocky or distant from Negroes,” but “[was] friendly, cooperative and willing to bargain, which ma[de] his position even more important because he c[ould] serve as a link between both races and both parties.”⁴⁰ Although his political affiliation, interracial marriage and biracial children influenced some black Americans to view Brooke suspiciously, he was determined to create a better living for his people who continued experiencing the humiliating injustices of Jim Crowism throughout the nation. Thus, Brooke became a subtle revolutionist.⁴¹

³⁸ Booker, “I’m a Soul Brother – Senator Edward W. Brooke,” *Ebony*, April 1967, 150, 153–154, accessed March 5, 2020.

³⁹ *Ibid.*, 154, accessed March 5, 2020.

⁴⁰ *Ibid.*, 150, accessed March 5, 2020.

⁴¹ Brooke, *Bridging the Divide*, 60. The retired legislator observed, “If I was being used, from my point of view, I was using them [the Republicans] as much as they were using me.” Thus, he allied himself with the Republican Party to protect civil rights and create meaningful change within the political system.

CHAPTER 1: CIVIL RIGHTS, RACE AND REPUBLICANISM

Senator Edward W. Brooke's life and political career defied Jim Crowism, accentuating his relevancy in the historical record.¹ His congressional work during the administrations of Presidents Lyndon B. Johnson, Richard Nixon, Gerald Ford, and Jimmy Carter provided a different perspective of their legacies. Brooke's quietly indelible, legislative record has been ignored as the American people focused their attention on partisan politics, racist demagogues (both subtle and overt) and lack of interparty cooperation in the last several decades.² For example, biographer John Henry Cutler, in his monograph, *Ed Brooke; Biography of a Senator*, noted that Brooke,

is no militant and, unlike King, is not a symbol of Negritude in the quickening drive for equality. He refuses to be identified as black, though he is proud of his heritage[.] ... Though he is a rallying point for a race of which he is proud, he is a man, an American, and a Negro in that order.³

Although Cutler's patriarchal, paternalistic assessment is far from the truth, the book contributed to Civil Rights Movement historiography ignoring Senator Edward W.

Brooke's legacy as a staunch defender of civil rights because his congressional work

¹ Jason Sokol, "Forerunner: The Campaigns and Career of Edward Brooke," *The Annals of the American Academy of Political and Social Science* 637 (Sept. 2011): 47–48. The turbulent context of Reconstruction not only redefined the South but also transformed the nation as black Americans lost their civil rights and became second-class citizens. The Democrats' "Redemption" of the South eclipsed black Americans' political gains and eliminated most vestiges of biracial Reconstructionist state governments. Its violent, abrupt end at the hands of ex-Confederates and paramilitary groups, such as the Ku Klux Klan, in addition to the creation of extralegal judicial, political and socioeconomic systems, ensured that approximately four million freedmen and women, as well as their descendants, did not enjoy protections guaranteed by the Thirteenth, Fourteenth and Fifteenth Amendments. Thus, Senator Brooke devoted his brief congressional career to protecting civil rights while redefining race and manhood.

² Ibid., 39–41, 43–45, 47–48, 50–51.

³ John Henry Cutler, *Ed Brooke; Biography of a Senator* (Indianapolis, IN: Bobbs-Merrill Company, Inc., 1972.), 3.

destroyed stereotypes about black Americans while simultaneously challenging white supremacy and Jim Crowism.

Brooke's early experiences with Jim Crowism established a firm desire to protect civil rights in later years. Edward W. Brooke, III was born on October 16, 1919, in Washington, D.C., to Edward W. Brooke, Jr., a lawyer for the Veterans Administration, and Helen Seldon Brooke, a homemaker.⁴ Along with his older sister, Helene, Brooke lived a comfortable, sheltered life, surrounded by his family, friends and the close-knit, middle class, black community within the segregated city.⁵ His parents instilled in him the values of a solid Christian faith, hard work, integrity, racial pride, self-respect and respect for others, traits that served Brooke well in politics and the larger world, which was "a complex place with conflicting interests."⁶ Thus, he was aware of his identity as a black American and the injustices committed against his people, long before he embarked on a political career.⁷ In 1936, Brooke graduated from Paul Laurence Dunbar High School and enrolled in Howard University, where he majored in social science (concentrating on history, economics, political science and literature).⁸

⁴ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 4–7.

⁵ *Ibid.*, 4–19.

⁶ Brooke, *Bridging the Divide*, 8. Brooke was also a member of the Episcopal Church.

⁷ Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 43–44. In this interview, the retired legislator commented, "I think I've never not known I was a black man. You can't be born in America as a black and not know it in your bones, that you're black. Even when I was living in the cocoon." Cf. pages twelve, thirteen, nineteen, twenty and twenty-one of the oral history interview transcript regarding Senator Brooke's recollection of racism and prejudice as he grew up in a protective cocoon.

⁸ Brooke, *Bridging the Divide*, 14–15, 16.

Brooke developed a greater awareness of racial injustices through his civil rights activism.⁹ During his collegiate career, Brooke participated in a boycott, led by the civil rights activist Mary Church Terrell, to protest a People's Drug Store "because we couldn't even go in ... and sit at the counter."¹⁰ His participation in the demonstration, which was the "only [real] protest ... I've done in my life," reinforced the harsh reality of legalized segregation.¹¹ In addition, he was a member of Alpha Phi Alpha Fraternity and joined the Reserve Officer Training Corps (ROTC) during his undergraduate career.¹² Brooke received his commission as a second lieutenant in the Army after completing the program.¹³ When he graduated from Howard University in June 1941, much of the world was engulfed in World War II. Although he dealt with limited amounts of racism and prejudice, Brooke's wartime experiences influenced his views on the world, politics, civil rights, and the United States' hypocrisy in its commitment to freedom and democracy.¹⁴

⁹ Brooke, interview, October 31, 2001, 10–13, 19–21; Brooke, *Bridging the Divide*, 16–18.

¹⁰ Brooke, interview, October 31, 2001, 10.

¹¹ Brooke, interview, October 31, 2001, 10–13, 19–21. In 1939, Brooke and his mother joined approximately eighty thousand spectators to listen to Marian Anderson sing in a free concert on the steps of the Lincoln Memorial after the Daughters of the American Revolution denied her the opportunity to sing to an integrated audience in Constitution Hall. First Lady Eleanor Roosevelt protested the DAR's actions by resigning from the organization and helped arrange the concert. As Anderson sang "Nobody Knows the Trouble I've Seen," Brooke "felt a sense of anger rush through me, that this great woman had to suffer from racism. I had never felt such anger for myself, but it was unthinkable that this noble, brilliant woman should suffer at the hands of ignorant, bigoted people." Although Brooke attended a prestigious black university, his civil rights activism and attendance at Marian Anderson's concert emphasized the fact that he was a second-class citizen. Cf. Brooke, *Bridging the Divide*, 17–18.

¹² Brooke, *Bridging the Divide*, 15, 18.

¹³ *Ibid.*, 18–19.

¹⁴ Brooke, *Bridging the Divide*, 20–31; Brooke, interview, October 31, 2001, 42–44.

Brooke initially served in Maine, on guard duty, with the 366th Unit, because the Army initially refused black soldiers an opportunity to serve in combat. As a young officer, Brooke “volunteered to be a defense counsel, and read the court martial manual, which many of them [defense counselors] [did not] do, and [he] began to defend soldiers.”¹⁵ After developing “an affinity for it,” Brooke began to appreciate the experience and earned a reputation as “the soldiers’ lawyer.”¹⁶ Later, the unit served on the frontlines in Italy but did not participate in combat because

... they [the War Department and high-ranking military officers] didn’t believe that a black soldier should be fighting – have guns and ... shooting bullets. They didn’t think he had the courage[.] [T]hey didn’t think he had the intelligence[.] [T]hey just didn’t think he should be in combat.¹⁷

Despite the insurmountable racism and prejudice, Brooke and thousands of other young black soldiers finally received their opportunity to serve when “the Negro press, [the] Afro American, the Tribune, Chicago paper, and several others, back home, [began] protesting that we were trained to be combat soldiers and we ought to be in combat.”¹⁸ Although he was a second lieutenant, Brooke appealed to his commanding officers for the unit to serve in combat and presented new battlefield strategies to fight the Nazis. While the commanding general rejected Brooke’s tactics, his immediate commanding officer unofficially sanctioned Brooke’s plan to lead a team of Italian partisans, other black officers and soldiers

¹⁵ Brooke, interview, October 31, 2001, 41.

¹⁶ Ibid.

¹⁷ Ibid., 27.

¹⁸ Ibid.

which went behind the lines, the German lines, and the Fascist lines, to get information and [the] location of minefields, ... mortar concentrations, ... find out the strength of their troops, enemy troops, ... the location of their fuel depots ... and some assessment of the morale of their troops, and all that kind of information which was essential.¹⁹

The team also captured Nazi soldiers behind enemy lines, interrogated them and sent them to the Army's base.²⁰ The racial hostilities that Brooke and his men experienced were very unsettling as they fought to preserve the world from tyranny while upholding the nation's ideals of liberty, justice and democracy. They hoped "that when [they] got back and the war was over, that things would change. That it would be the end of segregation and the end of discrimination. That did not happen."²¹ Brooke's experiences with Jim Crowism as he defended soldiers in military court, participated in combat and eventually returned to civilian life, influenced the young man to consider the larger possibilities of law school and a future in politics, where he could protect black Americans' civil rights.²²

In 1945, Brooke courted Remigia Ferrari-Scacco, a young, privileged, Italian woman, while he was on break in Genoa, Italy. After the war, he returned to the United States, where he settled in Boston, Massachusetts. He enrolled in Boston University's advanced Law School program in 1946, made possible by the GI Bill of Rights, which Congress passed in the aftermath of the war to assist returning veterans.²³ Brooke and

¹⁹ Brooke, interview, October 31, 2001, 30–31. Cf. Brooke, *Bridging the Divide*, 27–29.

²⁰ Brooke, *Bridging the Divide*, 31.

²¹ Brooke, interview, October 31, 2001, 29.

²² Brooke, interview, October 31, 2001, 27, 30–31, 33, 41–42, 44–45; Brooke, *Bridging the Divide*, 20–31.

²³ Brooke, *Bridging the Divide*, 43–44; Brooke, interview, October 31, 2001, 31, 33.

Ferrari–Scacco later married in 1947.²⁴ He graduated in 1948, and established a law practice that same year in Roxbury, Massachusetts, where a majority of black residents lived. He represented many black clients in various cases and assisted other Roxbury residents seeking justice for civil rights abuses. Moreover, his talent in the courtroom led Brooke to seek political office.²⁵

In 1950, Brooke campaigned as a “cross–filer” for the Republican and Democratic nominations as the state representative from the Twelfth Ward in Roxbury, Massachusetts.²⁶ As he noted in his memoir, Brooke “was not a member of either party,” and therefore, “cross–filing made it easier to reach out across the political spectrum.”²⁷ During this era, Massachusetts politics went through transformations as an ascendant Democratic Party challenged the Republicans’ hegemony after a century of state governance.²⁸ Therefore, campaigning for the Republican and Democratic nominations enabled Brooke to observe the inner workings of both political parties.²⁹ Although he

²⁴ Brooke, *Bridging the Divide*, 32–42, 48, 50. Brooke and his wife Remigia later started a family. Their first daughter, Remi Cynthia Brooke, was born on April 15, 1949. Their second daughter, Edwina Helene Brooke, was born on April 10, 1952.

²⁵ Brooke, *Bridging the Divide*, 48, 51–53, 62–64; Brooke, interview, October 31, 2001, 47–48, 50–53.

²⁶ Brooke, interview, October 31, 2001, 51, 55.

²⁷ Brooke, *Bridging the Divide*, 54.

²⁸ Richard A. Hogarty, “Chapter 1: Understanding Power in Massachusetts,” in *Massachusetts Politics and Public Policy: Studies in Power and Leadership* (Amherst, MA: University of Massachusetts Press, 2002), 3–4, 18–25, 29–35, 44–46, 48–52; Richard D. Brown and Jack Tager, “Chapter 11. The Twentieth–Century Metropolitan Commonwealth,” in *Massachusetts: A Concise History* (Amherst, MA: University of Massachusetts Press, 2000), 259–273.

²⁹ Brooke, interview, October 31, 2001, 51, 55.

won the Republican nomination, Brooke lost the general election.³⁰ Nevertheless, he demonstrated bipartisanship by speaking with diverse groups, such as the Jewish, black and Italian communities, as well as white Roxburians, which made him a potential candidate for office.³¹ As Brooke recalled in his memoir, he decided to affiliate with the Republican Party because

[M]y parents were Republicans, and I had always admired the party of Lincoln and the Republican virtues of duty and self-help. My father had taught me to believe in free enterprise and distrust big government. ... I admired the conservative regard for history and precedent. Like my father, I agreed with Abraham Lincoln that government should do for people only that which they cannot do for themselves.³²

The more Brooke studied Massachusetts politics, he realized that Democrats ignored black Americans' needs and consistently undermined civil rights legislation. The Democratic Party, at the local and state levels, was corrupt and many officials rewarded their supporters through patronage. The example of genuine, Republican statesmen, such as Senator Leverett Saltonstall, Governor John Volpe and others, who worked on behalf of Massachusetts residents influenced his decision to seek the attorney generalship years later.³³

For example, "the Republican Party had desegregated the National Guard" in Massachusetts and was "... much more progressive than was the Democratic Party."³⁴

³⁰ Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia; Brooke, interview, October 31, 2001, 51, 55.

³¹ Brooke, *Bridging the Divide*, 54–56.

³² *Ibid.*, 55.

³³ Brooke, *Bridging the Divide*, 55, 57–58. Corruption and patronage were also problems within the state Republican Party.

³⁴ Brooke, interview, October 31, 2001, 55.

The Massachusetts Republican coalition opposed defamation of people's reputations and pandemonium created by McCarthyism at the height of the Cold War. Brooke was an ardent opponent of Republican Senator Joseph McCarthy's infamous crusade against alleged subversives and communists within the federal government, academia, the press, and other organizations, such as the National Association for the Advancement of Colored People (NAACP). He embraced Republican ideals because "the ... Massachusetts party [was] against McCarthyism. ... It was sort of a moderate wing of the [national] Republican Party...."³⁵ During the 1950s, Brooke served as the first vice-president of the NAACP's Boston Branch.³⁶ Although he affiliated with the Republican Party, Brooke did not forget his heritage. Lastly, the negative experiences with Jim Crowism during World War II outweighed party politics, influencing Brooke to serve as an advocate for politically marginalized citizens who were experiencing numerous injustices, especially black Americans and other ethnic minorities.

Throughout the early twentieth century, as Irish and Italian immigrants came to the United States, they settled in local communities within Boston.³⁷ Eager to provide for their families, many of the men worked for political machines, similar to Tammany Hall in New York.³⁸ Some of the employees, through hard work, intimidation and illegal

³⁵ Brooke, interview, October 31, 2001, 55.

³⁶ Brooke, *Bridging the Divide*, 64.

³⁷ Hogarty, "Chapter 1: Understanding Power in Massachusetts," in *Massachusetts Politics and Public Policy*, 3–4, 18–25; Brown and Tager, "Chapter 11. The Twentieth-Century Metropolitan Commonwealth," in *Massachusetts*, 241–248.

³⁸ Brown and Tager, "Chapter 11. The Twentieth-Century Metropolitan Commonwealth," in *Massachusetts*, 259–273.

business dealings with corrupt politicians, eventually became local bosses who not only earned respect from their fellow workers but also their communities, which enabled them to successfully campaign for political office, as was the case with John Francis Fitzgerald, the maternal grandfather of the Kennedy family.³⁹ Moreover, as local immigrant bosses struggled with adjusting to their new lives, their business dealings during the New Deal years helped revive a defunct state Democratic Party that sought to unseat the Republicans from power after a century of dominating state politics (1858–1958).⁴⁰ The gradual political transformation witnessed the Republican Party’s loss of influence and prestige as the Democrats ascended to power.⁴¹ Thus, the state’s two-party system slowly acquiesced to the illegal subculture, creating Democratic political machines within Boston and the state legislature.⁴² Nevertheless, the governorship was a coveted position among Republicans who vowed to reform state government.⁴³ Meanwhile, corruption, racketeering and bribery dominated Boston politics for decades.⁴⁴ In addition to providing for their families’ and communities’ needs, bosses rewarded their

³⁹ Hogarty, “Chapter 1: Understanding Power in Massachusetts,” in *Massachusetts Politics and Public Policy*, 3–4, 18–25; Brown and Tager, “Chapter 11. The Twentieth-Century Metropolitan Commonwealth,” in *Massachusetts*, 259–273.

⁴⁰ Ibid.

⁴¹ Hogarty, “Chapter 1: Understanding Power in Massachusetts,” in *Massachusetts Politics and Public Policy*, 3–4, 18–25, 29–35, 44–46, 48–52; Brown and Tager, “Chapter 11. The Twentieth-Century Metropolitan Commonwealth,” in *Massachusetts*, 259–273.

⁴² Ibid.

⁴³ Hogarty, “Chapter 1: Understanding Power in Massachusetts,” in *Massachusetts Politics and Public Policy*, 31–39.

⁴⁴ Brown and Tager, “Chapter 11. The Twentieth-Century Metropolitan Commonwealth,” in *Massachusetts*, 259–273.

loyal followers through patronage (i.e. appointments and political favors through their connections with legislators at the local as well as state levels in the Commonwealth's government).⁴⁵ Moreover, these political machines did not look favorably on women, black Americans or anyone else who attempted to change the status quo of corruption and graft.⁴⁶ As the Republican nominee for the position of state representative, Brooke was a threat to the Democrats' power, but his loss in the 1950 state election placated their fears. Over time, Brooke's perseverance, dedication and strong work ethic became his greatest strengths in future political campaigns.

In 1951, Brooke demonstrated a desire to protect civil rights by giving a sworn testimony before the state legislature, where he voiced opposition to "the ... McCarthy-Dorgan [B]ill[,] ... which would have outlawed the Communist Party in Massachusetts. Brooke was the attorney for the National Association for the Advancement of Colored People, ... which took a dim view of the ... bill."⁴⁷ As a highly trained lawyer, he knew that a controversial bill disguised as eliminating threats of communism in state government was merely a ploy to further erode Massachusetts residents' civil liberties. Brooke and the local NAACP branch in Boston viewed the legislation with skepticism because Representative Paul A. McCarthy and Court Clerk Thomas A. Dorgan were

⁴⁵ Brown and Tager, "Chapter 11. The Twentieth-Century Metropolitan Commonwealth," in *Massachusetts*, 259–273.

⁴⁶ Hogarty, "Chapter 1: Understanding Power in Massachusetts," in *Massachusetts Politics and Public Policy*, 3–4, 18–21, 23–25, 29–35; Brown and Tager, "Chapter 11. The Twentieth-Century Metropolitan Commonwealth," 259–273; "Chapter 12. Reinventing Massachusetts," in *Massachusetts*, 300–302.

⁴⁷ Robert Healy, "COD Endorses All Democrats, Except Kelly," *Boston Globe*, November 2, 1962, accessed January 24, 2020, <https://bostonglobe.newspapers.com/image/433487609>.

determined to uproot any institution that was un-American and seemed disloyal to the United States, especially civil rights organizations.⁴⁸ The McCarthy–Dorgan Bill, if Brooke, the NAACP and other concerned Republican politicians had not opposed the measure, “[would have given] broad powers to the attorney general to declare any organization subversive, and the N.A.A.C.P. was wary of such power. The Legislature itself recognized this and substituted for the bill one which provided certain civil liberty safeguards.”⁴⁹ An opponent of bureaucratic government, Brooke firmly believed in protecting Americans’ civil liberties from federal encroachment in the larger interests of national security. In addition, the proposed legislation would have enabled Massachusetts to become a stockade state, allowing fear and chaos to dictate an already corrupt political system in Massachusetts, further tarnishing the Commonwealth’s reputation as a bastion of freedom, democracy and justice. Although the national Republican Party gradually adopted an increasingly conservative platform, Brooke respected the moderate state politicians who embraced everyone.⁵⁰ These factors were legitimate reasons to affiliate with the Republicans. Nevertheless, Brooke’s family values provided a firm foundation for his political career and influenced him to look beyond the narrow confines of race, socioeconomic status, religion and partisan politics to help all people succeed in life.⁵¹

⁴⁸ Healy, “COD Endorses All Democrats, Except Kelly,” *Boston Globe*, November 2, 1962, accessed January 24, 2020; Samuel B. Porter, “Cabbages and Kings,” *Harvard Crimson*, October 30, 1951, accessed March 30, 2020, <https://www.thecrimson.com/article/1951/10/30/cabbages-and-kings-plast-january-there/>.

⁴⁹ Healy, “COD Endorses All Democrats, Except Kelly,” *Boston Globe*, November 2, 1962, accessed January 24, 2020.

⁵⁰ Brooke, *Bridging the Divide*, 57–58.

⁵¹ *Ibid.*, 57–58, 62–64, 65–70.

Brooke's consecutive defeats in state elections strengthened his desire for political office. In 1952, he campaigned again on the Republican ticket for the position of state representative and lost the general election.⁵² By this time, the state legislature abolished cross-filing and Brooke decided "to remain a Republican – partly out of [family] loyalty; ... and partly for purely practical reasons. White Democrats largely controlled Boston and state politics, and they had traditionally offered few opportunities to Negroes."⁵³ In 1960, he campaigned for Massachusetts' Secretary of State in a five-way race.⁵⁴ Although Brooke lost to Democratic opponent Kevin H. White, he garnered 1,095,054 votes.⁵⁵ The plurality between the two candidates was 111,790 votes.⁵⁶ Brooke campaigned diligently throughout the state, networking with everyone, regardless of racial, class, political and religious differences.⁵⁷ He noted that, "Election victories are a harvest. You plant the seeds. For months or years, you water and tend them. In the election season, you reap the harvest."⁵⁸ The political coalition that Brooke created would lead to victories in coming years.

⁵² Brooke, *Bridging the Divide*, 60.

⁵³ *Ibid.*, 57.

⁵⁴ "1960 MA Secretary of State Campaign," Our Campaigns, accessed March 5, 2020, <https://www.ourcampaigns.com/RaceDetail.html?RaceID=557972>; Brooke, *Bridging the Divide*, 65–70.

⁵⁵ "1960 MA Secretary of State Campaign," Our Campaigns, accessed March 5, 2020; Brooke, *Bridging the Divide*, 70.

⁵⁶ "1960 MA Secretary of State Campaign," Our Campaigns, accessed March 5, 2020.

⁵⁷ Brooke, *Bridging the Divide*, 65–70.

⁵⁸ *Ibid.*, 70.

On April 6, 1961, Republican Governor John Volpe confirmed Brooke as a member of the Boston Finance Commission and appointed him to serve as the chairman.⁵⁹ The purpose of the agency was to eliminate corruption within city government by investigating various cases, reporting on the evidence and providing recommendations to not only deal with corrupt officials but also strengthen the people's trust in city government by introducing massive reforms. Local statutes empowered the Finance Commission to probe all financial matters related to the city of Boston and Suffolk County. Chapter 486 of the Acts of 1909 reads:

It shall be the duty of the finance commission from time to time to investigate any and all matters relating to appropriations, loans, expenditures, accounts and methods of administration affecting the city of Boston or the county of Suffolk or any department thereof that may appear to the commission to require investigation, and to report thereon from time to time to the mayor, the city council, the governor, or the general court.⁶⁰

Corruption was so pervasive in Boston that various city officials brazenly committed crimes without any fear of reprimand. The situation angered Brooke, who lived by a code of respect, order and discipline throughout his career and personal life. Although he was the only Republican and the other members were Democrats, they all shared a desire to “restore the city and re-establish its status” because Boston, “as the capital city of the commonwealth and the very heartbeat of the metropolitan region,” needed to “assume its rightful place in the life of the Commonwealth.”⁶¹ Therefore, the

⁵⁹ City of Boston Finance Commission, “I. Organization of the Commission,” in *Annual Report to the Legislature for 1961*, Vol. LVII (Boston, MA: Administrative Services Department, Printing Section, 1962), Boston City Archives, West Roxbury, Massachusetts, 1.

⁶⁰ City of Boston Finance Commission, “III. Activities of the Finance Commission in 1961,” in *Annual Report to the Legislature for 1961*, 2.

⁶¹ City of Boston Finance Commission, *Annual Report to the Legislature for 1961*, 127; Brooke, interview, October 31, 2001, 59; Brooke, interview, August 16, 2006.

commissioners devoted themselves to uprooting corruption in the city. Consequently, when residents of Boston began seeing tangible results of the municipal government's commitment to protecting their rights, they could take pride in their city and contribute to the wellbeing of their communities.⁶² The chairman position was full-time and came with a \$5,000 annual salary.⁶³ The four non-paid commissioners worked part-time, in addition to having careers and families. Brooke accommodated their schedules by later having the entire commission vote to reduce the duration of hearings from five hours to three hours.⁶⁴ In his role as the chairman, Brooke, whom one reporter described as "[s]oft spoken, hard-working, affable and vested with undeniable personal dignity," demonstrated tenacity, fairness and courage amidst widespread corruption.⁶⁵

In August 1961, the Department of School Buildings requested that Mayor John Collins approve a \$20,000 emergency contract to repair fire alarms throughout the city's schools.⁶⁶ Someone from either the Department of School Buildings or the mayor's office sent the request to the Boston Finance Commission for review, which was customary.

⁶² City of Boston Finance Commission, *Annual Report to the Legislature for 1961*, 127.

⁶³ *Ibid.*, 2.

⁶⁴ "McGrath Hearing Resumes Tomorrow; New Clash Looms," *Boston Globe*, March 25, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433029002>; "McGrath's Counsel to Fight Fin Com on Short Sessions," *Boston Globe*, March 26, 1962, accessed January 12, 2020, <https://bostonglobe.newspapers.com/image/433032503>; James H. Hammond, "Short Sessions Protested," under "Fin Com Will Ask Court Order McGrath Records," *Boston Globe*, March 26, 1962, accessed April 9, 2020, <https://bostonglobe.newspapers.com/image/433032931>.

⁶⁵ William H. Wells, "Brooke's Fire Alarms Probe Wakes Up Sleepy Fin Com," *Boston Globe*, August 10, 1961, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433005924>.

⁶⁶ City of Boston Finance Commission, "School Fire Alarm Hearing," in *Annual Report to the Legislature for 1961*, 13.

Brooke and the commissioners immediately had concerns as to the legitimacy and necessity of the request. After conducting more research, the commissioners discovered that the American Service Company had previously conducted a survey, detailing the fire alarms' deficiencies and need for repairs.⁶⁷ The Finance Commission, in its report, later determined "the extent of danger to students had been exaggerated" in the survey.⁶⁸ On August 8, 1961, as the commissioners met for a preliminary hearing, Brooke requested that Fire Alarm Superintendent Albert O'Banion appear before the Finance Commission to testify about his work and bring his financial records.⁶⁹ Accompanied by his lawyer, Laurence Cohen, O'Banion refused to testify and submit the documents despite his promise to cooperate. He was worried the commissioners would discover evidence of ethical improprieties throughout his career. Cohen, speaking for his client, told Chairman Brooke, "he would have to subpoena his client," which Brooke summarily did on August 9, 1961.⁷⁰

Meanwhile, the allegations of financial impropriety were the least of O'Banion's concerns. On August 9, the day of the second hearing, Chris D. Pappas, the president of Alerting Signal Company, and Michael F. Rich, president of Atlas Fire Alarm

⁶⁷ City of Boston Finance Commission, "School Fire Alarm Hearing," in *Annual Report to the Legislature for 1961*, 13.

⁶⁸ "O'Banion Is Ousted from Fire Alarms Post," *Boston Globe*, September 6, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433051505>.

⁶⁹ "Brooke Seeks Change in Alarm Inspection," *Boston Globe*, August 8, 1961, accessed January 14, 2020, <https://bostonglobe.newspapers.com/image/433005718>.

⁷⁰ "Get Contractor for Fire Alarm Repairs in 24 Hours, Collins Order: Mayor Blasts Quibbling; Other Firms Contacted," *Boston Globe*, August 9, 1961, accessed March 10, 2020, <https://bostonglobe.newspapers.com/image/433005833>.

Corporation, both testified before the Commission that “American Service Co., with which O’Banion has been financially linked, exercises a monopoly in the city.”⁷¹ As the investigation unfolded, more damaging evidence came to light as O’Banion, according to testimony from Rich, “has discouraged my doing business here. I went up to see him three times when the school program started and got nowhere.”⁷² Pappas wrote a letter to Mayor Collins on July 13, 1961 but never received a reply. In the letter, he emphasized the fact that “the bidding for fire alarm installations in many areas of the state ‘have a disturbing suggestion of illegal procedure.’”⁷³ Moreover, “authorized firms and the public are entitled to a full report on the facts surrounding the ‘present non-competitive contract to repair and maintain fire alarm systems in the Boston public schools.’”⁷⁴ Thus, O’Banion’s methods in his business dealings with American Service Company warranted further scrutiny. The subpoena ordered him to bring all records for joint and single bank accounts from the years 1946 to 1961, income tax records for the same length of time and “a promissory note from American Service Co, Inc. and Signal Service Engineering Co., Inc., to Albert L. O’Banion.”⁷⁵

During the second hearing, O’Banion explained that he omitted \$3,766 (compensation from Albert S. Fitzgerald, the president of American Service Company)

⁷¹ William H. Wells, “O’Banion Runs Alarm Monopoly, Fin Com Told,” *Boston Globe*, August 10, 1961, accessed January 19, 2020, <https://bostonglobe.newspapers.com/image/433005883>.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

from his tax returns because he received advice that the money could be defined as “capital gains” and he could defer filing the amount until the next year.⁷⁶ More disturbingly, O’Banion acted as a consultant on numerous occasions for a nursing home in Dorchester, Massachusetts, primarily in his municipal role, which came with a \$8,800 annual salary. During another visit to the nursing home, the fire alarm superintendent worked as a consultant for American Service Company, where he earned a fee of sixty dollars.⁷⁷ As the proceedings continued, O’Banion, with his legal counsel present, testified that he “saw no conflict of interest between his duties as fire alarm superintendent and his ‘consultant’ duties with the firm,” while “insist[ing] that American Service Co. did not get all the work. Some [hours] went to the Boston Automatic Fire Alarm Co.”⁷⁸ Interestingly, F. Durward Chase, the vice president of the Boston Automatic Fire Alarm Company, adamantly denied these charges in a written letter to Brooke.⁷⁹ O’Banion’s conflicting testimony was replete with lies as he attempted to justify his corrupt behavior. In its annual report to the legislature, the Finance Commission detailed numerous allegations in the fire alarm investigation “[a]fter interrogat[ing] seventeen technicians and persons connected with the fire alarm systems

⁷⁶ “O’Banion Explains Leaving \$3766 Out of Tax Returns,” *Boston Globe*, August 10, 1961, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433005923>; “Brooke Seeks Change in Alarm Inspection,” *Boston Globe*, August 10, 1961, accessed January 14, 2020.

⁷⁷ “O’Banion Explains Leaving \$3766 Out of Tax Returns,” *Boston Globe*, August 10, 1961, accessed April 19, 2020.

⁷⁸ *Ibid.*, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433005924>.

⁷⁹ “Paid No Fees to O’Banion, Says Alarm Co.,” *Boston Globe*, August 15, 1961, accessed January 20, 2020, <https://bostonglobe.newspapers.com/image/433311720>.

in the public schools ... and performing necessary fieldwork for verification purposes.”⁸⁰

Some of the commissioners’ observations included the following: (1) the methods for inspecting, maintaining and repairing fire alarms in Boston public schools were ineffective; (2) employees of the Fire Alarm Unit within the School Buildings Department neglected their responsibilities; (3) from a pragmatic perspective, two-man teams could not sufficiently complete their assignments in Boston’s large school districts; and, (4) the Board of Commissioners for School Buildings, the ex-Superintendent of Construction, Department of School Buildings, and the Head of the Electrical Division, Department of School Buildings all shared responsibility for the poor conditions of the fire alarms throughout the citywide schools.⁸¹

On September 5, 1961, Fire Commissioner Thomas J. Griffin terminated O’Banion on four allegations:

- (1) “Failure to report his personal financial interest in a firm doing business with the city to the mayor, City Council and Boston Finance Commission.”⁸²
- (2) “Violation of the Fire Dept. regulation prohibiting an employee to be employed in or give personal attention to any other business.”⁸³
- (3) “Giving professional advice for a fee on fire alarm installations to be inspected and approved as a superintendent.”⁸⁴

⁸⁰ City of Boston Finance Commission, “School Fire Alarm Hearing,” in *Annual Report to the Legislature for 1961*, 14.

⁸¹ Ibid.

⁸² “O’Banion Is Ousted from Alarms Post,” *Boston Globe*, September 6, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433051490>.

⁸³ Ibid.

⁸⁴ Ibid.

(4) “Demonstrating himself to be unfit for his position in his recent testimony before the Fin Com.”⁸⁵

After his termination, O’Banion vowed to appeal before the Retirement Board, which had the authority to either uphold or overturn Commissioner Griffin’s decision.⁸⁶ The former civil service employee simultaneously appealed the ruling to the Commonwealth’s Civil Service Commission.⁸⁷ After reviewing the evidence, the three-member panel overturned the commissioner’s decision and voted to reinstate O’Banion on November 1, 1961.⁸⁸ To his disappointment, the Civil Service Commission sustained Commissioner Griffin’s ruling on November 6, 1961 in “a unanimous vote.”⁸⁹ Thus,

⁸⁵ “O’Banion Is Ousted from Alarms Post,” *Boston Globe*, September 6, 1961, accessed January 17, 2020.

⁸⁶ “O’Banion Starts Fight to Regain Berth; Retirement Board to Review Pension,” *Boston Globe*, September 6, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433052495>; Joseph A. Koblinsky, “Many Firemen ‘Moonlighting,’ O’Banion Says,” *Boston Globe*, October 17, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433301259>.

⁸⁷ Koblinsky, “Many Firemen ‘Moonlighting,’ O’Banion Says,” *Boston Globe*, October 17, 1961, accessed January 17, 2020.

⁸⁸ “Mayor to Mull O’Banion Case Next Week,” *Boston Globe*, November 3, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433727235>; S.J. Micciche, “Volpe: On Crime, Loans, Lottery,” *Boston Globe*, November 3, 1961, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433724819>, <https://bostonglobe.newspapers.com/image/433725570>.

⁸⁹ “Ouster of O’Banion Upheld by Civil Service Commission,” *Boston Globe*, November 7, 1961, accessed January 16, 2020, <https://bostonglobe.newspapers.com/image/433751953>; “Fire Dept. Must Reinstate O’Banion,” *Boston Globe*, September 25, 1962, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433003499>; Joseph A. Koblinsky, “O’Banion Returns to Job with Back Pay Upheld,” *Boston Globe*, January 3, 1963, accessed January 20, 2020, <https://bostonglobe.newspapers.com/image/431201910>, <https://bostonglobe.newspapers.com/image/431201267>. In September 1962, Boston Municipal Court Judge Charles Mahoney reinstated O’Banion with back pay after reviewing the evidence. The jurist, most likely a corrupt official himself, “ruled that O’Banion’s rights had been prejudiced at the hearings before the Boston Finance Commission, before Fire Commissioner Thomas J. Griffin and the state Civil Service Commission. In his decision, Judge Mahoney said that the actions of the Fire Commissioner as well as the Civil Service Commission ‘are not justified and shall be reversed and that the petitioner (O’Banion) shall be reinstated in his office, or position, without loss of compensation.’” Although the judge nullified the rulings of the Fire Commissioner and Civil Service Commission, Brooke’s work on the Boston Finance Commission from 1961 to 1962 strengthened his reputation as a government reformer. Nevertheless, when

O'Banion's dismissal sent the message that Brooke was committed to eliminating corruption in city government and restoring Boston's great name.

Concurrently, in October 1961, Brooke and the other commissioners began investigating a public land scandal that occurred a decade earlier. They soon realized that the corruption had far reaching implications. In 1950, City Auctioneer John J. McGrath illegally utilized a straw purchaser named John J. Ellis, a janitor, to acquire 1,350,360 square feet of municipal land (31 acres) in Hyde Park, for \$5,500 at a public auction that McGrath oversaw.⁹⁰ A year later, the city official used Ellis's name again as a straw party to purchase land in Dorchester, Massachusetts, in a dubious private transaction because McGrath was unable to do so in his official capacity.⁹¹ Herman Carp, the former chairman of the Real Property Committee, testified that he knew of McGrath's business dealings. Carp gave the city auctioneer ample time to pay the \$5,000 balance on Hyde Park's land sale price of \$5,500 and never acknowledged the procedures when talking with the Real Property board of commissioners.⁹²

Judge Mahoney issued his ruling, Brooke was preparing to face Democrat Francis E. Kelly for the attorney generalship in the state election. In 1963, when O'Banion returned to work as the fire alarm superintendent, with his back pay of \$12,250, Brooke was serving his first term as attorney general.

⁹⁰ Richard H. Stewart, "Charge McGrath Was Tipped, Agency Wanted Pope's Hill Site," *Boston Globe*, October 31, 1961, accessed March 30, 2020, <https://bostonglobe.newspapers.com/image/433770693>; "Used Janitor as Straw," under "McGrath Ruling Opens Personal Records to Probers," *Boston Globe*, March 13, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433712493>; James Chen, "Straw Buyer," Investopedia, updated January 30, 2020, accessed March 5, 2020, <https://www.investopedia.com/terms/s/straw-buyer.asp>.

⁹¹ Richard H. Stewart, "Straw Land Sold to Housing Board," *Boston Globe*, October 20, 1961, accessed March 30, 2020, <https://bostonglobe.newspapers.com/image/433302073>; Chen, "Straw Buyer," Investopedia, updated January 30, 2020, accessed March 5, 2020.

⁹² "Property Board Man Not Told of Land Deal," *Boston Globe*, October 18, 1961, accessed January 14, 2020, <https://bostonglobe.newspapers.com/image/433301411>.

McGrath paid \$500 as a down payment on the property and paid the remaining balance in 1952.⁹³ He later wrote a check for \$15,000 to pay the back taxes on the property.⁹⁴ In 1953, under the guise of Ellis's name, the auctioneer sold the property "to the Boston Housing Authority [for \$13,300] for a [housing] project that was never built."⁹⁵ The Housing Authority later sold the land in Dorchester, according to Paul Liston, the city agency's primary legal counsel, who gave a sworn testimony before the Finance Commission that "tax stamps indicated Ellis paid \$4500 for the land."⁹⁶ However, when McGrath testified on the witness stand, he changed the amount at least twice, citing that he paid either \$3,000 or \$4,200.⁹⁷ In 1960, the Metropolitan District Commission held a meeting, where the members voted to seize six acres of McGrath's land in Hyde Park to build a public park, which never materialized.⁹⁸ In May 1961, John

⁹³ Hammond, "Fin Com Will Ask Court Order McGrath Records," *Boston Globe*, March 26, 1962, accessed April 9, 2020.

⁹⁴ "Property Board Man Not Told of Land Deal," *Boston Globe*, October 18, 1961, accessed January 14, 2020; James H. Hammond, "Gave \$15,000 Check," under "McGrath Ordered to Produce Books," *Boston Globe*, March 28, 1962, accessed March 13, 2020, <https://bostonglobe.newspapers.com/image/433035501>.

⁹⁵ Stewart, "Straw Land Sold to Housing Board," *Boston Globe*, October 20, 1961, accessed March 30, 2020, <https://bostonglobe.newspapers.com/image/433302080>; Stewart, "Charge McGrath Was Tipped, Agency Wanted Pope's Hill Site," *Boston Globe*, October 31, 1961, accessed March 30, 2020.

⁹⁶ Richard H. Stewart, "McGrath Admits Ellis His Straw: Attorney Threatens Court Action to Bar Land Probe 'Witch Hunt,'" *Boston Globe*, October 19, 1961, accessed April 15, 2020, <https://bostonglobe.newspapers.com/image/433301805>.

⁹⁷ Stewart, "McGrath Admits Ellis His Straw," *Boston Globe*, October 19, 1961, accessed April 15, 2020; Hammond, "Fin Com Will Ask Court Order McGrath Records," *Boston Globe*, March 26, 1962, accessed April 9, 2020; Hammond, "McGrath Ordered to Produce Books," *Boston Globe*, March 28, 1962, accessed March 13, 2020.

⁹⁸ "Property Board Man Not Told of Land Deal," *Boston Globe*, October 18, 1961, accessed January 14, 2020.

J. Ellis died, and McGrath claimed that he did not know of the straw purchaser's death when testifying before the commission.⁹⁹

The Boston Land Probe required several hearings from October 1961 until June 1962. The proceedings were delayed for three months as the commission waited for the state Supreme Court to issue a ruling regarding McGrath's financial records from 1950 to 1961 and compliance with the investigation, after he and his legal counsel, George A. McLaughlin, refused to cooperate with a subpoena from the Suffolk County Superior Court.¹⁰⁰ Anticipating that McGrath would refuse to submit financial statements from his business dealings and personal life, Brooke requested the summons based on the commission's evidence of McGrath's misconduct.¹⁰¹ In January 1962, the Boston Finance Commission published its annual report to the legislature while waiting for a decision from the Massachusetts Supreme Court regarding the subpoena. The commissioners documented their evidence and observed these discrepancies: (1) "[no] [m]ethod of conducting an [impartial] auction under the auspices of the Real Property Development";¹⁰² (2) "[t]he question of adequate advertising of the approaching sale";¹⁰³

⁹⁹ Stewart, "Straw Land Sold to Housing Board," *Boston Globe*, October 20, 1961, accessed March 30, 2020.

¹⁰⁰ Richard F. Stewart, "McGrath Defies Subpoena, Won't Bare Cash Records," *Boston Globe*, October 19, 1961, accessed January 14, 2020, <https://bostonglobe.newspapers.com/image/433714627>; City of Boston Finance Commission, "City Auctioneer Hearing," in *Annual Report to the Legislature for 1961*, 18.

¹⁰¹ Stewart, "McGrath Defies Subpoena, Won't Bare Cash Records," *Boston Globe*, October 19, 1961, accessed January 14, 2020.

¹⁰² City of Boston Finance Commission, "City Auctioneer Hearing," in *Annual Report to the Legislature for 1961*, 18.

¹⁰³ *Ibid.*, 19.

(3) “[no] method of determining an upset price for the auction”;¹⁰⁴ (4) “[unenforced] [t]erms of sale to the successful purchaser at an auction”;¹⁰⁵ (5) “[lack of] coordination and communication between the MDC and the municipal officials with respect to city-owned land”;¹⁰⁶ (6) “[lack of] coordination between the Boston Board of Zoning and Adjustment and the MDC”;¹⁰⁷ and, (7) “lack of coordinated planning by the Metropolitan District Commission and the city” as well as a lack of funding for the sale of public lands.¹⁰⁸ Despite the delay, the overwhelming evidence in the report demonstrated how corruption destroyed the public’s trust for city officials. In March 1962, Massachusetts Supreme Court Justice R. Ammi Cutter wrote a twenty-page decision, ordering McGrath “to answer questions and produce records for the Boston Finance Commission’s inquiry into land transactions in Hyde Park and Dorchester.”¹⁰⁹ The state Supreme Court upheld the Superior Court’s initial ruling, citing that the Finance Commission’s “range of inquiry is not unlimited” and its “investigations ‘must have a reasonable relation to the finances and methods of management of the city.’”¹¹⁰ The state Supreme Court also remanded the

¹⁰⁴ City of Boston Finance Commission, “City Auctioneer Hearing,” in *Annual Report to the Legislature for 1961*, 19.

¹⁰⁵ *Ibid.*, 20

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*, 21.

¹⁰⁸ *Ibid.*, 21–22.

¹⁰⁹ “McGrath Must Yield Files to Fin Com, Court Rules,” *Boston Globe*, March 12, 1962, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433711791>; “McGrath Ruling Opens Personal Records to Probers,” *Boston Globe*, March 13, 1962, accessed January 11, 2020.

¹¹⁰ “McGrath Must Yield Files to Fin Com, Court Rules,” *Boston Globe*, March 12, 1962, accessed January 17, 2020.

case to the Superior Court, where a judge would determine if McGrath needed to submit his federal tax returns to the commission, which further strengthened the Boston Finance Commission's power to investigate public officials' misconduct and misappropriation of city finances. At one point during the hearings, both McGrath and his lawyer did not appear for testimony and the commission wanted Superior Court Judge Horace T. Cahill to cite McGrath for contempt of court, which the jurist denied on the grounds that McGrath appeared before the Finance Commission on his volition.¹¹¹ Therefore, McLaughlin and McGrath gladly claimed this small victory.

As the lead commissioner, Brooke asked a majority of the questions. He ascertained that McGrath purchased the Dorchester property in 1951 after the Boston Housing Authority expressed a desire to construct a housing project.¹¹² Moreover, McGrath's stories changed constantly because he feigned ignorance about the business transactions that happened a decade earlier. After hearing testimony from numerous witnesses, including McGrath, the commissioners deliberated and wrote their findings in a lengthy report.¹¹³ Their recommendations included: (1) "McGrath be discharged from

¹¹¹ James Hammond, "McGrath Absent, Fin Com Loses Contempt Bid," *Boston Globe*, April 9, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433016110>; James H. Hammond, "McGrath Stalls Probers: Brooke Hints Hearing Near End," *Boston Globe*, April 10, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433016150>.

¹¹² Stewart, "Charge McGrath Was Tipped, Agency Wanted Pope's Hill Site," *Boston Globe*, October 31, 1961, 2, accessed January 14, 2020.

¹¹³ "Boston Fin Com Censures Auctioneer McGrath, Carp: Cites Both Hub Officials in Land Auction Sales," *Boston Globe*, May 9, 1962, accessed February 27, 2020, <https://bostonglobe.newspapers.com/image/433734163>, <https://bostonglobe.newspapers.com/image/433736854>; William H. Wells, "Fin Com Demands: Throw Out M'Grath" *Boston Globe*, May 10, 1962, accessed April 13, 2020, <https://bostonglobe.newspapers.com/image/433739370>, <https://bostonglobe.newspapers.com/image/433739912>.

public service” due to “the serious nature of [his] misconduct in the Hyde Park, Pope’s Hill, Pontiac [S]t. and Danny [R]d. matter”;¹¹⁴ (2) the role of city auctioneer, which included a \$7,700 annual salary, be abolished; (3) the property commissioner or his colleague would oversee public auctions; (4) eliminating on-site auctions for neutral locations, with preference given to potential bidders who already expressed interest in buying properties; (5) newspaper advertisements were required at least two weeks in advance before the auctions; (6) providing all interested clients with pamphlets on properties being sold, as well as definitive times for the auctions; and, (7) the city’s collector–treasurer would “make annual reports to the commissioner of corporations and taxations of all tax title properties which have been held by the city for more than two years.”¹¹⁵ The commission sent its report to Mayor John Collins, Governor Volpe, the city council, and General Court (state legislature), in addition to the Suffolk County district attorney and attorney general, for prosecution at the district or state levels. On June 15, 1962, Real Property Commissioner John J. Sullivan terminated the disgraced public official “on charges he violated state law, filed false statements with the Appellate Tax Board and used his public position for private gain.”¹¹⁶ McGrath appealed the decision before a three member city Retirement Board.¹¹⁷ He had two public hearings on

¹¹⁴ “Summary of Fin Com Findings, Proposals,” under “Would End Post of City Auctioneer,” *Boston Globe*, May 10, 1962, accessed April 13, 2020, <https://bostonglobe.newspapers.com/image/433739912>.

¹¹⁵ Ibid.

¹¹⁶ William H. Wells, “City Auctioneer McGrath Fired on Charges of Personal Gain,” *Boston Globe*, June 16, 1962, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433447859>.

¹¹⁷ “Board OK’s Firing of McGrath,” *Boston Globe*, August 29, 1962, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433005021>, <https://bostonglobe.newspapers.com/image/433005037>.

July 24 and August 14, 1962.¹¹⁸ The last hearing resulted in the Retirement Board upholding Commissioner Sullivan's decision, thereby reinforcing the Boston Finance Commission's investigatory power.¹¹⁹

Brooke's leadership of the Boston Finance Commission established a strong foundation for his attorney general campaign during the 1962 primary election. The commission's investigations led to successful convictions in the School Fire Alarm and Boston Land Probe scandals as well as reforms in municipal government.¹²⁰ His anti-corruption work resonated with many voters who were concerned with issues of corruption, patronage and restoring their trust in state government. Brooke based his campaign on honesty and did not resort to underhanded means of muckraking, slander or libel. Rather, he presented factual evidence about fallacies in state government and promised voters he would clean up the corruption. However, his competitor, Elliot Richardson, a former U.S. attorney under President Dwight Eisenhower's administration, came from an elite Boston family.¹²¹ Richardson was well known in political circles and

¹¹⁸ "Board OK's Firing of McGrath," *Boston Globe*, August 29, 1962, accessed January 17, 2020.

¹¹⁹ "City Auctioneer M'Grath Reinstated," *Boston Globe*, June 25, 1964, accessed January 17, 2020, <https://bostonglobe.newspapers.com/image/433491226>. Following his termination in June 1962, and subsequently failed appeal to the Retirement Board two months later, McGrath appealed to the State Civil Service Division, which took a long time to investigate the matter. In 1964, the State Civil Service Commission reversed the initial ruling and reinstated McGrath to his former position. During this two-year hiatus, McGrath could have been rehabilitated; however, the overwhelming evidence from the Boston Land Probe makes this seem unlikely. The effective results in the investigation helped Brooke secure a major victory in his campaign against corruption in Boston. By the time McGrath was reinstated in 1964, Brooke had just completed his first term as attorney general of Massachusetts and was preparing for reelection.

¹²⁰ Robert Healy, "Brooke-Richardson Clash Will Spark G.O.P. Convention," *Boston Globe*, May 13, 1962, accessed January 23, 2020, <https://bostonglobe.newspapers.com/image/433494735>.

¹²¹ Healy, "Brooke-Richardson Clash Will Spark G.O.P. Convention," *Boston Globe*, May 13, 1962, accessed January 23, 2020; Brooke, interview, October 31, 2001, 60; Brooke, interview, August 16, 2006.

thought that his background, prestige and career as a federal prosecutor automatically ensured the nomination.¹²² He was surprised that a little known, black lawyer was campaigning for the nomination.

Although Richardson's work seemed more illustrious, both candidates were prepared to politick for delegates' votes at the state Republican Convention in June 1962. Richardson noted that he would "abide by the convention under the foreseeable circumstances, unless the delegates are influenced by some last minute factors that do not reflect the genuine views of most Republicans."¹²³ Richardson meant that if an opponent stole his momentum and delegates, then he would prepare for a campaign in the September primary. Conversely, Brooke commented, "I'm not, at this time, committed to the convention choice. I'm not that kind of Republican who thinks that a primary fight is generally bad for the party. But I will make that decision when I come to it."¹²⁴ Brooke meant that if the delegates selected him for the nomination, then he would accept it. However, he wanted to know the strength of his competition before speaking prematurely. Moreover, the two candidates met at the main Republican office in Boston, the week before the convention, and "took an oath to conduct their campaigns on a high

¹²² Healy, "Brooke-Richardson Clash Will Spark G.O.P. Convention," *Boston Globe*, May 13, 1962, accessed January 23, 2020; Brooke, interview, October 31, 2001, 60; Brooke, interview, August 16, 2006.

¹²³ Healy, "Brooke-Richardson Clash Will Spark G.O.P. Convention," *Boston Globe*, May 13, 1962, accessed January 23, 2020.

¹²⁴ Ibid.

level and without resort to personalities ... before witnesses.”¹²⁵ The proceedings at the convention would test their gentlemanly conduct.

Brooke’s hard-fought victory at the state Republican Convention, on June 16, 1962, was a steppingstone to his political career.¹²⁶ In an oral history interview, he noted that, “The Republicans in power didn’t want me to run for attorney general, because the attorney general is one of the most powerful jobs in the Commonwealth of Massachusetts.”¹²⁷ His campaign threatened the state political coalition, which refused to share its power with him. Although powerful Republican stakeholders offered Brooke the role of lieutenant governor, he declined the position because he wanted to create lasting change in Massachusetts, and did not want a ceremonial appointment.¹²⁸ Therefore, Richardson’s supporters resorted to racist slander and libel to end Brooke’s candidacy at the state Republican convention.¹²⁹ Although Brooke did not come from a wealthy, prestigious background, he had courage, determination, a commitment to isonomy, and a strong sense of integrity. As Brooke and Richardson walked throughout the convention hall, politicking to gain the necessary number of votes for the nomination, Richardson

¹²⁵ C.R. Owens, “Vow for Clean Battle May Be 1st Casualty,” *Boston Globe*, June 16, 1962, accessed January 24, 2020, <https://bostonglobe.newspapers.com/image/433447859>, <https://bostonglobe.newspapers.com/image/433447970>.

¹²⁶ Brooke, interview, October 31, 2001, 61; Brooke, interview, August 16, 2006; Brooke, *Bridging the Divide*, 86.

¹²⁷ Brooke, interview, October 31, 2001, 59.

¹²⁸ *Ibid.*, 59–61.

¹²⁹ Brooke, *Bridging the Divide*, 85; Owens, “Vow for Clean Battle May Be 1st Casualty,” *Boston Globe*, June 16, 1962, accessed January 24, 2020. Although some of Brooke’s supporters slandered Richardson’s character during the convention, Brooke was determined to honor his oath to conduct a gentlemanly campaign.

and his supporters assumed he won the first ballot count because “it was 854 [votes] for Richardson, 845 [votes] for Brooke and 9 [votes] for [Arlyne] Hassett[,] [a female candidate] who had dropped out of the running midway through the balloting.”¹³⁰

Richardson’s supporters started gloating about his alleged victory and taunted Brooke’s campaign. Neither the federal prosecutor nor his delegates knew that he needed a total of ten ballot votes to secure the nomination. In the midst of their early celebrating, Richardson’s supporters began leaving the convention hall. Unbeknownst to them, Senator Leverett Saltonstall, the chairman of the Republican convention, ordered a second ballot. Brooke and his campaign staff marched through the dense crowd of Richardson’s delegates, struggling to rally their supporters in a final attempt to secure the Republican nomination. His assistants yelled, “Get back. Get back. It isn’t over yet.”¹³¹ Brooke personally appealed to his voting delegates, saying, “I need you. I need you, now.”¹³² Recognizing the high stakes for the nomination, Brooke’s supporters returned to the convention hall while Richardson’s delegates remained dispersed, still celebrating his premature victory.¹³³

William J. Lewis, a *Boston Globe* reporter who attended the convention, noted that, “On the second ballot, it was Brooke in a walk-away – 792 [votes] to 674 [votes for Richardson], a majority of 118 votes. For Richardson it was a defeat.”¹³⁴ Although he

¹³⁰ William J. Lewis, “Brooke Wins 2d Poll,” *Boston Globe*, June 17, 1962, accessed January 24, 2020, <https://bostonglobe.newspapers.com/image/433450089>.

¹³¹ Ibid., accessed January 24, 2020, <https://bostonglobe.newspapers.com/image/433448798>.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

congratulated Brooke, Richardson was mortified that he lost the nomination to a young, talented, black lawyer. When Lewis questioned Richardson about his political ambitions, he did not elaborate on engaging in a primary against Brooke. However, Brooke “accepted the endorsement amid thunderous applause.”¹³⁵ As he gave his acceptance speech, Brooke commented, “This is not a victory for Ed Brooke. It’s a victory for the Republican Party, a great day for our party. I promise I will never make you regret this decision.”¹³⁶ Angry and embarrassed, the former federal prosecutor later challenged the legitimacy of Brooke’s victory.¹³⁷ However, the only person Richardson could blame was himself because his hubris led to the humiliating defeat. As he nursed his wounded pride, the Republican runner-up demanded a recount, which “gave him 25 instead of 24 votes – just enough to have him over the top with a majority of the ballots of delegates present and voting.”¹³⁸ Richardson’s victory would cause an uproar in the state Republican Party if he defeated Brooke in a primary election that September. Capitalizing on his reputation as an anti-corruption crusader, Richardson portrayed the political convention as a stark

¹³⁵ Lewis, “Brooke Wins 2d Poll,” *Boston Globe*, June 17, 1962, accessed January 24, 2020.

¹³⁶ Ibid.

¹³⁷ S.J. Micciche, “Richardson Men Eye Suit against Rollcall Ruling,” *Boston Globe*, June 18, 1962, accessed January 25, 2020, <https://bostonglobe.newspapers.com/image/433454919>, <https://bostonglobe.newspapers.com/image/433455070>; William J. Lewis, “Richardson Claims Tally Error, Acts to Overturn Vote,” *Boston Globe*, July 2, 1962, accessed January 25, 2020, <https://bostonglobe.newspapers.com/image/433417478>, <https://bostonglobe.newspapers.com/image/433417769>; “Primary Warms Up: Says Short Count Gave Brooke Convention Win,” *Boston Globe*, July 3, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433418932>, <https://bostonglobe.newspapers.com/image/433419203>.

¹³⁸ Lewis, “Richardson Claims Tally Error, Acts to Overturn Vote,” *Boston Globe*, July 2, 1962, accessed January 25, 2020, <https://bostonglobe.newspapers.com/image/433417769>.

example of corruption within state government that needed to be exposed and dealt with swiftly. The smug politician underestimated Brooke, who was also preparing for the intense primary campaign about to take place.¹³⁹

On August 17, 1962, Boston Election Commissioner David Lasker issued a controversial ruling that threatened to end Brooke's nomination. Voters could not submit notarized affidavits (allowing them change their political affiliations from Democrat to Independent) after 5:00pm, although the city's election office would remain open to register voters until 10:00pm.¹⁴⁰ As a result of the sudden deadline, election officials at the City Hall Annex turned away many of Brooke's delegates who sought to change their party affiliations from Democrat to Independent.¹⁴¹ Lasker's last-minute ruling angered Brooke who wanted a fair opportunity to canvas Massachusetts voters for the imminent Republican primary.¹⁴² He traveled to the election office and confronted Election Commissioner Maurice Smith about "the voters' right to change their designations."¹⁴³ Brooke took a great risk by depending on the vast majority of Democrats in Massachusetts to switch their party affiliations through notarized affidavits, enabling

¹³⁹ Lewis, "Richardson Claims Tally Error, Acts to Overturn Vote," *Boston Globe*, July 2, 1962, accessed January 25, 2020.

¹⁴⁰ William H. Wells, "Last Minute Ruling Blocks Primary Switching to Brooke," *Boston Globe*, August 18, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433777394>.

¹⁴¹ "Election Board to Rule on Party-Switch Petitions," *Boston Globe*, August 18, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433779719>.

¹⁴² Wells, "Last Minute Ruling Blocks Primary Switching to Brooke," *Boston Globe*, August 18, 1962, accessed January 11, 2020.

¹⁴³ Ibid.

them to vote for either candidate in the Republican primary election.¹⁴⁴ After a lengthy discussion with Commissioner Smith, Brooke won the right to present his case before the Boston Election Commission. In addition, Commissioner Smith ruled that voters could submit notarized affidavits until the election office closed at 10:00pm. However, the fate of these approximately seventy written, sworn statements submitted after the 5:00pm deadline remained uncertain until the Election Committee made a decision at the hearing.¹⁴⁵

On August 21, 1962, when the Boston Election Commission convened for the scheduled hearing, Brooke presented his case that forty-eight notarized affidavits, where his supporters changed their affiliations from Democrat to Independent, be counted in his favor.¹⁴⁶ Lasker, a Democrat, upheld his original decision based on Chapter Fifty of the General Laws, stating that “under the law switches were cut off at 5 p.m., regardless of registration hours.”¹⁴⁷ Brooke, however, counterargued that Chapter Seventy-four of the General Laws “was applicable ... and it implied that switches could be recorded until midnight. He noted that almost every community outside Boston interpreted the law

¹⁴⁴ Wells, “Last Minute Ruling Blocks Primary Switching to Brooke,” *Boston Globe*, August 18, 1962, accessed January 11, 2020; “Brooke Keeps Officials Handy to Aid Switching,” *Boston Globe*, August 18, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433777424>. Brooke utilized certified public notaries at his Boston campaign headquarters to verify affidavits for anyone wanting to change their party affiliations from Democrat to Independent. Therefore, when the voters went to the polls in September, they could cast their ballots for either Republican candidate.

¹⁴⁵ Wells, “Last Minute Ruling Blocks Primary Switching to Brooke,” *Boston Globe*, August 18, 1962, accessed January 11, 2020.

¹⁴⁶ Joseph Keblinksy, “Brooke Wins Dispute with Election Board,” *Boston Globe*, August 21, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433004232>.

¹⁴⁷ Ibid.

according to Chap. 74 last Friday and remained open for switches.”¹⁴⁸ As he argued his case, Brooke was not only concerned about “some 2000 Democrats changing over to vote for him in the Sept. 21 primary” but also the rights of all voters who may have sought to change their party affiliations for various reasons.¹⁴⁹ The case was more about principle than partisan politics. In a two to one decision, the Boston Election Commission “accept[ed] a City Law Department ruling permitting acceptance of the contested 48 certifications, a victory for ... Brooke.”¹⁵⁰ He knew that Richardson had a powerful support base among Republicans and was well liked. Therefore, to counter his opponent, Brooke willingly crossed party lines to ask for support.¹⁵¹

On August 27, 1962, Brooke tendered his letter of resignation to Governor Volpe to campaign fulltime for the attorney generalship.¹⁵² The Boston Finance Commission’s positive results not only increased Brooke’s political standing but also his reputation as a government reformer because he was “conscientiously trying to clean up an unsavory

¹⁴⁸ Keblinsky, “Brooke Wins Dispute with Election Board,” *Boston Globe*, August 21, 1962, accessed January 11, 2020.

¹⁴⁹ Ibid.

¹⁵⁰ Keblinsky, “Brooke Wins Dispute with Election Board,” *Boston Globe*, August 21, 1962, accessed January 11, 2020. The other Election Commissioners, Gertrude Pfau and Maurice Smith, were Republicans. Although their political affiliations may have ensured Brooke’s victory, they may have voted in his favor after listening to his well-reasoned, logical argument and knowledge of the General Laws, especially chapter seventy-four.

¹⁵¹ Wells, “Last Minute Ruling Blocks Primary Switching to Brooke,” *Boston Globe*, August 18, 1962, accessed January 11, 2020; “Brooke Keeps Officials Handy to Aid Switching,” *Boston Globe*, August 18, 1962, accessed January 11, 2020; Keblinsky, “Brooke Wins Dispute with Election Board,” *Boston Globe*, August 21, 1962, accessed January 11, 2020.

¹⁵² Joseph A. Keblinsky, “Brooke Quits as Chairman of Fin Com,” *Boston Globe*, August 27, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433004803>, <https://bostonglobe.newspapers.com/image/433004820>; “Brooke Quits Fin Com Post for Full-Time Politics,” *Boston Globe*, August 28, 1962, accessed January 15, 2020, <https://bostonglobe.newspapers.com/image/433004853>.

situation.”¹⁵³ Even more significantly, as a black Republican and chairman of a quasi-judicial municipal agency, Brooke’s work “efficiently knock[ed] down the artificial barriers that have prevented the members of his race from playing their full role in the state’s political life.”¹⁵⁴ His resignation prevented any charges of ethical impropriety or partisanship from damaging his credibility and campaign.¹⁵⁵ Brooke’s actions were also a testament to his integrity and honor, principles that guided his professional career as well as personal life.¹⁵⁶

That September, Richardson and Brooke campaigned in the Republican primary for the attorney generalship nomination. Massachusetts voters cast their ballots in many of the Commonwealth’s precincts during the fiercely contested election. By eleven o’clock, on the morning of September 19, 1962, Brooke was declared the winner for the attorney general nomination.¹⁵⁷ In the final count, Brooke received 237,910 votes whereas Richardson garnered 195,832 votes.¹⁵⁸ Brooke defeated Richardson by a large

¹⁵³ Wells, “Brooke’s Fire Alarm Probe Wakes Up Sleepy Fin Com,” *Boston Globe*, August 10, 1961, accessed April 19, 2020.

¹⁵⁴ Ibid.

¹⁵⁵ Keblinsky, “Brooke Quits as Chairman of Fin Com,” *Boston Globe*, August 11, 1962, accessed January 11, 2020; “Volpe Accepts Resignation of Edward Brooke,” *Boston Globe*, August 29, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433005029>.

¹⁵⁶ “Volpe Praises Brooke’s Work in Land Probe,” *Boston Globe*, October 20, 1961, accessed March 30, 2020, <https://bostonglobe.newspapers.com/image/433302080>; Keblinsky, “Brooke Quits as Chairman of Fin Com,” *Boston Globe*, August 11, 1962, accessed January 11, 2020; “Volpe Accepts Resignation of Edward Brooke,” *Boston Globe*, August 29, 1962, accessed January 11, 2020.

¹⁵⁷ “Brooke Easy Winner,” under “Lodge Hits Campaign Trail again with a Speech in Springfield: Suggests Schedule for Debates,” *Boston Globe*, September 19, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433500676>.

¹⁵⁸ “Final State Count: Brooke by 42,078,” *Boston Globe*, September 19, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433500626>.

margin of 42,078 votes.¹⁵⁹ In his graceful concession speech, Richardson pledged to support Brooke in the November state election and noted that, “[Brooke] has fought a hard, clean and resourceful campaign, and I congratulate him on a splendid victory.”¹⁶⁰ The defeated candidate also noted that, “... [o]ur fight has strengthened, not weakened, the Republican Party” while “... help[ing] ... arouse our fellow citizens to the urgency of an all-out offensive against the evils of corruption in public life.”¹⁶¹ Richardson respected Brooke’s gentlemanly conduct in the campaign. Moreover, his leadership of the Boston Finance Commission and well-earned reputation as an anti-corruption crusader served as tangible evidence that Brooke was the right person for the position.

In the 1962 state election, Brooke campaigned against Democratic nominee Francis E. Kelly, a one term attorney general and former lieutenant governor. Brooke’s campaign strategy remained the same – to network with Democrats, Independents, and Republicans.¹⁶² His campaign reflected the idea of bipartisanship as Brooke went “out of the way to meet with labor groups or racial minorities whose sympathies in the past have been with the Democrats rather than the G.O.P.”¹⁶³ In addition, he attempted to minimize the issue of race. For example, Robert Hanron, a reporter for the *Boston Globe*, covered

¹⁵⁹ “Final State Count,” *Boston Globe*, September 19, 1962, accessed January 11, 2020.

¹⁶⁰ “Richardson Lauds Brooke, Pledges Help,” *Boston Globe*, September 19, 1962, accessed January 11, 2020, <https://bostonglobe.newspapers.com/image/433500628>.

¹⁶¹ Ibid.

¹⁶² Robert B. Hanron, “Brooke’s Strategy: Meet Democrats; Republicans Know Me,” *Boston Globe*, October 9, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433483806>.

¹⁶³ Ibid.

the attorney general campaign. After touring Brooke's campaign headquarters, Hanron noted how, "[H]e insists that racial consideration is not an issue in his campaign. A visit at his Boston headquarters would appear to bear this out. There are [ten] non-Negroes for every Negro working in behalf of his candidacy."¹⁶⁴ Thus, Brooke's political platform focused more on his qualifications and rebuilding the people's trust in state government through first restructuring the attorney general's office, which included reinforcing the Criminal Division by hiring more highly skilled detectives as well as certified public accountants.¹⁶⁵

Brooke's strong campaign on anti-corruption reform, bipartisanship, commitment to equality, diversity, fairness, and isonomy resonated with much of the electorate which was tired of corruption and scheming by Democratic politicians who seemed untouchable.¹⁶⁶ In an October 1962 editorial, Brooke and Kelly responded to questions of the greatest law enforcement challenges within state government and potential solutions to the crises. Their answers stood in stark contrast. Brooke summarized the issue well:

We have had a general and continuing breakdown in standards and behavior by public officials at all levels of government. I would mount a vigorous sustained counterattack on corruption in and out of our government. No department, no agency of government, no man, will be exempt from searching scrutiny, but the rights of every individual, innocent or guilty, will be protected with scrupulous fairness. Ability, not party affiliation, will dictate my choice of assistant. Through cooperation

¹⁶⁴ Hanron, "Brooke's Strategy," *Boston Globe*, October 9, 1962, accessed January 26, 2020,

¹⁶⁵ Ibid.

¹⁶⁶ Hanron, "Brooke's Strategy," *Boston Globe*, October 9, 1962, accessed January 26, 2020; "Atty-General," under "Other State Offices: What Aspirants Were Asked and How They Answered," *Boston Globe*, October 23, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433423321>.

with state and local law enforcement officials a coordinated drive to rid Massachusetts of graft and corruption can be successfully waged.¹⁶⁷

He clearly intended to abolish corruption from all aspects of the Commonwealth's government because the people's civil liberties were being abused. Moreover, the state struggled to regain its historic reputation as a shining city on a hill because partisan politics had created a seemingly insurmountable vortex of embezzlement, fraud and betrayal of the people's trust as evidenced by the scandals uncovered during Brooke's investigative work with the Boston Finance Commission. At a testimonial dinner in his honor, where Democrats, Republicans and Independents demonstrated support for his campaign, Brooke underscored his pledge to put an end to corruption by stating, "I am a Republican by choice, but I do not believe the Republicans have a monopoly on virtue and the Democrats on corruption. I will call the shots on both Democrats and Republicans when I find them wrong."¹⁶⁸ His solid campaign message also earned an endorsement from the state chapter of Americans for Democratic Action (ADA), "a non-partisan, liberal-independent organization" that included both Democrats and Independents.¹⁶⁹

¹⁶⁷ "Atty-General," under "Other State Offices," *Boston Globe*, October 23, 1962, accessed January 26, 2020.

¹⁶⁸ Robert B. Hanron, "Democrats, Independents among Those in Tribute to Brooke," *Boston Globe*, October 30, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433435777>.

¹⁶⁹ "A.D.A. for Brooke, Its First Republican," *Boston Globe*, October 18, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433759045>.

In contrast to Brooke's clearly defined plan, Kelly offered a lackluster answer with no depth or real solution. His statement indicated a minimal desire to enforce the law. Kelly commented,

As attorney general, I shall enforce all laws in a fair and effective manner; always with due regard for the constitutional rights of our citizens. I will enforce the new code of ethics to eradicate corruption in all positions of public trust. I will vigorously enforce all laws relating to the illegal sale of narcotics which results in human degradation, juvenile delinquency, fatal accidents, etc.¹⁷⁰

Kelly's vague statement did not provide any definitive strategies for dealing with the pressing issues of corruption and the illegal drug market in Massachusetts. The nominee's hubris and smug behavior would be his downfall. In addition, his sole focus seemed to be the legalization of the lottery system, which paled in comparison to the larger issues of bribery, corruption and regaining the voters' respect for state government.¹⁷¹

Francis Kelly, whom many Democrats knew was a "gut campaigner," did not have a strong political platform and began slandering Brooke's work ethic.¹⁷² Initially, the Democratic nominee created false accusations that Brooke did not waste time answering.¹⁷³ When that tactic failed, Kelly's supporters resorted to ad hominem attacks

¹⁷⁰ "Atty-General," under "Other State Offices," *Boston Globe*, October 23, 1962, accessed January 26, 2020.

¹⁷¹ S.J. Micciche, "Kelly Bets Political Future on Voters' Yen to Gamble," *Boston Globe*, October 9, 1962, January 26, 2020, <https://bostonglobe.newspapers.com/image/433483806>; "Atty-General," under "Other State Offices," *Boston Globe*, October 23, 1962, accessed January 26, 2020.

¹⁷² Robert Healy, "What to Do about Kelly," *Boston Globe*, September 23, 1962, accessed April 26, 2020, <https://bostonglobe.newspapers.com/image/433003183>.

¹⁷³ Healy, "What to Do about Kelly," *Boston Globe*, September 23, 1962, accessed April 26, 2020; James S. Doyle, "O'Banion Decision Is Issue in Attorney General Race," *Boston Globe*, September 30, 1962, accessed April 26, 2020.

against Brooke's character. For example, a 1962 political advertisement for Kelly's campaign restated municipal Judge Charles F. Mahoney's allegations that Brooke's administration of the Boston Finance Commission was "unfair" and he "seriously disregarded the rights' of a Veteran 22-year Career employee of the Boston Fire Department."¹⁷⁴ Similarly, the Massachusetts Sweepstakes Committee, in a written statement supporting Kelly's campaign, quoted Robert Merritt, a black Democrat, president of the Bay State Democratic Club and retired Post Office supervisor, for his opinion about Brooke.

I am ashamed of Edward W. Brooke, the Republican candidate for attorney general and a man of my own colored race, for his discrimination and serious disregard of the rights of a long-time employee of the Boston Fire Department [former Fire Alarm Superintendent Albert O'Banion], as exposed in the official findings of Judge Charles Mahoney and District Attorney Garrett Byrne.¹⁷⁵

The intent behind Merritt's statement is debatable. Nevertheless, he was a pawn in the Democrats' hands during Kelly's campaign, whose underhanded tactics, including the written statement by the Massachusetts Sweepstakes Committee, ultimately backfired.¹⁷⁶ Even more embarrassing, the Democratic nominee did not appear to have a solid message that resonated with his voters. Although he promised to "take all necessary action" against corruption in state government, Kelly was more focused on legalizing the

¹⁷⁴ "Sweepstakes – Lower Taxes," *Boston Globe*, October 24, 1962, accessed April 24, 2020, <https://bostonglobe.newspapers.com/image/433426477>.

¹⁷⁵ "Statement of Massachusetts Sweepstakes Committee," *Boston Globe*, November 5, 1962, accessed January 12, 2020, <https://bostonglobe.newspapers.com/image/433490756>.

¹⁷⁶ Healy, "What to Do about Kelly," *Boston Globe*, September 23, 1962, accessed April 26, 2020; "Statement of Massachusetts Sweepstakes Committee," *Boston Globe*, November 5, 1962, accessed January 12, 2020; Brooke, *Bridging the Divide*, 92–93.

sweepstakes industry because Massachusetts residents betted on horse races, dog races and every other sport.¹⁷⁷

In a massive Democratic electoral landslide that witnessed Edward Kennedy's election to the Senate, Endicott Peabody's victory as the next governor of Massachusetts, and Francis X. Bellotti's election as the lieutenant-governor, Brooke was the only Republican who won state office.¹⁷⁸ Massachusetts voters cast their ballots in 1,992 precincts out of 2,011 total precincts. Brooke received 1,124,326 votes whereas Kelly received 873,612 votes. The attorney general-elect defeated his rival by 250,714 votes.¹⁷⁹ However, the black community in Boston, which was primarily Democrat, gave him "less than 25,000 [votes]."¹⁸⁰ His friendly demeanor, ability to see people's potential instead of their racial differences, strong commitment to isonomy and deep rooted conviction in egalitarianism, ensured his victory. In spite of Brooke's jubilation, he was committed to changing the state for the better, especially in the area of race relations.¹⁸¹

¹⁷⁷ Micciche, "Kelly Bets Political Future on Voters' Yen to Gamble," *Boston Globe*, October 9, 1962, accessed January 26, 2020.

¹⁷⁸ "Supporters Savor Victory," *Boston Globe*, November 7, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433491990>; S.J. Micciche, "Bellotti, White Win, Kelly Won't Concede," *Boston Globe*, November 7, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433491652>; Martin F. Nolan, "Brooke, Peabody Reached over Party Lines: Era Ends for Kelly; Solo Tone for Volpe, Perry Drives Noted," *Boston Globe*, November 7, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433491981>.

¹⁷⁹ "Vote of State," *Boston Globe*, November 7, 1962, accessed January 26, 2020, <https://bostonglobe.newspapers.com/image/433491865>.

¹⁸⁰ Allan Morrison, "Atty. General Could Someday Be a Governor," under "Negro Political Progress in New England: Able Administrators Hurdle Barriers in Mass., Conn., and R.I., Governments," *Ebony*, October 1963, 25, accessed January 10, 2020, https://books.google.com/books?id=X_WsIHH8ugEC&pg=PA26&dq=Edward+Brooke&hl=en&sa=X&ved=2ahUKEwjY0pufwPjmAhXrQd8KHRFgDVkQuwUwA3oECAEQBQ#v=twopage&q&f=false.

¹⁸¹ Nolan, "Brooke, Peabody Reached over Party Lines," *Boston Globe*, November 7, 1962, accessed January 26, 2020; "Supporters Savor Victory," *Boston Globe*, November 7, 1962, accessed January 26, 2020.

CHAPTER 2: THE SUBTLE REVOLUTIONIST

On Wednesday, January 16, 1963, Governor Endicott Peabody administered the oath of office to Edward W. Brooke, Massachusetts' first statewide elected, African American attorney general.¹ His electoral victory was

a milestone in the Negro's release from the political ghetto in which he has long been imprisoned. ... [T]he political machines of both major parties deliberately prevented Negroes from gaining party endorsements and nominations for generations by tacit agreement. The result [was] lower[ing] the political self-image of the Negro and ... destroy[ing] his confidence in his ability to successfully project himself outside ... the Negro district.²

Thus, Brooke was determined to present a different perspective of black Americans while serving as attorney general. Furthermore, his ability to obtain votes from white constituents demonstrated a willingness to build relationships through bipartisan networking, a desire to restore decency, respect, virtue and justice in Massachusetts and commitment to reestablish the people's trust in state government.³ Brooke represented a new black politician, a statesman who was "[n]ot bound by ideological, philosophical, or party constraints."⁴ Instead, he desired to see all people live in peace while ensuring their civil rights and liberties were protected from the state, as well as federal, government's

¹ "Peabody Gives Oath: Brooke, 3 Others Sworn at State House Ceremony," *Boston Globe*, January 16, 1963, accessed January 28, 2020, <https://bostonglobe.newspapers.com/image/428630818>, <https://bostonglobe.newspapers.com/image/428632863>.

² Allan Morrison, "Atty. General Could Someday Be a Governor," under "Negro Political Progress in New England: Able Administrators Hurdle Barriers in Mass., Conn., and R.I., Governments," *Ebony*, October 1963, 25, accessed March 31, 2020, https://books.google.com/books?id=X_WsIHH8ugEC&pg=PA26&dq=Edward+Brooke&hl=en&sa=X&ved=2ahUKEwjY0pufwPjmAhXrQd8KHRFgDVkQuwUwA3oECAEQBQ#v=twopage&q&f=false.

³ *Ibid.*, 25–26, accessed March 31, 2020.

⁴ Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 56.

increasing hegemony.⁵ Several months into his first term as attorney general, Brooke participated in an interview with *Ebony Magazine*. He noted that, “Ghetto thinking still pervades U.S. politics[,] but it is receding,” further commenting, “Negroes have suffered from this as well as whites. Politically, today’s Negro has to be broader in his vision, in his participation in public life and in his total responsibilities.”⁶ Brooke realized that black Americans needed to cease infighting and bickering because these problems ensured Jim Crowism remained inviolate in the North as well as the South. In addition, the ethnic minority needed to look beyond predominantly black districts and begin networking politically with sympathetic whites. The right to vote was useless if black Americans did not boldly confront the barriers challenging their daily lives and campaign for political offices. Until they abolished the defeatist attitude that plagued their communities, civil rights injustices would persist. Brooke noted how, “There are many roads leading out of the ghetto and the Negro must take all of these roads. It is now clear after 100 years after the Emancipation Proclamation that that was the beginning of the road to freedom.”⁷ For example, black Bostonians needed an action plan to combat legalized segregation: (1) set their differences aside in order to unite; (2) protest their second-class citizenship and denial of civil rights; and, (3) organize public

⁵ Brooke, interview, October 31, 2001, 56.

⁶ Morrison, “Atty. General Could Someday Be a Governor,” under “Negro Political Progress in New England,” *Ebony*, October 1963, 25, accessed March 31, 2020.

⁷ Ibid.

demonstrations, such as sit-ins, boycotts and marches, which would compel the state, as well as federal, government to finally begin protecting civil rights.⁸

Brooke honored his campaign promise to restructure the attorney general's office by strengthening the role and enforcement power of the public office. He "created a complaints section within the criminal division ..." which allowed residents to file formally written grievances regarding injustice and discrimination without fear of reprisal, coercion or harassment.⁹ In addition, Brooke "reorganized the department into [thirteen] different divisions, each headed by a chief personally responsible to him."¹⁰ He had the most correspondence with the Civil Rights and Liberties Division. From 1963 to 1965, three different assistant attorney generals served as chief of this division, which dealt with numerous complaints regarding racial matters, especially fair housing and the Boston busing crisis.

The Civil Rights and Liberties Division, led by assistant attorney general Lee Kozol, spearheaded a massive campaign in the struggle for socioeconomic and racial equality within Brooke's first few months of taking office. Kozol wrote a first quarter report to Brooke summarizing the various cases the division oversaw, including its work on comprehensive housing legislation, Massachusetts Senate Bill 350, which Governor Endicott Peabody signed into law on April 1, 1963, as chapter one hundred ninety-seven,

⁸ Charles L. Glenn, "Chapter 1. My Sixties, North and South," in "When Justice and Freedom Meet," (unpublished manuscript), 10–14, Adobe PDF.

⁹ Morrison, "Atty. General Could Someday Be a Governor," under "Negro Political Progress in New England," *Ebony*, October 1963, 25, accessed March 31, 2020.

¹⁰ *Ibid.*, 26, accessed March 31, 2020.

section two, of the Massachusetts Fair Housing Practices Act, that the Massachusetts Commission Against Discrimination (MCAD) would oversee and enforce.¹¹ The purpose of the law was to “prevent discrimination because of race, creed, color, national origin, or ancestry in the sale, rental, or lease of housing accommodations (or of land intended for the erection of housing accommodations) that are made generally available to the public.”¹² Before Governor Peabody signed Senate bill 350, the fair housing law did not ensure complete protection of black residents’ and potential homeowners’ civil rights because they still experienced housing discrimination. Many of their communities were located in urban Boston neighborhoods due to “white flight” into suburban areas, where the better schools and resources were located.¹³ In addition to black tenants paying higher rents for substandard housing, these residences lacked decent amenities.¹⁴

Moreover, black residents experienced blatant and overt racism from real estate agents, landowners, land developers, and homeowners, thus hindering their attempts to enter the middle class.¹⁵ To strengthen the legislation, the Civil Rights and Liberties

¹¹ Lee H. Kozol to Attorney General, first quarter report, “The Condition of the Civil Rights Division as at 4/15/63,” April 15, 1963, Box 27, Edward William Brooke Papers, Manuscript Division, Library of Congress, Washington, D.C., 4 (hereafter known as EWB Papers); Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area* CR1.2:H81/2 (Boston, 1963), 35, <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12h812.pdf>, accessed May 26, 2020. See chapter four, footnote three, which discusses a statement by Governor Peabody as he signed the bill into law.

¹² Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area*, 35, accessed May 26, 2020.

¹³ Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 1: The Demography of Negro Housing in Boston,” in *Discrimination in Housing in the Boston Metropolitan Area*, 8–17, accessed May 26, 2020.

¹⁴ *Ibid.*, 2–19, accessed May 26, 2020.

Division worked privately with MCAD and the state legislature to draft the amendment. Chapter one hundred ninety-seven, section two, of the Massachusetts Fair Housing Practices Act revised the bill to cover most housing under the state's anti-discrimination policies; however, single unit apartments and suites in two-family dwelling units were not covered in the law.¹⁶ Despite its limits, the legislation ensured protection of civil rights. Attorney general Brooke, who was a strong advocate of fair housing, provided the Civil Right and Liberties Division with more resources, as well as personal support, to assist the department's work with MCAD and the state legislature in drafting the amendment.¹⁷

Brooke's political office created opportunities to denounce racial injustices. For example, he was the keynote speaker at the NAACP's Freedom Fund dinner on May 27, 1963. During his remarks, Brooke noted, "[t]he recent racial violence in Birmingham is only an expression of justifiable impatience" in the aftermath of Birmingham, Alabama, police commissioner Eugene "Bull" Connor's use of police officers, attack dogs and fire hoses to attack black men, women and children who were peacefully protesting for civil rights from May 2 to May 10, 1963.¹⁸ The violence portrayed justifiable impatience as

¹⁵ Massachusetts Advisory Committee to the United States Commission on Civil Rights, "Chapter 2: Patterns and Practices of Discrimination," in *Discrimination in Housing in the Metropolitan Boston Area*, 20–26, accessed May 26, 2020.

¹⁶ Massachusetts Advisory Committee to the United States Commission on Civil Rights, "Chapter 4: Counter Measures; The Law," in *Discrimination in Housing in the Boston Metropolitan Area*, 35, accessed May 26, 2020.

¹⁷ Massachusetts Advisory Committee to the United States Commission on Civil Rights, "Chapter 4: Counter Measures; The Law," in *Discrimination in Housing in the Metropolitan Boston Area*, 35, accessed May 26, 2020; Kozol to Attorney General, first quarter report, "The Condition of the Civil Rights Division as at 4/15/63," April 15, 1963, Box 27, EWB Papers, 4.

¹⁸ "Says Birmingham Turmoil Justifiable Impatience," *Chicago Defender (Daily Edition)*, May 27, 1963; Corky Siemaszko, "Birmingham Erupted into Chaos in 1963 as Battle for Civil Rights Exploded in

black citizens' demands for civil rights, equality and first-class citizenship clashed with white Americans' desires to maintain the status quo of Jim Crowism, which rested on tenuous foundations of patriarchy, violence and paternalism. The horrific images not only made national news but also forced the federal government to take more direct action regarding civil rights laws, symbolized by congressional passage of the 1964 Civil Rights Act.¹⁹ Brooke commented, "There will be more and more demonstrations over segregation, but I hope and pray there will be no more violence."²⁰ As long as white southerners ignored and oppressed black citizens in their struggle for civil rights, black Americans would continue demonstrating until their needs were met and equality was truly achieved.

Attorney general Brooke adopted a policy of neutrality during the Civil Rights Movement, yet his commitment to civil rights remained firm. He advocated dual strategies of gradualism (slow reform) and immediacy (direct action) because both tactics could achieve victory in the long struggle for equality.²¹ Brooke believed in gradualism, illustrated by the Supreme Court's 1954 decision in *Brown v. Topeka Board of Education*; and, immediacy, evidenced by voting, boycotts, sit-ins and marches, as useful

South," *New York Daily News*, May 3, 2012, accessed January 20, 2020, <https://www.nydailynews.com/news/national/birmingham-erupted-chaos-1963-battle-civil-rights-exploded-south-article-1.1071793>.

¹⁹ Siemaszko, "Birmingham Erupted into Chaos in 1963 as Battle for Civil Rights Exploded in South," *New York Daily News*, May 3, 2012, accessed January 20, 2020.

²⁰ Ibid.

²¹ "Gradualism and the Negro," *Harvard Crimson*, June 14, 1956, accessed July 2, 2020, <https://www.thecrimson.com/article/1956/6/14/gradualism-and-the-negro-pshortly-after/>; "Says Birmingham Turmoil Justifiable Impatience," *Chicago Defender (Daily Edition)*, May 27, 1963.

resources in the struggle for racial and socioeconomic justice.²² This mindset continued a long tradition of black reformist thought that included notable civil rights leaders such as Perry W. Howard, Robert R. Church, Dr. T.R.M. Howard, and Mary Church Terrell, among others. Speaking before the NAACP audience, he commented that, “I believe the vast majority of whites accept the equality of men, even in the South. Violence is caused only by a minority. I think the moderates are going to be heard from more often from now on.”²³ From Brooke’s perspective, a moderate political approach had its rewards whereas extremism from both blacks and whites would always lead to setbacks in the Civil Rights Movement by further polarizing the nation.²⁴ As he finished his address, Brooke observed that,

Courts have helped materially in winning equal rights [policy of gradualism], but we need more legislation from Congress down to city councils [policy of gradualism]. We’ll see more of this legislation as the Negroes realize their best tools are their votes [strategy of immediacy].²⁵

Thus, civil rights activists and organizations, such as the NAACP, Southern Christian Leadership Conference (SCLC), the Congress of Racial Equality (CORE), the Leadership Conference on Civil Rights (LCCR), and the National Urban League (NUL), needed to persistently lobby Congress to pass stronger civil rights legislation because the courts

²² “Says Birmingham Turmoil Justifiable Impatience,” *Chicago Defender (Daily Edition)*, May 27, 1963; “Gradualism and the Negro,” *Harvard Crimson*, June 14, 1956, accessed July 2, 2020.

²³ “Says Birmingham Turmoil Justifiable Impatience,” *Chicago Defender (Daily Edition)*, May 27, 1963.

²⁴ “Says Birmingham Turmoil Justifiable Impatience,” *Chicago Defender (Daily Edition)*, May 27, 1963; “Gradualism and the Negro,” *Harvard Crimson*, June 14, 1956, accessed July 2, 2020.

²⁵ “Says Birmingham Turmoil Justifiable Impatience,” *Chicago Defender (Daily Edition)*, May 27, 1963.

were limited in their enforcement. Brooke advocated that black Americans, especially in the South, continue striving for the right to vote as well as organizing protests because gradualism and immediacy were the best methods to achieving racial uplift and strengthening their communities.

In June 1963, the Boston Branch of the NAACP held several negotiations with the Boston School Committee, hoping the council would address the issue of de facto segregation in the school system.²⁶ Led by Mrs. Louise Day Hicks, an ardent segregationist and committee chairwoman, the members voted three to two, rejecting a motion to say the term “de facto segregation.”²⁷ In addition, the NAACP representatives wanted the school committee and Dr. Frederick J. Gillis, the superintendent of Boston’s public schools, to accept responsibility for the underfunded institutions, lack of black principals, shortage of teachers, lack of resources, outdated textbooks that excluded black Americans, and dilapidated conditions of school buildings, which were primarily located in urban neighborhoods.²⁸ In response to the school’s committee’s inaction, the NAACP and Citizens for Human Rights (CFHR), another civil rights organization, began planning a daylong boycott of the city’s schools, which initially required the participation of all

²⁶ “School Boycott Arouses Boston: Violence Feared Tuesday When Negroes Plan to Stay Home,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020, <https://newscomwc.newspapers.com/image/604292519>; “Boycott Is to Protest ‘De Facto’ Segregation,” *Muscatine Journal and News-Tribune* (Muscatine, IA), June 18, 1963, accessed January 28, 2020, <https://newscomwc.newspapers.com/image/42643680>; Seymour R. Linscott, “8260 Stay Out – But All Calm,” *Boston Globe*, June 19, 1963, accessed April 16, 2020, <https://bostonglobe.newspapers.com/image/433615389>.

²⁷ Ibid.

²⁸ “Protesting Boston Negroes to Boycott Schools on Tuesday,” *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/545533171>; “School Boycott Arouses Boston,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020.

fourteen thousand black students.²⁹ During the revision process, the civil rights organizations relegated the protest to five thousand black students who attended junior and senior high schools.³⁰ On the day of the boycott, the students would miss their regular classes to attend “Freedom Schools,” where they would learn about their rich history and culture, the Civil Rights Movement, the importance of voting and protesting.³¹ The NAACP and CFHR also allied themselves with St. James Episcopal Church in Roxbury to strengthen support for the boycott.³²

Attorney general Brooke demonstrated his commitment to civil rights by refusing to support the Boston School Committee’s hindrance of the Freedom Stay–Out. Mrs. Hicks wanted him to intervene in the conflict because he was “... the foremost man in

²⁹ “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/54821904>.

³⁰ “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020; “Boston Faces Boycott over Race Dispute: Two Negro Rights Groups Take Action, Cite Barrier in Schools,” *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/18383910>.

³¹ “Protesting Boston Negroes to Boycott Schools on Tuesday,” *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020; “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020; “Protest De Facto Segregation: Negro Students Boycott Boston Public Schools,” *Carroll Times Daily Herald* (Carroll, IA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/1348811>; “Boston Faces Boycott over Race Dispute,” *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020; Freedom Stay Out Steering Committee, “Freedom Stay–Out Informational Handout,” promotional materials, June 6, 1963, Box 195, Folder 8, Mayor John F. Collins Records, Boston City Archives, West Roxbury, MA (hereafter known as MJFC Records). Civil rights leaders also encouraged “sympathetic white parents” to send their children to the Freedom Schools. The invitation to white parents demonstrates that some white residents of Boston disagreed with de facto segregation in the city’s public schools.

³² “Some 3,000 Boston Negro Pupils Boycott Classes in Mass Protest: Charge ‘De Facto Segregation’ in City’s Schools,” *North Adams Transcript* (North Adams, MA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/545533468>; “Protesting Boston Negroes to Boycott Schools on Tuesday,” *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020.

his racial group,” who could effectively serve as the voice of reason in urging the civil rights organizations to call off the boycott.³³ Moreover, she hoped that Brooke, in his capacity as attorney general, would “inform these groups of the state law concerning compulsory education and ... take steps to assure the attendance of all children at school on Tuesday, [June 18, 1963].”³⁴ Recognizing Mrs. Hicks’s political schemes, Brooke declined to comment on the situation and would become involved “only if [the situation] reaches a dangerous stage and there is a breakdown of the law somewhere along the line.”³⁵ However, he met with NAACP representatives and other civil rights leaders in Roxbury to discuss the issue, on Friday, June 14, 1963.³⁶ During the meeting, which lasted until 3:30am, Brooke reasserted his official ruling that, “[Parents] can’t keep their children out of school for [the purpose of protesting school segregation],” which led black Bostonians to be “up in arms with me, against me on that opinion,” because they felt that he was supporting Mrs. Hicks and the Boston School Committee.³⁷ Although

³³ “Brooke Asked to Head Off Boston Protest: Negroes Want More Integration in Schools,” *Berkshire Eagle* (Pittsfield, MA), June 15, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/531306364>.

³⁴ “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020.

³⁵ “School Boycott Arouses Boston,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020.

³⁶ Cornelius E. Hurley, “Man in the News: E.W. Brooke,” *Richmond Times–Dispatch* (Richmond, VA), June 19, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/616256758>; Robert Healy, “Governor ‘Raises Sword,’” under “Peabody, Gartland...They Almost Broke Impasse,” *Boston Globe*, June 19, 1963, accessed April 16, 2020, <https://bostonglobe.newspapers.com/image/433615401>; “Brooke ‘Out of State,’ Office Sees Compromise,” *Boston Globe*, June 19, 1963, accessed April 16, 2020, <https://bostonglobe.newspapers.com/image/433615401>.

³⁷ Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia. Cf. Hurley, “Man in the News,” *Richmond Times–Dispatch* (Richmond, VA), June 19, 1963, accessed January 29, 2020.

Brooke's legal opinion angered the civil rights activists, his participation in the town hall forum revealed a strong belief in isonomy because Brooke "advised [the protesters] as an individual and as a Negro about their rights and told them that as attorney general that he would see to it that the law was upheld."³⁸ Although Brooke restated his legal opinion regarding the "Freedom Stay-Out," he "had no legal jurisdiction over the case[.]" and "like a number of others, was convinced that nothing could stop this boycott."³⁹ While sympathizing with the black community's anger, Brooke remained neutral in his role as attorney general.⁴⁰ He realized that both the segregationist and civil rights factions in Boston wanted him to join their respective causes.⁴¹ Thus, his decision to not make any public statements or become directly involved in the peaceful boycott on Tuesday, June

³⁸ Healy, "Governor 'Raises Sword,'" under "Peabody, Gartland...They Almost Broke Impasse," *Boston Globe*, June 19, 1963, accessed April 16, 2020.

³⁹ Ibid.

⁴⁰ Healy, "Governor 'Raises Sword,'" under "Peabody, Gartland...They Almost Broke Impasse," *Boston Globe*, June 19, 1963, accessed April 16, 2020; Ruth Batson, *The Black Educational Movement in Boston: A Sequence of Historical Events; A Chronology* (Boston: Northeastern University School of Education), 89, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020, http://openvault.wgbh.org/exhibits/boston_civil_rights/article; "Boycott Report," WGBH-FM, June 17, 1963, Ted Mascott, Producer, WGBH Educational Foundation, Boston, MA, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020; Jeffrey A. Osoff, "Boston Negroes Push Plan for Boycott, Talks Falter," *Boston Globe*, June 17, 1963, 1, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020; William E. Nelson, Jr., *Black Atlantic Politics: Dilemmas of Political Empowerment in Boston and Liverpool* (Albany: State University of New York Press, 2000): 111, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020; Hubie Jones, Panelist, Power and Protest Conference 2006, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020.

⁴¹ "School Boycott Arouses Boston," *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020; "Boston Faces Boycott over Race Dispute," *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020; Healy, "Governor 'Raises Sword,'" under "Peabody, Gartland...They Almost Broke Impasse," *Boston Globe*, June 19, 1963, accessed April 16, 2020; Linscott, "8260 Stay Out – But All Calm," *Boston Globe*, June 19, 1963, accessed April 16, 2020.

18, 1963, was tacit support for the civil rights demonstrators who simply wanted equal, integrated education for their children.⁴²

Brooke conversed with other legal minds in the nation to strengthen his knowledge of the attorney general's office and responsibilities. Therefore, he attended a conference sponsored by the National Association for Attorneys General in Seattle, Washington, in July 1963. While there, Brooke participated in an interview. His thoughts regarding racial supremacy are worth considering in the context of the Civil Rights Movement. Brooke noted that, "Civil rights problems are the result of justifiable impatience of both Negroes and whites who believe in the equality spelled out by the Constitution," further commenting, "[t]he only real progress made in this country has been through the Judiciary [policy of gradualism]. The need for progress is at the local level [strategy of immediacy]."⁴³ Although gradualism was necessary in the negotiation

⁴² "Boston Faces Boycott over Race Dispute," *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020; Hurley, "Man in the News," *Richmond Times-Dispatch* (Richmond, VA), June 19, 1963, accessed January 29, 2020; "Negroes Claim Success in Boycott of Schools," *Journal Gazette* (Mattoon, IL), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/81564151>; "Boycott Is Protest to 'De Facto' Segregation," *Muscatine Journal and News-Tribune* (Muscatine, IA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/42643680>; "Some 3,000 Boston Negro Pupils Boycott Classes in Mass Protest," *North Adams Transcript* (North Adams, MA), June 18, 1963, accessed January 29, 2020; Healy, "Governor 'Raises Sword,'" under "Peabody, Gartland...They Almost Broke Impasse," *Boston Globe*, June 19, 1963, accessed April 16, 2020; "Brooke 'Out of State,' Office Sees Compromise," *Boston Globe*, June 19, 1963, accessed April 16, 2020. Half of the projected five thousand junior and senior high school students participated in the protest, which was a great feat. Brooke took a personal day on June 18, 1963, the day of the school boycott, and was unavailable for comment. Although the matter was not in his jurisdiction for prosecution, Brooke's actions demonstrated a commitment to protecting the black Bostonian community's civil rights.

⁴³ "Brooke Opposes Any Supremacy, Black or White," *North Adams Transcript* (North Adams, MA), July 2, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/54827211>.

process, the cautious nature of this approach could lead to political stagnation and greater repression of civil rights.⁴⁴

From Brooke's perspective, the strategy of immediacy, evidenced by sit-ins, picketing, boycotts and marches, concurrently served as a powerful tool in the struggle for racial and socioeconomic justice at the local level. Black protesters, as well as sympathetic white Americans, were prepared to experience heavy resistance from racist citizens and local government officials. Nevertheless, civil rights activists strongly believed that sustained public protests could force local governments to change their egregious behaviors and finally uphold the promises of citizenship defined in the Constitution. Therefore, they joined civil rights organizations, including the NAACP, SCLC, NUL, CORE, the Student Nonviolent Coordinating Committee (SNCC) and the Council of Federated Organizations (COFO) to challenge the socioeconomic, religious and political barriers reinforced by Jim Crowism. As he finished the interview, Brooke commented that, "Those who participate in peaceful, non-violent demonstrations are marching along the right road to full civil rights," because he abhorred the use of violence, which exacerbated racial hostilities in tense situations.⁴⁵ Thus, the strategies of immediacy and gradualism were the best plans for accomplishing socioeconomic, as well as political, equality for black Americans and disenfranchised citizens throughout the

⁴⁴ "Brooke Opposes Any Supremacy, Black or White," *North Adams Transcript* (North Adams, MA), July 2, 1963, accessed January 29, 2020; "Gradualism and the Negro," *Harvard Crimson*, June 14, 1956, accessed July 2, 2020.

⁴⁵ "Brooke Opposes Any Supremacy, Black or White," *North Adams Transcript* (North Adams, MA), July 2, 1963, accessed January 29, 2020.

nation, which could lead to stronger civil rights legislation, as well as enforcement in the federal, state and local governments.⁴⁶

Brooke warned black citizens to avoid using violence in their struggle for racial justice, which would “aid the opposition and defeat their own program.”⁴⁷ In a July 1963 interview with the *Christian Science Monitor*, he advocated the strategies of gradualism and immediacy. For example, Brooke observed that “use of ‘fire and the sword’ instead of legal remedies [peaceful negotiations] will ‘confuse those we are trying to persuade’ and will bolster the forces of the opposition.”⁴⁸ Militant black Americans who insistently used violence to gain civil rights would undo the progress made in the Civil Rights Movement and give credence to the segregationists’ argument that black citizens did not deserve first-class citizenship. As he continued the interview, Brooke noted that two weeks later, he “plan[ned] to announce [the] formation of groups dedicated to finding solutions to racial problems in Massachusetts [tactic of immediacy].”⁴⁹ After several months in office, Brooke realized that socioeconomic and racial equality would not be

⁴⁶ “Brooke Opposes Any Supremacy, Black or White,” *North Adams Transcript* (North Adams, MA), July 2, 1963, accessed January 29, 2020; “Gradualism and the Negro,” *Harvard Crimson*, June 14, 1956, accessed July 2, 2020.

⁴⁷ “Violence Will Defeat Cause: That’s Warning of Negro Atty. Gen.,” *Brattleboro Reformer* (Brattleboro, VT), July 24, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/547957989>.

⁴⁸ Ibid.

⁴⁹ “Violence Will Defeat Cause,” *Brattleboro Reformer* (Brattleboro, VT), July 24, 1963, accessed January 29, 2020. Memoranda and reports from the Civil Liberties and Rights Division do not indicate that Brooke formally announced the formation of these task forces. Nevertheless, their creation demonstrated the attorney general’s commitment to isonomy and civil rights. Cf. Lee H. Kozol to Attorney General Edward W. Brooke, “Memorandum – Re: Wattendorf,” October 24, 1963, Box 27, EWB Papers, 1–6; Kozol to the Attorney General, “Quarterly Report for the Quarter Ending December 31, 1963,” January 13, 1964, Box 27, EWB Papers, 1–9.

achieved without persistent efforts, as evidenced by his assistance in drafting a stronger amendment to the 1963 Massachusetts Fair Housing Practices Act and nominal role in the Freedom Stay-Out.⁵⁰ Therefore, he created task forces whose sole purpose was the abolition of Jim Crowism throughout the state. As he finished the interview, Brooke commented that he would not participate in the March on Washington for Jobs and Freedom, in August 1963, but supported the protest “as a means of calling world attention to racial problems [strategy of immediacy].”⁵¹ Thus, Brooke’s answers demonstrated an unwavering commitment to the social justice movement and desire to protect civil rights.⁵²

On August 19, 1963, as the busing issue first came to national attention, the NAACP’s Boston Branch partnered with the Northern Student Movement, another civil rights organization, to picket the Boston School Committee for its failure to address and adequately resolve the issue of de facto segregation within the public schools.⁵³ The peaceful protest led to a complaint from Mrs. Louise Day Hicks, the ardent segregationist and committee chairwoman. In response to the situation, Brooke commented,

⁵⁰ Kozol to Attorney General, first quarter report, “The Condition of the Civil Rights Division as at 4/15/63,” April 15, 1963, Box 27, EWB Papers, 4, 16–17; Kozol to the Attorney General, “Report of the Civil Rights Division as at July 16, 1963,” July 16, 1963, Box 27, EWB Papers, 2–4, 5.

⁵¹ “Violence Will Defeat Cause,” *Brattleboro Reformer* (Brattleboro, VT), July 24, 1963, accessed January 29, 2020.

⁵² Ibid.

⁵³ “School Board Picketed Again,” *Boston Globe*, August 19, 1963, accessed January 28, 2020, <https://bostonglobe.newspapers.com/image/434498516>; Thomas Atkins, “Statement by the NAACP Boston Branch Executive Secretary Thomas Atkins,” press release, July 30, 1963, Box 195, Folder 8, MJFC Records, Boston City Archives, West Roxbury, MA, 1–2. The NAACP Boston Branch protested the Boston School Committee on August 5, 1963, without success. Therefore, they planned another demonstration for August 19, 1963.

“Demonstrations, marches and protests have their place, but we must send men and women not filled with emotion to the conference table.”⁵⁴ Although he agreed with the protesters’ ideals, Brooke did not want to lose the support and respect of the white electorate who voted him into office. Nevertheless, he believed that sustained protests (the strategy of immediacy) could serve as leverage for civil rights leaders to negotiate desegregation initiatives in calm, peaceful settings with sympathetic officials from various agencies (the strategy of gradualism) because reason, sound logic and compromise were the best approach to achieving victory. Moreover, “[Brooke] said that [Massachusetts] ha[s] one of the strongest laws against discrimination, and that he would enforce the law until all discrimination is removed.”⁵⁵ Despite his noble words and genuine convictions, black children still experienced the humiliation of Jim Crowism.⁵⁶

⁵⁴ “School Board Picketed Again,” *Boston Globe*, August 19, 1963, accessed January 28, 2020.

⁵⁵ Ibid.

⁵⁶ “School Board Picketed Again,” *Boston Globe*, August 19, 1963, accessed January 28, 2020; Dr. Frederick J. Gillis, “Introduction,” in *Annual Report of the Superintendent, 1962–1963* (Boston: Boston School Committee, 1963), Boston Public Library, Boston, MA, 17–21, 32–45, Adobe PDF eBook; “‘Youthful Spontaneity’ Said Lacking in School,” *Odessa American* (Odessa, TX), December 17, 1975, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/301434142>. Dr. Gillis blatantly ignored the hypocrisy of the Boston public school system in the larger context of the Cold War. Although he briefly discussed the fact that housing determined where black children attended schools, he placed the responsibility on their parents rather than addressing the issue of Jim Crowism as the source of black Americans’ struggles. This mindset permeated Boston society for many years. The NAACP Boston Branch attended school board meetings in September 1963, where representatives presented their same methods for abolishing de facto segregation in the public schools. Dr. Gillis, the Board of Superintendents and the Boston School Committee refused to comply with the NAACP Boston Branch’s requests and negotiations remained in an impasse until 1975, when U.S. District Court Judge Wendell A. Garrity ordered Boston schools to desegregate. Moreover, he placed South Boston High School in the custody of a receivership (a federal administrator) to demonstrate his judicial authority in response to school officials’ recalcitrance in obeying desegregation laws.

Nevertheless, Brooke placed his duty to enforce the law above political ideologies, despite the unpopularity of his controversial stance among Boston's black community.⁵⁷

In spite of his first term electoral victory, Brooke never forgot that he was an elected black official serving a predominantly white electorate. The attorney general was aware that if he began to actively prosecute civil rights cases, then the one million voters which placed him in office could easily elect another candidate who would best serve their interests. In addition, Brooke's conservative political views endeared him to many white residents while alienating him from Boston's black population. During an interview with the Associated Press, Brooke noted how, "I can't turn my back on race relations."⁵⁸ Thus, he worked hard to earn the respect of the black community living in Boston. However, Brooke also mentioned, "I can't turn my back on my job as attorney general to concentrate on civil rights."⁵⁹ Civil rights was one of twelve departments within the attorney general's office; thus, he could not devote all his time to racial injustices when the state government needed reformation and corrupt officials warranted prosecution. For example, a black resident commented, "He was elected, that's progress enough."⁶⁰ The black community in Boston reluctantly discussed Brooke's work as attorney general because he did not actively support the NAACP and other civil rights organizations in his

⁵⁷ Brooke, interview, August 16, 2006; Leah Wright Rigueur, *The Loneliness of the Black Republican: Pragmatic Politics and the Pursuit of Power* (Princeton, NJ: Princeton University Press, 2015), 101.

⁵⁸ Associated Press, "Negro State Attorney Would Rather Win Allies," *Baytown Sun* (Baytown, TX), February 2, 1964, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/6357926>.

⁵⁹ Ibid.

⁶⁰ Ibid.

official capacity during the school boycott and other racial incidents.⁶¹ More importantly, Brooke refused to become the Boston School Committee's pawn in its attempt to hinder the boycott and force school attendance because "that [was] not in my jurisdiction."⁶² Brooke advocated public protests, saying, "I believe in the value of demonstrations to dramatize problems, provided they are properly controlled and legal."⁶³ Attorney general Brooke had a duty to enforce the law, even when his public rulings placed him in direct opposition with many of his friends and neighbors.⁶⁴ Despite the complexities of public office, he remained committed to the Civil Rights Movement's principles. Brooke articulated how black Americans, in their quest for justice, "must win allies, not conquer adversaries," because wisdom, logic, well organized public protests and peaceful negotiations, rather than the futility of senseless violence, could lead to increased racial harmony, the federal government's reassurance of civil rights protection and greater recognition of first-class citizenship from all levels of government.⁶⁵ Thus, the strategies

⁶¹ Batson, *The Black Educational Movement in Boston*, 89, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020; "Boycott Report," WGBH-FM, June 17, 1963, Ted Mascott, Producer, WGBH Educational Foundation, Boston, MA, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 29, 2020; Osoff, "Boston Negroes Push Plan for Boycott, Talks Falter," *Boston Globe*, June 17, 1963, 1, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, WGBH, accessed June 14, 2020; Nelson, *Black Atlantic Politics*, 111, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, accessed June 14, 2020; Hubie Jones, Panelist, Power and Protest Conference 2006, cited in Audrea Jones Dunham, "Boston's 1960s Civil Rights Movement: A Look Back," online exhibit, accessed June 14, 2020.

⁶² Associated Press, "Negro State Attorney Would Rather Win Allies," *Baytown Sun* (Baytown, TX), February 2, 1964, accessed January 29, 2020.

⁶³ Ibid.

⁶⁴ Brooke, interview, August 16, 2006.

⁶⁵ Associated Press, "Negro State Attorney Would Rather Win Allies," *Baytown Sun* (Baytown, TX), February 2, 1964, accessed January 29, 2020.

of gradualism and immediacy could help the black community in Boston, as well as other cities across the nation, achieve justice and equality.

In 1964, as the nation turned its attention to the presidential election, Brooke campaigned for re-election as attorney general against Democratic state senator James W. Hennigan, Jr., a nominee who was not well known outside Boston. Brooke utilized the time-tested methods of notarized affidavits and bipartisan networking with Republicans, Democrats and Independents to strengthen support for his campaign. Moreover, the attorney general advocated a moderate political approach because he wanted to unite partisan divides between liberals and conservatives within the national Republican coalition, which had taken a radical shift toward the right, long before Senator Barry Goldwater's presidential campaign, further alienating black Americans from the Republican Party.⁶⁶ Indeed, during the presidential election, Brooke adamantly opposed Goldwater's nomination, saying that their political views were "incompatible."⁶⁷ In addition, Brooke rejected Goldwater's extremism and opposition to civil rights because the attorney general "[felt] he would be repudiating his own race if he ... embrace[d] Goldwater for political reasons."⁶⁸ Moreover, Brooke opposed Goldwater's vice-presidential running mate, Congressman William E. Miller, who publicly stated that he would accept an endorsement by the Ku Klux Klan. In reaction to this blatant political

⁶⁶ Louis M. Lyons, "Unity to Require GOP Acrobatics," *Boston Globe*, July 17, 1964, accessed February 2, 2020, <https://bostonglobe.newspapers.com/image/433476849>.

⁶⁷ "If Ya Can't Fight 'Em..." *Boston Globe*, August 16, 1964, accessed February 2, 2020, <https://bostonglobe.newspapers.com/image/433745821>.

⁶⁸ Ibid.

ruse, Brooke commented that the white supremacist group ““has been guilty of lynchings, church bombings and it stands for everything un–American[.] I cannot compromise.””⁶⁹ Disheartened by the Republican Party’s continued shift to the right, Brooke refused to vote for Goldwater and focused on his re–election campaign.⁷⁰ Thus, Brooke’s campaign platform of bipartisanship, strong anti–corruption initiatives and coalition building garnered him much support among white Massachusetts voters who wanted to see greater reformation of state government.⁷¹ On Tuesday, November 3, 1964, Brooke defeated Hennigan by a plurality of 757,000 votes, thus pledging to continue his work of abolishing corruption in state government.⁷²

Brooke was committed to transforming the Republican Party’s image, rhetoric and policies, one vote and one mindset at a time, in the aftermath of Senator Barry

⁶⁹ “If Ya Can’t Fight ‘Em...,” *Boston Globe*, August 16, 1964, accessed February 2, 2020.

⁷⁰ Lyons, “Unity to Require GOP Acrobatics,” *Boston Globe*, July 17, 1964, accessed February 2, 2020; “If Ya Can’t Fight ‘Em...,” *Boston Globe*, August 16, 1964, accessed February 2, 2020; “Campaigners Busy, with 45 Days to Go,” *Boston Globe*, September 20, 1964, accessed February 2, 2020, <https://bostonglobe.newspapers.com/image/433793617>; “25,000 Cheer for Barry’s Demand for Debate: The Absents,” *Boston Globe*, September 25, 1964, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433501578>, <https://bostonglobe.newspapers.com/image/433501583>; Robert Healy, “25,000 Cheer for Barry’s Demand for Debate: The Silents,” *Boston Globe*, September 25, 1964, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433501578>, <https://bostonglobe.newspapers.com/image/433501610>.

⁷¹ “Campaigners Busy, with 45 Days to Go,” *Boston Globe*, September 20, 1964, accessed February 2, 2020; “25,000 Cheer for Barry’s Demand for Debate,” *Boston Globe*, September 25, 1964, accessed April 19, 2020.

⁷² Bryant Rollins, “Behind Brooke’s 757,000 Plurality: The GOP’s No. 1 Vote–Getter,” *Boston Globe*, November 8, 1964, accessed February 2, 2020, <https://bostonglobe.newspapers.com/image/433786743>; Bertram G. Waters, “Victorious Brooke Hints New ‘66 Goal,” *Boston Globe*, November 4, 1964, accessed February 2, 2020, <https://bostonglobe.newspapers.com/image/433750254>.

Goldwater's failed presidential campaign.⁷³ Goldwater's campaign threatened the survival of the Republican Party because segregationists, such as Senator Strom Thurmond, cheerfully embraced the national coalition, further skewing its reputation as the party of Abraham Lincoln, progress, the common American citizen and bastion of civil rights. Brooke desired to not only reform the party but also help its leaders rediscover the coalition's historical roots as principled Republican statesmen, such as Senator Charles Sumner, President Ulysses S. Grant, Senator Henry Cabot Lodge and Governor Thomas Dewey, among others, were dedicated to the needs of all Americans, not just the privileged few.⁷⁴ The Goldwater campaign represented a shift in the

⁷³ Jeffrey J. Matthews, "To Defeat a Maverick: The Goldwater Candidacy Revisited, 1963–1964," *Presidential Studies Quarterly* 27.4 (Fall 1997): 662–673; Edward W. Brooke, *The Challenge of Change: Crisis in Our Two-Party System* (Boston: Little, Brown, and Company, 1966), 35–50, 64–77, 140–147, 170–183, 184–215.

⁷⁴ Brooke, *The Challenge of Change*, 35–50, 64–77, 140–147, 170–183, 184–215; Carl M. Frasure, "Charles Sumner and the Rights of the Negro," *Journal of Negro History* 13.2 (Apr. 1928): 126–149; Louis Ruchames, "Charles Sumner and American Historiography," *Journal of Negro History* 38.2 (Apr. 1953): 139–160; Richard B. Sherman, "Republicans and Negroes: The Lessons of Normalcy," *Phylon* 27.1 (1st Qtr. 1966): 63–79; Stephen W. Angell, "A Black Minister Befriends the 'Unquestioned Father of Civil Rights': Henry McNeal Turner, Charles Sumner, and the African-American Quest for Freedom," *The Georgia Historical Quarterly* 85:1 (Spring 2001): 29–33; Amanda Yost, "Henry Cabot Lodge, 1850–1924," in *Sweet Auburn: Newsletter of the Friends of Mount Auburn Cemetery* (Fall/Winter 2003), accessed April 7, 2020, <https://mountauburn.org/wp-content/uploads/Sweet-Auburn-Fall-Winter-2003.pdf>; Simon Topping, "'Never Argue with the Gallup Poll': Thomas Dewey, Civil Rights and the Election of 1948," *Journal of American Studies* 38.2 (2004): 179–198; JBHE Foundation, Inc., "The Racial Views of Ulysses S. Grant," *Journal of Blacks in Higher Education* 66 (Winter 2009/2010), 26–27. The aforementioned Republican legislators, during their time in political office, had important roles in helping black Americans secure civil rights. For example, President Ulysses F. Grant signed the Enforcement Acts of 1871 into law, which protected freedmen's voting rights in the Reconstructed southern states. He also authorized federal troops to not only deal with Ku Klux Klan activity in South Carolina but also arrest over three thousand Klansmen throughout the South. Similarly, Radical Reconstruction Senator Charles F. Sumner's work provided a foundation for congressional passage of his 1875 civil rights bill, which he did not live to see President Grant sign into law. In 1883, the Supreme Court ruled that the law was unconstitutional. During the 1920s, as the national Republican coalition embraced a more nativist, lily-white, conservative approach, Republican Senator Henry Cabot Lodge cosponsored the Dyer Anti-Lynching Bill, which ultimately languished in Congress due to a southern filibuster and Republican apathy. Despite the bill's defeat, Lodge demonstrated a commitment to protecting black Americans and civil rights. New York Governor Thomas Dewey, a Republican, advocated for and signed civil rights legislation into law. He also appointed black Americans to numerous positions during his tenure. However, throughout his

Republican Party's policies and rhetoric as various factions, such as the late Senator Robert A. Taft's isolationist branch, vied for power in Congress.⁷⁵ Brooke opposed isolationism because abandoning the nation's allies in times of distress would demonstrate apathy and betrayal of American principles.⁷⁶

Brooke's protection of civil rights was not limited to Massachusetts. In December 1965, the Supreme Court invited all the states to take part in a test case, *South Carolina v. Katzenbach*, that would define the constitutionality of the recently passed Voting Rights Act. After Brooke accepted the primary leadership role in filing an *amicus curia* brief on behalf of the U.S. attorney general, Nicholas Katzenbach, he reached out to other attorney generals and the states of California, Illinois, Hawaii, Indiana, Iowa, Kansas, Maine, Maryland, Michigan, Montana, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin joined him in supporting the brief. His office, in conjunction with several law professors, college students and volunteers from collegiate civil rights groups, wrote a strong, well-defined brief that supported the 1965 Voting Rights Act. Assistant attorney general Levin H. Campbell, the chief of the Civil Rights and Liberties Division, served as the liaison between Brooke's office and the other states. Despite Brooke's busy schedule, he oversaw the drafting of the *amicus curia* brief and contributed ideas to strengthen their

1948 presidential campaign, Dewey did not take a firm stance on civil rights and dismissed the black vote, which cost him the election.

⁷⁵ Matthews, "To Defeat a Maverick," 662–673; Brooke, *The Challenge of Change*, 35–50, 64–77, 140–147, 170–183, 184–215; Michael F. Hayes, "The Republican Road Not Taken: The Foreign-Policy Vision of Robert A. Taft," *Independent Review* 8.4 (Spring 2004): 509–523.

⁷⁶ Brooke, *The Challenge of Change*, 35–50, 64–77, 140–147, 170–183, 184–215.

case before the Supreme Court.⁷⁷ As a result of this experience, Brooke discovered that a career in the Senate would allow him to create stronger civil rights legislation, serve as an advocate for black Americans, reform the federal government from within, and ensure the national Republican coalition's return to its historical status as the party of the common American citizen.⁷⁸ In addition to Brooke's desire "to be in the seat [of] power," he wanted "to prove that whites would vote for blacks" and that "blacks should be in the seat

⁷⁷ Levin H. Campbell to Attorney General Edward W. Brooke, "Quarterly Report for Period Ending December 31, 1965," December 31, 1965, Box 27, EWB Papers, 8–10.

⁷⁸ James J. Kilpatrick, "Great Federal–State Battle," *Great Bend Tribune* (Great Bend, KS), January 13, 1966, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/65538436>; "Syllabus," under *South Carolina v. Katzenbach*, 383 U.S. 301, Cornell Law School Legal Information Institute, accessed March 27, 2020, <https://www.law.cornell.edu/supremecourt/text/383/301>; "Opinion, Warren," under *South Carolina v. Katzenbach*, 383 U.S. 301, Cornell Law School Legal Information Institute, accessed March 27, 2020; Campbell to Brooke, "Quarterly Report for Period Ending December 31, 1965," December 31, 1965, Box 27, EWB Papers, 8–10. In January 1966, the state of South Carolina challenged the federal government and the U.S. attorney general regarding the validity of the 1965 Voting Rights Act by filing a bill of complaint, asserting that the legislation was "arbitrary, discriminatory and beyond the legislative powers of Congress." The states of Georgia, Alabama, Louisiana, Mississippi and Virginia also joined South Carolina's suit against the federal government. The southern states attacked four areas of the Voting Rights Act's provisions: (1) a coverage method for federal officials to ascertain if certain provisions applied to specific cases of discrimination; (2) brief suspension of a state's literacy tests or other practices; (3) an assessment of states' new voting rules to determine if they circumvented the law; and, (4) the use of federal examiners to oversee the voter registration process in states where blatant discrimination persisted. The Supreme Court heard arguments between January 17 and 18, 1966. On March 7, 1966, in an eight-to-one decision, the Court declared that the Voting Rights Act was constitutional, and U.S. attorney general Nicholas Katzenbach had authority to enforce the law. Chief Justice Earl Warren, writing the majority opinion, commented that,

The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century. ... We hold that the sections of the Act which are properly before us, are an appropriate means for carrying out Congress' constitutional responsibilities, and are consonant with all other provisions of the Constitution. We therefore deny South Carolina's request that enforcement of these sections be enjoined.

Brooke's collaboration with other states to file an *amicus curia* brief on behalf of the U.S. attorney general ultimately culminated in a victory for the Civil Rights Movement. Although the public did not know about Brooke's work, his actions demonstrated a commitment to protecting civil rights.

of power, with their own power base.”⁷⁹ For these reasons, Brooke decided to campaign for the U.S. Senate.

On December 30, 1965, Brooke announced his campaign for the United States Senate, a day after Senator Leverett Saltonstall, who served Massachusetts for approximately two decades, announced his retirement.⁸⁰ Holding a press conference, Brooke answered numerous questions from reporters. When asked about potential endorsements, he responded that he “did not want the support of ‘certain organizations’ like the John Birch Society, the Communist Party or the Ku Klux Klan.”⁸¹ Brooke campaigned on the basis of racial and social equality, fairness, government reform and bipartisanship. His successful anti-corruption campaign in state government attested to Brooke’s beliefs that government officials needed to be held accountable for their actions, which resonated with many voters.⁸²

Despite his popularity, Brooke’s liberal views on various issues, especially civil rights, angered a powerful, jealous group of conservative Massachusetts Republican stakeholders who began organizing a coalition to stop his campaign.⁸³ Their reasoning was that Brooke “didn’t consult them first before making his announcement.”⁸⁴ However,

⁷⁹ Brooke, interview, October 31, 2001, 54.

⁸⁰ John C. Engstrom, “Brooke Will Run for Senate Seat,” *Capital Times* (Madison, WI), December 30, 1965, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/519700620>.

⁸¹ John C. Engstrom, “Brooke Enters Massachusetts’ U.S. Senate Race,” *Terre Haute Star* (Terre Haute, IN), December 31, 1965, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/10814436>.

⁸² John F. Becker and Eugene E. Heaton, Jr., “The Election of Senator Edward W. Brooke,” *The Public Opinion Quarterly* 31.3 (Autumn 1967): 350–352.

⁸³ “How to Lose an Election,” *North Adams Transcript* (North Adams, MA), January 8, 1966, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/54829179>.

he did not owe an explanation to anyone. Based on the evidence, Brooke discussed the potential of a Senate campaign with his family and close friends before making a decision. Envy was the motivating factor for this anti-Brooke faction which later made his race an issue in the election.⁸⁵

The right wing, conservative, racist coalition attempted to deter Republican delegates from voting for Brooke by utilizing two steps. First, they mailed pamphlets and letters, in addition to sponsoring advertisements, portraying him as a communist and liberal. Second, the conservative group mailed editorial length newspaper reviews of Brooke's treatise, *The Challenge of Change: Crisis in Our Two-Party System*, to Republican delegates throughout the state. From their perspective, his work betrayed genuine Republican convictions. In addition, the coalition mailed an open letter to Brooke and the convention delegates, accusing him of fully supporting President Lyndon B. Johnson's Great Society program and his presidential advisors. The negative publicity enhanced Brooke's standing among delegates at the state convention on June 25, 1966.⁸⁶

Brooke was not concerned with the people's convictions about his race because "he cite[d] polls and his victories in 1962 and 1964 as evidence that race is not a factor in

⁸⁴ "How to Lose an Election," *North Adams Transcript* (North Adams, MA), January 8, 1966, accessed February 1, 2020.

⁸⁵ "How to Lose an Election," *North Adams Transcript* (North Adams, MA), January 8, 1966, accessed February 1, 2020; "GOP Delegates Get Mail Hitting Brooke as Leftist," *Berkshire Eagle*, Pittsfield, Massachusetts, June 23, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/530712966>; "Backlash against Brooke," *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/530713073>.

⁸⁶ Ibid.

statewide elections in Massachusetts.”⁸⁷ He genuinely believed in the ability of the Massachusetts voters to rise above their racial views to elect the best candidate for the office of U.S. senator. Although he utilized these statistics for winning state office, national elections during the 1960s were more fraught with political tension, increased ad hominin attacks and smear tactics as demonstrated in the 1960 presidential campaign between Democratic nominee John Kennedy and Republican candidate Richard Nixon. Moreover, Brooke noted, “The voters of this state are so racially blind they re-elected me by 800,000 votes [in the last election].”⁸⁸ Contrary to his perspective, the people were not blind to this issue as demonstrated by the bus boycotts and protests over school integration.⁸⁹ On a broader level, racism characterized the state and national Republican coalitions, which exhibited a lack of concern for black Americans’ needs, especially civil rights. In his analysis, Brooke commented, “You can’t say the Negro left the Republican Party; the Negro feels he was evicted from the Republican Party.”⁹⁰ Indeed, his assessment was correct as the national coalition’s endorsement of Senator Barry

⁸⁷ Donald M. Rothberg, “Negro in the Senate? That Is Next Goal in Brooke’s Swift Rise,” *Kansas City Times* (Kansas City, MO), February 7, 1966, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/63465830>.

⁸⁸ Rothberg, “Negro in the Senate?” *Kansas City Times* (Kansas City, MO), February 7, 1966, accessed February 1, 2020.

⁸⁹ “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020; “Protest De Facto Segregation: Negro Students Boycott Boston Public Schools,” *Carroll Times Daily Herald* (Carroll, IA), June 18, 1963, accessed January 29, 2020; “Boston Faces Boycott over Race Dispute,” *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020; “School Board Picketed Again,” *Boston Globe*, August 19, 1963, accessed January 28, 2020; Associated Press, “Negro State Attorney Would Rather Win Allies,” *Baytown Sun* (Baytown, TX), February 2, 1964, accessed January 29, 2020.

⁹⁰ Rothberg, “Negro in the Senate?” *Kansas City Times* (Kansas City, MO), February 7, 1966, accessed February 1, 2020.

Goldwater in the 1964 presidential election demonstrated a greater embrace of right-wing conservatism while catering to the predominantly white Solid South.⁹¹

Despite these political transformations on the national level, Brooke conducted his Senate campaign with a commitment to factual evidence, fairness, honesty, and respect, never engaging in ad hominem attacks against his opponent, J. Alan McKay, a Boston lawyer who represented the conservative, anti-Brooke faction during the state Republican convention.⁹² McKay was also a founder and national vice-president of the militant, conservative, Republican organization Young Americans for Freedom.⁹³ The archconservative wing of the Massachusetts Republican Party, with McKay as its nominee, supported a hardline policy in the Vietnam War and disagreed with the Supreme Court's decision in the *Miranda* case, which ensured that accused persons were informed of their rights before being questioned by police.⁹⁴ In contrast to his opponent, Brooke not only advocated suspects' Miranda rights but also the convention's position on the Vietnam War and civil rights, a platform that advocated "a free and open society and cited as evidence the support of Republican state legislators for the racial imbalance acts" which "provide[d] that every person have an equal opportunity to a quality education, to

⁹¹ "If Ya Can't Fight 'Em...", *Boston Globe*, August 16, 1964, accessed February 2, 2020; "25,000 Cheer for Barry's Demand for Debate: The Absents," *Boston Globe*, September 25, 1964, accessed April 19, 2020; Rothberg, "Negro in the Senate?" *Kansas City Times* (Kansas City, MO), February 7, 1966, accessed February 1, 2020.

⁹² "Backlash against Brooke," *Berkshire Eagle* (Berkshire, MA), June 25, 1966, accessed February 5, 2020; "Brooke Hopeful of Win," *Portsmouth Herald* (Portsmouth, NH), June 25, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/56638337>.

⁹³ Christopher Lydon, "Brooke Ask GOP to Support Viet Nam Effort," *Boston Globe*, June 16, 1966, accessed April 28, 2020, <https://bostonglobe.newspapers.com/image/433834801>.

⁹⁴ *Ibid.*

live where he pleases and to gain access to employment.”⁹⁵ Brooke’s record of defending civil rights during his two terms in office angered the conservative faction, which was determined to stop his campaign.⁹⁶ The Republican state convention met on June 25, 1966, at the War Memorial Auditorium, in Boston.⁹⁷ Brooke garnered 1,485 votes over 215 votes for McKay during a roll call ballot, thus securing the party’s nomination for the U.S. Senate.⁹⁸ Thereafter, Brooke began campaigning harder against the Democratic nominee, former Governor Endicott Peabody, who had a strong reputation as a civil rights advocate.⁹⁹ Neither of the candidates addressed the subject of civil rights while discussing their positions on various issues with voters.¹⁰⁰ Moreover,

⁹⁵ Lydon, “Brooke Ask GOP Endorse Viet Nam Effort,” *Boston Globe*, June 16, 1966, accessed April 28, 2020; “Liberal Platform Is Strong on Civil Rights,” *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/530713045>, <https://newscomwc.newspapers.com/image/530713059>.

⁹⁶ “Liberal Platform Is Strong on Civil Rights,” *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020; “GOP Delegates Get Mail Hitting Brooke as Leftist,” *Berkshire Eagle* (Pittsfield, MA), June 23, 1966, accessed February 5, 2020; “Backlash against Brooke,” *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020; Kozol to Attorney General, first quarter report, “The Condition of the Civil Rights Division as at 4/15/63,” April 15, 1963, Box 27, EWB Papers, 4; Campbell to Brooke, “Quarterly Report for Period Ending December 31, 1965,” December 31, 1965, Box 27, EWB Papers, 8–10; “GOP Lays Plans to Back Brooke,” *Pittsburgh Courier* (Pittsburgh, PA), July 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/38545809>.

⁹⁷ “Backlash against Brooke,” *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020.

⁹⁸ “Brooke Wins Nomination,” *Progress-Index* (Petersburg, VA), June 26, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/40979509>; Christopher Lydon, “Volpe’s Choice,” under “Sargent Gets Volpe Boost in Winning Second Spot,” *Boston Globe*, June 26, 1966, accessed April 28, 2020, <https://bostonglobe.newspapers.com/image/433813450>.

⁹⁹ John C. Engstrom, “Brooke Says Race Issues Are Hindering His Campaign,” *Raleigh Register* (Beckley, WV), September 29, 1966, accessed February 27, 2020, <https://newscomwc.newspapers.com/image/47995323>; John C. Engstrom, “Brooke Objects to ‘First Negro’ Label in Massachusetts,” *Daily Times* (New Philadelphia, OH), September 29, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/86054494>; Arthur Edison, “The Battle in Massachusetts: Negro Is G.O.P. Hope against Kennedy Cohorts,” *Kansas City Times* (Kansas City, MO), October 24, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/59529741>.

Brooke utilized the time tested method of bipartisan networking with Republicans, Independents and Democrats to strengthen his political support.

Throughout his campaign, Brooke downplayed the issue of race, which was a significant factor in the election and deterred many Massachusetts residents from voting for him.¹⁰¹ Nevertheless, his moderate views on civil rights, as well as the ability to directly address racial issues during television appearances, garnered the respect and votes of uncertain constituents because the attorney general distanced himself from some of the more militant civil rights activists.¹⁰² He boldly “condemned by name people at both extremes of the civil rights issue, including [then–Georgia governor–elect] Lester Maddox and Stokely Carmichael.”¹⁰³ However, Brooke’s moderate political views, in addition to being affiliated with Republicans, caused some consternation among younger, more militant black Americans who despised the gradual process of federal intervention in general and the Republican Party, in particular. Racial extremists, regardless of ethnicity, hindered the Civil Rights Movement’s progress through violent rhetoric and inflammatory actions. Thus, Brooke “made it clear he was opposed to violence as a way of achieving civil rights, and he condemned the advocates of black power” because “[h]is

¹⁰⁰ Engstrom, “Brooke Says Race Issues Are Hindering His Campaign,” *Raleigh Register* (Beckley, WV), September 29, 1966, February 27, 2020; Engstrom, “Brooke Objects to ‘First Negro’ Label in Massachusetts,” *Daily Times* (New Philadelphia, OH), September 29, 1966, accessed February 5, 2020; Edison, “The Battle in Massachusetts,” *Kansas City Times* (Kansas City, MO), October 24, 1966, accessed February 5, 2020.

¹⁰¹ Becker and Heaton, “The Election of Senator Edward W. Brooke,” 352–356; Engstrom, “Brooke Says Race Issues Are Hindering His Campaign,” *Raleigh Register* (Beckley, WV), September 29, 1966, accessed February 27, 2020; “‘First Negro’ Label Bugs Brooke; Race Clouds Campaign Issues, He Says” *Chicago Daily Defender (Daily Edition)*, September 29, 1966.

¹⁰² Becker and Heaton, “The Election of Senator Edward W. Brooke,” 354, 358.

¹⁰³ *Ibid.*, 358.

position was that of a moderate trying to bring together those whose viewpoints on the civil rights issue were divided.”¹⁰⁴

Brooke’s ability to distance himself from various civil rights leaders appealed to voters throughout the state while strengthening his campaign platform of fiscal responsibility, the creation of a more equal, racially balanced society, government reform, a peaceful resolution to the Vietnam War and protection of everyone’s civil liberties from an encroaching federal government, problems that concerned Massachusetts residents.¹⁰⁵ Brooke’s commitment to the Civil Rights Movement remained strong because he “declared his allegiance to Dr. Martin Luther King and other civil rights leaders[.]”¹⁰⁶ He knew that most of the white voters did not agree with the social justice movement as demonstrated by the Boston School Committee’s opposition to the Freedom Stay–Out in June 1963.¹⁰⁷ Throughout the U.S. Senate race, Brooke “asserted on many occasions that he does not consider himself a [civil] rights fighter.”¹⁰⁸

¹⁰⁴ Becker and Heaton, “The Election of Senator Edward W. Brooke,” 358.

¹⁰⁵ “Brooke Wants ‘Open Society’ with Race Bias Eliminated,” *North Adams Transcript* (North Adams, MA), August 2, 1966, accessed February 5, 2020; “Brooke Would Negotiate for Peace in Viet Nam,” *Berkshire Eagle* (Pittsfield, MA), August 19, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/531306512>; “Senatorial Candidate Sees Tax Hike or Spending Cut as Cure for Tight Money,” *Oil City Derrick* (Oil City, PA), August 29, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/68674042>; “Brooke: Hold Line in Viet Nam; Don’t Escalate,” *Berkshire Eagle* (Pittsfield, MA), August 29, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/531309090>; Freedom Stay Out Steering Committee, “Freedom Stay–Out Informational Handout,” promotional materials, June 6, 1963, Box 195, Folder 8, MJFC Records.

¹⁰⁶ Betty Washington, “Brooke Campaign Won’t Be Centered on Civil Rights,” *Chicago Defender* (National Edition), January 1, 1966.

¹⁰⁷ “Brooke Asked to Head Off Boston Protest: Negroes Want More Integration in Schools,” *Berkshire Eagle*, June 15, 1963, accessed January 29, 2020; “School Boycott Arouses Boston,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020; “Boston Faces Boycott over Race Dispute,” *Cumberland Evening Times*, June 18, 1963, accessed January 29, 2020; Healy, “Governor ‘Raises Sword,’” under “Peabody, Gartland... They Almost Broke Impasse,” *Boston Globe*, June 19, 1963, accessed April 16, 2020.

The strategy of political distancing worked because his campaign relied on Brooke's capability to talk with voters directly and his strong belief that the Massachusetts electorate would vote for the best candidate based on his qualities.

Although the white population generally perceived itself as more liberal on racial matters than its southern counterparts, the pre-election statistics tell a different story.

In August 1966, 60 per cent of the Massachusetts public [3,321,000 people] disapproved of a state law providing for withholding of state aid to schools judged to be racially imbalanced. Only 23 per cent of the public [1,273,050 people] approved of the law. As another example, 68 per cent of the Massachusetts public [3,763,800 residents] believed that a person should be permitted by law to refuse to sell his house to a Negro, as against only 17 per cent [940,950 residents] who believed the law should require a person to sell his house to anyone who offered to buy it, regardless of race.¹⁰⁹

The aforementioned pre-election data reflected the sentiments of many Massachusetts voters regarding school integration and fair housing. Brooke knew that much of the white electorate had mixed feelings about the Civil Rights Movement and generally agreed with the notion of equality on a limited basis.¹¹⁰ Thus, he reminded the white Massachusetts electorate, as well as the larger black community, that "I do not intend to be a national civil rights leader in the Senate. I have never held myself out to be one and I don't think

¹⁰⁸ Washington, "Brooke Campaign Won't Be Centered on Civil Rights," *Chicago Defender* (National Edition), January 1, 1966.

¹⁰⁹ Becker and Heaton, "The Election of Senator Edward W. Brooke," 353; "Massachusetts Population, 1900–2019," Macrotrends, accessed May 26, 2020, <https://www.macrotrends.net/states/massachusetts/population>. These statistics weighed heavily on Brooke's mind and led him to diligently co-sponsor fair housing legislation after he was elected to the Senate.

¹¹⁰ Becker and Heaton, "The Election of Senator Edward W. Brooke," 352–356; Max Lerner, "Would-Be-Rulers: Brooke Defeat Would Be Mainly Due to Boston White Backlash," *North Adams Transcript* (North Adams, MA), October 21, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/54923413>.

all Negroes should be civil rights leaders.”¹¹¹ While remaining cognizant of the white voters’ racist views, Brooke’s commitment to civil rights did not diminish.¹¹²

Nevertheless, he knew which issues to discuss when talking with certain constituencies.

When the election ended on November 8, 1966, Brooke received 1,213,473 votes to Peabody’s 774,761 votes and became the first popularly elected, African American senator since Reconstruction.¹¹³ Brooke won by a plurality of 438,712 votes. His successful campaign proved that people could set their racial and political differences aside to vote for the best candidate.¹¹⁴ In his acceptance speech, Brooke commented that he would go to Washington, “to do all that I can to bring peace on earth, [and] ... stop the war in Viet Nam. ... stabilize the economy and bring about responsible society” while

¹¹¹ John C. Engstrom, “‘No Civil Rights Leader,’ Brooke Eyes Vietnam,” *Chicago Daily Defender (Daily Edition)*, November 4, 1966.

¹¹² “Liberal Platform Is Strong on Civil Rights,” *Berkshire Eagle* (Pittsfield, MA), June 25, 1966, accessed February 5, 2020; “Brooke Wants ‘Open Society’ with Race Bias Eliminated,” *North Adams Transcript* (North Adams, MA), August 2, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/54906678>; Engstrom, “Brooke Says Race Issues Are Hindering His Campaign,” *Raleigh Register* (Beckley, WV), September 29, 1966, accessed February 27, 2020; Engstrom, “Brooke Objects to ‘First Negro’ Label in Massachusetts,” *Daily Times* (New Philadelphia, OH), September 29, 1966, accessed February 5, 2020.

¹¹³ “MA US Senate Race,” Our Campaigns, accessed February 21, 2020, <https://www.ourcampaigns.com/RaceDetail.html?RaceID=7096>; “No ‘Black Power’ Pattern in Notable Negro Firsts,” *Eureka Humboldt Standard* (Eureka, CA), November 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/21314842>; Jackie Robinson, “A Man We Can Be Proud Of,” *New York Amsterdam News*, November 26, 1966.

¹¹⁴ “MA US Senate Race,” Our Campaigns, accessed February 21, 2020; Robinson, “A Man We Can Be Proud Of,” *New York Amsterdam News*, November 26, 1966; “The Brooke Celebration,” *Fitchburg Sentinel* (Fitchburg, MA), November 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/45793927>; “Brooke Proud Negro, But ‘I Ran as a Man,’” *Fitchburg Sentinel* (Fitchburg, MA), November 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/45793927>; “Edward W. Brooke, First Negro Elected to United States Senate since Reconstruction,” *Eureka Humboldt Standard* (Eureka, CA), November 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/21314842>; “Edward Brooke: Negro Elected to U.S. Senate,” *Xenia Daily Gazette* (Xenia, OH), November 9, 1966, accessed February 5, 2020, <https://newscomwc.newspapers.com/image/39496190>.

“... do[ing] all to give equal opportunity to all Americans for housing, education and equal justice under [the] law.”¹¹⁵ In spite of the historic victory, Brooke was aware of the prevalent racist views in Massachusetts and equally committed to representing the constituents well while subsequently striving to eliminate the last vestiges of Jim Crowism in Congress.¹¹⁶ Despite the flagrant opposition to civil rights, Senator-elect Brooke was determined to create a better living for black Americans.¹¹⁷

Some black Americans wondered how Brooke could be a Republican, knowing the national coalition’s behavior toward their people. For example, an unknown writer penned these words just after Brooke won election to the Senate. The author noted how,

The Massachusetts Republican emphasized in his campaign that he was involved in neither ‘riots’ nor ‘demonstrations,’ as if the two were comparable. Denying that he had any association with the civil rights movement, he nevertheless had the audacity to urge it to ‘remain lawful.’¹¹⁸

Although Brooke’s statements appeared politically expedient, the author seemed to not understand that the Massachusetts electorate was overwhelmingly white and a small number of black Democratic voters lived in Boston.¹¹⁹ Thus, Brooke could not make civil rights the focal point of his campaign because he would have risked ostracizing the white

¹¹⁵ “The Brooke Celebration,” *Fitchburg Sentinel* (Fitchburg, MA), November 9, 1966, accessed February 5, 2020.

¹¹⁶ Becker and Heaton, “The Election of Senator Edward W. Brooke,” 352–356; “Brooke Wants ‘Open Society’ with Race Bias Eliminated,” *North Adams Transcript* (North Adams, MA), August 2, 1966, accessed February 5, 2020.

¹¹⁷ Robinson, “A Man We Can Be Proud Of,” *New York Amsterdam News*, November 26, 1966.

¹¹⁸ T.W.T., “Mixed Feelings about Brooke,” *Chicago Defender (National Edition)*, December 3, 1966.

¹¹⁹ Morrison, “Atty. General Could Someday Be a Governor,” under “Negro Political Progress in New England,” *Ebony*, October 1963, 25, accessed March 31, 2020.

voters, leading them to support former governor Endicott Peabody.¹²⁰ While some black Americans disdained Brooke's electoral victory, others responded with enthusiasm and excitement that their people would finally receive justice after years of discriminatory treatment. An editorial in *Jet* Magazine noted how,

Democrat Negroes propagandize that Brooke is a conservative and will be removed from the brother. ... [F]or the first time, a Negro, GOp, that is, will be in position to spot the weaknesses and the brushoffs of the Administration and criticize same without threat of retaliation. He could become the key Negro in Washington politics in a fast expanding civil rights front ...¹²¹

Indeed, Brooke wanted to use his new position to not only hold the Johnson Administration accountable for its failure to protect civil rights but also encourage the President to take a firmer stance against other racial injustices, such as comprehensive fair housing legislation, unemployment and school segregation.¹²² Thus, he presented himself as a subtle revolutionist who would diligently serve the people of Massachusetts and the nation. Brooke denounced riots because violence, especially by extremist groups,

¹²⁰ Engstrom, "Brooke Says Race Issues Are Hindering His Campaign," *Raleigh Register* (Beckley, WV), September 29, 1966; Engstrom, "Brooke Objects to 'First Negro' Label in Massachusetts," *Daily Times* (New Philadelphia, OH), September 29, 1966, accessed February 5, 2020; Edison, "The Battle in Massachusetts," *Kansas City Times* (Kansas City, MO), October 24, 1966, accessed February 5, 2020; Becker and Heaton, "The Election of Senator Edward W. Brooke," 352–356.

¹²¹ "Ticker Tape U.S.A.," *Jet*, November 24, 1966, 16, accessed January 10, 2020, https://books.google.com/books?id=krgDAAAAMBAJ&pg=PA14&dq=Edward+W.+Brooke&hl=en&sa=X&ved=2ahUKEwi57MyXo_jmAhWEZd8KHY-KBt0QuwUwAHoECAMQBQ#v=onepage&q=Edward%20W.%20Brooke&f=false.

¹²² Edward W. Brooke, "Negroes and the Open Society," statement, Cong. Rec., 89th Cong., 2d sess., 1966, vol. 112, pt. 13: 17865–17868, GovInfo, accessed March 27, 2020; "Edward Brooke Sounds Off with Strong Rights Report," *Jet*, August 18, 1966, 8, accessed January 10, 2020, https://books.google.com/books?id=M7oDAAAAMBAJ&pg=PA8&dq=Edward+W.+Brooke&hl=en&sa=X&ved=2ahUKEwi57MyXo_jmAhWEZd8KHY-KBt0QuwUwA3oECAQQBQ#v=twopage&q&f=false; "Ticker Tape U.S.A.," *Jet*, November 24, 1966, 16, accessed January 10, 2020.

was never the answer to the nation's socioeconomic and racial problems.¹²³ He genuinely believed that civil dialogue, sound reason and a moderate political approach was necessary in the battle for justice and equality. As Brooke prepared to enter the Senate, he was determined to serve the people well by representing the interests of all his constituents instead of acquiescing to the demands of elites, big businesses and upper middle class white Americans who felt comfortable protecting their sense of entitlement. Brooke "wanted to be a problem solver" who was "[n]ot bound by ideological, philosophical, or party constraints."¹²⁴ Civil rights remained a focal point of his career because all citizens, especially ethnic minorities, the politically disenfranchised and socioeconomically disadvantaged groups, deserved protection, as defined within the Thirteenth, Fourteenth and Fifteenth Amendments.¹²⁵ The national Republican coalition and mainstream American society both endured radical transformations in the late nineteen sixties. During this tumultuous period, Brooke entered the Senate ready to help reform the federal government, ensure that the Republican Party did not further abuse the American people's trust and defend civil rights as black Americans continued experiencing injustices.¹²⁶

¹²³ Becker and Heaton, "The Election of Senator Edward W. Brooke," 358; "Brooke Opposes Any Supremacy, Black or White," *North Adams Transcript* (North Adams, MA), July 2, 1963, accessed January 29, 2020.

¹²⁴ Brooke, interview, October 31, 2001, 56.

¹²⁵ Pete Daniel, *The Shadow of Slavery: Peonage in the South, 1901–1969* (Urbana, IL: University of Illinois Press, 1972); Brooke, *The Challenge of Change*, 35–50, 64–77, 140–147, 170–183, 184–215.

¹²⁶ Brooke, *The Challenge of Change*, 35–50, 64–77, 148–159, 170–183, 184–215.

CHAPTER 3: CREATING A BETTER LIVING FOR AFRICAN AMERICANS

Senator Edward W. Brooke was a subtle revolutionist. He was the first popularly elected, African American senator since Reconstruction. During his twelve year congressional tenure (1967–1979), in which he represented the commonwealth of Massachusetts, Brooke helped pass or co-sponsored several legislative acts, such as the Civil Rights Act of 1968, most famously known as the Fair Housing Act, in the wake of Dr. Martin Luther King, Jr.’s assassination on April 4, 1968.¹ Similarly, as a moderate Republican, he navigated the complexities of politics and race within the halls of Congress and the black community.² Thus, Brooke “reject[ed] both the extreme left and the extreme right” while remaining “a centrist in [his] thinking ...”³ The senator’s stance on civil rights made him somewhat of an idiosyncrasy within the Civil Rights Movement and among many younger black activists, such as Stokely Carmichael, who advocated a more militant response to racial tensions in American society as the movement fragmented into competing factions.⁴ The 1968 Fair Housing Act led to a gradual change in federal and state policies regarding buying and selling of homes in residential, as well as public, areas. Brooke’s commitment to justice, equality, civil rights and fair housing

¹ Jason Sokol, “Forerunner: The Campaigns and Career of Edward Brooke,” *The Annals of the American Academy of Political and Social Science* 637 (Sept. 2011): 48.

² Ibid., 39–41, 43–45, 47–49.

³ Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

⁴ Sokol, “Forerunner,” 39–41, 43–45, 47–49.

influenced his collaboration with Minnesota Democratic senator Walter Mondale to co-sponsor the bill, which passed despite opposition from the Southern Bloc in the Senate.⁵

In his political treatise titled *The Challenge of Change: Crisis in Our Two-Party System*, Brooke noted how, “So marked is the present weakness of the Republican Party that the very foundation of our two-party system has become structurally undermined[,]” further commenting, “[w]hen one of our major parties is dangerously weakened, its strengthening becomes a matter of national, rather than purely partisan, concern.”⁶ He sought to reestablish a middle way in the Republican Party – the need for bipartisanship – because the national coalition was divided in its loyalties.⁷ Many congressmen reluctantly followed Senator Barry Goldwater, an advocate of a more extremist approach in the Vietnam War, the middle and upper classes, elites, and big business while opposing labor unions and civil rights.⁸ Other elected Republican officials, including Brooke, recognized the party’s need to rediscover the principles of a competitive free market economy, full citizenship, strong advocacy for civil rights, enforcement of the Thirteenth, Fourteenth,

⁵ Jordan Alexander, “A Decent Living: An Analysis of Senator Edward W. Brooke, the Passage of the 1968 Fair Housing Act, and its Influence on the Housing Markets in Memphis, and Knoxville, Tennessee,” research paper, Middle Tennessee State University, Murfreesboro, TN, December 12, 2018, 1. Chapter two was originally produced as a research paper in a graduate level class titled Seminar in American Architectural History.

⁶ Edward W. Brooke, introduction to *The Challenge of Change: Crisis in Our Two-Party System* (Boston: Little, Brown, and Company, 1966), xi.

⁷ *Ibid.*, 40–50.

⁸ *Ibid.*, 12–18.

and Fifteenth Amendments, support for the working, as well as impoverished, class of American citizens, and reform within the federal government.⁹

As Brooke noted in his treatise, Republican legislators in Congress seemed to resist change, international alliances and preserving the rights of all Americans in exchange for more votes, corporate sponsors and catering to two interest groups – white, upper middle class Americans and elite businessmen – whose sense of entitlement, privilege and patriarchy felt threatened by the ever looming crises of civil rights, alleged economic downturns, women’s rights and black Americans’ desires for justice.¹⁰ He wrote his treatise in the aftermath of Senator Barry Goldwater’s failed 1964 presidential campaign, which laid the foundation for the Republican Party’s embracing of the white South while abandoning the cause of civil rights as the political coalition adopted an increasingly conservative stance on domestic and foreign policy issues.¹¹ Thus, Brooke advocated that the national political coalition return to its roots of nineteenth and early twentieth century Republicanism espoused by Presidents Abraham Lincoln and Theodore Roosevelt, where the party defended working-class Americans, black Americans, immigrants, and the poor while ardently demonstrating the virtues of thrift, hard work, integrity, and loyalty.¹² In his analysis of the national coalition, Brooke noted, “... there

⁹ Brooke, *The Challenge of Change*, 65–74. The Republican presidents Abraham Lincoln and Theodore Roosevelt, whom Brooke greatly admired, espoused these principles, which generally influenced their presidential administrations.

¹⁰ *Ibid.*, 37–39.

¹¹ Jeffrey J. Matthews, “To Defeat a Maverick: The Goldwater Candidacy Revisited, 1963–1964,” *Presidential Studies Quarterly* 27.4 (Fall 1997): 662–673; Brooke, *The Challenge of Change*, 35–50, 64–77, 140–147, 170–183, 184–215; Michael F. Hayes, “The Republican Road Not Taken: The Foreign–Policy Vision of Robert A. Taft,” *Independent Review* 8.4 (Spring 2004): 509–523.

¹² Brooke, *The Challenge of Change*, 67–77.

has always existed in Republicanism a strong strain of liberalism, modernism, progressivism, intellectualism – of capacity and eagerness to lead the nation by working with the forces of social change.”¹³ The Republican Party’s initial focus was to combat the Democrats’ excessive infringements on individual freedoms. From Brooke’s perspective, the national party gradually sacrificed its commitment to socioeconomic egalitarianism and civil rights in attempts to obtain favor with large corporations, social elites and upper middle–class whites who, by adopting a more nativist perspective, increasingly viewed the poor and working classes, black Americans, European immigrants and Asian Americans as threats to American society that needed to be eliminated.¹⁴

A firm proponent in the American ideal of self–help, Brooke proposed numerous solutions to various national problems. He advocated extending minimum wage through enhanced legislation for the poor and working classes, expanding the unemployment insurance system, increasing elderly Americans’ fixed incomes, reforming the healthcare system, including Medicare, for all Americans, revising the tax laws (which would face considerable opposition within the Republican Party because corporate executives, upper middle–class whites and social elites would experience major deductions to their incomes), and creating stronger civil rights legislation.¹⁵ He also supported revision of the educational system by advocating legislation to make school year round, thereby

¹³ Brooke, *The Challenge of Change*, 75.

¹⁴ *Ibid.*, 40–50, 64–77.

¹⁵ *Ibid.*, 140–147, 148–159, 160–169, 184–215.

preparing students and Americans academically to compete in an increasingly global marketplace, and creating protective consumer legislation for the poor, working and underprivileged classes of Americans, policies that embodied this long-standing tradition of self-help.¹⁶ “To help people help themselves,” Brooke noted, “we must in the first place remove the obstacles in our national life which tend to keep the poor, racially oppressed and slum-dwellers where they are,” further commenting, “[w]e must tear down the barriers in our social, political and economic institutions that help keep Americans disadvantaged instead of helping them break free of their disadvantages.”¹⁷ He knew that if the Republican Party wanted to regain the confidence and respect of the American people, the national coalition needed to reassess its priorities, invest in the people’s needs, create new legislation for the benefit of all citizens and renew its commitment to racial and socioeconomic justice, actions that would demonstrate the organization’s ability to deal with these seemingly insurmountable challenges. In order for the Republican Party to regain its reputation as a coalition that represented common American citizens, its leaders had an opportunity to rediscover the significance of bipartisanship, which was greatly needed in the struggle for justice and equality as the Civil Rights Movement waned in the late nineteen sixties.¹⁸

In 1966, President Lyndon B. Johnson’s administration sent a proposal for an inclusive housing bill to Congress, signifying a belated attempt to outlaw racial

¹⁶ Brooke, *The Challenge of Change*, 140–147, 148–159, 160–169, 184–215.

¹⁷ *Ibid.*, 186.

¹⁸ *Ibid.*, 140–147, 148–159, 160–169, 184–215, 266.

discrimination in the national housing market.¹⁹ The House Judiciary Committee simplified the rhetoric of the Johnson Administration's proposal while adding many exemptions to the legislation because various congressmen did not want to lose the votes and respect of the white South.²⁰ Although the House of Representatives successfully passed a modified version of the bill, the Senate filibustered the Johnson proposal. Nevertheless, the President demonstrated a commitment to getting fair housing legislation passed in Congress as part of his Great Society program.²¹ Brooke's arrival in the Senate would help ensure that the President's vision for a comprehensive housing law became reality.

Edward W. Brooke's inauguration on January 10, 1967, was the beginning of a distinguished Senate career focused on government reform, bipartisanship, protection of civil rights and restoration of the people's trust in the federal government during a tenuous moment in the nation's history as Americans struggled to define citizenship in an atmosphere characterized by prejudice, violence and hatred. Vice President Hubert Humphrey administered the oath of office to Brooke. As he began his Senate career, Brooke "wanted to be a problem solver" who was "[n]ot bound by ideological,

¹⁹ Lyndon B. Johnson, "Special Message to the Congress Proposing Further Legislation to Strengthen Civil Rights," in *Public Papers of the Presidents of the United States: Lyndon B. Johnson: 1966, 467–469 (1967)*, cited in Robert G. Schwemm, "Discriminatory Housing Statements and Section 3604(c): A New Look at the Fair Housing Act's Most Intriguing Provision," *Fordham Urban Law Journal* 187 (2001): 197.

²⁰ Robert G. Schwemm, "Discriminatory Housing Statements and Section 3604(c): A New Look at the Fair Housing Act's Most Intriguing Provision," *Fordham Urban Law Journal* 187 (2001): 197–198.

²¹ *Ibid.*, 197–198, 200–202.

philosophical, or party constraints.”²² Initially, the new senator served on the Banking and Currency Committee, allowing him to positively influence the development of federal housing initiatives for poor Massachusetts residents, which mattered greatly to him.²³ Brooke also served on the Aeronautical and Space Sciences Commission. As he represented the people of Massachusetts, Brooke approached various issues with sensitivity, respect and honesty. Nevertheless, he realized that

as the only African American senator, I was also viewed by millions of black Americans, in every state, as ‘their’ senator. Out of the one hundred of us [senators], I was often the one to whom African Americans, Hispanics, and members of other minorities turned to for help. I was determined to serve all the people, black, brown, and white. I intended to tackle racism and other national priorities as well. ... I thought I could help shatter stereotypes that had lived on since slavery.²⁴

However, he soon discovered the immense difficulties to easing racial tensions and changing white southerners’ perceptions of black Americans. Southern congressmen vigorously defended legalized segregation, as well as their racist constituents’ violent actions, under the guise of protecting the region and culture from federal intervention, as well as communist revolutionaries.²⁵

Brooke’s commitment to bipartisanship, egalitarianism and civil rights, which he defined in *The Challenge of Change*, influenced his work to ensure that black Americans

²² Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 56.

²³ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 151.

²⁴ *Ibid.*, 153.

²⁵ *Ibid.*, 149–150, 153.

had access to fair housing, healthcare, education and full employment.²⁶ He co-founded “the Wednesday Club, which was a group of Republican moderates ... [that would] discuss legislation[,] ... would vote as a bloc ... get a lot of legislation [passed], and ... stop a lot of legislation from being passed.”²⁷ As he familiarized himself with the new political office, Brooke gladly discussed his ideas with like-minded Republican legislators who also wanted to see the national coalition return to its historic status as the party of all Americans. He also observed that “America’s dismally poor, underprivileged nonwhites and inhabitants of slums are the avoided Americans. ... But racial oppression and the problems of poverty and slums do not stop at the close of day. If anything, they increase and intensify.”²⁸ In addition, Brooke’s willingness to hold Republican leaders accountable for the nation’s failures regarding civil rights injustices and perpetuation of Jim Crowism created enemies within the party.²⁹ When the Senate convened for a new session in early 1967, Senator Walter Mondale and Senator Brooke co-sponsored a bill, Senate (S) Bill 1358, that sought to cooperate with the President’s agenda and incorporate the House Judiciary Committee’s recommendations regarding the Johnson Administration’s housing proposal.³⁰ Knowing that the Southern Bloc would defeat weak

²⁶ Brooke, *The Challenge of Change*, 148–159, 160–169, 185–215, 266; Leah Wright Rigueur, *The Loneliness of the Black Republican: Pragmatic Politics and the Pursuit of Power* (Princeton, NJ: Princeton University Press, 2015), 100–104.

²⁷ Brooke, interview, October 31, 2001, 71.

²⁸ Brooke, *The Challenge of Change*, 201.

²⁹ Rigueur, *The Loneliness of the Black Republican*, 100–104.

³⁰ Schwemm, “Discriminatory Housing Statements and Section 3604(c),” 202–203; Jonathan Zasloff, “The Secret History of the Fair Housing Act,” *Harvard Law Journal on Legislation* 53.1 (2016): 260–261.

civil rights legislation, the co-sponsors created a strong bill to challenge southern Democrats' power. The Senate held hearings on their proposed legislation, which ultimately languished.³¹ Frustrated with their defeat, Mondale and Brooke remained committed to the bill's passage when they had enough cloture votes against the southern filibuster.³²

Democratic legislator Sam Ervin, a member of the Southern Bloc, invited Brooke to serve on the Subcommittee of Separation of Powers, a division of the Judiciary Committee. In a May 1967 letter to the new senator, Ervin, as chairman of the subcommittee, informed Brooke that the panel "was established to conduct a two-year study of the constitutional division of powers among the legislative, executive and judicial branches of the Federal Government. The other members of the Subcommittee are Senators McClellan, Burdick, Dirksen, and Hruska."³³ McClellan, Burdick, and Hruska were all Democrats while Dirksen was the only other Republican serving on the

³¹ Zasloff, "The Secret History of the Fair Housing Act," 260–261. Senator Sam Ervin led the Southern Bloc in filibustering the bill. Therefore, liberal, northern Democrats and liberal, northern Republicans could not get enough votes for cloture to override the filibuster. The Southern Bloc defeated the cloture vote fifty-five nays to thirty-seven yeas. Thereafter, Senator Mike Mansfield, the Majority Leader, and Senator Everett Dirksen, the Minority Leader, attempted to table (postpone) the legislation, a conventional method when facing a filibuster because a tabled bill cannot be blocked. However, the Senate voted fifty-eight nays to thirty-four yeas against tabling the legislation, causing the proposal to languish without further action.

³² Schwemm, "Discriminatory Housing Statements and Section 3604(c)," 202–203; Zasloff, "The Secret History of the Fair Housing Act," 260–261; "Cloture Vote," "Second Cloture Vote," "Third Cloture Vote," under "Housing," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 24th ed., 14-152-14-165 (Washington, D.C.: Congressional Quarterly, 1969), accessed November 27, 2018, <http://library.cqpress.com/cqalmanac/cqal68-1283454>. The coalition of liberal Democrats and Republicans in the Senate failed to gain the necessary votes for cloture on two more attempts. Thus, Senators Brooke and Mondale had to wait for the right opportunity to present their bill on the Senate floor.

³³ Senator Sam J. Ervin, Jr. to Senator Edward W. Brooke, May 17, 1967, Box 180, Edward William Brooke Papers, Manuscript Division, Library of Congress, Washington, D.C., 1 (hereafter known as EWB Papers).

committee. Ervin wanted the Subcommittee, “through hearings and reports,” to not only “clarify the confusion that has clouded the division of powers and duties among the three branches of our mushrooming Federal Government” but also “suggest legislative remedies for those encroachments which seem to endanger the continuing vitality of our constitutional system of government ...”³⁴ Therefore, he and the other members of the Subcommittee identified four areas of discussion:

- (1) The propriety of congressional utilization of the ‘committee veto’ as a means of legislative oversight of executive enforcement of the laws.
- (2) The problem of the exercise of ‘emergency powers’ by the President in the absence of authorizing legislation by the Congress.
- (3) The question of the need for more effective congressional oversight of the construction of legislation by the judicial branch and the administrative agencies.
- (4) The question of the extent to which the executive branch may ignore mandates contained in congressional legislation.³⁵

Thus, if Brooke served on the Subcommittee, he might have been a moral compass for the panel while defending black Americans, whose civil rights were being abused by a lackadaisical federal government and ignored by white, southern Democratic legislators such as Ervin. Moreover, Senator Ervin’s paternalism, patriarchy and racism toward black Americans was a paradox with his desire to uproot any traces of communism, combat the federal government’s intrusion into Americans’ civil liberties and reassess the three branches of government as a means of educating citizens.³⁶ Instead

³⁴ Senator Ervin to Senator Brooke, May 17, 1967, Box 180, EWB Papers, 1.

³⁵ *Ibid.*, 1–2.

³⁶ Karl Campbell, *Sam Ervin, Last of the Founding Fathers* (Chapel Hill: University of North Carolina Press, 2007), 10, 21, 57–58, 59–61, 83–86, 108–131, 132–160, 177, 204–205, 233–235, 299, 302.

of being a noble patriot, he was a conservative tyrant fearful of social change who wielded his power to keep black Americans in their ascribed place within the Jim Crow system. Thus, the black community began rioting nationwide to gain the attention of the federal government, mainstream American society and the media.

The summertime urban riots of 1965–1968 had many causes. For example, mainstream American society expressed greater disdain for the Civil Rights Movement as black Americans continued protesting the denial of their civil rights. Moreover, many Republican legislators still treated black Americans and other ethnic minorities from a paternalistic, patriarchal aspect while disregarding their political involvement, which Brooke discussed in his treatise.³⁷ In addition, the federal government’s lackadaisical response to civil rights injustices angered the black community nationwide. To address the growing racial disparities, the National Advisory Commission on Civil Disorders, generally known as the Kerner Commission, convened that summer, at President Lyndon B. Johnson’s behest, to examine the causes behind the deadly riots.³⁸ The commission’s report noted that “our nation is moving toward two societies – one black, one white – separate and unequal. ... Discrimination and segregation have long permeated much of American life” and “threaten the future of every American.”³⁹ The report’s strong

³⁷ Brooke, *The Challenge of Change*, 152–159.

³⁸ “Report of the National Advisory Commission on Civil Disorders: Summary of Report,” 1–26, Eisenhower Foundation, accessed October 30, 2018, www.eisenhowerfoundation.org/docs/kerner.pdf; Brooke, *Bridging the Divide*, 172–173; Rigueur, *The Loneliness of the Black Republican*, 127–128. President Johnson personally asked, or appointed, Brooke to serve on the commission. With the help of a massive staff, the committee members wrote an approximately six hundred–page report that recommended radical changes to facilitate reform in employment, education, urban areas, police tactics, healthcare, and public housing following the 1967 riots. The recommendations, direct tone and length of the report intimidated President Johnson, who did not incorporate the findings into his Great Society program.

language forced the nation to confront its racial past. Similarly, committee members wanted all American citizens to set aside their prejudice and malice while striving toward “the realization of common opportunities for all within a single society” which would “require a commitment to national action ... new attitudes, new understanding, and, above all, new will.”⁴⁰

Brooke served on the Kerner Commission in a dual role as a U.S. senator and civil rights leader. Roy Wilkins, the executive secretary of the NAACP and well-known civil rights activist, was the other appointee.⁴¹ The bipartisan commission included Democrats, Republicans, a woman, business leaders, a city mayor, and the police chief of Atlanta, Georgia, to demonstrate the President’s commitment to law and order.⁴² Interestingly, Johnson did not appoint local representatives from the damaged communities, young adults, or any other ethnic minorities, including Asian Americans and Hispanics, who were also victims of the rioting, to the commission because he wanted to demonstrate solidarity among his tenuous political alliance.⁴³ Unbeknownst to many observers, he selected people who would not criticize his administration of the Vietnam War or the lofty goals of his Great Society program.⁴⁴ To the President’s

³⁹ “Report of the National Advisory Commission on Civil Disorders,” 1, accessed October 30, 2018.

⁴⁰ Ibid.

⁴¹ Steven M. Gillon, *Separate and Unequal: The Kerner Commission and the Unraveling of American Liberalism* (New York: Basic Books, 2018), 47–49.

⁴² Ibid., 43–54.

⁴³ Ibid., 54.

⁴⁴ Ibid., introduction to *Separate and Unequal*, xi–xiv.

chagrin, Brooke was not a “yes” person. As a former attorney general, Brooke knew the importance of making hard decisions and standing on his convictions. Although he did not participate in many of the commission’s meetings, due to traveling in Africa on a goodwill tour, Brooke nevertheless contributed to the report’s findings with his keen legal mindset, knowledge of history, and experiences with Jim Crowism during World War II.⁴⁵

Former Senator Fred Harris, a moderate Democrat and the last living member of the commission, recollected that “Brooke could be counted on to support measures to prevent discrimination.”⁴⁶ During his tenure on the Kerner Commission, Harris was concerned if Brooke “would approve of costly programs needed to rebuild the nation’s cities” because of the Republican legislator’s convictions regarding fiscal responsibility.⁴⁷ Harris’s concerns reflected a shift in U.S. politics during the late 1960s as more white Americans became increasingly hostile toward the Civil Rights Movement’s victories. In addition, the transition in mainstream American society demonstrated greater apathy for racial injustices and black Americans’ socioeconomic oppression. After touring Detroit in the aftermath of the riot, Senator Brooke spoke at a news conference, noting that the seemingly insurmountable challenges of overcoming racial injustices, meeting residents’ needs and rebuilding the northern metropolis, as well as other damaged cities, “will ‘take a massive effort similar to the Marshall Plan after World War II to make a dent’ on urban

⁴⁵ Gillon, *Separate and Unequal*, 48–49.

⁴⁶ *Ibid.*, 61.

⁴⁷ *Ibid.*

problems.”⁴⁸ Despite Harris’s concerns, Brooke advocated the use of federal funding to alleviate the poverty and suffering throughout urban areas.⁴⁹ Moreover, he represented the moderate wing of an increasingly conservative Republican Party which “should have a heart as well as a head and recognize the fact that there are things that people can’t do for themselves, and therefore Government must do it for them.”⁵⁰

In its analysis of the summer race riots, the commission observed how, “The 1967 disorders, as well as earlier disorders of the recent period, involved action within Negro neighborhoods against symbols of white American society – authority and property – rather than against white persons.”⁵¹ Black Americans living in northern cities, who were “... sick and tired of being sick and tired,” decided to retaliate against the oppressive racial system and forcefully demonstrated a strong desire to reclaim their civil rights.⁵² Therefore, rioting seemed to be the most feasible method to gain the attention of mainstream American society, the media and the federal government until their needs were met.⁵³ During their investigations, the commissioners conducted over 1,200

⁴⁸ “Brooke Feels Detroit’s Pulse; Fears More Riots,” *Chicago Daily Defender (Daily Edition)*, October 11, 1967.

⁴⁹ Brooke, interview, October 31, 2001 56; “Brooke Feels Detroit’s Pulse,” *Chicago Daily Defender (Daily Edition)*, October 11, 1967.

⁵⁰ Brooke, interview, October 31, 2001, 56.

⁵¹ National Advisory Commission on Civil Disorders, “Chapter 2. Patterns of Disorder,” under “Part I. What Happened?” in *The Kerner Report* (Washington, D.C.: U.S. Government Printing Office, 1968; repr., Princeton, NJ: Princeton University Press, 2016), 160, Nook.

⁵² Jerry DeMuth, “Fannie Lou Hamer: Tired of Being Sick and Tired,” *The Nation*, June 1, 1964, accessed April 7, 2020, <https://www.thenation.com/article/fannie-lou-hamer-tired-being-sick-and-tired/>; National Advisory Commission on Civil Disorders, “Chapter 2: Patterns of Disorder,” under “Part I: What Happened,” in *The Kerner Report*, 160–189.

⁵³ National Advisory Commission on Civil Disorders, “Chapter 2. Patterns of Disorder,” under “Part I. What Happened?” in *The Kerner Report*, 160–189.

interviews in the damaged cities and “found the same major grievance topics among Negro communities – although they varied in importance from city to city.”⁵⁴ The *Kerner Report* described each grievance in great detail, beginning with the rise of slavery in the United States and its deleterious effects on the nation; the creation and sustaining of Jim Crowism throughout early twentieth century American history; the role of civil rights organizations; and, the Civil Rights Movement’s victories, challenges and unfulfilled objectives.⁵⁵ Further analysis of the riots placed the onus of responsibility on white racism.⁵⁶ The commissioners observed that, “[Pervasive discrimination and segregation] and the attitudes that underlie it are the source of the deepest bitterness and lie at the center of the problem of racial disorder.”⁵⁷ Consequently, as more black Americans migrated northward to escape the harshness of de jure segregation in the South, white residents fled the cities for the suburbs, thereby creating the rise of ghettos, where “segregation and poverty have intersected to destroy opportunity and hope and to enforce failure.”⁵⁸ Thus, racist, discriminatory measures created a seemingly endless cycle of powerlessness, socioeconomic stagnation, political inaction, and crushed dreams, which

⁵⁴ National Advisory Commission on Civil Disorders, “Chapter 2. Patterns of Disorder,” under “Part I. What Happened?” in *The Kerner Report*, 189.

⁵⁵ National Advisory Commission on Civil Disorders, “Chapter 5. Rejection and Protest: An Historical Sketch,” under “Part II: Why Did It Happen?” in *The Kerner Report*, 266–294.

⁵⁶ National Advisory Commission on Civil Disorders, “Chapter 6. The Formation of the Racial Ghettos,” 295–302; “Chapter 7. Unemployment, Family Structure, and Social Disorganization,” 309–323; “Chapter 8. Conditions of Life in the Racial Ghetto,” under “Part II. Why Did It Happen?” in *The Kerner Report*, 324–337.

⁵⁷ National Advisory Commission on Civil Disorders, “Chapter 4. The Basic Causes,” under “Part II: Why Did It Happen?” in *The Kerner Report*, 254.

⁵⁸ *Ibid.*, 262.

“have led some to the conviction that there is no effective alternative to violence as a means of expression and redress as a way of ‘moving the system,’” as evidenced by the damage from the riots.⁵⁹

The commission proposed several policies to combat the federal government’s lackluster enforcement of the Supreme Court’s ruling in *Shelley v. Kraemer* (1948) and subsequent negligence of public housing communities. Although the Supreme Court’s decision in *Shelley v. Kraemer* nullified the use of racially restrictive covenants, the federal government’s perpetuation of Jim Crowism created appalling conditions that led to the never-ending cycle of poverty, violence, drug abuse, crime, suppression of civil rights and inner cities becoming increasingly overwhelmed by the constant migration of ethnic minorities.⁶⁰ Poor housing standards, discrimination, and decay of these communities forced black residents, as well as other disenfranchised citizens, to reside in ghettos because “most ... residents cannot pay the rent necessary to support decent housing.”⁶¹ The high rents prevented these residents from creating better lives for themselves and their families, thereby prolonging the cycle of socioeconomic oppression. The commission observed that federal housing programs needed impetus to conquer racism and discrimination which further widened “a critical gap [that existed] between

⁵⁹ National Advisory Commission on Civil Disorders, “Chapter 4. The Basic Causes,” under “Part II: Why Did It Happen?” in *The Kerner Report*, 264.

⁶⁰ National Advisory Commission on Civil Disorders, *The Kerner Report*, 183–184, 188–189, 190, 200–201, 235–236, 244–246, 254–255, 261, 278, 280–282, 283–284, 289, 294, 300–302, 310, 322, 324–337, 526–535.

⁶¹ National Advisory Commission on Civil Disorders, “Chapter 17. Recommendations for National Action,” under “Part III: What Can Be Done?” in the *Kerner Report*, 533.

the needs of the population and the public resources to deal with them.”⁶² These massive projects required the influence, political associations and support of business leaders, as well as their access to various resources, to build and finance low to reasonably priced rental properties that would “meet the housing needs of the Nation.”⁶³ Therefore, the commission strongly recommended the “provision of 600,000 low- and moderate-income housing units next year, and six million units over the next [five] years”;⁶⁴ expansion and revision of the rental extension program, which would allow more residents to obtain decent housing through the federal program;⁶⁵ and, passage and enforcement of extensive, nationwide open occupancy legislation prohibiting discrimination “on the basis of race, creed, color, or national origin” when selling or renting homes.⁶⁶

The commission wrote a powerful report with candor, appalling statistics, and forthright rhetoric. Numerous testimonies from victims of the riots demonstrated the far-reaching impact of Jim Crowism, touching many lives and generations, regardless of

⁶² National Advisory Commission on Civil Disorders, “Chapter 17. Recommendations for National Action,” under “Part III: What Can Be Done?” in the *Kerner Report*, 535.

⁶³ National Advisory Commission on Civil Disorders, “Summary,” in the *Kerner Report*, 77.

⁶⁴ National Advisory Commission on Civil Disorders, “Chapter 17. Recommendations for National Action,” under “Part III: What Can Be Done?” in the *Kerner Report*, 535.

⁶⁵ *Ibid.*, 537–538.

⁶⁶ National Advisory Commission on Civil Disorders, “Chapter 17. Recommendations for National Action,” under “Part III: What Can Be Done?” in the *Kerner Report*, 540. The other recommendations included: “an expanded and modified below-market interest rate program”; “Federal write-down of interest rates on loans to private builders;” a revised and broadened public housing initiative; a redeveloped Model Cities program; a redesigned and diversified urban renewal plan; revision of building codes; and, “[r]eorientation of Federal housing programs to place more low- and moderate-income housing outside of ghetto areas.” Cf. *Kerner Report*, 535–541.

socioeconomic status, occupations or political views. The 544–page report concluded with these words:

We have provided an honest beginning. We have learned much. But we have uncovered no startling truths, no unique insights, no simple solutions. The destruction and bitterness of racial disorder, the harsh polemics of black revolt and white repression have been seen and heard before in this country. It is time now to end the destruction and the violence, not only in the streets of the ghetto but in the lives of people.⁶⁷

The Kerner Commission’s work provided definitive answers to President Johnson’s three questions: (1) “What happened?” (2) “Why did it happen?” and (3) “What can be done to prevent it from happening again and again?”⁶⁸ Although he promised the eleven members “all the support and cooperation you need from the Federal government,” Johnson did not honor his word.⁶⁹ He attempted to hinder the investigation upon discovering that Governor Otto Kerner, the chairman, and New York mayor John V. Lindsay, the vice chairman, applied his words, “... let your search be free. ... As best you can, find the truth, the whole truth, and express it in your report,” to their mission.⁷⁰ To his anger and disappointment, the commissioners conducted thorough investigations into the riot–damaged cities and refused to be pawns in the President’s political

⁶⁷ National Advisory Commission on Civil Disorders, “Conclusion,” in the *Kerner Report*, 543–544.

⁶⁸ National Advisory Commission on Civil Disorders, “Remarks of the President upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967,” in the *Kerner Report*, 546.

⁶⁹ National Advisory Commission on Civil Disorders, “Remarks of the President upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967,” in the *Kerner Report*, 547. Cf. Gillon, *Separate and Unequal*, 57–67, 79–80, 247–257.

⁷⁰ National Advisory Commission on Civil Disorders, “Remarks of the President upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967,” in the *Kerner Report*, 547. Cf. Gillon, *Separate and Unequal*, 57–67, 79–80.

machinations. Although he withheld federal funding to manipulate the report's findings, determination to create a better society for all Americans inspired the commissioners to persevere in their work. Nevertheless, Johnson's attempts to sabotage the report's publication demonstrated his duplicity. Leaks of the report to the *Los Angeles Times* and *Washington Post* by an unknown source angered President Johnson to the point that he cancelled the formal ceremony where the commissioners would present him with a bound copy of the report and he would thank them for their hard work.⁷¹

Before the media debacle, Brooke "thought President Johnson would applaud our painstaking analysis and support our recommendations."⁷² However, the commission's results, when viewed in the context of the Tet Offensive and news anchor Walter Cronkite's scathing analysis of the Vietnam War, further bruised Johnson's ego and sense of accomplishment.⁷³ As he reflected on the President's behavior, Senator Brooke commented, "... the president who had done so much for civil rights distanced himself from our findings," which discouraged the commissioners and Brooke "faulted the president for not using the bully pulpit of the White House to support our frank statement."⁷⁴ When the commission published its report in 1968, Johnson faced a divided Democratic Party for its presidential nomination. In addition, the *Kerner Report* indirectly blamed him for not doing enough to alleviate racial tensions.⁷⁵ Feeling attacked

⁷¹ Gillon, *Separate and Unequal*, 57–67, 79–80, 247–257.

⁷² Brooke, *Bridging the Divide*, 173.

⁷³ Gillon, *Separate and Unequal*, 247–257.

⁷⁴ Brooke, *Bridging the Divide*, 173.

⁷⁵ *Ibid.*

by his party and the Kerner Commission, the President retreated to his Texas ranch when the results were published on March 1, 1968, allowing “the ... [r]eport [to] [gather] dust while America’s racial problems grew worse.”⁷⁶

Brooke’s service on the Kerner Commission influenced him to co-sponsor bipartisan, fair housing legislation during his first year in office. “‘Time is running out’ on America’s Negro problem,” he commented, after touring Detroit in the wake of the summer riots.⁷⁷ The violence was not a Negro problem, but rather a symptom of the larger disease, namely the creation and sustaining of legalized segregation, as well as mainstream American society’s apathetic response toward the suffering of black Americans still being treated as second-class citizens. Brooke “expressed fear of ‘retaliatory measures against [discriminatory] conditions again,’ and concern over the failure of Congress to do more to help the plight of the nation’s Negroes.”⁷⁸ Anger and frustration over adverse conditions in the city, as well as the federal government’s persistence in upholding Jim Crowism, galvanized Senator Brooke to action. An encouraging telegram from Dr. Martin Luther King, Jr., a close associate, commended the senator for his work on the commission

because you had both the wisdom to perceive the truth and the courage to state it. ... My only hope now is that white America and our national government will heed your warnings and implement your recommendations. ... God grant that your excellent report will educate the nation and lead to action before it is too late.”⁷⁹

⁷⁶ Gillon, *Separate and Unequal*, 256; Brooke, *Bridging the Divide*, 173.

⁷⁷ “Brooke Feels Detroit’s Pulse,” *Chicago Daily Defender (Daily Edition)*, October 11, 1967.

⁷⁸ *Ibid.*

⁷⁹ Dr. Martin Luther King, Jr. to Senator Edward W. Brooke, telegram, March 4, 1968, Box 197, EWB Papers.

In November 1967, Senator Brooke co-sponsored bipartisan fair housing legislation, S. 2681, with Wisconsin Senator William Proxmire, Kentucky Senator Thruston B. Morton and Illinois Senator Charles Percy, regarding a Moderate Housing Division, a new entity within the Department of Housing and Urban Development (HUD), to administer the rental and sale of public housing units.⁸⁰ As he introduced the bill in the Senate, Brooke noted how the proposal would alleviate the slums in urban areas, which were “no longer a way station for immigrants,” but “a trap where generations repeat the cycle of poverty.”⁸¹ Racism, prejudice and discrimination created an incessant pattern of socioeconomic stagnation, symbolized by “substandard housing[,]” as Brooke observed, “... [I]n the minds of the slum residents themselves, lack of decent housing is the single most important reason for frustration and despair.”⁸² Moreover, the Moderate Housing Division would not depend on the Federal Housing Administration (FHA) for assistance. Continuing his address, Senator Brooke commented,

... the Moderate Housing Division, which I propose, would operate with only one goal in mind – that of helping the people who live in these disadvantaged areas to construct housing to meet the desperate needs of slum residents. The Moderate Housing Division would make special efforts to expedite processing, so that the time between application and construction would be as short as possible. It would cut redtape, and design its administrative policies with the interests of nonprofit sponsors in mind.⁸³

⁸⁰ Cong. Rec., 90th Cong., 1st sess., 1967, vol. 113, pt. 24: 33443, GovInfo, accessed March 27, 2020.

⁸¹ Ibid., 33444, accessed March 27, 2020.

⁸² Ibid.

⁸³ Ibid.

Brooke's plan was to create a subdivision of HUD that would not only take an active interest in slum residents but also assist them in achieving homeownership. Based on his mindset, owning was better than renting because families would gain a sense of pride, determination and a greater work ethic. This new federal program could also help decrease the amount of slum living, urban decay, crime and poverty, thereby improving the circumstances of many residents, especially ethnic minorities, forced to reside in ghettos. The bill was referred to the Banking and Currency Committee, of which Brooke was a member.⁸⁴ The Congressional Record does not mention if the bill was passed during this Senate session, which indicates that the Senate tabled the legislation until a later date. Nevertheless, Brooke demonstrated a passion for fair housing and commitment to destroying the last vestige of Jim Crowism in the housing market, which directly affected northern white American citizens.

Brooke's bipartisan, civil rights work as the attorney general of Massachusetts, and desire to eliminate segregation from public housing, the last bastion of Jim Crowism, prepared him for an intense battle against the Southern Bloc in Congress.⁸⁵ Leah Wright Rigueur, author of *The Loneliness of the Black Republican*, noted how "... [S]enator Walter Mondale crossed party lines to discuss cosponsoring a fair housing bill with the

⁸⁴ Cong. Rec., 90th Cong., 1st sess., 1967, vol. 113, pt. 24: 33441, 33443, 33444, accessed March 27, 2020.

⁸⁵ Brooke, *Bridging the Divide*, 169–186; Massachusetts Advisory Committee to the United States Commission on Civil Rights, "Chapter 4: Counter Measures; The Law," in *Discrimination in Housing in the Boston Metropolitan Area* CR1.2:H81/2 (Boston, 1963), 35, <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12h812.pdf>, accessed March 27, 2020; Lee H. Kozol to the Attorney General, first quarter report, "The Condition of the Civil Rights Division as at 4/15/63," April 15, 1963, Box 27, EWB Papers, 4.

black official. ... [They] introduced the proposal into the Senate in February 1968, attaching to it a pending civil rights workers protection bill.”⁸⁶ Moreover, to placate the consciences of the race-baiting, anti-communist, Cold War southerners, Brooke testified in a 1968 congressional hearing that although the legislation “addressed discrimination against African Americans as a collective, it posed no threat to individual freedom or rights because no one could be forced to sell or not to sell a house; instead, the measure leveled the playing field ...”⁸⁷ However, leveling the playing field did not guarantee an immediate shift in white Americans’ thinking, rhetoric, actions or an end to violence in their desperate attempts to protect legalized segregation.⁸⁸ Reflecting on the *Kerner Report*’s transparency and numerous recommendations, Dr. King noted that

[t]he time has come for all men to have access to all housing and we urge the members of the Republican Party to support the open housing bill and the civil rights measure of the Senate in the interest of freedom and peace. ... I sincerely believe that the passage of a good faith open housing bill will restore hope to many in the Negro community who have concluded that there is no way out of their dilemma.⁸⁹

Indeed, the symbolism of fair housing legislation demonstrated many Republican legislators’ growing concern for the success of the Civil Rights Movement as well as their renewed commitment to creating a more equitable society. The proposed law mandated that landlords, home sellers and real estate agencies treat all renters, as well as

⁸⁶ Rigueur, *The Loneliness of the Black Republican*, 128.

⁸⁷ Ibid.

⁸⁸ Taylor Branch, *At Canaan’s Edge: America in the King Years, 1965–1968* (New York: Simon and Schuster, 2006), 5–7, 10–16, 18–22, 26, 29–31, 49–54, 58–60, 62–71.

⁸⁹ Dr. Martin Luther King, Jr. to Senator Edward W. Brooke, telegram, February 29, 1968, Box 197, EWB Papers.

buyers, with dignity and respect, or face stringent consequences.⁹⁰ Furthermore, victims of discrimination could seek justice through a lengthy process. First, they had the option of filing complaints with the HUD secretary, who was legally required to investigate the incidents and had the authority to mediate the conflicts. Second, if mediation failed, and plaintiffs' efforts to seek justice at the local and state levels were unsuccessful, they could file lawsuits in federal court. Third, the U.S. attorney general could either request federal injunctions (court orders) or bring civil suits against discriminatory agencies, such as real estate companies, in public cases with documented, persistent evidence of discrimination.⁹¹

Brooke's and Mondale's politicking with moderate Democrats and Republicans, such as Albert Gore, Sr., Howard Baker, Jr., and Everett Dirksen, among others, enabled the civil rights coalition to pass the monumental legislation despite the Southern Bloc's manipulation of the voting process. When discussing the inner workings of Congress, Brooke noted how, "Politics is the art of the possible. It's also the art of compromise. There are many times when you have to work with senators in order to get their vote on a particular issue, that you may have to do something else, and I had to do that in many

⁹⁰ Timothy N. Thurber, *Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974* (Lawrence: University of Kansas Press, 2013), 242–243; "Enforcement," under "Major Provisions," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 24th ed., 14-152-14-165, accessed November 27, 2018. The legislation would have covered approximately ninety percent of public and residential housing throughout the nation.

⁹¹ Rigueur, *The Loneliness of the Black Republican*, 128; "Enforcement," under "Major Provisions," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018; Edmund Willingham, "Dirksen Offers Housing Bill," *Nashville Tennessean*, February 29, 1968; "Understanding Injunctions," *American Bar Association*, April 16, 2014, accessed November 3, 2018, https://www.americanbar.org/groups/public_education/publications/insights_on_law_and_society/14/winter-2014/understanding-injunctions/.

instances.”⁹² Southern senators, such as Strom Thurmond of South Carolina, Richard B. Russell of Georgia, Sam Ervin of North Carolina, and Robert C. Byrd of West Virginia, proposed various amendments, such as the exemption of privately owned, single family homes from coverage in the housing bill and erasure of all housing stipulations in the legislation, which were summarily rejected.⁹³ On March 4, 1968, the Senate voted sixty-five yeas to thirty-two nays in a fourth cloture vote to limit debate, which would have empowered the Southern Bloc to filibuster the legislation.⁹⁴ This victory subsequently allowed the Senate to pass the Brooke–Mondale Fair Housing Act on March 11, 1968, by a roll call vote of seventy-one yeas to twenty nays, with nine senators abstaining from the vote.⁹⁵

Although politicking limited some aspects of the Fair Housing Act’s effectiveness, Brooke and Mondale won a hard-fought victory in the Senate. The bill was an amendment to House (H.R.) Bill 2516, legislation protecting civil rights workers. Their draft of the new law included more powerful language than the Johnson Administration’s initial proposal in 1966. However, the Brooke–Mondale bill alarmed Senator Everett Dirksen, the Republican Minority Leader, who did not want to offend his constituents or risk losing allies in the Senate. Thus, he wrote the infamous “Mrs.

⁹² Brooke, interview, October 31, 2001, 73.

⁹³ “Amendments Rejected,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018.

⁹⁴ “Fourth Cloture Vote” under “Housing Amendment,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018.

⁹⁵ “Bill Passed,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018.

Murphy” phrase into the bill. Accordingly, homeowners who sold their properties without the assistance of realtors could discriminate against potential ethnic minority homebuyers. Dirksen’s compromise also transferred enforcement power from the Department of Housing and Urban Development to the Department of Justice, which would handle civil rights complaints related to fair housing. The legislation that passed in the Senate, which included Dirksen’s compromise, covered eighty percent of housing instead of ninety-one percent originally proposed in the Brooke–Mondale Fair Housing Act.⁹⁶ His micromanagement of the political process and redaction of the bill’s language allowed for passage of H.R. 2516 in Congress while empowering white Americans to continue resisting federal law as they moved deeper into suburban areas.⁹⁷

⁹⁶ Zasloff, “The Secret History of the Fair Housing Act,” 262–276.

⁹⁷ Zasloff, “The Secret History of the Fair Housing Act,” 262–276; John F. Kain, “Chapter Five: The Influence of Race and Income on Racial Segregation and Housing Policy,” in *Housing Desegregation and Federal Policy*, ed. John M. Goering (Chapel Hill: University of North Carolina Press, 1986), 104–114; Brian Patrick Larkin, “The Forty-Year ‘First Step’: The Fair Housing Act as an Incomplete Tool for Suburban Integration,” *Columbia Law Review* 107.7 (Nov. 2007): 1630–1654; Schwemm, “Discriminatory Housing Statements and Section 3604(c),” 203–205, 212–226, 230–249; *Retro Report*, season 1, episode 6, “Neighborhood Advantage,” aired on October 22, 2019, on PBS Atlanta, accessed April 8, 2020, <https://www.pbs.org/video/retro-report-on-pbs-season-1-episode-6/>; *East Lake Meadows: A Public Housing Story*, directed by David McMahon and Sarah Burns, written by Sarah Burns and David McMahon, aired on March 24, 2020, on PBS Atlanta, accessed April 8, 2020, <https://www.pbs.org/kenburns/east-lake-meadows/#watch>. Over the years, as low-income and middle-class black families gradually moved into suburban areas, their actions created tensions with white Americans who preferred to maintain racial homogeneity in their exclusive enclaves, a tactic known as private choice. Subsequently, many white homeowners expeditiously sold their homes and moved to other neighborhoods, which led to an increase of ghettos. Moreover, potential white homebuyers, through discussions with their real estate agents, can discriminate through the process of geographic and racial steering. This strategy, although prejudicial, is not illegal on the part of the home seekers. They can protect their choice to live in predominantly white communities by voicing concerns of living in close proximity to numerous black residents, whom they stereotype as poor, uncouth residents whose behavior could detract from the prosperous communities’ economic value.

However, real estate agents cannot introduce the subject of geographic steering to their clients because that is unlawful and grounds for a lawsuit. Essentially, the Mrs. Murphy clause that Senator Dirksen incorporated into the final version of the Fair Housing Act gives white home seekers the impetus to invoke their rights of private choice as well as the policies of geographic and racial steering, thereby retaining control over resources that can benefit black communities. Black Americans have historically been systemically excluded from claiming full citizenship and suffered numerous injustices. Therefore,

Former Vice President Walter Mondale, during a recent interview with *Time Magazine*, reflected on the fiftieth anniversary of the Fair Housing Act. He noted that,

[Senator Dirksen] always insisted that these bills, before they go through, be given to him. He insisted that individuals' sales of homes be removed from the jurisdiction of this bill. ... [T]he bill basically deals with realtors and their functions and large significant construction of public housing. So I would say that probably hurt some, but I don't think it made that much difference. While we should deal with all forms of discrimination at all levels, I still think the bill that passed was a very important step forward.⁹⁸

Thus, the Senate Minority Leader's actions weakened the legislation's impact, especially enforcement by the Department of Housing and Urban Development. By rewriting certain segments of the bill, he essentially reinforced the socioeconomic inequalities that have long plagued the United States while denying justice to ethnic minorities. The insertion of the Dirksen Compromise within the Fair Housing Act led to black and white Americans re-segregating into homogenous communities instead of utilizing the new opportunities to overcome racial barriers.⁹⁹ Instead of closing the racial divide within the national housing market, meager enforcement of the civil rights law has widened the gap.¹⁰⁰

they have valid reasons to live and rear their families in nurturing, loving environments, free from the pressures of racism and prejudice. Consequently, the objectives of the Fair Housing Act become more complicated when white and black home seekers implement their rights of private choice, thereby re-segregating. The story of East Lake Meadows, a public housing community in Atlanta, Georgia, is a stark example of the law's limitations.

⁹⁸ Olivia B. Waxman, "Walter Mondale on 50 Years of the Fair Housing Act and the Problem with Purging a President's Cabinet," *Time Magazine*, April 11, 2018, accessed July 22, 2019, <http://time.com/5234882/fair-housing-act-anniversary-walter-mondale/>.

⁹⁹ Zasloff, "The Secret History of the Fair Housing Act," 262–278; Brooke, *Bridging the Divide*, 177; Schwemm, "Discriminatory Housing Statements and Section 3604(c)," 197–206, 212–226; Waxman, "Walter Mondale on 50 Years of the Fair Housing Act and the Problem with Purging a President's Cabinet," *Time Magazine*, April 11, 2018, accessed July 22, 2019.

¹⁰⁰ Zasloff, "The Secret History of the Fair Housing Act," 262–278; Schwemm, "Discriminatory Housing Statements and Section 3604(c)," 197–206, 212–226, 230–249.

Testifying before the Subcommittee on Housing and Urban Affairs the same day that the Senate passed the Fair Housing Act, Senator Brooke re-introduced his tabled legislation, S. 2681, to create a Moderate Housing Division within the Department of Housing and Urban Development, which the Assistant Secretary would oversee.¹⁰¹ The new HUD branch would not only assist families in their transition from renting to owning homes but also

administer low and moderate income housing programs which would otherwise be administered by the FHA. ... S. 2681 provides that five FHA programs be moved to the new Moderate Housing Division. ... These programs are socially oriented; they are designed to fill a national need.¹⁰²

Brooke commented that the greatest risk in the creation of new housing projects was in the inner cities. The senator also observed how the Moderate Housing Division would “go beyond credit insurance to provide subsidies in the form of below market interest rates, rent supplements, and direct loans” for families, as well as individuals striving toward homeownership.¹⁰³ Remembering his work on the Kerner Commission, Brooke noted that

Nationwide, [sixteen] percent of nonwhites in central cities occupy substandard housing ... Negroes occupy much older housing than nonwhites ... [twenty-five] percent of all nonwhite units are overcrowded ... in the minds of the slum residents themselves, lack of decent housing is the single most important reason for their frustration and despair.¹⁰⁴

¹⁰¹ Senator Edward W. Brooke, “Testimony of Senator Edward W. Brooke on S. 2681, to Create a Moderate Housing Division before the Subcommittee on Housing and Urban Affairs,” March 11, 1968, Box 572, EWB Papers, 1.

¹⁰² *Ibid.*, 1–2.

¹⁰³ *Ibid.*, 2.

¹⁰⁴ *Ibid.*, 3–4.

The senator's testimony and factual evidence from the *Kerner Report* emphasized a central theme: when people lived in safe, healthy, nurturing environments, they were more likely to have a greater level of dignity, respect for others, a better work ethic and a renewed sense of purpose while contributing to the nation's workforce as more productive citizens. Thus, a Moderate Housing subdivision was necessary to "meet the need for low and moderate income housing" which was "great ... and immediate."¹⁰⁵

Nevertheless, the civil rights legislation secured several guarantees. First, landlords, home sellers, and real estate agencies were required to treat all renters, as well as buyers, with dignity and respect, or face stringent consequences. Second, victims of discrimination had the option of filing complaints with the secretary of Housing and Urban Development (HUD), who was legally required to investigate the incidents and had the authority to mediate the conflicts. Third, if mediation failed, and plaintiffs' efforts to seek justice at the local and state levels were unsuccessful, they could file lawsuits in federal court. As a last resort, the U.S. attorney general could either request federal injunctions (court orders) or bring civil suits against discriminatory agencies, such as real estate companies, in public cases with documented, persistent evidence of discrimination.¹⁰⁶ However, the bill stalled in the House of Representatives on April 4, 1968, when Dr. King was assassinated. On April 10, after an hour of intense debate, the House passed the legislation by a roll call vote of two hundred twenty nine yeas to one

¹⁰⁵ Senator Brooke, "Testimony of Senator Edward W. Brooke on S. 2681, to Create a Moderate Housing Division before the Subcommittee on Housing and Urban Affairs," March 11, 1968, Box 572, EWB Papers, 4.

¹⁰⁶ "Enforcement," under "Major Provisions," and "Bill Passed," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018.

hundred ninety five nays, thereby accepting the Senate's amendments to the Brooke–Mondale Fair Housing Act.¹⁰⁷ Later that day, the House approved the bill by another roll call vote of two hundred fifty yeas to one hundred seventy two nays as more of a formality.¹⁰⁸ To honor the slain civil rights leader's legacy, President Johnson signed the Fair Housing Act into law on April 11, 1968.¹⁰⁹

On April 17, 1968, Senator Brooke spoke before the legislature to discuss his proposal of Senate bill 2681, which would create the Moderate Housing Division within the Department of Housing and Urban Development. He noted how “the events of the

¹⁰⁷ “The Fair Housing Act of 1968,” U.S. House of Representatives: History, Art, and Archives, accessed November 1, 2018, <https://history.house.gov/HistoricalHighlight/Detail/15032451325?ret=True>; “House,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018.

¹⁰⁸ “House,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, accessed November 27, 2018.

¹⁰⁹ “House,” under “Congress Enacts Open Housing Legislation,” in *CQ Almanac 1968*, accessed November 27, 2018; “The Fair Housing Act of 1968,” U.S. House of Representatives: History, Art, and Archives, accessed November 1, 2018; Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960–1972* (New York: Oxford University Press, 1990), 272–276, cited in Timothy N. Thurber, *Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974* (Lawrence: University of Kansas Press, 2013), 248; “Goes to House: Chamber May Modify the Bill Introduced by Senator Brooke; No Payment by Some; Proposal Is Intended to Pay Rental Exceeding Fourth of Income,” *Kansas City Times* (Kansas City, MO), September 24, 1969, accessed March 7, 2020, <https://newscomwc.newspapers.com/image/55942096>; “Look into Housing Costs,” *Kansas City Times* (Kansas City, MO), July 10, 1971, accessed March 9, 2020, <https://newscomwc.newspapers.com/image/51196630>; “Housing Authority Approves Lease in Special Meeting,” *Sedalia Democrat* (Sedalia, MO), September 26, 1971, accessed March 9, 2020, <https://newscomwc.newspapers.com/image/71795045>. The legislation's enforcement led to the creation of fair housing organizations at the local level, ensured that mainstream American society was aware of housing discrimination, and influenced many banks, lending organizations, real estate agencies, as well as housing authorities, to reform their policies. In 1969, Senator Brooke sponsored an amendment to the Fair Housing Act. His legislation also included provisions for urban renewal projects, model cities grants and affordable housing for low-income families. According to the proviso, the federal government would pay a portion of low-income families' rent when the payments exceeded twenty-five percent of their incomes. For certain families who experienced extremely difficult circumstances, they would be not expected to pay any rent. The Senate passed the legislation on September 23, 1969 and sent the bill to the House of Representatives for debate. The Brooke Amendment ultimately became law. In 1988, Congress passed additional amendments to enhance the Fair Housing Act.

past [two] weeks, triggered by the tragic and senseless killing of the Reverend Dr. Martin Luther King, Jr., threaten to drive the races of this country even further apart.”¹¹⁰ The civil rights leader’s death signified the Civil Rights Movement’s transition in a new direction with fewer nonviolent protests, more Black Power activism and increasing retaliation from southern whites even more determined to preserve their sense of socioeconomic entitlement. Although Brooke recognized the great victories accomplished during the approximately decade long Civil Rights Movement (1954–1968), he understood the pessimism of many black Americans. Speaking before the Senate, he observed how, “Some progress has been made, of course. But the recent flush of legislative and judicial victories has given way to increasing frustration at the glacial pace at which these laws and decisions are being implemented.”¹¹¹ Brooke realized that delays in the Kerner Report’s publication, President Johnson’s refusal to implement the report’s numerous recommendations, King’s assassination and the subsequent riots in urban areas across the nation led many Americans to feel a sense of despair, anger and hopelessness. To help Senate leaders comprehend black citizens’ exasperation with the federal government’s indifference, especially the slow passage and enforcement of civil rights legislation, he noted that

[T]hroughout American history the Negro has been systematically excluded from the full benefits of U.S. citizenship. He has not had the opportunity to earn a decent income. He has been denied the opportunity to live in housing of his choice which he could afford. He has been

¹¹⁰ Cong. Rec., 90th Cong., 2d sess., 1968, vol. 114, pt. 8: 9904, Google Play, accessed July 16, 2019, <https://play.google.com/books/reader?id=PQBbAI3bjEC&hl=en&pg=GBS.PA9903>.

¹¹¹ Ibid.

compelled to attend schools which offer an inferior brand of education. He has been rejected for employment for which he is qualified.¹¹²

Thus, black Americans' dismal perceptions of congressional action were justified. Understanding their frustration, Brooke expressed optimism at Congress's passage of landmark civil rights bills, such as the 1964 Civil Rights Act and the 1965 Voting Rights Act. Continuing his remarks in the Senate, he commented how more work remained to be done.

Congress has already begun to act. Last week I witnessed the President's signing of the historic Civil Rights Act of 1968, which includes long-awaited fair housing provisions. ... I am hopeful for a favorable response to S. 2681, a bill which I introduced to create a Moderate Housing Division to facilitate the construction and other provision of housing for persons of low and moderate income.¹¹³

Brooke's optimism was well placed. The Senate combined his proposed legislation with several other bills to create the Housing and Urban Development Act, which Congress passed in August 1968.¹¹⁴ The new law stipulated guidelines for the Department of Housing and Urban Development to assist low to moderate-level income families in their transitions from renting to owning homes. These policies mandated the HUD secretary to (1) oversee the development and implementation of rent supplement programs because many of these families lived below the median income level of \$7,700;¹¹⁵ (2) ensure that

¹¹² Cong. Rec., 90th Cong., 2d sess., 1968, vol. 114, pt. 8: 9904, Google Play, accessed July 16, 2019.

¹¹³ Ibid.

¹¹⁴ Housing and Urban Development Act of 1968, Public Law 90-448, 90th Cong., 2d sess., *U.S. Statutes at Large* 82 (August 1, 1968), 476-611, HeinOnline, accessed July 29, 2019.

¹¹⁵ Marianne P. Witschy and Emmett F. Spiers, "Household Income in 1968 and Selected Social and Economic Characteristics of Households," under "Current Population Reports: Consumer Income," Series P-60, No. 65, October 31, 1969, U.S. Census Bureau, 1, accessed August 8, 2019, <https://www2.census.gov/prod2/popscan/p60-065.pdf>.

rents did not exceed twenty percent of the families' low monthly incomes; (3) supervise the maintenance and upkeep of facilities for public housing projects; (4) assist with the creation of a national homeownership board to guarantee that state and local housing agencies adhered to federal law while supporting low income families' transition from public housing to homeownership; (5) develop insurance protection for new homeowners; and, (6) facilitate the sale of inhabitable, low-rent housing units to ensure that various cities' housing authorities were not using dishonest means when conducting business with tenants.¹¹⁶ Moreover, the legislation empowered the HUD secretary to take a more active role in finding evidence of discrimination before "seek[ing] an injunction in a U.S. district court against any [land] developer [who] is violating, or about to violate, the law" in selling property.¹¹⁷ Similarly, the Federal Bureau of Investigation would investigate contractors' illegal activities and report their findings to the Department of Justice, which would then take legal action.¹¹⁸ Although the journey for a fair housing bill was a yearlong, arduous task, Brooke's work demonstrated a commitment to the civil rights struggle and pursuit of justice on behalf of black Americans nationwide. His role in the creation of, as well as persistent advocacy for, stronger housing legislation earned him a reputation as a staunch defender of civil rights, which would be tested during the Nixon Administration.

¹¹⁶ "Title II – Rental Housing for Lower Income Families," under Housing and Urban Development Act of 1968, 90th Cong., 2d sess., 1968, S. Rep. 1123, 22–32, HeinOnline, accessed July 30, 2019; Housing and Urban Development Act of 1968, Public Law 90-448, 90th Cong., 2d sess., *U.S. Statutes at Large* 82 (August 1, 1968), 476–497, 498–503, 504–611, HeinOnline, accessed July 29, 2019.

¹¹⁷ Housing and Urban Development Act of 1968, 90th Cong., 2d sess., 1968, S. Rep. 1123, 110, HeinOnline, accessed July 30, 2019.

¹¹⁸ *Ibid.*, 142, accessed July 30, 2019.

CHAPTER 4: STRIVING FOR CIVIL RIGHTS

On March 31, 1968, speaking before the nation in a televised address, President Lyndon B. Johnson stunned many Americans by declining the Democratic Party's nomination for the upcoming presidential election. The controversy of the Vietnam War, the Tet Offensive, the Great Society's unfulfilled expectations, and increasing racial tensions had taken its toll on Johnson.¹ Moreover, these factors severely divided the Democratic Party. Over the next several months, the party struggled to find a viable candidate to oppose the Republican nominee Richard Nixon. Senator Robert F. Kennedy, the former attorney general under his late brother's administration, was highly favored as the top Democratic challenger. However, his assassination in June 1968, after winning the California primary election, left the Democrats bereft of a worthy candidate. Thus, at the Democratic National Convention, in Chicago, Illinois, during the last week of August, antiwar protestors clashed with police while city Mayor Richard Daley tried to keep the peace in the convention hall. Moreover, the lack of support for any of the three candidates, Vice President Hubert Humphrey, the antiwar advocate Senator Eugene McCarthy, and Senator George McGovern, who struggled to unite Senator Kennedy's supporters, demonstrated the national coalition's deep divisions and rivalries.²

¹ Lyndon B. Johnson, "March 31, 1968: Remarks on Decision not to Seek Re-Election," Presidential Speeches, Lyndon B. Johnson Presidency, Miller Center, University of Virginia, accessed July 17, 2019, <https://millercenter.org/the-presidency/presidential-speeches/march-31-1968-remarks-decision-not-seek-re-election>.

² Haynes Johnson, "1968 Democratic Convention: The Bosses Strike Back," *Smithsonian Magazine*, August 2008, accessed March 31, 2020, <https://www.smithsonianmag.com/history/1968-democratic-convention-931079/>.

The Democratic Party reluctantly accepted Vice President Hubert Humphrey as its presidential nominee and Senator Edmund Muskie as his running mate. However, their campaign was no match for Senator Richard Nixon, the California Republican, former U.S. congressman, renowned leader of the House Committee of Un-American Activities' (HUAC's) televised hearings during the 1950s, and former vice president under Dwight Eisenhower. Nixon utilized the pandemonium from the urban riots and racial violence during the Civil Rights Movement to campaign on a platform of restoring law and order throughout the nation.³ Using this rhetoric to implicitly blame the civil rights activists and demonize the social movement, the Republican nominee appealed to the silent majority of middle-class white Americans, who struggled with the seemingly imminent threat to their supremacy, sense of entitlement, and socioeconomic power, in the aftermath of the Civil Rights Movement's landmark victories. Nixon's appeals resonated with many middle-class white Americans living in the Sunbelt South, a large region stretching from southern Virginia to southern California.⁴ This angered many black Americans, especially Senator Brooke, who campaigned for Nixon.⁵ Recalling his experiences at the Republican National Convention, the senator observed that,

The outcome ... disturbed me. I hardly knew Nixon, and what little I did know, about his nasty, red-baiting campaigns in California, distressed me. In addition, I had learned that he had told southern delegations that he

³ Don Gonyea, "Revisiting the 1968 Republican Convention," podcast, August 4, 2018, National Public Radio, accessed July 19, 2019, <https://www.npr.org/2018/08/04/635668388/revisiting-the-1968-republican-convention>; Brooke, *Bridging the Divide*, 190–191.

⁴ Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 37–38, 39–68, 76–111, 140, 152, 169–170, 187, 210, 219, 232–250, 285–286, 298, 309, 313–329.

⁵ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 190–191.

opposed busing and that his administration would not ‘ram anything down your throats.’ He also expressed his opposition to federal involvement in local school board matters and vowed to appoint ‘strict constructionists’ to the Supreme Court. That seemed to be Nixon’s code word for judges who would oppose or slow desegregation. I was disappointed, but I accepted the will of the convention and hoped for the best.⁶

Deeply concerned by the Nixon campaign’s beguiled racist appeal to conservative white voters, Brooke remained somewhat optimistic that the Republican nominee “would try to ‘bring us together.’”⁷ Throughout the region, white middle-class families utilized various tactics to resist integration, such as massive resistance, which led to intense political lobbying, and later, the creation of intra-city political coalitions. They could not afford to surrender their “way of life” for court injunctions and vowed to expand their fight to surrounding areas.⁸ Thus, Nixon’s promises on the campaign trail galvanized the Silent Majority to boldly defy federal laws with impunity. In his recollection of the Republican nominee’s campaign rhetoric, Brooke noted that,

Nixon’s ‘southern strategy’ ... used code words to appeal to white racists, especially in the South. I bluntly accused him and his campaign of this, but he strongly denied it. [H]is vow to keep ‘law and order’ evoked the age-old police abuse of African Americans. Nixon did recast the phrase as ‘order and justice,’ but I was still troubled by his lack of racial sensitivity.⁹

The convention’s proceedings and Brooke’s conversation with Nixon about the “law and order” campaign rhetoric demonstrated the black legislator’s limited influence within the Republican Party. Although Brooke used his voice and votes to advocate for racial

⁶ Brooke, *Bridging the Divide*, 190.

⁷ *Ibid.*, 191.

⁸ Lassiter, *The Silent Majority*, 39–68, 76–111.

⁹ Brooke, *Bridging the Divide*, 191.

justice, the approximately one million white Americans whom Nixon represented did not care about civil rights abuses toward black Americans. The Silent Majority merely wanted to preserve its hegemony, sense of entitlement and privilege. Therefore, Nixon's desire to serve the interests of this political coalition meant abandoning his previous position on civil rights when he was Vice President during the Eisenhower Administration.¹⁰ The Republican nominee's race baiting angered Brooke. Yet, the senator "never regretted [his] decision to remain a Republican" which was "partly out of [family] loyalty ... and partly for purely practical reasons."¹¹ Although Brooke voted for Nixon, the senator's decision to follow his convictions in the aftermath of the election would define the rest of his career.¹²

Capitalizing on the fears of the Silent Majority, Nixon won 31,710,470 popular votes and three hundred one votes in the Electoral College.¹³ Humphrey garnered 30,898,055 popular votes and one hundred ninety-one Electoral College votes.¹⁴ George Wallace, the third-party candidate and notorious segregationist governor of Alabama,

¹⁰ Lassiter, *The Silent Majority*, 37–38, 39–68, 76–111, 140, 152, 169–170, 187, 210, 219, 232–250, 285–286, 298, 309, 313–329.

¹¹ Brooke, *Bridging the Divide*, 57. When Brooke campaigned for the position of state representative in the 1950 and 1952 elections, he won the Republican nominations as a "cross-filer". Furthermore, the Democratic Party was not as welcoming to black Americans during that time. In addition, Massachusetts Democrats opposed the state legislature's passage of anti-discrimination laws, which Republicans supported. Brooke's parents were also Republicans., which influenced his thinking. Cf. page fifty-five of Brooke's memoir regarding his parents' political affiliation.

¹² Brooke, *Bridging the Divide*, 193.

¹³ "1968 Presidential Election," 270towin.com, accessed March 5, 2020, https://www.270towin.com/1968_Election/.

¹⁴ Johnson, "1968 Democratic Convention," *Smithsonian Magazine*, accessed March 31, 2020.

earned forty-six votes in the Electoral College and 9,906,473 popular votes.¹⁵ However, Nixon had to fend off challenges by the conservative Republican icon Ronald Reagan, a former actor and then-governor of California, and Nelson Rockefeller, a moderate Republican and three-term governor of New York. Even more important, South Carolina's Republican senator Strom Thurmond guaranteed the South's loyalty to the national coalition and helped secure twenty-two delegate votes for the new President.¹⁶ Throughout his administration, Nixon would remain indebted to the region for his victory.

Nixon's demagoguery, race baiting and reversal on civil rights was a challenge for Brooke who could either remain loyal to the new President or follow his convictions and risk ending a promising career in the Senate. By standing on his principles, Brooke reaffirmed his commitment to protecting civil rights because he was "[n]ot bound by ideological, philosophical, or party constraints."¹⁷ For example, militant, black civil rights activists wanted to meet with the new President but were turned away. In another instance, Senator Brooke arranged a meeting between Nixon and many black civil rights leaders who wanted to express their concerns about the nation's social ills and black citizens' hopes for the incoming administration. Although he listened, Nixon did not promise anything. A few months into his first term, the President gradually hindered the

¹⁵ Johnson, "1968 Democratic Convention," *Smithsonian Magazine*, accessed March 31, 2020.

¹⁶ Gonyea, "Revisiting the 1968 Republican Convention," podcast, August 4, 2018, National Public Radio, accessed July 19, 2019.

¹⁷ Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 56.

implementation process of federal desegregation policies, thereby revealing his commitment to a “southern strategy”.¹⁸

The President’s nomination of Judge Clement F. Haynsworth, Jr. to the Supreme Court on August 18, 1969, which demonstrated his allegiance to the white South and Sunbelt South, strained Brooke’s relationship with the Nixon Administration. The senator had several conversations with the new President regarding civil rights. As Brooke recalled in his memoir, Nixon

intimidated that, after the election, he would drop [the ‘southern strategy’]. ... I thought once Nixon had finally achieved his dream of the presidency, he would abandon the unsavory tactics that had helped elect him. But it soon became clear that his ‘southern strategy’ was far from dead, and our relationship began to sour.¹⁹

Nixon used the election victory as an opportunity to repay his one million southern constituents for their votes and disregarded the needs of black Americans. Thus, Brooke decided that his commitment to civil rights was more important than allegiance to the Republican Party and the President.

Nixon’s Supreme Court nominee would fill the vacancy of associate justice Abraham Fortas, who resigned from the Supreme Court amid allegations of involvement in a financial scandal.²⁰ Haynsworth was the chief justice of the Fourth Circuit Court, whose jurisdiction encompassed the states of Maryland, Virginia, South Carolina, North

¹⁸ Brooke, “Chapter 14: The President Nixon I Knew,” in *Bridging the Divide*, 192–193.

¹⁹ *Ibid.*, 193.

²⁰ Dean J. Kotlowski, “Trial by Error: Nixon, the Senate, and the Haynsworth Nomination,” *Presidential Studies Quarterly* 26.1 (Winter 1996): 71.

Carolina, and West Virginia.²¹ In the 1950s, Haynsworth abandoned the Democratic Party as the political coalition took a firmer stance regarding civil rights. Thus, he became an “Eisenhower Democrat” during the former general’s presidential campaigns in 1952 and 1956.²² The President’s subsequent victories launched Haynsworth to statewide prominence in South Carolina. The lawyer’s admiration and campaigning for Eisenhower during the elections did not go unnoticed.

By 1957, Haynsworth completely embraced the Republican Party. To display his gratitude, President Eisenhower nominated Haynsworth to the Fourth Circuit Court as an associate judge and the Senate confirmed his appointment on April 4, 1957.²³ In 1964, he was appointed the chief judge of the federal district court.²⁴ In this role, Haynsworth listened to various cases involving businesses and civil rights.²⁵ He often ruled against the interests of labor unions and black Americans. The Supreme Court later reversed several of his decisions in civil rights cases.²⁶

²¹ Bruce H. Kalk, “The Making of ‘Mr. Justice Haynsworth?’ The Rise, Fall, and Revival of Judge Clement F. Haynsworth Jr.,” *The South Carolina Historical Magazine* 117.1 (Jan. 2016): 9

²² *Ibid.*, 8.

²³ “Judges of the Fourth Circuit, since 1801,” United States Court of Appeals for the Fourth Circuit, accessed July 22, 2019, <https://www.ca4.uscourts.gov/docs/pdfs/historyjudges.pdf?sfvrsn=16>; Kalk, “The Making of ‘Mr. Justice Haynsworth?’” 9.

²⁴ “Clement Furman Haynsworth Jr.,” Law Library – American Law and Legal Information, accessed December 19, 2019, <https://law.jrank.org/pages/7298/Haynsworth-Clement-Furman-Jr.html>.

²⁵ Kalk, “The Making of ‘Mr. Justice Haynsworth?’” 11–13, 16–18.

²⁶ Kalk, “The Making of ‘Mr. Justice Haynsworth?’” 11–13; “Civil Rights, under ‘Haynsworth’s Opinions: Careful, Rarely Innovative; Civil Rights, Criminal Law, National Security,” *Washington Post*, August 19, 1969.

For example, the school board in Prince Edward County, Virginia, closed their county schools from 1959 until 1963 rather than integrate, which led to a civil rights lawsuit.²⁷ Haynsworth did not address the board's blatant disregard for the Supreme Court's decision in *Brown v. Topeka Board of Education* (1954) because the Court's vague meaning, "with all deliberate speed," in *Brown v. Topeka Board of Education II* (1955) gave segregationists impetus to resist the spirit and letter of the law through massive resistance.²⁸ The Supreme Court turned the school desegregation cases over to the district courts to facilitate enforcement of the new law. Subsequently, *Griffin v. School Board of Prince Edward County* (1959) came before the Fourth Circuit Court, where the jurist upheld the discriminatory practice.²⁹ Placing his personal convictions ahead of the federal mandate, Judge Haynsworth "wrote a 2 to 1 decision reversing a federal court order against school officials, holding that it was proper to await state court action."³⁰ Moreover, as white families in Prince Edward County enrolled their children in private schools, under the freedom of choice plan, black children attended dilapidated, underfunded schools. Unable to find a viable solution for federal courts to comply with Prince Edward County's areawide school closures and assist white families with tax

²⁷ *Griffin v. School Board of Prince Edward County*, Oyez, accessed April 20, 2019, <https://www.oyez.org/cases/1963/592>.

²⁸ "With All Deliberate Speed," Smithsonian National Museum of American History, accessed April 19, 2019, <http://americanhistory.si.edu/brown/history/6-legacy/deliberate-speed.html>; Kalk, "The Making of 'Mr. Justice Haynsworth?'" 11–12.

²⁹ "Civil Rights, under 'Haynsworth's Opinions: Careful, Rarely Innovative; Civil Rights, Criminal Law, National Security,'" *Washington Post*, August 19, 1969; *Griffin v. School Board of Prince Edward County*, Oyez, accessed April 20, 2019.

³⁰ "Civil Rights, under 'Haynsworth's Opinions,'" *Washington Post*, August 19, 1969.

credits for enrolling their children in private schools, Haynsworth penned these words in 1963,

When there is a total cessation of the operation of an independent public school system, there is no denial of equal protection of the laws, though the resort of the poor man to [find] an adequate substitute may be more difficult and though the result may be the absence of integrated classrooms in a locality.³¹

In his judicial opinion, Haynsworth meant that white residents of Prince Edward County were not denied their civil rights, based on his limited view of the Fourteenth Amendment. However, these families struggled financially to send their children to similar schools with the same caliber of education because the school board resisted the High Court's plan of integration, which was anathema to these residents. Subsequently, in a seven to two decision, the Supreme Court overturned his ruling in 1964 and forced the county to operate integrated schools.³² Using the example of Prince Edward County, Virginia, school desegregation as a case study, the white residents, and much of the larger white South, not only viewed the federal government as encroaching on their civil liberties but also lived in the complicated legacies of the Civil War and Reconstruction. Throughout his tenure on the Fourth Circuit Court, the chief judge's vague rulings deliberately delayed the enforcement of school integration while punishing the black community for asserting its civil rights.³³ Over time, Haynsworth became infamous to various civil rights organizations, such as the Leadership Conference on Civil Rights

³¹ "Civil Rights, under 'Haynsworth's Opinions,'" *Washington Post*, August 19, 1969.

³² *Griffin v. School Board of Prince Edward County*, Oyez, accessed April 20, 2019; "Civil Rights," under "Haynsworth's Opinions," *Washington Post*, August 19, 1969.

³³ Kalk, "The Making of 'Mr. Justice Haynsworth?'" 11–12, 16–17, 22–23.

(LCCR), the NAACP, and the National Urban League (NUL). As the chief justice of the Fourth Circuit Court, Haynsworth was a loyal southerner who upheld segregation from the bench. Although he was not as hostile as other southern jurists, Haynsworth nevertheless had an insincere commitment to civil rights and used his position to delay integration.³⁴

Haynsworth's narrow, strict interpretation of the Constitution, especially the Fourteenth Amendment, was a larger ploy into President Richard Nixon's strategy of appealing to disillusioned, white southern voters. They felt betrayed by the Democratic Party as the national coalition gradually became more inclusive of black Americans and adopted a stronger civil rights platform throughout the 1950s and 1960s.³⁵ Despite the mounting opposition to Haynsworth, President Nixon refused to withdraw the nomination because he was determined to balance the liberalism of the Warren Court with southern, conservative, strict constructionists who would roll back the gains of the Civil Rights Movement. Benjamin E. Mays, the famous civil rights leader, pastor, and mentor to Dr. Martin Luther King, Jr., wrote in an editorial,

... Nixon has already slowed desegregation of the schools. ... Senator Thurmond told the [S]outh during the [1968 presidential] campaign that Nixon was at heart a segregationist. I am inclined to believe Thurmond. The [South] has not stopped [its Jim Crow practices]. Certain segments plan to halt or stop the desegregation of the schools outright. President Nixon is definitely playing ball with the [S]outh. And when the [S]outh gets on the run, it never lets up.³⁶

³⁴ *Griffin v. School Board of Prince Edward County*, Oyez, accessed April 20, 2019; "Civil Rights," under "Haynsworth's Opinions," *Washington Post*, August 19, 1969; Kalk, "The Making of 'Mr. Justice Haynsworth?'" 11–12, 16–17, 22–23.

³⁵ "Civil Rights," under "Haynsworth's Opinions," *Washington Post*, August 19, 1969; *Griffin v. School Board of Prince Edward County*, Oyez, accessed April 20, 2019.

³⁶ Benjamin E. Mays, "Uneasy about High Court," *Chicago Daily Defender (Big Weekend Edition)*, September 3, 1969.

White southerners' massive resistance strategies, as well as the Nixon Administration's slowness, effectively stalled the process of school integration because these residents desperately wanted to hold on to their cherished way of life. Moreover, the President's "law and order" rhetoric, became a rallying cry "... that could be interpreted to mean a tougher stand against marching minorities ... against accused persons or against demonstrating students" because "... [t]he mood of many Americans was not toward greater tolerance or toward more liberal interpretations of civil liberties or civil rights."³⁷ Indeed, Nixon's actions not only demonstrated his mastery as a political demagogue who capitalized on the nation's social ills to garner more votes, prestige, influence, and favor with the white South but also an insatiable desire for power that ultimately led to his downfall.³⁸

Although Haynsworth's civil rights record was very troubling, allegations of ethical impropriety were more damaging to his credibility during the nomination process. Further investigation revealed that he ruled against the National Labor Review Board's (NLRB) charges of unfair labor standards in a case involving the Darlington Manufacturing Company, a textile mill, which "had closed a plant to avoid a union election and had failed to provide any compensation for the workers left unemployed."³⁹

³⁷ Richard E. Vatz and Theodore Otto Windt, Jr., "The Defeats of Judges Haynsworth and Carswell: Rejection of Supreme Court Nominees," *Quarterly Journal of Speech* 60.4 (Dec. 1974): 477.

³⁸ Mays, "Uneasy about High Court," *Chicago Daily Defender*, September 3, 1969; Vatz and Windt, "The Defeats of Judges Haynsworth and Carswell," 477, 480–482, 483, 485–486, 488; Kotlowski, "Trial by Error," 71–80; Richard L. Madden, "Brooke Appeals to Nixon to Resign for Nation's Sake," *New York Times*, November 5, 1973; Brooke, interview, August 16, 2006.

³⁹ Bayard Rustin, "Anti-Labor," under "Nixon's Plan: Fancy Rhetoric, Hollow Ring," *New York Amsterdam News*, September 6, 1969.

Even more disturbing was the fact that Haynsworth had investments in Carolina Vend-A-Matic, a vending machine company that conducted business with the embattled textile mill. Interestingly, charges of financial and ethical improprieties forced Associate Judge Abraham Fortas to resign. Coincidentally, the Nixon Administration produced documentation that the late Robert F. Kennedy, the former attorney general, launched an investigation into Haynsworth's financial misconduct and cleared him of any wrongdoing after a thorough review of the evidence.⁴⁰ However, as one editorial noted, "Since a conflict of interest caused Justice Fortas to step down from the Court, it is entirely improper that his place should now be filled by a man guilty of a similar indiscretion."⁴¹ During the Senate Judiciary Committee's interview of Judge Haynsworth, which began on September 16 and lasted until September 26, 1969, Democratic Senator Edward Kennedy, an opponent of the nomination, openly questioned two southern, conservative senators as to whether or not his brother would have cleared the judge's egregious record, which warranted further scrutiny and ultimately, the Senate's rejection, since Haynsworth could not live up to the high standards as a Supreme Court justice.⁴²

⁴⁰ "Hearings" under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, 25th ed., (Washington, D.C.: Congressional Quarterly, 1970), 337–349, accessed March 31, 2020, <http://library.cqpress.com/cqalmanac/cqal69-1248180>; Kalk, "Nixon, the Senate, and the Haynsworth Nomination," 75; "Haynsworth Says U.S. Inquiry Cleared Him of Union Charges," *New York Times*, August 16, 1969, 15.

⁴¹ Rustin, "Anti-Labor," under "Nixon's Plan," *New York Amsterdam News*, September 6, 1969.

⁴² "An Insensitive Judge," *Chicago Daily Defender (Big Weekend Edition)*, October 25, 1969; Kalk, "Nixon, the Senate, and the Haynsworth Nomination," 75; "Haynsworth Says U.S. Inquiry Cleared Him of Union Charges," *New York Times*, August 16, 1969. Although Haynsworth claimed that attorney general Robert F. Kennedy's investigation cleared him of any wrongdoing in the Darlington Manufacturing Case, this seems unlikely as the attorney general fought corruption and was an occasional civil rights advocate. The fact that the Nixon Administration would fabricate a letter from the former attorney general for the sake of expediting the Senate confirmation process is not only dishonorable but also demonstrates the President's lack of character and integrity.

The Senate Judiciary Committee's hearings of Haynsworth's qualifications, especially his record on race relations and labor unions, required more witness testimony. For example, John P. Frank, a renowned lawyer who fought on behalf of civil rights, defended the judge against accusations of ethical impropriety. Although he was a Democrat, Frank's adherence to the Canon of Ethics required him to set aside his partisan beliefs before defending Haynsworth, whom he felt was innocent of any wrongdoing, based on thorough, factual review of the evidence.⁴³ Indeed, Frank's strong defense of Haynsworth seemed to lend credence to Senator Strom Thurmond's and Senator Ernest Hollings's endorsements of the jurist. Representing South Carolina, the segregationist legislators believed the charges were merely created to impugn Haynsworth's honor and judicial record.⁴⁴ However, their endorsements were not enough to garner the confidence of the entire Judiciary Committee.

As another example, during a joint testimony before the Judiciary Committee, Joseph L. Rauh, Jr. and Clarence Mitchell, representing the LCCR, read a prepared statement by NAACP executive secretary Roy Wilkins, that presented Haynsworth's

⁴³ "Testimony of John P. Frank, Attorney, Phoenix, Ariz.," in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr. of South Carolina, to be Associate Justice of the Supreme Court of the United States*, day 2, 90th Cong., 1st sess., September 17, 1969, 110, 123, Library of Congress, accessed May 20, 2020, <http://loc.gov/law/find/nominations/haynsworth/hearing.pdf>. As a civil rights advocate, Frank filed the first legal brief with the Supreme Court during the 1950 school desegregation case, *Sweatt v. Painter*, which would later serve as the basis for *Brown v. Topeka Board of Education* in 1954.

⁴⁴ "Statement of the Hon. Strom Thurmond, a U.S. Senator from the State of South Carolina," 35–36; "Statement of the Hon. Ernest F. Hollings, a U.S. Senator from the State of South Carolina," in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 1, September 19, 1969, 36–39, accessed May 20, 2020.

nomination as “a deadly blow to the image of the U.S. Supreme Court.”⁴⁵ Black Americans were concerned because his confirmation would not only destroy the High Court’s highly esteemed reputation as a “symbol of protection of civil rights and human dignity” but also “convert the Court into a swamp of delay and technicalities.”⁴⁶ Rauh, a noted civil rights attorney, liberal northern Democrat and the principal author of the civil rights position at the 1948 Democratic National Convention, answered questions from North Carolina Senator Sam Ervin, a member of the Judiciary Committee and staunch segregationist who felt that federally mandated school desegregation placed shackles on the white South, especially innocent schoolchildren.⁴⁷ From the perspective of Rauh and Mitchell, Haynsworth’s delay and unjust rulings in civil rights cases only strengthened those chains. When Ervin’s questioning of civil rights injustices, which bordered on rudeness, became intense, Rauh commented, “... I do not think we have reached any point where we can talk about the shackles of integration. I think we are still under the shadow of the shackles of segregation in this country.”⁴⁸ Even Clarence Mitchell, when

⁴⁵ “Testimony of Clarence Mitchell, Legislative Chairman, and Joseph L. Rauh, Jr., Counsel, Leadership Conference on Civil Rights,” in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 7, September 25, 1969, 423, accessed May 20, 2020.

⁴⁶ *Ibid.*, 424, accessed May 20, 2020.

⁴⁷ Bart Barnes, “Joseph L. Rauh, Jr., A Life of Activism,” *Washington Post*, September 5, 1992, accessed August 18, 2019, <https://www.washingtonpost.com/archive/politics/1992/09/05/joseph-l-rauh-jr-a-life-of-activism/7d1a80eb-c9da-4b9e-8d58-7308e760d4c4/>; “Testimony of Clarence Mitchell, Legislative Chairman, and Joseph L. Rauh, Jr., Counsel, Leadership Conference on Civil Rights,” in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 7, September 25, 1969, 437–455, accessed May 20, 2020.

⁴⁸ “Testimony of Clarence Mitchell, Legislative Chairman, and Joseph L. Rauh, Jr., Counsel, Leadership Conference on Civil Rights,” in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 7, September 25, 1969, 455, accessed May 20, 2020.

answering Maryland Senator Charles Mathias's questions about the judge's partiality in civil rights cases, noted how,

... after reading Judge Haynsworth's decisions and talking with great constitutional lawyers like Mr. Rauh and others who have helped in the understanding of those decisions, I cannot believe that Judge Haynsworth would bring that degree of objectivity to the Court which would enable him, when looking at a colored man and a white man, to fail to take note of their color, fail to take note of the customs out of which the case arose, and it is my opinion on the basis of his record that if we were successful in getting a favorable decision from him, it would be because the law is so overwhelmingly on our side that, as Mr. Rauh has pointed out, it would be ridiculous to decide otherwise.⁴⁹

If confirmed to the Supreme Court, the southern jurist would always oppose civil rights unless placed in a position where he unequivocally had to issue a ruling in favor of black Americans. Although he did not vocally support white supremacy from the bench, Haynsworth's record as a federal judge demonstrated a commitment to Jim Crowism that was an affront to the Warren Court's legacy of rectifying racial injustices and ensuring equality for ethnic minorities, the politically disenfranchised and other ignored citizens. Senator Edward Kennedy and other members of the Committee, disturbed with Haynsworth's record on race and labor unions, wanted to hear more testimony from the judge.⁵⁰ However, Senator James Eastland, the chairman of the Judiciary Committee, overruled them and sent the confirmation to the Senate on October 9 by a vote of ten yeas to seven nays.⁵¹ Despite Haynsworth's transparency throughout the contentious weeklong

⁴⁹ "Testimony of Clarence Mitchell, Legislative Chairman, and Joseph L. Rauh, Jr., Counsel, Leadership Conference on Civil Rights," in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 7, September 25, 1969, 469, accessed May 20, 2020.

⁵⁰ "Testimony of Hon. Clement F. Haynsworth, Jr., Nominee to be Associate Justice of the Supreme Court," in *Hearings before the Committee on the Judiciary on Nomination of Clement F. Haynsworth, Jr.*, day 2, September 17, 1969, 77–104, accessed May 20, 2020.

hearings, the numerous statements in favor of and against his appointment were the least of his worries while the Senate discussed his qualifications.

Senator Brooke objected to the nomination, saying, “If there is a consensus in the Senate at the moment, I think it is the view that Judge Haynsworth is not the distinguished jurist whom the country expected to be nominated,” in a letter to President Nixon.⁵² The burden to confirm or reject the nomination rested on the Senate. An August 1969 news article analyzing Haynsworth’s nomination noted that, in addition to southern social mores having a strong effect on Haynsworth’s legal career, “It would be tragic indeed for the U.S. Supreme Court to be influenced in its decisions by an associate who cannot bring himself to believe in true equality.”⁵³ Brooke perceived how Haynsworth, if confirmed, would issue rulings in favor of the Nixon Administration that would further polarize the nation socially, racially and politically rather than serve as a conduit of healing and reconciliation. Moreover, Haynsworth’s conservative rulings on the Supreme Court would embolden segregationists to continue defying the federal government while simultaneously punishing working class Americans and ethnic minorities who struggled to assert their civil rights. Brooke further commented that Haynsworth’s judicial record regarding civil rights and improper business dealings “raises grave questions about the

⁵¹ “Committee Action,” under “Senate Rejects Haynsworth Nomination to Court,” in *CQ Almanac 1969*, accessed March 31, 2020.

⁵² Steve Gerstel, “Brooke: Axe Haynsworth,” *Chicago Daily Defender (Daily Edition)*, October 2, 1969.

⁵³ “Nixon’s Supreme Court,” *Chicago Daily Defender (Daily Edition)*, August 18, 1969.

wisdom of confirmation.”⁵⁴ Thus, the senator believed that rejection of the jurist’s nomination would defeat President Nixon’s southern strategy.

Brooke’s work was complicated by the Republican Party’s embracing of white segregationists. For example, Senator Strom Thurmond was a Dixiecrat–turned–Republican from South Carolina who supported President Nixon’s nominees because he was an avowed segregationist.⁵⁵ Moreover, Thurmond held considerable influence in the Republican Party. Thus, Brooke broke ranks with some party leaders, especially Thurmond, by voting “Nay” against Haynsworth due to his questionable record regarding civil rights and labor unions. Regardless of party leaders’ views, especially the President, Brooke did not waver in his vote and put the nation’s interests ahead of party loyalty. In a letter to Nixon, the senator wrote,

My review of Judge Haynsworth’s record convinces me that his treatment of civil rights issues is not in keeping with the historic movement toward equal justice for every American citizen. ... Is Judge Haynsworth the man to restore the nation’s confidence in the utter integrity of the Supreme Court? ... The widespread discontent with his nomination shows, I believe, that he is not. ... A sizeable and growing number of Republican senators, together with a large number of Democrats, have indicated their inclination to oppose the nomination.⁵⁶

The senator discreetly informed the President that he would vote against Haynsworth if Nixon pushed the nomination forth. The judge’s record demonstrated his hostility to the Civil Rights Movement and partiality in upholding the laws. Although

⁵⁴ Gerstel, “Brooke: Axe Haynsworth,” *Chicago Daily Defender*, October 2, 1969.

⁵⁵ Nadine Cohodas, *Strom Thurmond and the Politics of Southern Change* (New York: Simon and Schuster, 1993), 26–30, 387, 407, 437.

⁵⁶ Senator Edward W. Brooke to President Richard Nixon, letter, October 1, 1969, Box 187, Edward William Brooke Papers, Manuscript Division, Library of Congress, Washington, D.C., 1 (hereafter known as EWB Papers).

Haynsworth was a Republican proselyte, he did not forsake his southern heritage. His rulings at the appellate level maintained the long-standing traditions of white southerners' hostility to federal intervention as well as localized, brutal oppression of black Americans who actively protested their denial of first-class citizenship.⁵⁷ Consequently, Senator Brooke's convictions informed his decision to help organize a bipartisan coalition to defeat the nomination.

In telling President Nixon the unvarnished truth, the legislator commented,

If this nomination is put to the Senate, it will be extremely embarrassing to those of us who face a great conflict between our principles and our sense of obligation to you. It may well be that there will be sufficient votes to deny Judge Haynsworth confirmation. ... [W]ith many of us obliged to voice strong criticism and others prepared to offer only the most grudging acceptance, I honestly believe that the interests of justice would best be served by such a withdrawal.⁵⁸

Although voting against the President was tantamount to career suicide, Brooke was more focused on how the potential nominee would affect the nation through his rulings on the High Court. Haynsworth's unjust decisions would not only have stunted the nation's social, political and economic growth in attempts to satisfy the President's insatiable lust for power but also catered to the silent majority of voters in the North and Sunbelt South, as well as hostile southern whites, who relied on massive resistance strategies to hinder desegregation. From Brooke's perspective, preserving republicanism, civil rights and labor unions meant opposing President Nixon, the leader of the Republican Party. He subsequently worked with Democratic senators Birch Bayh,

⁵⁷ "Civil Rights," under "Haynsworth's Opinions," *Washington Post*, August 19, 1969.

⁵⁸ Senator Brooke to President Nixon, October 1, 1969, Box 187, EWB Papers, 2.

Quentin Burdick, Philip Hart, Edward Kennedy, and Joseph Tydings to vocalize their opposition to the President's nominee.⁵⁹ Their individual views comprised a scathing report that Haynsworth was unqualified to serve on the Supreme Court. Despite Brooke's plea for Nixon to withdraw the nomination, the President, on October 14, 1969, "told GOP Congressional leaders ... that he was 'firmly and unequivocally determined' to press for confirmation of Haynsworth's nomination."⁶⁰ Less than a week later, on October 20, 1969, "President Nixon, in an impromptu press conference in his White House office, affirmed vigorously his support of the nomination of Haynsworth and said that he would not withdraw the nomination even if Haynsworth requested it."⁶¹ During the heated debates on the Senate floor, Democrats and Republicans stated their support, as well as opposition, to the nomination.

As the Senate debated Haynsworth's nomination, Senator Brooke commented,

The rejection of this nomination would be a personal tragedy for Judge Haynsworth. I regret that deeply. But his confirmation could be a collective tragedy for the Nation, and that risk is simply too real and too grave to accept. We cannot afford to fill the ninth seat on the Court with a man who enjoys anything less than the full faith and respect of those whom he serves. We cannot afford to weaken the reverence on which the Court's power is ultimately founded.⁶²

⁵⁹ "Individual Views," under "Committee Action," under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, accessed March 31, 2020, <http://library.cqpress.com/cqalmanac/cqal69-124810>.

⁶⁰ "Related Developments," under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, accessed March 31, 2020.

⁶¹ *Ibid.*

⁶² "Debate," under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, accessed March 31, 2020.

Brooke meant that the Supreme Court's respect would be severely affected if the Senate confirmed Haynsworth's nomination, knowing the allegations of financial impropriety as well as judicial misconduct. Moreover, a majority of the American people would view every branch of the federal government, especially Congress, with a deep level of mistrust because congressional leaders served as a checks and balances system regarding the President's agenda as they assessed the nation's needs. Therefore, Brooke's politicking with important Republican colleagues, including conservatives Len B. Jordan and John J. Williams, who was also the chair of the Republican Committee on Committees; liberals Charles H. Percy and Mark O. Hatfield; Minority Leader Hugh Scott; Robert P. Griffin, the party whip; and, Margaret Chase Smith, the chairwoman of the Senate Republican Leadership conference, not only ensured critical opposition to the nomination but also contributed in the decisive victory against Haynsworth's appointment. On November 21, 1969, seventeen liberal, in addition to some moderate, Republicans collaborated with thirty-eight mostly northern Democrats to reject the nomination. In contrast, twenty-six conservative and other moderate Republicans, along with nineteen southern Democrats, voted in favor of confirmation. The final vote, fifty-five nays to forty-five yeas, a historic blow to Nixon's southern strategy, demonstrated schisms and changes within the national Republican coalition.⁶³

Frustrated that the Senate rejected his first nominee, President Nixon appointed another southern jurist, G. Harrold Carswell, a Georgian by birth and a Floridian by

⁶³ "Background," and "Pressures, Voting," under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, accessed March 31, 2020.

residence, to the Supreme Court to fulfill his debt to the white South.⁶⁴ Consequently, the President had three objectives: (1) roll back the civil rights gains of the Warren Court, which many conservatives viewed as increasingly liberal; (2) placate the majority of southern Christians throughout the region who were angry with the High Court's decisions removing prayer (1962) and Bible reading (1963) from the public schools; and, (3) solidify his power base among the white South, something that President Herbert Hoover did not accomplish during his administration. Nixon was also looking ahead to the 1972 presidential election and wanted to deprive George Wallace, the hard-right segregationist governor of Alabama, of votes.⁶⁵ Moreover, Nixon wanted to demonstrate to the white South that his racial views had changed since leaving political office in 1961.⁶⁶ Thus, the President's reversal on civil rights endeared him to millions of white southerners who felt abandoned by the Democratic Party while struggling with the onslaught of federal intervention on their way of life, a series of civil rights legislation and black Americans' challenges to white supremacy.⁶⁷ Nixon and the Republicans readily embraced these disgruntled citizens seeking a new political home.

⁶⁴ Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 262–265, 269, 286. With the exception of the 1970 Supreme Court nomination hearings, and an oral history interview between Kalk and Carswell, primary sources about the southern jurist are virtually nonexistent. Clipping files from his matriculation as a student at Duke University and Mercer University law school are stored in the respective institutions' archives. Carswell felt humiliated after the Senate's rejection of his nomination and later retired from serving on the district court. The historical evidence presented in the journal article is the next best source of discussing Carswell's life and legal career.

⁶⁵ Dan Carter, *The Politics of Rage: George Wallace, The Origins of the New Conservatism, and the Transformation of American Politics* (Baton Rouge: Louisiana State University Press, 2000), 380, 381, 383, 384, 385, 395–411, 433, accessed May 20, 2020, ACLS Humanities E-Book, <https://hdl.handle.net/2027/heb.02235>; Kalk, "The Carswell Affair," 262–265.

⁶⁶ Kalk, "The Carswell Affair," 262–265.

G. Harrold Carswell was born on December 22, 1919, in Irwinton, Georgia, and lived “in the shadow of ‘down-home politics’” because his father, George Henry Carswell, devoted many years in politics as a state legislator.⁶⁸ Young Carswell, upon graduating high school in 1937, enrolled in Duke University, where he was not an amazing student. Despite his mediocrity, Carswell graduated in 1941. At the time of his graduation, the nation was engulfed in World War II. He enlisted in the Navy and served overseas. When he returned home, Carswell enrolled in Mercer University’s law school, in Macon, Georgia. While living in Bainbridge, Georgia, with his sister and her husband, after the death of their parents, Carswell met Virginia Simmons, his brother-in-law’s niece. She was the daughter of an industrialist and lived in Tallahassee, Florida, which later became Carswell’s second home. The couple married in 1944.⁶⁹

Carswell’s graduation from Mercer University’s law school in 1948 signified his desire to embark on a political career.⁷⁰ Thereafter, he decided to campaign for the state legislature, representing Irwinton.⁷¹ In the hotly contested primary election, he campaigned against Alexander Stephens Boone, a long-standing political rival who had supported the late governor, Eugene Talmadge, a notorious race-baiter and political

⁶⁷ Kalk, “The Carswell Affair,” 262–265; John Herbers, “‘Deep and Basic’ Reversal on Rights,” *New York Times*, February 22, 1970, accessed December 23, 2019, <https://www.nytimes.com/1970/02/22/archives/deep-and-basic-reversal-on-rights.html>.

⁶⁸ Kalk, “The Carswell Affair,” 268.

⁶⁹ *Ibid.*, 269–270.

⁷⁰ Kalk, “The Carswell Affair,” 268–270; “Bachelor of Laws,” under “Degrees and Certificates Conferred,” May 31, 1948, Mercer University Bulletin, 1948–1949, Archives and Digital Initiatives Department, Jack Tarver Library, Mercer University, Macon, GA.

⁷¹ Kalk, “The Carswell Affair,” 270.

demagogue. Carswell's father, although a Democrat, had opposed the governor in the 1930s, which did not help the younger Carswell's political ambitions. Thus, to demonstrate his unwavering belief in Jim Crowism, he printed a campaign speech that he gave before the American Legion in the Irwinton newspaper.⁷² The young man's words truly reflected his sentiments:

I am Southern by ancestry, birth, training, inclination, belief, and practice. And I believe that segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed and I shall always so act. I shall be the last to submit to any attempt to break down and to weaken this firmly established policy of our people. If my own brother were to advocate such a program, I would be compelled to take issue with him and to oppose him to the limit of my ability. I yield to no man, as a fellow candidate or as a fellow citizen, in the firm, vigorous belief in the principles of white supremacy, and so shall I be governed.⁷³

Although people can change, Carswell's words demonstrated a commitment to Jim Crowism, the validity of white supremacy, and willingness to defend the institution if anyone, such as a reformed, liberal southerner, the federal government, or even his brother, attempted to abolish the oppressive system that many southern whites, especially in the Deep South, began taking for granted. The status quo rested on tenuous foundations of violence, paternalism and patriarchy which black Americans boldly challenged due to a surge in postwar civil rights activism.⁷⁴

⁷² Kalk, "The Carswell Affair," 270.

⁷³ Associated Press, "Carswell Disavows '48 Speech Backing White Supremacy," *New York Times*, April 22, 1970, accessed December 25, 2019, <http://nyti.ms/1GYspKd>.

⁷⁴ Kalk, "The Carswell Affair," 270; Associated Press, "Carswell Disavows '48 Speech Backing White Supremacy," *New York Times*, April 22, 1970, accessed December 25, 2019.

After the electoral defeat, Carswell and his wife moved to Tallahassee, Florida. He desired to campaign for political office in the future but focused on establishing a legal career as the primary path to accomplishing his goals. Richard B. Russell, his late father's protégé and sometimes rival, helped open doors for Carswell to establish a name for himself as a lawyer and pursue politics.⁷⁵

After establishing himself as a household name, Carswell worked for Richard B. Russell's presidential campaign in 1952. Russell was an influential senator on Capitol Hill who campaigned in favor of segregation because many southern whites feared the liberal strand of northern Democrats, which increasingly adopted a stronger civil rights platform. Thus, Russell, and the more progressive Senator Estes Kefauver, a Democrat from Tennessee, campaigned hard during the Florida primary election. Carswell's work and association with Russell's rabidly segregationist theme backfired on the young lawyer as he strived toward fulfilling his political ambitions.⁷⁶

When Senator Russell failed to secure the Democratic presidential nomination in 1952, Carswell followed his father-in-law's example and abandoned the Democrats for the Republican Party, a decision that garnered many political benefits. As an Eisenhower Democrat, Carswell spoke before numerous crowds, campaigning relentlessly for the famous general. Before Eisenhower was inaugurated, the young man strongly desired a

⁷⁵ Kalk, "The Carswell Affair," 270–271. Networking with Senator Russell enabled Carswell to join a prominent, local firm. One of the firm's partners was Leroy Collins, his father-in-law's close associate, who later won the governorship of Florida. In addition, Carswell argued his first case before the state Supreme Court instead of a trial or appellate court. Later, he left the firm and started a practice in 1951.

⁷⁶ Ibid.

political appointment; therefore, his father-in-law, Jack Simmons, “who wanted [Carswell] to become the U.S. Attorney for the Northern District of Florida,” contacted Democratic Senator Spessard L. Holland’s office for assistance.⁷⁷ Meanwhile, the leadership from both the Florida Republican coalition as well as the “Democrats for Eisenhower” advocated for Carswell’s appointment to Senator Holland and the Justice Department.⁷⁸ In May 1953, the U.S. attorney general informed President Eisenhower of his recommendation, who quickly appointed the thirty-three-year old Carswell to the position.⁷⁹ When the Supreme Court issued its ruling against legalized school segregation in *Brown v. Topeka Board of Education* (1954), Carswell had served one year as the U.S. district attorney. Despite his federal position, he delayed enforcement of the law. As a noble son of the South, Carswell would be the “last to submit to any attempt to break down and to weaken this firmly established policy of our people” because “segregation of the races is proper and the only practical and correct way of life in our states.”⁸⁰ Thus, he demonstrated minimal cooperation with the Eisenhower Administration, which had

⁷⁷ R.D., “Memo for File,” January 5, 1953, Box 462, Spessard Holland Papers, cited in Bruce H. Kalk, “The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration,” *American Journal of Legal History* 42.3 (Jul. 1998): 272.

⁷⁸ Letter from D. Peyton Yon to Spessard L. Holland, n.d., Box 462, Spessard L. Holland Papers, Special Collections, Florida State University, Tallahassee, Florida; Letter from William P. Rogers to Charles F. Willis, May 21, 1953, William P. Rogers Papers, Dwight D. Eisenhower Presidential Library, Abilene, Kansas; Letter from Charles F. Willis, Jr., to Sherman Adams, May 25, 1953, Office Files, 5-H, Florida (Northern District), Eisenhower Presidential Library, cited in Bruce H. Kalk, “The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration,” *American Journal of Legal History* 42.3 (Jul. 1998): 273.

⁷⁹ Letter from Herbert Brownell, Jr., to Dwight D. Eisenhower, May 21, 1953, Eisenhower Library, Abilene, Kansas, cited in Bruce H. Kalk, “The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration,” *American Journal of Legal History* 42.3 (Jul. 1998): 272.

⁸⁰ Associated Press, “Carswell Disavows ’48 Speech Backing White Supremacy,” *New York Times*, April 22, 1970, accessed December 25, 2019.

modeled begrudging acceptance and weak enforcement of the law after the Supreme Court's decisions in *Brown I* and *Brown II* (1955).⁸¹

Despite the Supreme Court's ruling of school segregation as unconstitutional, Carswell's private life demonstrated that he deeply preferred to maintain the racial status quo. For example, in 1953, the same year that President Eisenhower nominated him for the position of U.S. district attorney, Carswell helped write the charter for a segregated booster club at Florida State University. In 1956, Carswell cooperated with other wealthy Tallahassee residents to privately purchase a city golf club, allowing them to circumvent a Supreme Court decision banning further segregation of public facilities. Although he later alleged that preserving Jim Crowism was not his intent, no one believed Carswell. According to James J. Kilpatrick, a segregationist newspaper editor from Richmond, Virginia, the district attorney used to his position and legal knowledge to keep the racial policies intact at the golf club.⁸² Carswell exhibited a strong desire to protect "the firmly established policy of our people" during a later incident.⁸³

⁸¹ Brian J. Daugherty, "Chapter 2: 'A New Day Is Born'; *Brown* and the Southern Backlash, 1954–1955," 22–43; "Chapter 3: 'Those Who Were on the Other Side,' The NAACP and the Rise of Massive Resistance, 1956," in *Keep on Keeping On: The NAACP and the Implementation of Brown v. Board of Education in Virginia* (Charlottesville: University of Virginia Press, 2016), 44–58, accessed June 14, 2020, EBSCOhost; Howell S. Baum, "Chapter 4: Desegregation by Free Choice," in "*Brown*" in *Baltimore: School Desegregation and the Limits of Liberalism* (Ithaca, NY: Cornell University Press, 2010), 65–80, accessed June 14, 2020, EBSCOhost; Sondra Gordy, "Chapter 1: The Summer of Relief Turns to Anxiety," 1–31; "Chapter 2: Nothing but Confusion," 33–55; "Chapter 3: Where Shall We Go?" in *Finding the Lost Year: What Happened When Little Rock Closed Its Public Schools* (Fayetteville, ARK: University of Arkansas Press, 2009), 57–83, accessed June 14, 2020, EBSCOhost; Charles T. Clotfelter, "Chapter 1: Walls Came Tumbling Down," in *After Brown: The Rise and Retreat of School Desegregation* (Princeton, NJ: Princeton University Press, 2004), 13–25, accessed June 14, 2020, EBSCOhost; David S. Cecelski, "Prologue," in *Along Freedom Road: Hyde County, North Carolina, and the Fate of Black Schools in the South* (Chapel Hill: University of North Carolina Press, 1994), 17–30, accessed June 14, 2020, EBSCOhost; Kalk, "The Carswell Affair," 272–273.

⁸² Kalk, "The Carswell Affair," 272–273.

In 1958, the Federal Judicial Court for Northern Florida experienced a vacancy. President Eisenhower selected Carswell for the position, which came as no surprise because he had favor with the Republican Party's state leadership, including Congressman William Cramer, who also nominated him to the federal appointment.⁸⁴ During his hearing before the Judicial Committee, Carswell reassured one senator that he would not declare an act of Congress unconstitutional, which required him to take an oath.⁸⁵ Thereafter, the Senate confirmed the nomination.⁸⁶ Thus, Carswell's appointment at the age of thirty-seven made him the youngest judge in the nation.⁸⁷

Over time, partial compliance with federal law and the use of his political office to hinder school desegregation policies became an egregious blight on Carswell's derisory judicial record. For instance, in 1960, black students filed a petition with his court, requesting Judge Carswell to integrate their faculty. He interpreted the *Brown* decision very narrowly to assume that the Supreme Court's ruling specifically applied to students. Simultaneously, his limited reading of the Fourteenth Amendment influenced

⁸³ Kalk, "The Carswell Affair," 273; Associated Press, "Carswell Disavows '48 Speech Backing White Supremacy," *New York Times*, April 22, 1970, accessed December 25, 2019.

⁸⁴ Letter from Lawrence E. Walsh to Robert K. Gray, February 27, 1958, White House Central Files: Official Files, Box 374, OF 100-C, Eisenhower Library, cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 273.

⁸⁵ Cong. Rec., 91st Cong. 2d sess., 9128, cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 273.

⁸⁶ Kalk, "The Carswell Affair," 273.

⁸⁷ Cong. Rec., 91st Cong. 2d sess., 9128, cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 273.

him to rule that racially segregated school faculties did not violate the equal protection clause. Although Chief Justice Earl Warren's majority opinion was somewhat vague, he forcefully decreed that segregation is immoral and should not influence children's opportunities to receive a quality education. The Circuit Court of Appeals later overturned Carswell's decision.⁸⁸

In 1964, he advocated a "freedom of choice" proposal that prevented the complete desegregation of public schools throughout his jurisdiction. Later that year, Judge Carswell disagreed with a three-judge committee forcing a school district to implement a court-mandated desegregation policy.⁸⁹ His actions contrasted the decisions of the Fifth Circuit of the U.S. Court of Appeals, led by Chief Judge Elbert P. Tuttle and associate judges John M. Wisdom, John R. Brown and Richard T. Rives, which struck down segregation as unconstitutional. Their rulings guaranteed the constitutionality of the 1964 Civil Rights Act and 1965 Voting Rights Act, thereby ensuring the Civil Rights Movement's success and continuance.⁹⁰ In Carswell's dissenting opinion, the decision to integrate or not rested with the school board.⁹¹ His actions were not only a direct challenge to the federal government but also emboldened white Floridians to zealously defend Jim Crow society. Similarly, a limited interpretation of the Fourteenth

⁸⁸ Kalk, "The Carswell Affair," 275.

⁸⁹ Ibid.

⁹⁰ Jack Bass, "Chapter One: Famous Last Words," in *Unlikely Heroes* (New York: Simon and Schuster, 1981; repr., Tuscaloosa: University of Alabama Press, 1990), 15–22, accessed June 3, 2020, EBSCOhost.

⁹¹ Kalk, "The Carswell Affair," 275.

Amendment allowed him to exclude black Americans from serving on juries.⁹² In 1900, the Supreme Court, in *Carter v. Texas*, declared that purging black citizens from jury lists was unconstitutional.⁹³ Although Judge Carswell ignored this precedent, he gradually integrated his courtroom to maintain favor with the Eisenhower Administration.⁹⁴

Carswell's nominal enforcement of desegregation policies was evenly matched by his mediocrity and laziness in judging cases. The federal appointment was for life and came with a sizeable salary.⁹⁵ He dismissed hundreds of cases that came before his bench and his rulings in other cases were inconsequential. Thus, the unruly cases gradually became backlogged despite Judge Carswell having the least crowded docket. In 1966, Congress created the position for a new judge in the Northern District of Florida to ameliorate the increasing workload. Ironically, Carswell remained complacent in his position while constantly complaining about the district courts' procrastination in ruling cases. Similarly, the judge's printed opinions lacked scholarly merit and higher federal courts oftentimes opposed the findings, thereby signifying Carswell's disrespect for his craft. The written opinions were superficial, judicially unsound and incorporated very little secondary source literature. Whenever Carswell wrote opinions and appellate courts

⁹² Kalk, "The Carswell Affair," 275–276.

⁹³ *Carter v. Texas*, 177 U.S. 442 (1900), cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 276. Although the Supreme Court declared that removing black Americans from jury lists was unconstitutional, many juries remained predominantly white, especially in the South. The fact that Carswell followed the social dictates of Jim Crowism is not surprising. His willingness to persistently defy federal laws despite increased scrutiny from the Justice Department and passage of civil rights legislation in 1957 as well as the 1960s demonstrated a strong adherence to his supremacist beliefs.

⁹⁴ Kalk, "The Carswell Affair," 274–276.

⁹⁵ *Ibid.*, 276.

reviewed the rulings in various cases, the courts invalidated his decisions most times.⁹⁶

As historian Bruce H. Kalk commented, “In Judge Carswell’s final five years on the bench, the Court of Appeals and the Supreme Court regularly upheld him in criminal cases. In every other category, however, Carswell was overruled on appeal two-thirds of the time.”⁹⁷

Nevertheless, he remained committed to upholding Jim Crowism from the bench because Carswell was a southerner “by ancestry, birth, training, inclination, belief, and practice” who “yield[ed] to no man in the firm, vigorous belief in the principles of white supremacy ...”⁹⁸ In 1966, while serving as a federal judge, he sold property with a restrictive covenant in the legal documents.⁹⁹ Although the Supreme Court ruled the practice was unconstitutional in *Shelley v. Kraemer* (1948), that did not prohibit southern whites, including Carswell, from devising other methods of segregating. Moreover, he could not feign unawareness of his actions because Judge Carswell, in relation to a similar occasion, commented that he read documents before signing them.¹⁰⁰ Indeed, the

⁹⁶ Kalk, “The Carswell Affair,” 276–277.

⁹⁷ Kalk, “The Carswell Affair,” 277. Nevertheless, Carswell’s racial views did not change. Using his influence as a federal judge in Tallahassee, he helped found a law school at Florida State University. In 1965, Carswell served on a committee with other local, legal scholars to gain funding and support for the law school. As he talked with the incoming dean, Carswell advocated the admittance of black Americans into the law school. He also mentioned that test scores should be overlooked, if need be, to admit black students. In order for the law school to thrive, students and faculty from all over the nation, regardless of race, needed to apply. Although personally opposed to the idea of admitting black Americans into the law school, Carswell realized that the times were changing, and he had to make some uncomfortable decisions to demonstrate compliance with the federal government while his mindset remained unchanged.

⁹⁸ Associated Press, “Carswell Disavows ‘48 Speech Backing White Supremacy,” *New York Times*, April 22, 1970, accessed December 25, 2019.

⁹⁹ Kalk, “The Carswell Affair,” 274.

¹⁰⁰ *Hurd v. Hodges*, 334 U.S. 24 (1948); Cong. Rec., 91st Cong., 2d sess., at 9128 and 7494; *Hearings on Nomination of G. Harrold Carswell to be Associate Justice of the Supreme Court before the*

judge was so engrossed with maintaining the parameters of legalized segregation in his personal life that he did not consider the deleterious effects on his career or future political aspirations.¹⁰¹

While publicly reassuring federal officials of compliance with school desegregation in the aftermath of *Brown v. Topeka Board of Education* (1954), Carswell's white supremacist views did not change. His district was part of the Fifth Circuit of the U.S. Court of Appeals. When presiding over civil rights cases, Judge Carswell "almost never granted injunctions to black plaintiffs in civil rights cases. He remanded cases to state courts on which his more liberal colleagues would almost certainly have ruled, and generally hesitated in implementing desegregation."¹⁰² Although he did not vocally support segregation from the bench as some of his more stubborn colleagues in the Fifth Circuit did, the judge's actions demonstrated a blatant refusal to obey the spirit and letter of *Brown I* and *Brown II*.

In 1969, Richard Nixon's inauguration and Republicans' victories in Congress enhanced Carswell's political aspirations. In April of that year, Warren Burger, the new appointee for the position of chief justice on the Supreme Court, and an associate of Carswell, nominated him for a promotion.¹⁰³ Later that year, President Nixon named

Senate Comm. on the Judiciary, 91st Cong., 2d sess., note 1, at 32, cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination in the Nixon Administration," *American Journal of Legal History* 42.3 (Jul. 1998): 274.

¹⁰¹ Kalk, "The Carswell Affair," 274.

¹⁰² Ibid.

¹⁰³ Bob Woodward and Scott Armstrong, *The Brethren: Inside the Supreme Court* (New York: Simon and Schuster, 1979), 13, cited in Bruce H. Kalk, "The Carswell Affair: The Politics of a Supreme Court Nomination," *American Journal of Legal History* 42.3 (Jul. 1998): 278.

Carswell to the Fifth Circuit of the U.S. Court of Appeals.¹⁰⁴ Many liberals in the Senate and American public greatly opposed the nomination, including the Leadership Conference on Civil Rights (LCCR) who noted that “Carswell had been ‘more hostile to civil rights cases than any other federal judge in Florida.’”¹⁰⁵ Despite numerous protests, the Senate confirmed the jurist to the Fifth Circuit Court.¹⁰⁶ However, upon his confirmation, Carswell committed two errors that demonstrated his immaturity. In the first incident, he joined a majority of the justices to deny a court appearance to a woman whose employer fired her because she was pregnant. The woman took her case to the Supreme Court, which sided with her claims and ordered that she receive a hearing.¹⁰⁷

In December 1969, Carswell’s telling of a racist joke during a meeting for the Georgia Bar Association demonstrated adherence to his white supremacist convictions. He said, “I was out in the Far East a little while ago, and I ran into a dark-skinned fella. [I] asked him if he was from Indo china, and he said, ‘Naw, suh, Pse from Outdo’ Gawja.”¹⁰⁸ The judge tried to downplay the racial implications, but the damage was done because the lawyers attending the meeting were highly offended.¹⁰⁹ Anthony Lewis, a

¹⁰⁴ Kalk, “The Carswell Affair,” 278.

¹⁰⁵ *The New Republic*, July 12, 1969, 11–12, cited in Bruce H. Kalk, “The Carswell Affair: The Politics of a Supreme Court Nomination,” *American Journal of Legal History* 42.3 (Jul. 1998): 278.

¹⁰⁶ Kalk, “The Carswell Affair,” 278.

¹⁰⁷ *Ida Phillips v. Martin Marietta*, 416 F.2d 1257 (1969), cited in Bruce H. Kalk, “The Carswell Affair: The Politics of a Supreme Court Nomination,” *American Journal of Legal History* 42.3 (Jul. 1998): 278.

¹⁰⁸ Anthony Lewis, “The Significance of Judge Carswell,” *New York Times*, March 7, 1970, <https://nyti.ms/1kSDY0Z>, accessed July 29, 2019.

¹⁰⁹ Kalk, “The Carswell Affair,” 278.

reporter for the *New York Times*, when analyzing Carswell's qualifications in a 1970 editorial, commented, "That record display[s] ... extraordinary insensitivity. It ... raise[s] questions about Judge Carswell's fitness for a lifetime position on a court that must decide some of the most sensitive and almost important racial question[s] before the country."¹¹⁰ Thus, the two incidents revealed Carswell's misogyny, lack of racial sensitivity, sense of entitlement, and commitment to white supremacy.¹¹¹

Because of the condemning evidence against Judge Carswell, President Nixon nominated him to fill the Supreme Court vacancy on January 18, 1970. The announcement angered many civil rights activists and organizations, such as the NAACP, NUL and LCCR, who opposed his nomination to the Fifth Circuit Court in 1969 because of his appalling judicial record regarding civil rights. His past came to light as soon as the nomination was announced. Before long, civil rights activists discovered and publicized Carswell's 1948 campaign speech where he affirmed his belief in white supremacy. Despite the mounting controversy over Carswell's nomination, "Many white Americans [came] to resent black demands, and the President want[ed] to take account of their feelings," which was not completely unfounded, because "resentment and alienation among white people" became "a serious social danger."¹¹² Nixon, always a cunning political demagogue, appealed to the Silent Majority with his race-baiting rhetoric and

¹¹⁰ Lewis, "The Significance of Judge Carswell," *New York Times*, March 7, 1970, accessed July 29, 2019.

¹¹¹ Kalk, "The Carswell Affair," 278.

¹¹² Lewis, "The Significance of Judge Carswell," *New York Times*, March 7, 1970, accessed July 29, 2019.

defiant actions to ensure the votes of this vital political bloc.¹¹³ Simultaneously, and less of a concern, was the “bitterness in the black community” that “could destroy the racial peace he desire[d].”¹¹⁴

Opponents of the nomination coalesced around Carswell’s dismal civil rights record, chauvinism and lack of intellectual competency, citing the numerous times the U.S. Court of Appeals and Supreme Court reversed many of his rulings.¹¹⁵ Many of the opponents were moderate Republicans and mostly, northern, liberal Democrats as well as a few southern Democrats. Other moderate, conservative and liberal Republicans, as well as the rest of the Southern Bloc, supported the nomination. The Senate Judiciary Committee held intense hearings for approximately a week, beginning on January 27, and ending on February 3, 1970.¹¹⁶ During the hearings, the Committee heard favorable and unfavorable testimonies from law professors, colleagues, civil rights attorneys and civil rights activists. Their sworn depositions presented the message of an unabashed white supremacist who disregarded federal law for his personal preferences.¹¹⁷

¹¹³ Lewis, “The Significance of Judge Carswell,” *New York Times*, March 7, 1970, accessed July 29, 2019; Mays, “Uneasy about High Court,” *Chicago Daily Defender*, September 3, 1969; Vatz and Windt, “The Defeats of Judges Haynsworth and Carswell,” 477, 480–482, 483, 485–486, 488; Kotlowski, “Trial by Error,” 71–80.

¹¹⁴ Lewis, “The Significance of Judge Carswell,” *New York Times*, March 7, 1970, accessed July 29, 2019.

¹¹⁵ “Civil Rights Record,” and “Professional Criticism,” under “Carswell Nomination to Court Rejected by Senate,” *CQ Almanac 1970*, 26th ed., 05–154–05–162 (Washington, D.C.: Congressional Quarterly, 1971), <http://library.cqpress.com/cqalmanac/cqal70-1292761>, accessed March 31, 2020.

¹¹⁶ *Hearings before the Committee on the Judiciary on Nomination of George Harrold Carswell of Florida, to be Associate Justice of the Supreme Court of the United States*, 90th Cong., 1st sess., January 27–February 3, 1970, Library of Congress, accessed May 20, 2020, <https://www.loc.gov/law/find/nominations/carswell/hearing.pdf>.

¹¹⁷ “Testimony of Hon. Leroy Collins, Former Governor of Florida,” in *Hearings before the Committee on the Judiciary on Nomination of George Harrold Carswell*, day 2, 72–80, January 28, 1970;

After five days of stirring testimony, the Senate Judiciary Committee's deliberations mirrored the intense battle in the Senate that would decide Carswell's fate. The panel's blocking of the nomination on February 3 and February 5 demonstrated the intensity surrounding the controversy. Senator James Eastland, the chairman of the Committee, rejected a letter from Senators Edward Kennedy, Philip Hart and Joseph D. Tydings, requesting that Carswell also respond to allegations of discriminatory behavior toward civil rights lawyers and judicial incompetency. Despite the unresolved issues, the Committee voted thirteen to four to report Carswell's nomination to the Senate for confirmation.¹¹⁸ Thereafter, the legislature entered a lengthy and heated debate.

Brooke's speech on the Senate floor demonstrated his opposition to the Nixon Administration's southern strategy. He noted how Carswell, as a district attorney, federal district court judge and circuit court justice, used his influence, as well as legal knowledge, to effectively hinder federal desegregation policies. Thus, the senator commented,

I cannot in good conscience support confirmation of a man who has created such fundamental doubts about his dedication to human rights. ... If ... the President's laudable quest for greater harmony in our society will be undermined by this appointment, I trust that the Senate will deny confirmation of this regrettable nomination.¹¹⁹

"Testimony of Mark Hulsey, Jr., President of the Florida Bar Association," day 3, 102–107, January 29, 1970; "Testimony of James William Moore, Professor of Law, Yale Law School," day 3, 111–113, January 29, 1970; "Testimony of Gary Orfield, Assistant Professor of Politics and Public Policy, Princeton University," day 3, 113–132, January 29, 1970; "Testimony of Leroy D. Clark, Associate Professor, New York University Law School," day 4, 221–233, February 2, 1970; "Testimony of Clarence Mitchell, Legislative Chairman, Leadership Conference of Civil Rights," in *Hearings before the Committee on the Judiciary on Nomination of George Harrold Carswell*, day 5, 267–278, February 3, 1970, accessed May 20, 2020.

¹¹⁸ "Committee Action," under "Carswell Nomination to Court Rejected by Senate," *CQ Almanac 1970*, accessed March 31, 2020.

The judge's appalling civil rights record not only exhibited laziness but also a narrow interpretation of the Fourteenth Amendment. Of more alarming concern, Judge Carswell, throughout his tenure on both the district and circuit courts, allowed his personal convictions to overrule his duty to uphold the law, which led him to dismiss numerous civil rights cases, in addition to other hearings, with prejudice, while insulting black lawyers, litigants and civil rights attorneys seeking equality. His incompetence and white supremacist views, an affront to the scholarly and judicial reputation of the highest court in the nation, clearly warranted rejection. Democratic Senator Birch Bayh, who also opposed the nomination, commented,

[T]he thing that concerns me the most about this whole matter is ... namely, the drifting apart of our people, rather than tending to solidify as one Nation indivisible. ... I am becoming alarmed at some of the emotions rampant in our country today, directed in such a manner that it almost plays upon the worst in us rather than inspiring us to get up on our toes and do our best.¹²⁰

Carswell's nomination would further divide the nation along political and racial lines, with reprehensible consequences. Thus, Senator Bayh wanted an exemplary Supreme Court nominee to unite the country while inspiring all Americans to work toward a more equitable, just society.

Impassioned, eloquent speeches by Brooke, Bayh and others did not sway the hearts and mindsets of the legislators. Indeed, the Republican coalition that Brooke

¹¹⁹ Senator Edward W. Brooke, speech, "The Carswell Affair," Cong. Rec., 91st Cong., 2d sess., 1970, vol. 116, pt. 4: 4874, GovInfo, accessed March 27, 2020.

¹²⁰ Senator Birch Bayh, speech, "The Carswell Affair," Cong. Rec., 91st Cong., 2d sess., 1970, vol. 116, pt. 4: 4875, GovInfo, accessed March 27, 2020.

helped organize during the Haynsworth nomination dissipated. The principal Senate leadership, comprised of Senator Robert Griffin, the Assistant Minority Leader, and Senator Hugh Scott, the Minority Leader, voted in favor of Carswell. Conversely, Senator Margaret Chase Smith, the chairwoman of the Senate Republican Leadership Conference, voted against the nomination. There is a reason for these changes.

The President's overconfidence of victory led to his carelessness in overseeing the nomination. For example, the Nixon Administration used underhanded tactics of coercion and intimidation to persuade many undecided Republican senators to consider voting "yes" on the confirmation.¹²¹ Nixon's tactics backfired, costing him the respect and support of major Republican legislators.¹²² During a private meeting with Brooke, Nixon noted, "Oh, Ed, we're going to win this one. This time we're going to win."¹²³ Senator Brooke responded, "Mr. President, one thing I've learned since I've been here is how to count. You don't have the votes. He's going to be rejected, Mr. President."¹²⁴ Thus, Brooke's boldness, independent mindset and willingness to vote his convictions revealed his dedication to protecting civil rights.

¹²¹ Kalk, "The Carswell Affair," 283. The Nixon Administration attempted to inundate the undecided senators with letters from their constituents, asking them to support the nomination. When that tactic failed, the President bribed some senators with political favors, such as White House support during re-election campaigns.

¹²² John Paul Hill, "Nixon's Southern Strategy Rebuffed: Senator Marlow W. Cook and the Defeat of Judge G. Harrold Carswell for the U.S. Supreme Court," *Register of the Kentucky Historical Society* 112.4 (Autumn 2014): 628–630.

¹²³ Brooke, interview, August 16, 2006.

¹²⁴ *Ibid.*

As the time for the Senate proceedings drew closer, the Nixon Administration's final effort to rally Republican senators to its cause was a failure. Nixon aide Bryce Harlow called Republican Senator Marlow Cook, telling him that Senator Margaret Chase Smith would vote "yes" on Carswell.¹²⁵ Greatly disturbed by the news, Cook telephoned Senator Brooke to see if there was any validity to Harlow's information. Equally worried, Brooke rushed to meet Senator Smith, who was in the midst of lunch, to discuss the rumors.¹²⁶ After apologizing for the disturbance, he informed the senator that the White House publicly stated her intention of voting for the judge.¹²⁷ Upon hearing this unexpected news, Smith became enraged because she neither committed nor publicized how she would vote.¹²⁸ She immediately called Bryce Harlow, asking him if he told anyone that she would vote in the affirmative. His wavering answer angered Smith even more. After excoriating Harlow for impugning her honor, Smith slammed the phone on the receiver. Brooke left the meeting feeling somewhat confident.¹²⁹

Cook's phone calls to Brooke and fellow Republican Senator Winston Prouty guaranteed Carswell's rejection in the Senate.¹³⁰ Visitors in the galleries waited with

¹²⁵ Hill, "Nixon's Southern Strategy Rebuffed," 637.

¹²⁶ Hill, "Nixon's Southern Strategy Rebuffed," 637; Brooke, "Chapter 14: The President Nixon I Knew," in *Bridging the Divide*, 198.

¹²⁷ Brooke, "Chapter 14: The President Nixon I Knew," in *Bridging the Divide*, 198.

¹²⁸ *Nashville Tennessean*, April 19, 1970, cited in John Paul Hill, "Nixon's Southern Strategy Rebuffed: Senator Marlow W. Cook and the Defeat of Judge G. Harrold Carswell for the U.S. Supreme Court," *Register of the Kentucky Historical Society* 112.4 (Autumn 2014): 636; Brooke, "Chapter 14: The President Nixon I Knew," in *Bridging the Divide*, 198.

¹²⁹ Brooke, "Chapter 14: The President Nixon I Knew," in *Bridging the Divide*, 198.

¹³⁰ Hill, "Nixon's Southern Strategy Rebuffed," 636–638.

bated breath during the proceedings later that day. As Vice President Spiro Agnew, the president pro tempore of the Senate, began the roll call vote, Cook voiced “No,” which shocked the spectators.¹³¹ Senator Prouty’s “No” garnered jubilation and Senator Smith’s faintly heard vote of “No” led the anti–Carswell faction to erupt in cheers throughout the galleries.¹³² When the Vice President announced the results, the Senate rejected the nomination by a slim margin of fifty–one nays to forty–five yeas, another historic defeat for the Nixon Administration.¹³³ In his recollection of Haynsworth’s and Carswell’s defeats, Brooke noted,

[T]hough I wasn’t on the Judiciary Committee, I scrutinized very closely what they were doing so far as confirmation of judicial appointments, and I did that particularly in these two occasions, which came up after the [Abe] Fortas tragedy and all that was going on. Some of these [issues] came up, obviously, under my party’s President, Richard Nixon. I ran into this constantly with my party’s President.

I did my homework. My staff did its customarily high-quality research. We discussed it; we talked on every little issue. We’d review a letter or a speech. We’d have a meeting on one of these speeches and say well now, he said this, what does he mean? That was the kind of detail we got into. ... [S]o I could go to the floor ... I thought all the time I was talking ... I never had a note or anything. I felt so strongly. I just stood up and talked. Sometimes the gallery would be empty, and maybe one person [would be] up there and nobody sitting and listening. ... I made my point and got heard eventually. ... I listened to both sides and I voted accordingly.¹³⁴

Furious that his strategy to appoint “strict constructionists” to the Supreme Court did not go as planned, President Nixon held a press conference in the Briefing Room of

¹³¹ Hill, “Nixon’s Southern Strategy Rebuffed,” 637.

¹³² *Ibid.*, 637–638.

¹³³ *Ibid.*, 638.

¹³⁴ Brooke, interview, August 16, 2006.

the White House. He blamed a liberal media, as well as Democratic and Republican opponents, for the “vicious assaults on their [Haynsworth’s and Carswell’s] intelligence, their honesty and their character.”¹³⁵ Brooke’s work helped secure these monumental victories and the Senate confirmed Harry Blackmun, a judge with a more sympathetic record on civil rights and labor unions, to fill the seat of associate justice Abe Fortas later that year.¹³⁶ However, his politicking was not enough to prevent the nomination of Judge William H. Rehnquist to the Supreme Court.¹³⁷ Nevertheless, Brooke’s organization of bipartisan coalitions in the Senate to reject the nominations of Clement F. Haynsworth, Jr. and G. Harrold Carswell demonstrated his commitment to fairness, justice and a more equal society over partisan politics.¹³⁸

Despite the notable accomplishments during his two terms in office, Senator Brooke’s career would soon end because many of his constituents in Massachusetts felt that he was out of touch with their concerns. White Irish Bostonians, in particular, felt

¹³⁵ President Richard Nixon, “Statement by the President Regarding Nominations to the Court,” *Weekly Compilation of Presidential Documents*, 6.15 (Apr. 13, 1970): 505, cited in Richard E. Vatz and Theodore Otto Windt, Jr., “The Defeats of Judges Haynsworth and Carswell: Rejection of Supreme Court Nominees,” *Quarterly Journal of Speech* 60.4 (Dec. 1974): 488.

¹³⁶ Brooke, “Chapter 14: The President Nixon I Knew,” in *Bridging the Divide*, 200.

¹³⁷ Brooke, “Chapter 14: The President Nixon I Knew,” in *Bridging the Divide*, 200; “William H. Rehnquist,” Oyez, accessed July 1, 2020, https://www.oyez.org/justices/william_h_rehnquist. On December 10, 1971, Brooke’s vote was one of several “nays” in the sixty-eight to twenty-six vote that confirmed Rehnquist as an associate justice of the Supreme Court. He later served as the chief justice from 1986 until his death in 2005.

¹³⁸ Senator Walter F. Mondale to Senator Edward W. Brooke, December 14, 1971, Box 184, EWB Papers. Senator Mondale wrote a thank you letter to Brooke for his vote in overriding President Nixon’s veto of the OEO–Child Development Bill. The legislation, from Mondale’s perspective, “meant a great deal to me and I deeply appreciate your support for it.” Brooke’s commitment to bipartisanship, fairness, equality and ensuring that all Americans, especially children, had an equal opportunity for success superseded his political convictions and loyalty to the President.

that their segregationist culture was under attack by an increasingly powerful federal government.¹³⁹ From their perspective, the passage of the Brooke–Mondale Fair Housing Act was a threat to their traditions.¹⁴⁰ In addition, as black Bostonians gained civil rights, the white community of South Boston viewed the city’s public schools as the last bastion of its autonomy and vowed to defend these enclaves of de facto segregation.¹⁴¹ Angered by the white community’s oppression of black schoolchildren, Brooke spoke against antibusing legislation on the Senate floor. The senator also traveled to Boston numerous times, as he wrote in his memoir, to mediate negotiations with “black community leaders ... as well as with members of the Massachusetts Citizens against Forced Busing”; during the discussions, the segregationist faction “demanded that [Brooke] support a constitutional amendment ending forced busing.”¹⁴² In spite of their hostility, “[he] reminded them that ... [the] Constitution has been a vehicle for protecting and expanding the rights of our citizens, not limiting them.”¹⁴³ Unfortunately, the meetings always ended in stalemates. Therefore, conflict was inevitable.¹⁴⁴

¹³⁹ “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020, http://bostonlocaltv.org/catalog/V_UVTYSA8NKAD6M7N; “WBZ Archives: Raw Video 1974 Boston Busing Protests,” YouTube, May 23, 2018, accessed June 13, 2020, <https://www.youtube.com/watch?v=3qlylxu7wvc>.

¹⁴⁰ John F. Becker and Eugene E. Heaton, Jr., “The Election of Senator Edward W. Brooke,” *The Public Opinion Quarterly* 31.3 (Autumn 1967): 353; “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020; “WBZ Archives: Raw Video 1974 Boston Busing Protests,” YouTube, May 23, 2018, accessed June 13, 2020.

¹⁴¹ “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020; “WBZ Archives: Raw Video 1974 Boston Busing Protests,” YouTube, May 23, 2018, accessed June 13, 2020.

¹⁴² Brooke, *Bridging the Divide*, 222.

¹⁴³ Ibid.

¹⁴⁴ “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020; “WBZ Archives: Raw Video 1974 Boston Busing Protests,” YouTube, May 23, 2018, accessed June 13, 2020.

CHAPTER 5: THE APEX OF BROOKE'S CAREER

The decade of the nineteen seventies was characterized by racial unrest, political scandal, the Cold War, the end of the Civil Rights Movement and the American people's mistrust for the federal government, specifically the Presidency. Although President Richard Nixon's subtly racist rhetoric and hostility toward civil rights disturbed Brooke, the senator "remain[ed] a Republican partly out of [family] loyalty ... and partly for purely practical reasons."¹ Nevertheless, Brooke was committed to ensuring that the federal government did not retreat from its enforcement of civil rights laws in the areas of housing, jobs and school desegregation.² While supporting President Nixon's 1972 re-election campaign "because he is taking us in the direction of a generation of peace," Brooke still "found fault with the ... administration's domestic policies," especially the "President's civil rights record" because he effectively hindered federal desegregation statutes by weakening the law while portraying busing as a threat to southern culture and Jim Crowism through his inflammatory rhetoric.³ For example, Senator Brooke wrote a letter in response to Ruth Goetz, a young citizen troubled by the administration's abandonment of the Civil Rights Movement and other domestic affairs.⁴ He was "deeply

¹ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 57.

² Senator Edward W. Brooke to President Richard Nixon, telegram, June 25, 1969, Box 187, Edward William Brooke Papers, Manuscript Division, Library of Congress, Washington, D.C. (hereafter known as EWB Papers).

³ "Brooke Supports Nixon Reelection," *Daily Notes* (Canonsburg, PA), March 16, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/53146538>; Senator Edward W. Brooke to President Richard Nixon, telegram, June 25, 1969, Box 187, EWB Papers.

⁴ Ruth A. Goetz to President Richard Nixon, letter, July 22, 1969, Box 199, EWB Papers.

concerned over current trends in domestic policies, especially in the area of civil rights” and opposed the Administration’s amendments to the 1965 Voting Rights Act, which curtailed the law’s provisions, thereby denying black Americans’ right to vote.⁵ Consequently, Brooke would “vote only for a simple extension of the act before considering the numerous amendments.”⁶ Knowing that Nixon was a master of rhetoric and a shrewd political demagogue, the senator also hoped that the Justice Department’s alleged weakening of school desegregation guidelines was “only a symbolic gesture to the South.”⁷ However, if the federal desegregation policies were weakened, then Brooke would use every opportunity in the Senate to criticize and vote against the Nixon administration’s southern strategy while “continu[ing] to make known my concern over these issues,” thus reaffirming his dedication to civil rights.⁸

From November 1969 until February 1970, the Senate debated the provisions within an education appropriation bill sponsored by the Department of Health, Education and Welfare. This was Congress’s second attempt to present a school desegregation bill to President Nixon. The Southern Bloc, led by Democratic Senators John C. Stennis, James Eastland and John Sparkman, asserted that busing forced integration on the nation, specifically the South, and led to the eradication of Jim Crow society, which they desperately fought to preserve. Many Democratic and Republican politicians were divided over the issue of school desegregation. In addition, the President’s hostility to

⁵ Senator Edward W. Brooke to Ruth A. Goetz, August 6, 1969, Box 199, EWB Papers.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

busing bolstered the southern lawmakers' claims for segregated schools, effectively nullifying the Supreme Court's decision in *Brown v. Topeka Board of Education I* (1954). Representative Jamie L. Whitten, a Democrat from Mississippi, inserted a House proviso that "prohibited the use of any of its [Department of Health, Education and Welfare] funds 'to force any school district to take any action involving the busing of students ...'"⁹ Both houses of Congress were effectively compromising to end school desegregation. Senator Sparkman observed that the Whitten Amendments, if successfully passed, "would 'achieve what everyone knows is the will of the majority of American people, black and white,' an end to forced integration."¹⁰ However, the liberal, civil rights bloc of Republicans and Democrats proposed stronger arguments to counteract the segregationist measures. Senator Brooke released a statement, opposing the Whitten Amendments and holding the Nixon administration accountable for the slow pace of school desegregation. He supported bipartisan legislation co-sponsored by Republican Senator Clifford Case, Democratic Senator John Pastore and Republican Senator Hugh Scott

to revise the language of sections 408 and 409 of the pending bill. ... The pending amendments would insert language stating that compliance can be required, and Federal funds used to enforce it only if that compliance is constitutionally required.¹¹

⁹ Warren Weaver, Jr., "Senate Approves Education Funds, Killing Busing Ban," *New York Times*, March 1, 1970, accessed February 13, 2020, <https://www.nytimes.com/1970/03/01/archives/senate-approves-education-funds-kills-busing-ban-bars-southern.html>.

¹⁰ Ibid.

¹¹ Senator Edward W. Brooke, "Statement of Senator Edward W. Brooke in Opposition to the 'Whitten Amendments,'" press release, December 16, 1969, Box 575, EWB Papers, 1.

A firm believer in law and order, as well as the Constitution, Brooke wanted to see schools throughout the nation already integrated. However, in states where the residents adamantly opposed federal desegregation policies, he supported the bill's revised language requiring schools' cooperation with the law, and the use of federal money to enforce the guidelines. In his critique of the Nixon administration's gradual enforcement of the law, Brooke commented,

I have heard it argued that school desegregation is unnecessary because no one has 'proved' that a black child sitting next to a white child gets a better education. Of course[,] the scientific 'proof' is not available. ... But, I submit, ... that the evidence we need is all around us. It is in the high dropout and unemployment rates of Negro youths in the ghettos, where perhaps the worst education in the country is systematically dispensed. ... It is in the lack of understanding, exhibited in appalling amounts by persons of both races, which presently divides this nation. The root of the problem should be clear – Americans simply do not understand each other.¹²

Brooke's rhetoric and examples did not move President Nixon to action because he was committed to repaying his political debt to the Solid white South and Sunbelt South for his victory in the 1968 presidential election. Nevertheless, Senator Brooke demonstrated an independent mindset as well as indomitable courage in his decision to stand for truth and justice over partisan loyalties.¹³ As he concluded his written statement, Brooke

¹² Senator Brooke, "Statement of Senator Edward W. Brooke in Opposition to the 'Whitten Amendments,'" press release, December 16, 1969, Box 575, EWB Papers, 1.

¹³ Senator Edward W. Brooke to President Richard Nixon, letter, October 1, 1969, Box 187, EWB Papers, 1–2; Senator Brooke, "Statement of Senator Edward W. Brooke in Opposition to the 'Whitten Amendments,'" press release, December 16, 1969, Box 575, EWB Papers, 1–2; Steve Gerstel, "Brooke: Axe Haynsworth," *Chicago Daily Defender (Daily Edition)*, October 2, 1969; John Paul Hill, "Nixon's Southern Strategy Rebuffed: Senator Marlow W. Cook and the Defeat of Judge G. Harrold Carswell for the U.S. Supreme Court," *Register of the Kentucky Historical Society* 112.4 (Autumn 2014): 637; Senator Edward W. Brooke, speech, The Carswell Affair, Cong. Rec., 91st Cong., 2d sess., 1970, vol. 116, pt. 4: 4874, GovInfo, accessed March 27, 2020; Brooke, "Chapter 14: The President Nixon I Knew," in *Bridging the Divide*, 198; Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

“strongly urge[d]” that Congress adopt the “substitute language” which “will better enable this government to fulfill its promise to the youngest generation of Americans.”¹⁴ His eloquently written message fell on deaf ears, especially in the White House. During the Senate proceedings, Brooke voted against the segregationist measures, which were ultimately defeated. The Senate passed the education appropriations bill by a vote of sixty-eight yeas to zero nays. The legislature approved nineteen billion dollars to enhance the education system and strengthen federal desegregation policies.¹⁵

In May 1972, the Senate and House cooperated to pass antibusing legislation that “would ban [the] use of federal funds for busing unless requested by local schools.”¹⁶ According to the bill’s provisions, if busing was not “constitutionally required” in certain situations, then “federal agencies [were] prohibit[ed] from withholding other education aid money to force busing.”¹⁷ Liberal and conservative senators were divided over the bill’s compromise language. Some liberal lawmakers decried the wording as too forceful. In contrast, conservatives believed the wording was impotent while the House conference committee worked tirelessly to ensure the bill’s defeat. Liberal senators Jacob Javits, Edward Kennedy and Walter Mondale, who served on the Senate conference committee, opposed the bill but did not publicly state how they would vote. Because of their close

¹⁴ Senator Brooke, “Statement of Senator Edward W. Brooke in Opposition to the ‘Whitten Amendments,’” press release, December 16, 1969, Box 575, EWB Papers, 2.

¹⁵ Weaver, “Senate Approves Education Funds, Killing Busing Ban,” *New York Times*, March 1, 1970, accessed February 13, 2020.

¹⁶ “Passage Expected: Senate Advances Antibusing Bill,” *Weirton Daily Times* (Weirton, WV), May 24, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/49224053>.

¹⁷ Ibid.

work with Senator Brooke, a major proponent of busing, they most likely voted against the antibusing bill. Although the evidence implies that Brooke had a hidden role in defeating the legislation, we can merely surmise.¹⁸ Nevertheless, his work to protect busing garnered the respect of black parents and civil rights organizations, such as the NAACP, who wanted their children to receive a quality education on an equal basis with white schoolchildren.¹⁹

In the midst of these daunting challenges, Brooke campaigned for re-election in June 1972. Finding peaceful solutions to the Vietnam War and domestic issues, especially civil rights, remained at the forefront of his campaign, because, as he noted in a campaign speech, “[Ending] the war in Vietnam is [primary], but ... peace moves have to be made in all directions ... and ‘here at home.’ Equal opportunity under the law is still uppermost in my mind for all people ...”²⁰ Brooke was committed to ensuring peace internationally, as well as domestically, bringing soldiers home to their families and continuing his strident defense of civil rights, especially the issue of busing.²¹ Therefore, he worked diligently to represent all the people of Massachusetts while defending their civil rights and liberties within the halls of Congress. Throughout Brooke’s campaign, he

¹⁸ “Passage Expected,” *Weirton Daily Times* (Weirton, WV), May 24, 1972, accessed February 10, 2020; Roy Wilkins to Senator Edward W. Brooke, letter, September 20, 1972, Box 187, EWB Papers, 1–2; Senator Edward W. Brooke to Roy Wilkins, letter, October 5, 1972, Box 187, EWB Papers.

¹⁹ Roy Wilkins to Senator Edward W. Brooke, letter, September 20, 1972, Box 187, EWB Papers, 1–2; Senator Edward W. Brooke to Roy Wilkins, letter, October 5, 1972, Box 187, EWB Papers.

²⁰ A.A. Michelson, “Brooke Launches Second Campaign on Peace Platform,” *Berkshire Eagle* (Pittsfield, MA), June 14, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/532069535>. Based on Brooke’s mindset, everyone deserved isonomy “regardless of race, color, creed or point of national origin.”

²¹ “Passage Expected,” *Weirton Daily Times* (Weirton, WV), May 24, 1972, accessed February 10, 2020.

faced no opposition in the Republican primary, thereby easily securing the nomination.²² Nevertheless, he campaigned diligently against the Democratic nominee, John J. Droney, a district attorney who supported President Nixon's policies on the Vietnam War, as well as the nominations of Clement F. Haynsworth and G. Harrold Carswell to the Supreme Court, while dismissing the critical votes of young adults, moderates and liberals, target audiences that Brooke knew how to reach, because the Democratic nominee "assume[d] that there [was] a substantial 'aginner' [opposition] vote in Massachusetts."²³ Droney also criticized Brooke's first term in the Senate as a "do-nothing record" but presented nothing substantial in his campaign platform that would appeal to voters.²⁴

In contrast to his challenger, Brooke opposed the war and sponsored an amendment to a contentious foreign aid military bill that would have given President Richard Nixon the power to increase spending for military operations in Laos, Cambodia and Vietnam thereby prolonging the conflict.²⁵ During the summer of 1972, the Senate passed the Brooke Amendment, which ordered the President to withdraw all American soldiers from Vietnam, Laos and Cambodia, with the exception of Thailand, over a four

²² "Brooke Lavishes Praise on Nixon," *Bennington Banner* (Bennington, VT), July 26, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/546816995>; "No Primary for Brooke," *Lowell Sun* (Lowell, MA), September 11, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/47660600>.

²³ A.A. Michelson, "The Democratic Nod to a Hard-Lining Hawk Could Force Sen. Brooke onto the Defensive," *Berkshire Eagle* (Pittsfield, MA), June 17, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/532075465>.

²⁴ Howard White, "Brooke Appears Headed for Easy Win on Nov. 7," *Nashua Telegraph* (Nashua, NH), October 27, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/75199462>.

²⁵ "Conferees Jettison Senate Peace Bid," *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/53361825>.

month period if the Viet Cong released American prisoners of war and adequately reported on the status of soldiers who were missing in action within the same timeframe.²⁶ The provision passed by a vote of sixty-two yeas to thirty-three nays, demonstrating the senator's commitment to helping find a peaceful solution to the Vietnam War.²⁷ The Senate's passage of the amendment demonstrated its weariness with the protracted conflict and desire to end the stalemate.²⁸ However, conservative House and Senate conference committees rejected the Brooke Amendment during their revisions to a military aid bill sponsored by the Department of Defense.²⁹ Nevertheless, the Senate's passage of his amendment was historic and demonstrated the senator's commitment to bipartisanship because the legislation garnered support from both parties despite the conferees' rejection of the proviso.³⁰ Although he was disappointed with the legislation's outcome, Brooke "would reoffer [the amendment] to the foreign military aid

²⁶ "Conferees Jettison Senate Peace Bid," *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020.

²⁷ "Senate Approves Withdrawal, Defeats Foreign Arms Bill," *Idaho State Journal* (Pocatello, ID), July 25, 1972, accessed February 12, 2020, <https://newscomwc.newspapers.com/image/19141371>; Frank Van Der Lin, "President Keeps His Cool Over In-Party Opposition," *El Paso Herald-Post* (El Paso, TX), August 14, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/12767108>; "Conferees Jettison Senate Peace Bid," *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020.

²⁸ "Senate Approves Withdrawal, Defeats Foreign Arms Bill," *Idaho State Journal* (Pocatello, ID), July 25, 1972, accessed February 12, 2020; Van Der Lin, "President Keeps His Cool Over In-Party Opposition," *El Paso Herald-Post* (El Paso, TX), August 14, 1972, accessed February 10, 2020.

²⁹ "Conferees Jettison Senate Peace Bid," *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020.

³⁰ "Senate Votes U.S. Pullout Second Time," *Berkshire Eagle* (Pittsfield, MA), August 3, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/533902879>; "Conferees Jettison Senate Peace Bid," *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020; "Legislators Still End-War Amendment," *Times Record* (Troy, NY), September 9, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/56863415>.

bill whenever that measure reaches the Senate floor,” thereby honoring his campaign promise to finding a peaceful resolution to the lengthy war.³¹

Despite Congress’s defeat of the military funding legislation, Brooke’s work solidified his standing among the Massachusetts voters, who were opposed to the war.³² According to newspaper accounts, the two candidates never debated because Droney wanted to focus on Brooke’s tenure as attorney general rather than national issues. Brooke refused to waste time on trivial matters while the Vietnam War polarized the nation and the racial divisiveness of the Boston busing crisis prevented the students from receiving a quality education in equal, integrated schools.³³ Thus, on November 8, 1972, the people of Massachusetts re-elected Brooke over his hawkish, prejudiced opponent, John J. Droney. Brooke earned 1,399,175 votes whereas Droney received 766,695 votes. Brooke defeated his opponent by a plurality of 632,480 votes.³⁴ Although his electoral

³¹ “Military Pension Bill Killed, Not Forgotten,” *San Antonio Express* (San Antonio, TX), September 9, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/58629945>.

³² Michelson, “Brooke Launches Second Campaign on Peace Platform,” *Berkshire Eagle* (Pittsfield, MA), June 14, 1972, accessed February 10, 2020; “Senate Votes U.S. Pullout Second Time,” *Berkshire Eagle* (Pittsfield, MA), August 3, 1972, accessed February 10, 2020; “Brooke Rebukes Nixon But Keeps Friendship,” *Portsmouth Herald* (Portsmouth, NH), August 8, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/56452553>; “Conferees Jettison Senate Peace Bid,” *Kansas City Times* (Kansas City, MO), September 9, 1972, accessed February 10, 2020; “Legislators Still End-War Amendment,” *Times Record* (Troy, NY), September 9, 1972, accessed February 10, 2020; “Military Pension Bill Killed, Not Forgotten,” *San Antonio Express* (San Antonio, TX), September 9, 1972, accessed February 10, 2020.

³³ A.A. Michelson, “Voter Information: Candidates and Issues,” *Berkshire Eagle* (Pittsfield, MA), November 4, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/54942225>.

³⁴ Michelson, “The Democratic Nod to a Hard-Lining Hawk Could Force Sen. Brooke onto the Defensive,” *Berkshire Eagle* (Pittsfield, MA), June 17, 1972, accessed February 10, 2020; “Brooke Wins Big; Mrs. Hicks, Kerry Defeated,” *Berkshire Eagle* (Pittsfield, MA), November 8, 1972, accessed February 10, 2020, <https://newscomwc.newspapers.com/image/532896433>. Droney supported the failed Supreme Court nominations of federal judges Clement F. Haynsworth, Jr. and G. Harrold Carswell. Therefore, Droney’s actions demonstrate that he was prejudiced.

victory could be considered an easy election, Brooke's next term in the Senate experienced more challenges in the area of race relations.

The Watergate Affair eroded many citizens' confidence in the Executive Branch and President Richard Nixon's abrupt resignation in 1973 left the nation bereft of a trustworthy leader.³⁵ Vice President Gerald Ford was inaugurated on August 9, 1973, the day Nixon resigned from office. Fulfilling the remainder of Nixon's second term, Ford busied himself with healing the nation and overseeing the end of the Vietnam War, which was an international fiasco for the United States. Meanwhile, Senator Brooke, energized by his reelection victory in 1972, had little interaction with the new President and remained busy with ensuring that the incoming administration was committed to protecting civil rights, such as extension of the 1965 Voting Rights Act. Privately, the legislator worked with President Ford and other White House officials to make sure that the federal government renewed its commitment to forced busing, a tactic that Nixon demonized in his rhetoric toward white and Sunbelt southerners. Knowing the severity of the situation, the new President's quiet reinforcement of the law did not gain any attention from the media or the general public.³⁶

Moreover, Brooke worked diligently to ensure that Boston's schoolchildren were not affected by the busing crisis or the federal government's retreat from civil rights.

³⁵ Brooke, interview, August 16, 2006. Senator Brooke was the first Republican to make a public appeal for Nixon's resignation. Later, the legislator introduced a bill in the Senate chamber, requesting President Ford to give Nixon immunity from impeachment if he would gracefully resign. However, Nixon's resignation happened so quickly that the new President did not have an opportunity to grant his predecessor immunity.

³⁶ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 217–219, 222–223.

Between 1974 and 1976, the Senate debated anti-busing legislation but always came to an impasse. For example, in May 1974, the Gurney Amendment, sponsored by Florida Republican Senator Edward J. Gurney, “would prohibit the busing of a grade school or a high school student past his closest or next closest school. It would outlaw busing a student – to achieve racial balance – past two schools.”³⁷ The bill reflected the sentiments of many conservative Republicans and Democrats who wanted to nullify the Supreme Court’s 1954 decision in *Brown v. Topeka Board of Education*. Moreover, the anticipated legislation was designed to not only roll back the civil rights gains of the Warren Court but also placate white citizens living in the South and Sunbelt South as they fought to preserve their socioeconomic hegemony and sense of privilege. However, Senator Brooke opposed the measure, noting that the ramifications “would undo all that has been accomplished slowly and sometimes painfully, over the last two decades. It is clearly unconstitutional and would create chaos and confusion in communities.”³⁸ Brooke wanted to find a more tangible solution to the school desegregation crisis because violence always intensified racial tensions in Boston as well as other cities. Senator Gurney’s proposed amendment had two notable exceptions, giving “permission to bus a student in the ninth grade or higher a greater distance if it can be proved that he would otherwise suffer a great educational deprivation” and “any school district, operating under court-ordered busing, could change its plans to conform with the amendment.”³⁹

³⁷ “Liberals Marshal Forces: Busing Showdown Is Due,” *Argus* (Fremont, CA), May 13, 1974, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/37996528>.

³⁸ Ibid.

³⁹ Ibid.

The proposed bill would have given power back to recalcitrant local school districts throughout the various states, which oftentimes had comparatively smaller black populations and whose voices, as well as concerns, were often ignored. Passage of the Gurney Amendment failed because federal desegregation policies remained in place throughout the nation.⁴⁰ Based on research into Brooke's views on civil rights issues, he voted against the antibusing legislation.⁴¹

During the lengthy, heated debates around busing, the situation in Boston deteriorated immensely. On June 21, 1974, U.S. District Court Judge Wendell Arthur Garrity ruled that Boston schools needed to bus students to achieve desegregation.⁴² In response to the court order, the white residents of South Boston later staged a large anti-busing parade on September 9, 1974. News reporter Pam Bullard, who covered the story, observed that the men, women and children "who gathered on City Hall Plaza were angry. Their battle against busing has been lost. It was perhaps their last unified stand, the last huge expression of defiance."⁴³ Bullard noted that the march occurred three days before Garrity's ruling went into effect on September 12, 1974.⁴⁴ The protesters "came

⁴⁰ Richard D. Lyons, "Busing of Pupils Upheld in a Senate Vote of 47-46," *New York Times*, May 16, 1974, accessed April 1, 2020, <https://www.nytimes.com/1974/05/16/archives/busing-of-pupils-upheld-in-a-senate-vote-of-4746-ban-urged-by.html>. Although the liberal bloc in the Senate claimed this victory, the House of Representatives, by a vote of two hundred ninety-three yeas to one hundred seventeen nays, approved a proviso preventing federal courts from enforcing long-distance busing.

⁴¹ Ibid.

⁴² Bruce Gellerman, "How the Boston Busing Decision Still Affects City Schools 40 Years Later," *WBUR News*, June 20, 2014, updated December 19, 2014, accessed February 20, 2020, <https://www.wbur.org/news/2014/06/20/boston-busing-ruling-anniversary>.

⁴³ "September in Boston," September 9, 1974, Boston TV News, accessed May 20, 2020, http://bostonlocaltv.org/catalog/V_UVTYSA8NKAD6M7N.

from all parts of the city, proud of their neighborhoods and disgusted with a court system that could send their children to school outside that neighborhood.”⁴⁵ The anti-busing white residents resented Judge Garrity’s decision, which encroached on their civil liberties and the segregationist culture. Led by several local politicians, including Mrs. Louise Day Hicks, the march gave the protesters a platform to voice their concerns. The residents who “[stood] outside the Federal Building to tell Senators Kennedy and Brooke exactly how the city feels for their consistent support for busing” held “placards that read, ‘Ted and Ed, wish you were dead.’ Marchers shouted remarks about Brooke’s race ...”⁴⁶ The numerous signs carried by the protesters expressed their sentiments and disagreements with the senators’ votes. Moreover, the white residents’ shouting of racial epithets about Brooke demonstrated their disdain for his moderate political views and refusal to support de facto segregation. As Senator Kennedy walked to the federal building escorted by police, the protesters were lined up on both sides of the walkway and jeered him. However, the peaceful protest turned violent when protesters began throwing tomatoes and newspapers at Senator Kennedy as he walked through the door of the federal building. In addition, protesters broke one of the building’s windows. The incident signified that more violence would erupt in the city, which dealt with increased racial tensions surrounding busing.

⁴⁴ “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020; “‘Kennedy Abuse a Disgrace,’” *Independent* (Long Beach, CA), September 11, 1974, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/24074709>.

⁴⁵ “September in Boston,” September 9, 1974, Boston TV News, accessed May 20, 2020.

⁴⁶ *Ibid.*

The Boston busing crisis led to intense hatred and vicious attacks by the white Irish, working class community. These residents felt that the federal government abused their civil liberties, and the people used the hostile atmosphere to justify their violent actions. For example, antibusing whites threw eggs and tomatoes at Senator Edward Kennedy during an antibusing rally in Boston on September 9, 1974. Senator Brooke called the abuse “a disgrace” and strongly indicated that city government “would ‘pursue and prosecute’ all persons who forcibly stop children from going to school.”⁴⁷ The safety and welfare of all children was important to Brooke, who thought about his young adult daughters. In response to the violence, the senator advocated for calmness and peace. Although he supported busing, the Brooke noted that the strategy was not “a panacea, but ... a constitutional tool to bring about integration” and opposed all types of violence.⁴⁸ In this news article, Brooke “oppose[d] the busing moratorium called for by the demonstrators as well as a proposed amendment to the Constitution to prohibit forced busing.”⁴⁹ Thus, he worked tirelessly for a better solution to the school desegregation crisis.

Defiance and violence illustrated the white community’s hostile reaction to forced busing. On September 12, 1974, the day Judge Garrity’s ruling went into effect, eighteen thousand students were bused to different schools in Boston to achieve desegregation. For example, a white South Boston parent observed that, “[Busing] is tearing them [the

⁴⁷ “‘Kennedy Abuse a Disgrace,’” *Independent* (Long Beach, CA), September 11, 1974, accessed February 19, 2020.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

people] apart. I'm not for this. I don't care. [My children] will not go to school, but it's tearing them apart."⁵⁰ Many white parents objected to busing and protested Judge Garrity's desegregation ruling by keeping their children home. Another white parent commented, "Let us go to our neighborhoods where our kids are safe. We want our kids safe. We want our children safe. We never bothered them [black Bostonians]."⁵¹ Many white parents had preconceived notions that violence dominated black schools and neighborhoods. Based on the mindset of many white parents, de facto segregation was necessary to preserve peace in the schools and Boston's neighborhoods. The racial, prejudiced atmosphere was disheartening but the emotional trauma to black schoolchildren was even more disturbing. Video footage during the busing protests showed a black mother comforting her distraught daughter as they walked home from school. As another example, a black student recounted the harrowing experience of being bused to Roger Clap Elementary School. He noted that, "When we were in school, they [were] throwing glass at black people and little kids."⁵² Thus, the violence demonstrated white residents' desires to maintain the city's segregationist culture.

In contrast, Boston's black community viewed busing as a steppingstone to achieving civil rights. Mrs. Jean McGuire, a black mother and eyewitness to the busing controversy, commented that, "People were tired of fighting and not winning."⁵³ Black

⁵⁰ "WBZ Archives: Raw Video 1974 Boston Busing Protests," YouTube, May 23, 2018, accessed June 13, 2020, <https://www.youtube.com/watch?v=3qlylxu7wvc>.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Gellerman, "How the Boston Busing Decision Still Affects City Schools 40 Years Later," *WBUR News*, June 20, 2014, updated December 19, 2014, accessed February 20, 2020.

parents in Boston felt they were finally getting justice for their children through Garrity's ruling, which mandated that busing commence immediately. Accordingly, black high school students from Roxbury were bused to South Boston High School, within an Irish Catholic district. Similarly, white students from South Boston were bused to Roxbury. On the day of the new busing assignment, white parents heckled black students as Roxbury school buses arrived at South Boston High School. Moreover, black and white students entered through separate doors. One thousand three hundred black students were assigned to South Boston High School, but one hundred students attended classes. Meanwhile, thirteen white students from South Boston High School attended school in Roxbury. The violence intensified over the next several months and learning seemed to continue at a slow pace. However, the situation still deteriorated. In her recollection of the violent, racist atmosphere surrounding busing, Mrs. McGuire noted,

I remember riding the buses to protect the kids going up to South Boston High School, and ... bricks [being thrown] through the window. Signs hanging off those buildings, 'N[igger] Go Home.' Pictures of monkeys. The words. The spit. People just felt it was alright to attack children, and yet we prevailed.⁵⁴

Despite the injustices, Garrity's decision empowered the black community to continue pursuing civil rights and ensuring their children's protection as well as the opportunity to receive a quality education. Moreover, Senator Brooke's and Senator Edward M. Kennedy's support for Judge Garrity's desegregation ruling earned the black community's respect for their just positions on civil rights issues.⁵⁵

⁵⁴ Gellerman, "How the Boston Busing Decision Still Affects City Schools 40 Years Later," *WBUR News*, June 20, 2014, updated December 19, 2014, accessed February 20, 2020.

⁵⁵ *Ibid.*

On October 4, 1974, approximately eight thousand white residents participated in an anti-busing parade, in South Boston. As a result, school officials closed six schools due to concern for the safety of black students and teachers. Later that day, approximately three thousand parents and students who opposed busing held a rally in Marine Park, where they heard speeches from local anti-busing leaders, including Mrs. Louise Day Hicks, the notorious segregationist city councilwoman. Although the anti-busing forces had a large following, their protest seemed to not intimidate the black community, based on the evidence from newspapers of the period. For example, the *Valley Morning Star* observed that,

Blacks at South Boston High School and its annexes were bused to nearby University of Massachusetts where they participated in seminars. Students from ... Gavin Middle School were taken to Freedom House in Roxbury and blacks at elementary schools were bused to the Campbell Resources Center in Dorchester.⁵⁶

School officials had already decided on these locations in the event of this type of emergency. Thus, the protest did not deter black students from gaining an education.⁵⁷

The Boston busing controversy demonstrated everyone's weariness over de facto segregation. For example, a black student attending South Boston High School stabbed a white student. Angry white residents in the area dragged a black taxi driver from his car and beat him mercilessly.⁵⁸ Therefore, Governor Francis Sargent dispatched the state

⁵⁶ "Boston Schools Emptied in Wake of Busing Protest: Whites Stage Parade," *Valley Morning Star* (Harlingen, TX), October 5, 1974, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/41430354>.

⁵⁷ Ibid.

⁵⁸ Ibid.

police and five hundred riot-trained National Guardsmen to restore order in the city. Moreover, Mayor Kevin White and Senator Brooke met with Governor Sargent to discuss the severity of the crisis after the governor called President Ford, requesting him to send units from the Eighty-Second Airborne Division to restore order in Boston and escort the bused students to their assigned schools. Although it is impossible to know the details of his meeting with the mayor and governor, Brooke's presence demonstrated a genuine concern for the people of Boston, and more importantly, the wellbeing and education of all students, black as well as white.⁵⁹

Senator Brooke diligently sought a better remedy to the busing crisis over the next two years. For example, on December 14, 1974, the Senate, during two consecutive votes, defeated a House-sponsored antibusing amendment to an \$8.6 billion auxiliary bill for improving schools throughout the nation. The first vote was fifty-six nays to twenty-seven yeas. When voting the second time, the Senate decided to weaken the bill's provisions by a vote of fifty-five nays to twenty-seven yeas, thereby sending the legislation back to the House of Representatives. The liberal civil rights coalition, of which Brooke was a member, led the Senate in voting against the segregationist proviso.⁶⁰

Moreover, Senator Brooke reasserted his position on civil rights when he commented that Judge Garrity's ruling was "legally and morally right" during a news

⁵⁹ "Alert Air Troops in Boston Busing Crisis," *Chicago Daily Defender (Daily Edition)*, October 17, 1974.

⁶⁰ Carl P. Leubsdorf, "Anti-Busing Measure Is Watered Down in Senate," *Robesonian* (Lumberton, NC), December 15, 1974, accessed February 19, 2020.

conference at the Republican Club of Massachusetts, on December 16, 1974.⁶¹ In his remarks, Brooke observed, “Integration is very important for later life. It is important that all learn to live together.”⁶² Therefore, busing helped demolish the seemingly insurmountable barriers of de facto segregation so children could develop friendships and mature into conscious, globally minded citizens. Brooke also castigated political leaders for their failure to make progress in the area of civil rights. Speaking in a Senate committee hearing, he commented, “If busing [is] a problem, it is not because of any ... defect in the United States Constitution ... [or] tyranny practiced by the federal courts. It is because the political leaders of this country have failed to lead.”⁶³ Brooke meant that the President, the Justice Department and Congress catered to the interests of the privileged few and select interest groups rather than standing up for justice, truth and the rights of all American citizens, especially black schoolchildren who struggled to obtain a quality education.

In December 1975, Senator Brooke met with the antibusing organization ROAR (Restore Our Alienated Rights), which conducted a sit-in, within Brooke’s Boston office. They were protesting Judge Garrity’s decision to place South Boston High School in the custody of a federal administrator, known as a receivership, due to the school’s gradual

⁶¹ “Sen. Brooke Calls Busing Red Herring,” *Daily Sentinel and Leominster Enterprise* (Fitchburg, MA), December 17, 1974, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/71845471>.

⁶² Ibid.

⁶³ “Civil Rights Panel Plans Busing Study,” *Simpson’s Leader-Times* (Kittanning, PA), November 12, 1975, accessed February 18, 2020, <https://newscomwc.newspapers.com/image/40431508>.

compliance with court-mandated desegregation.⁶⁴ During his meeting with ROAR's leadership, Brooke noted, "If at any time, a workable plan to desegregate without busing can be devised[,] I will be the first to work with you to implement it."⁶⁵ The segregationist faction, in addition to staging protests in the offices of Senator Edward Kennedy and other congressional leaders, presented Brooke with "a list of their 10 demands which included support for an anti-busing amendment, federal aid to pay for busing, and Senate Judiciary committee hearings of Garrity's receivership order."⁶⁶ Due to ROAR's unreasonable requests and Brooke's desire to protect civil rights, he did not reach a compromise with the political interest group.

In May 1976, Brooke proposed filing an *amicus curia* brief in the U.S. Supreme Court on behalf of school busing if U.S. attorney general Edward Levi filed a brief opposing the federal policy.⁶⁷ After discussing the issue with the attorney general, President Ford and several other top officials in the federal government, Brooke considered filing the brief if the Justice Department filed an *amicus curia* brief on behalf of the antibusing faction. In his conversation with the President, Brooke stated that the Justice Department's actions "would be perceived as an attempt to influence Michigan's

⁶⁴ "'Youthful Spontaneity' Said Lacking in School," *Odessa American* (Odessa, TX), December 17, 1975, accessed February 19, 2020, <https://newscomwc.newspapers.com/image/301434142>; "Brooke Ponders Plan to End School Busing," *Valley Morning Star* (Harlingen, TX), December 24, 1975, accessed February 18, 2020, <https://newscomwc.newspapers.com/image/41389288>.

⁶⁵ "Brooke Ponders Plan to End School Busing," *Valley Morning Star* (Harlingen, TX), December 24, 1975, accessed February 18, 2020.

⁶⁶ *Ibid.*

⁶⁷ "Brooke May File Pro-Busing Brief," *Lowell Sun* (Lowell, MA), May 17, 1976, accessed February 18, 2020, <https://newscomwc.newspapers.com/image/45847981>.

voters' in Tuesday's primary [election.]"⁶⁸ Ford responded, "Ed, this isn't being done with [my] knowledge or my direction."⁶⁹ Many people surmised that the U.S. attorney general considered filing this brief to help the President ensure votes and secure his reputation as a staunch opponent of busing. Ford also wanted to guarantee the Republican Party's nomination for the presidency in the aftermath of antibusing statements made by his Republican rival, California governor Ronald Reagan. Even more disturbing, in the months leading up to the presidential election, the Ford Administration sponsored antibusing legislation to demonstrate sympathy with the Solid white South and Sunbelt South as the President sought to guarantee his party's nomination over Reagan.⁷⁰ Brooke, understandably angry, gave speeches on the Senate floor, denouncing the bill's provisions. Based on newspaper evidence of the times, the proposed legislation languished while the Senate debated other matters and the President prepared his campaign strategies.⁷¹

During the 1976 presidential election, Ford campaigned against Georgia governor Jimmy Carter, who represented a New South. Carter's campaign platform emphasized openness, regaining the people's trust and disarming the nation's enemies through

⁶⁸ "Brooke May File Pro-Busing Brief," *Lowell Sun* (Lowell, MA), May 17, 1976, accessed February 18, 2020.

⁶⁹ Ibid.

⁷⁰ "Ford Considering New Anti-Busing Move," *Evening Times* (Sayre, PA), June 5, 1976, accessed February 20, 2020, <https://newscomwc.newspapers.com/image/66126053>; Rowland Evans and Robert Novak, "Wayward Bus," *Bridgeport Post* (Bridgeport, CT), June 21, 1976, accessed February 20, 2020, <https://newscomwc.newspapers.com/image/60587783>.

⁷¹ Rowland Evans and Robert Novak, "Mr. Busing and Company," *Kingston Daily Freeman* (Kingston, NY), September 13, 1976, accessed February 20, 2020, <https://newscomwc.newspapers.com/image/87274986>.

building peace and trust. In contrast, Ford served as a temporary mediator for the nation to resolve its leadership crisis.⁷² Carter's election victory meant a Democrat's return to the White House since Lyndon Johnson's landslide victory over Senator Barry Goldwater in 1964. Although he respected the new President, Brooke did not have a close relationship with him.⁷³ Thus, the legislator focused on protecting civil rights in Congress.⁷⁴

Similarly, Brooke's power in the Senate had reached its apex. Dr. Richard Arenberg, a campaign pollster for Massachusetts Representative Paul Tsongas who defeated Senator Brooke in the commonwealth's 1978 midterm Senate campaign, noted that Brooke, "over the course of twelve years ... had '[gone] Washington,' meaning that after two terms, he was no longer traveling back to Massachusetts as regularly as other members of the delegation were doing."⁷⁵ Thus, the legislator's comfortability with his proven civil rights record and voters' confidence gave him a false sense of security.⁷⁶

⁷² Brooke, *Bridging the Divide*, 211; Brooke, interview, August 16, 2006. President Ford's pardoning of Richard Nixon was a major problem for many voters in the 1976 election that cost him a victory.

⁷³ Brooke, *Bridging the Divide*, 223–224; Jordan Alexander, "A Report of a Draft Proposal for Subtle Revolutionary: The Life and Political Career of Senator Edward W. Brooke," draft proposal report, Middle Tennessee State University, Murfreesboro, Tennessee, November 24, 2019, 2. The two men had little correspondence. Moreover, Senator Brooke's dislike for President Carter during his one term seemed trivial. The reasons are unknown. Therefore, the scant evidence led to inconclusive results.

⁷⁴ Brooke, *Bridging the Divide*, 223–224.

⁷⁵ Dr. Richard Arenberg, January 11, 2019, interview by Jordan Alexander, *The Legacy of Gentlemen: Civil Rights, the Fair Housing Act, and the 1978 Massachusetts Senate Campaign*, Murfreesboro, Tennessee.

⁷⁶ Robert J. Rosenthal, "Brooke, Tsongas Campaigns to Center on Their Records," *Boston Globe*, September 21, 1978, accessed January 24, 2020, <https://bostonglobe.newspapers.com/image/436982535>; Arenberg, interview, January 11, 2019.

While preparing for his reelection campaign against Representative Tsongas, Brooke also dealt with a turbulent, expensive, two-year divorce from Remigia Brooke.⁷⁷ Over the course of their marriage, the increasing demands of Brooke's work, first as a lawyer, then attorney general, and later, senator, gradually strained their relationship.⁷⁸

Bitter about her failing marriage, Remigia Brooke discussed her marital challenges with reporters from the *Boston Globe*, who then interviewed their young adult daughters, Remi and Edwina, for their perspectives.⁷⁹ Pressured by their mother to take sides, they spoke against their father, who was deeply hurt and embarrassed by their accusations.⁸⁰ Allegations of ethical impropriety also plagued Senator Brooke. Throughout 1978, he faced an intense interrogation by the Senate Ethics Committee, which he helped found, and later, the Senate Select Committee, regarding alleged charges of embezzlement and corruption stemming from the divorce proceedings; during the course of the investigations, evidence absolved the senator of any wrongdoing.⁸¹

⁷⁷ "Mr. and Mrs. Brooke to Divorce after 29 Yrs.; Wife Opens Potential Can of Worms," *Jet*, June 24, 1976, accessed March 4, 2020, https://books.google.com/books?id=60IDAAAAMBAJ&pg=PA3&source=gbs_toc&cad=2#v=twopage&q&f=false.

⁷⁸ Brooke, *Bridging the Divide*, 46–48, 50–51, 61, 112, 235–242; "Mr. and Mrs. Brooke to Divorce after 29 Yrs," *Jet*, June 24, 1976, accessed March 4, 2020.

⁷⁹ Brooke, *Bridging the Divide*, 243–245.

⁸⁰ "Remi Brooke Admits She 'Peddled' Dad's Finances," *Jet*, June 22, 1976, accessed March 4, 2020, <https://books.google.com/books?id=A8ADAAAAMBAJ&pg=PA7&dq=Edward+Brooke&hl=en&sa=X&ved=2ahUKewjbgUDEtfjmAhWRmuAKHY1UBF0QuwUwA3oECAMQBQ#v=onepage&q=Edward%20Brooke&f=false>; Brooke, *Bridging the Divide*, 243–245, 256, 269–272.

⁸¹ Brooke, *Bridging the Divide*, 247–250, 254–256, 258.

Nevertheless, the unfounded charges damaged his credibility and reputation among Massachusetts voters in the election.⁸²

An oral history interview with Dr. Richard Arenberg demonstrated the changing dynamics of political elections. Moreover, he discussed the numerous factors that led to Brooke's defeat. Dr. Arenberg noted how the election was graceful and the last civil debate between gentlemen. Over the next several decades, political and personal scandals would detract from the dignity of national elections while further dividing the American people into increasingly polarized factions. The following story is an account of the 1978 Massachusetts Senate campaign from his perspective.

I often say that [the] 1978 election was the last, highly competitive, entirely positive campaign that we've seen in this country, really. We know what has happened and how partisan polarization has affected the way and the manner in which Senate races are run these days. In '78, in spite of the fact that he was getting in and running against Senator Brooke, Congressman Tsongas had a great deal of respect for him and made that clear throughout, even during the campaign itself. ... [Brooke's divorce] became a problem for him. It played no role in Tsongas's entering the race.

He [Congressman Tsongas] really did not know anything about it. It was not until much later on in the campaign, that the *Boston Globe* ran a series of what they called spotlight articles about issues in Senator Brooke's divorce. I think it raised some problems for him. It was not an issue that Senator Tsongas ever addressed. He felt that it would not be appropriate for him to try to exploit that in a political way and he never brought it up really.

The polling data really showed something very different and very interesting. Namely, that there was, there certainly was a portion of the electorate that was influenced by that [Brooke's divorce] and saw Senator

⁸² Sally Jacobs, "The Unfinished Chapter," *Boston Globe Magazine*, March 5, 2000, accessed January 10, 2019, http://archive.boston.com/bostonglobe/magazine/articles/2000/03/05/the_unfinished_chapter/?page=full#; Brooke, *Bridging the Divide*, 247–250, 254–258.

Brooke less favorably than they had before. By the time we got to Election Day, the size of the group of the electorate who [was] feeling sorry for Senator Brooke who felt more supportive of him because they felt that he was being harassed by his former wife was as great as the group that started as a negative.

In the final analysis, my judgement was that it [his divorce] wound up being somewhat of a wash [neither a benefit nor hindrance in the midterm Senate election]. Now, that's not to say, obviously, it was occurring during the campaign. It, at various times, might have slowed Brooke's momentum down or something. I certainly would not argue that it was not fact. But the idea that [Brooke's divorce] was the reason why he lost, I think, doesn't take a lot of other factors into account.

One of the things that was interesting about that race and fairly unique was the number of issues that came up during that campaign. There was disagreement between the candidates, I think, [where] both the Brooke campaign, and our campaign were kind of struggling to identify [issues]. The media was always asking, "Where are, where are the substantive disagreements?" Ultimately, it came down to a handful of very specific issues. Both sides kind of hammered away at those issues. So much so that when I did that post-election poll, a very large portion of the electorate was aware of and knew the differences between the positions of the two candidates. This is something pretty unusual in Senate campaigns. More often than not, they are sort of personality driven more than issue driven.

At the time, there were clear differences. One [issue] was the neutron bomb, which, as I remember it, the U.S. was considering the construction of [what] they [the military] call the neutron bomb, a nuclear device, whatever the physics was, I'm not an expert in that, capable of killing people without doing much destruction to the infrastructure. There was a big sort of battle over whether this was a road that the United States should go down. Tsongas was very strongly opposed to it. Brooke supported it. He voted for it in the Senate. That was one issue.

A second one [issue] was the construction of the first nuclear aircraft carrier. That was considered a big step at the time that the military was considering it. Again, Tsongas had concerns about having nuclear power plants floating around the world on a boat even though it was a huge aircraft carrier. Senator Brooke was supportive. There was a second issue they frequently debated.

The third one [issue], in many ways, was kind of ironic, because it was the issue of national health insurance. Senator Brooke had his own proposal, which, I think was, I don't remember all the details, probably closer to

Obamacare than anything else, in that it was built on private insurance companies, whereas Tsongas supported the major national healthcare bill, the Democratic bill that was called at the time Kennedy–Corman because it was Ted Kennedy and Congressman [James C.] Corman that were the proponents of it in the House and the Senate.

It was probably closer to today's Medicare–for–everyone kind of proposals. The reason I say it was ironic was we were hitting Brooke pretty hard [in the campaign] for supporting the health reform plan that, in our view, and the arguments Tsongas was making, was grossly inferior to the Kennedy Bill. He would call upon Senator Brooke to support the Kennedy plan. The reason I say it's ironic is Senator Brooke, as a Republican in the Senate, probably had among the most progressive positions on health reform of any Republican, in the Republican caucus.

There may have been a few others. I think [of] John Chafee and there were more Republican moderates in those days than we're used to seeing today. We have kind of come to the point where we think of [a] moderate Republican as an oxymoron. In those days, there was a significant portion of the Republican caucus that took a more moderate position. That was Brooke's position on health reform. I think, in the Massachusetts electorate, he suffered from having what was broadly seen, from what I could tell from the polling, as the inferior proposal.

[S]omething else that was characteristic of that race and very unusual was the level of respect that the two candidates had for each other. I heard Tsongas say on a number of occasions, ““Oh, you know, I tried real[ly] hard to dislike him, but I just couldn't.”” ... After the first televised debate, I think it was on WBZ [TV], Senator Brooke had just come home from Washington. The Senate session had ended. We were a little concerned. Our poll was showing that Tsongas had a lead, a very small lead at that point, at that time. We thought there was a danger that now Senator Brooke would come home. They had the first televised debate, almost immediately.

We feared that Senator Brooke would look more seasoned, more statesmanlike, having more gravitas, just the fear of this head–on poll and what might happen. To kind of protect our candidate's psyche, a bunch of our campaign staff went over to WBZ and they had Tsongas hats and signs, the whole thing. The idea was if the debate did not go all that well for Tsongas, when he came out of the studio, there would be this big group of his supporters to kind of buck him up.

The debate went on. I think by most people's accounting, it was a pretty even debate. The door to the studio opened, and Senator Brooke came out

alone. He started down this long hallway that you had to walk down to get [to] the exit. It was completely lined with Tsongas staffers. They were wearing campaign regalia, [holding] signs, and so forth. It was kind of an embarrassing situation. Senator Brooke walked this entire length of hall in silence. You could hear a pin drop. None of the campaign staff, nobody, was saying anything.

Senator Brooke got to the end of the hallway, reached for the doorknob, stopped, turned, and said to the entire group, ““You people work for a hell of a guy.”” I have often thought about that moment, and wondered to myself, “Where in all the years, since that time, could you find a Senate race in which one candidate would say that about the other in such a fashion?” It was pretty unique. The feeling was mutual.

When Tsongas won the race [on November 7, 1978], he went down to the hotel ballroom to give his victory speech. Senator Brooke had conceded very gracefully. It was covered by all the national networks and everything. It was a dramatic win against an incumbent Republican senator. All the cameras were there and everything. The very first thing that Paul Tsongas said was, ““I have big shoes to fill.””⁸³

Despite the painful loss, Brooke could reflect on his distinguished political career and be proud of his accomplishments – service on the Kerner Commission and publication of the Kerner Report, co-sponsorship and passage of the 1968 Brooke–Mondale Fair Housing Act, Congressional passage of the 1968 Housing and Urban Development Act, protection of civil rights and organization of bipartisan coalitions in the Senate to reject the Supreme Court nominations of federal jurists Clement F. Haynsworth and G. Harrold Carswell, thereby hindering President Richard Nixon’s southern strategy.⁸⁴ After his divorce was finalized in 1978, Brooke struggled to restore his life. On May 12, 1979, he married Ms. Anne Fleming, a native of the Caribbean

⁸³ Arenberg, January 11, 2019, interview.

⁸⁴ “Brooke Concession Speech,” November 7, 1978, Boston TV News Digital Library, accessed March 18, 2020, http://bostonlocaltv.org/catalog/V_K3TDRFCG6FDSEGH.

island St. Martin. Approximately three decades younger than Brooke, his new wife was a constant source of support, love and encouragement. Moreover, as Brooke discussed in his memoir, she helped him focus his energy elsewhere instead of being bitter about the divorce or his daughters' accusations.⁸⁵ Although he briefly re-entered private law practice and enjoyed representing clients in court, Brooke did not have the same passion as he did in the 1950s and 1960s because he missed serving in the Senate. Nevertheless, his distinguished career as a public servant and commitment to civil rights presented new opportunities to serve the American people.⁸⁶

Eager to become involved in politics again, Brooke was surprised when Republican presidential nominee Ronald Reagan and his wife Nancy invited him to lunch in 1980. The meeting was cordial and although he liked Reagan personally, Brooke remained skeptical of his politics, especially in regard to ethnic minorities, civil rights and support of the Fair Housing Act. Throughout their meeting, Brooke pressed Reagan to uphold the legislation which was vital to leveling the playing field and ensuring that ethnic minorities had fair opportunities to afford decent housing. After Reagan promised to reinforce the statute, Brooke left the meeting satisfied and declared his intention to support the candidate.⁸⁷

⁸⁵ Brooke, *Bridging the Divide*, 262–273. The couple later welcomed a son, Edward William Brooke, IV, on February 26, 1981, which allowed him to enjoy the role of fatherhood for a third time and heal from the pain of his daughters' accusations. Over the years, Brooke and his daughters restored their relationship and he gradually developed relationships with his grandchildren. More importantly, Brooke and Remigia Ferrari-Scacco Brooke reconciled before she passed away from lung cancer in October 1994.

⁸⁶ *Ibid.*, 264–265, 275–277, 278–279.

⁸⁷ *Ibid.*, 275.

Later that year, the Senate appointed Brooke to serve on a nine-member, bipartisan U.S. Commission on Wartime Relocation and Internment of Civilians, created to research and report on the abuses that Japanese Americans, resident German immigrants, German Americans, and the Aleut Indians, suffered during their detainments at internment, as well as evacuation, camps during World War II.⁸⁸ Based on the evidence, Brooke served on the committee because of his military service in World War II and legacy as a civil rights advocate during his two terms in the Senate.⁸⁹ The commission had three objectives in their investigation:

- (1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens.
- (2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and
- (3) recommend appropriate remedies.⁹⁰

The commissioners heard sorrowful stories from approximately eight hundred witnesses, many of them former prisoners. Their recollections of gross negligence enabled the commission to write a candid, 467-page report, titled *Personal Justice*

⁸⁸ Brooke, *Bridging the Divide*, 275–277; U.S. Commission on Wartime Relocation and Internment of Civilians, “Part 1: Summary,” in *Personal Justice Denied* (Washington, D.C.: U.S. Government Printing Office, 1983), 1–23, National Archives and Records Administration, accessed March 31, 2020, <https://www.archives.gov/research/japanese-americans/justice-denied>.

⁸⁹ U.S. Commission on Wartime Relocation and Internment of Civilians, “From the Chair,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, v, accessed March 31, 2020.

⁹⁰ U.S. Commission on Wartime Relocation and Internment of Civilians, “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 1, accessed March 31, 2020.

Denied, published in February 1983.⁹¹ The report included the following recommendations: (1) Congress publish a formal joint resolution signed by President Reagan, acknowledging the injustices committed against Japanese American citizens, as a national apology;⁹² (2) President Reagan issue pardons for internment camp detainees who were wrongfully convicted of violating wartime edicts;⁹³ (3) Congress oversee presidential organizations where Japanese Americans could apply for restitution regarding unjust job terminations, dishonorable discharges and lost Social Security benefits;⁹⁴ (4) Congress create a humanitarian and educational fund to teach the American people about this travesty;⁹⁵ and, (5) in keeping with this recommendation, the commissioners strongly encouraged that Congress allocate \$1.5 billion to the victims “which will provide personal redress to those who were excluded.”⁹⁶ Moreover, the Commission discovered that off the coast of Alaska, the U.S. military evacuated the

⁹¹ U.S. Commission on Wartime Relocation and Internment of Civilians, “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 1–2, accessed March 31, 2020.

⁹² U.S. Commission on Wartime Relocation and Internment of Civilians, “Recommendation 1.” under “I. American Citizens of Japanese Ancestry and Resident Japanese Aliens,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 8, accessed March 31, 2020.

⁹³ U.S. Commission on Wartime Relocation and Internment of Civilians, “Recommendation 2.” under “I. American Citizens of Japanese Ancestry and Resident Japanese Aliens,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 8, accessed March 31, 2020.

⁹⁴ U.S. Commission on Wartime Relocation and Internment of Civilians, “Recommendation 3.” under “I. American Citizens of Japanese Ancestry and Resident Japanese Aliens,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 8, accessed March 31, 2020.

⁹⁵ U.S. Commission on Wartime Relocation and Internment of Civilians, “Recommendation 4.” under “I. American Citizens of Japanese Ancestry and Resident Japanese Aliens,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 9, accessed March 31, 2020.

⁹⁶ U.S. Commission on Wartime Relocation and Internment of Civilians, “Recommendation 5.” under “I. American Citizens of Japanese Ancestry and Resident Japanese Aliens,” under “Personal Justice Denied; Part 2: Recommendations,” in *Personal Justice Denied*, 9, accessed March 31, 2020.

native people, the Aleuts, to safety in the aftermath of a Japanese attack and capture of two islands. Following the evacuation, the military unjustly seized the Aleut peoples' lands, did not provide for their most basic needs in the various evacuation centers, destroyed their communities, and killed the native wildlife that was vital to the Aleut peoples' wellbeing, leading to the extinction of some tribes upon returning to their homelands.⁹⁷ Therefore, the commissioners suggested that Congress implement the following approach: (1) create a five million dollar benevolence fund for the Aleut peoples' use;⁹⁸ (2) designate and pay \$5,000 per person to the few hundred Aleut survivors;⁹⁹ (3) designate funding and direct the responsible government agencies to rebuild, as well as repair, the Aleut peoples' churches that sustained damage during World War II; similarly, Aleut tribal members should receive employment preference in rebuilding the houses of worship which also served as nuclei of their communities;¹⁰⁰ (4) set aside funding for the Army Corps of Engineers to clean the remaining wartime debris from the vicinity of the Aleutian Islands' inhabited regions;¹⁰¹ (5) issue a formal decree

⁹⁷ U.S. Commission on Wartime Relocation and Internment of Civilians, "War and Evacuation in Alaska," under "Part II: The Aleuts," in *Personal Justice Denied*, 317–359, accessed March 31, 2020.

⁹⁸ U.S. Commission on Wartime Relocation and Internment of Civilians, "Recommendation 1." under "II. The Aleuts," under "Personal Justice Denied; Part 2: Recommendations," in *Personal Justice Denied*, 11–12, accessed March 31, 2020.

⁹⁹ U.S. Commission on Wartime Relocation and Internment of Civilians, "Recommendation 2." Under "II. The Aleuts," under "Personal Justice Denied; Part 2: Recommendations," in *Personal Justice Denied*, 12, accessed March 31, 2020.

¹⁰⁰ U.S. Commission on Wartime Relocation and Internment of Civilians, "Recommendation 3." Under "II. The Aleuts," under "Personal Justice Denied; Part 2: Recommendations," in *Personal Justice Denied*, 12, accessed March 31, 2020.

¹⁰¹ U.S. Commission on Wartime Relocation and Internment of Civilians, "Recommendation 4." Under "II. The Aleuts," under "Personal Justice Denied; Part 2: Recommendations," in *Personal Justice Denied*, 12, accessed March 31, 2020.

that the island of Attu was native land and be returned to the Aleut peoples though a transfer to their tribal government on the premise that their council discuss a settlement with the Coast Guard to allow its necessary military operations on the land.¹⁰² Although the recommendations were steps in the right direction, the findings could not undo years of suffering, abuse and the federal government's callousness to the truth.¹⁰³ In 1987, after much protracted debate, Congress finally passed and the President signed legislation approving reparation payments to the Japanese Americans.¹⁰⁴ Thus, Brooke's service on the Senate committee reignited his passion for serving the people.

In 1981, President Reagan selected Brooke to serve on his Commission on Housing because the former senator, one of thirty people assigned to the committee, had a deep passion for fair housing. The vast diversity of the commissioners reflected their experience with federal law, public policy and the housing market. During their yearlong study, the President tasked the commission with answering five questions: "(1) What is the relationship between housing and the rest of the economy? (2) How can the nation best provide housing for the poor? (3) How can the private market expand housing

¹⁰² U.S. Commission on Wartime Relocation and Internment of Civilians, "Recommendation 5." Under "II. The Aleuts," under "Personal Justice Denied; Part 2: Recommendations," in *Personal Justice Denied*, 12, accessed March 31, 2020.

¹⁰³ Cf. "Chapter 1: Before Pearl Harbor," 27–46; "Chapter 2: Executive Order 9066," 47–92; "Chapter 3: Exclusion and Evacuation," 93–116; "Chapter 4: Economic Loss," 117–133; "Chapter 5: Assembly Centers," 135–148; "Chapter 6: The Relocation Centers," 149–184; "Chapter 7: Loyalty, Leave and Segregation," 185–212; "Chapter 8: Ending the Exclusion," 213–243; "Chapter 9: Protest and Disaffection," 245–252; "Chapter 10: Military Service," 253–260; "Chapter 11: Hawaii," 261–282; "Chapter 12: Germans and German Americans," 283–293; "Chapter 13: After Camp," 295–301, under "Part I. Issei and Nissei"; "Part II: The Aleuts," 317–359; "Personal Justice Denied: Part 2: Recommendations," in *Personal Justice Denied*, accessed March 31, 2020.

¹⁰⁴ Brooke, *Bridging the Divide*, 275–277.

opportunities? (4) How will America's housing be financed in the future? (5) How can government regulations be simplified, thus lowering the cost of housing?"¹⁰⁵ *The Report of the President's Commission on Housing* noted that land shortages, lack of construction materials and laborers, inflation, tenuous housing markets, exorbitant costs accompanying rental assistance programs, as well as rising mortgage interest rates, affected many families desiring to transition from renting apartments to owning homes. Moreover, the wealth gap was most evident among ethnic minorities, especially black Americans, and rural southerners.¹⁰⁶ Thus, the commission recommended numerous suggestions such as: (1) a housing payment program to assist low-income families in their quest to attain affordable housing; (2) home sharing and accessory housing for senior citizens; (3) deductibility of interest and taxes for homeowners in the private industry; (4) homesteading (i.e. self-sufficient lifestyle); (5) dismantling of rent control at the local, state and federal levels; (6) tax credits; (7) neighborhood preservation; (8) historic preservation; and, (9) various forms of government financial assistance programs at the local, state and federal levels.¹⁰⁷ Despite his service on the commission, Brooke was annoyed with the project because, as he wrote,

Most of our recommendations were never implemented. I often found myself fighting against Reagan's Secretary of Housing Samuel Pierce and

¹⁰⁵ President's Commission on Housing, preface to *The Report of the President's Commission on Housing*, by William F. McKenna and Carla A. Hills (Washington, D.C.: U.S. Department of Housing and Urban Development, 1982), xv, accessed March 27, 2020, <https://www.huduser.gov/portal/Publications/pdf/HUD-2460.pdf>.

¹⁰⁶ *Ibid.*, xvii–xxix, accessed March 27, 2020.

¹⁰⁷ President's Commission on Housing, "Summary of Recommendations," in *The Report of the President's Commission on Housing*, 245–253, accessed March 27, 2020.

his officials. I was trying to support and expand housing measures that I had championed as a senator, and they were trying to cut back on them.¹⁰⁸

Thus, Reagan's dismissal of the policy proposals demonstrated a fickle commitment to upholding the Fair Housing Act because he desired to maintain the trust of white Americans living in the Deep South, as well as the Sunbelt South. If the President had supported the legislation and the commission's findings, he would have lost the respect of these major voting blocs who still resented the gains of the Civil Rights Movement and wanted to preserve their hegemony by any means necessary.

In spite of his disappointment with President Reagan's inaction, Brooke remained optimistic that the Republican Party would gradually welcome ethnic minorities and other groups into its ranks. Nevertheless, over the next three decades, the political coalition's lily-white, conservative approach increasingly alienated marginalized classes while making Brooke somewhat of an anomaly. As the political system changed, the former senator retreated more into his private life, where he enjoyed spending time with his wife and son.¹⁰⁹ Moreover, Brooke donated his political papers to the Library of Congress between 1978 and 1991 whereas many photographs, awards, campaign memorabilia and numerous artifacts are stored in the Moorland-Spingarn Research Center at Howard University, in addition to other locations. While enjoying retirement, Brooke reflected on his Senate career with gratitude and humility because his

¹⁰⁸ Brooke, *Bridging the Divide*, 278.

¹⁰⁹ Lynn Norment, "The New Life of Former Senator Edward Brooke," *Ebony*, October 1984, 58, 59, 60, 62, 64, accessed January 10, 2020, <https://books.google.com/books?id=JISlQmaBujYC&pg=PA58&dq=Edward+Brooke&hl=en&sa=X&ved=2ahUKEwjY0pufwPjmAhXrQd8KHRFgDVkQuwUwAXoECAMQBQ#v=onepage&q=Edward%20Brooke&f=false>.

congressional work established a foundation for civil rights activists to continue their pursuit of socioeconomic and racial equality while helping the nation fulfill its creed as a safe haven for republicanism, justice and isonomy.¹¹⁰

¹¹⁰ Audrey Walker, Allyson Jackson, Patrick Kerwin, Sherralyn McCoy, and Thelma Queen, “Provenance,” under “Administrative Information,” in “Edward William Brooke Papers: A Finding Aid to the Collection in the Library of Congress,” (Washington, D.C.: Manuscript Division, Library of Congress, 2009; rev. 2015), 3; Brooke, *Bridging the Divide*, 304–305; Norment, “The New Life of Former Senator Edward Brooke,” *Ebony*, October 1984, 58, 59, 60, 62, 64, accessed January 10, 2020.

CONCLUSION

On January 3, 2015, Edward W. Brooke, III, at the age of ninety-five, passed away from natural causes at his home in Coral Gables, Florida. His death symbolized the national Republican Party's transition from, and ultimately rejection of, bipartisanship as Senator Mitch McConnell, Representative John Boehner, and other party leaders, embraced a more nativist, conservative approach and continued catering to the interests of the Silent Majority, large corporations, the New Christian Right, the white South and the Sunbelt South.¹ A devout Episcopalian, decorated World War II veteran, lawyer, twice elected attorney general for the commonwealth of Massachusetts, popularly elected, two-term senator in Congress and breast cancer survivor, which required a double mastectomy, Brooke was the epitome of a gentleman, politician and scholar.² More importantly, he demonstrated compassion, fairness and respect to everyone he met, whether politician or constituent. Although Brooke identified with the Republican Party, he knew that his first duty as an African American senator was to represent his people well.³ His second responsibility was to create legislation that would benefit all

¹ Douglas Martin, "Edward W. Brooke, III, 95, Senate Pioneer Is Dead," *New York Times*, January 3, 2015, accessed February 1, 2020, <https://www.nytimes.com/2015/01/04/us/edward-brooke-pioneering-us-senator-in-massachusetts-dies-at-95.html?searchResultPosition=1>.

² Sally Jacobs, "The Unfinished Chapter," *Boston Globe Magazine*, March 5, 2000, accessed January 10, 2019, http://archive.boston.com/bostonglobe/magazine/articles/2000/03/05/the_unfinished_chapter/?page=full; Lynette Clemetson, "Surprise Role for Ex-Senator: Male Breast Cancer Patient," *New York Times*, June 10, 2003, accessed January 7, 2019, <https://www.nytimes.com/2003/06/10/us/surpriserole-for-ex-senator-male-breast-cancer-patient.html>; Martin, "Edward W. Brooke, III, 95, Senate Pioneer Is Dead," accessed February 1, 2020.

³ Simeon Booker, "I'm a Soul Brother – Senator Edward W. Brooke," *Ebony*, April 1967, 150, 152–154, accessed March 5, 2020, https://books.google.com/books?id=McZ4NxLQF70C&pg=PA150&source=gbs_toc_r&cad=2#v=onepage&q&f=false.

Americans, not just the privileged few or big businesses. In order to accomplish this task, Brooke served on the Kerner Commission to investigate the causes of the 1967 summertime urban riots and assisted in writing a poignant 544-page report that thoroughly examined the historical context and problems behind the deadly riots while providing President Lyndon B. Johnson's administration with numerous recommendations.⁴

The report implicitly blamed his Great Society program for the failures in race relations and Johnson never utilized the findings. Regardless of the President's actions, Brooke persevered in his campaign to create a comprehensive housing law. Therefore, he collaborated with Democratic Senator Walter Mondale to co-author and sponsor Title VIII of the 1968 Civil Rights Act, more commonly known as the Brooke-Mondale Fair Housing Act.⁵ Equally disturbing was Senate Minority Leader Everett Dirksen's redaction of the bill's powerful language and insertion of the Mrs. Murphy clause which

⁴ National Advisory Commission on Civil Disorders, "Chapter 2: Patterns of Disorder," under "Part I: What Happened?" under "Summary," 54–58; "Chapter 4: The Basic Causes," 59–61; "Chapter 5: Rejection and Protest: A Historical Sketch" 61; "Chapter 6: The Formation of the Racial Ghettos," 61–62; "Chapter 7: Unemployment, Family Structure, and Social Disorganization," 62–63; "Chapter 8: Conditions of Life in the Racial Ghetto," 63–64; "Chapter 9: Comparing the Immigrant and Negro Experiences," under "Part II: Why Did It Happen?" under "Summary," 64–65; "Chapter 17: Recommendations for National Action," under "Part III: What Can Be Done?" under "Summary," 72–77; "Remarks of the President upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967," in *The Kerner Report* (Washington, D.C.: U.S. Government Printing Office, 1968; repr., Princeton, NJ: Princeton University Press, 2016), 546–547, Nook; Steven M. Gillon, *Separate and Unequal: The Kerner Commission and the Unraveling of American Liberalism* (New York: Basic Books, 2018), 57–67, 79–80.

⁵ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University Press, 2007), 169–186; Leah Wright Rigueur, *The Loneliness of the Black Republican: Pragmatic Politics and the Pursuit of Power* (Princeton, NJ: Princeton University Press, 2015), 128; Timothy N. Thurber, *Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974* (Lawrence, KS: University of Kansas Press, 2013), 242–243; "Enforcement," under "Major Provisions," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 24th ed., 14-152-14-165 (Washington, D.C.: Congressional Quarterly, 1969), accessed November 27, 2018, <http://library.cqpress.com/cqalmanac/cqal68-1283454>.

gave homeowners the option to discriminate against potential ethnic minority homebuyers.⁶ Dirksen's compromise, while weakening the bill, enabled the Senate to pass the civil rights measure on March 11, 1968, despite stiff opposition from the Southern Bloc.⁷ However, the bill stalled in the House of Representatives. In the aftermath of Dr. Martin Luther King, Jr.'s assassination on April 4, 1968, the House debated for an hour before passing the legislation on April 10, 1968.⁸ President Johnson signed the bill into law the next day to honor King's legacy.⁹ Unsatisfied with the law's provisions, Senator Brooke re-introduced his tabled legislation, S. 2681, which proposed to establish a Moderate Housing Division within the Department of Housing and Urban Development.¹⁰ His bill was later incorporated with other legislation to create the Housing and Urban Development Act of 1968, which not only reinforced the Brooke-

⁶ Jonathan Zasloff, "The Secret History of the Fair Housing Act," *Harvard Law Journal on Legislation* 53.1 (2016): 262–276; Brooke, *Bridging the Divide*, 177; Robert G. Schwemm, "Discriminatory Housing Statements and Section 3604(c): A New Look at the Fair Housing Act's Most Intriguing Provision," *Fordham Urban Law Journal* 187 (2001): 197–206.

⁷ Zasloff, "The Secret History of the Fair Housing Act," 262–276; Brooke, *Bridging the Divide*, 177; Schwemm, "Discriminatory Housing Statements and Section 3604(c)," 197–206.

⁸ "The Fair Housing Act of 1968," U.S. House of Representatives: History, Art, and Archives, accessed November 1, 2018,

⁹ "House," under "Congress Enacts Open Housing Legislation," in *CQ Almanac 1968*, 14-152-14-165, accessed November 27, 2018; "The Fair Housing Act of 1968," U.S. House of Representatives: History, Art, and Archives, accessed November 1, 2018; Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960–1972* (New York: Oxford University Press, 1990), 272–276, cited in Timothy N. Thurber, *Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974* (Lawrence, KS: University of Kansas Press, 2013), 248.

¹⁰ Cong. Rec., 90th Cong., 2d sess., 1968, vol. 114, pt. 8: 9904, accessed July 16, 2019, Google Play, <https://play.google.com/books/reader?id=PQBbfAI3bjEC&hl=en&pg=GBS.PA9903>.

Mondale Fair Housing Act but also enhanced the senator's reputation as a civil rights advocate in the halls of Congress.¹¹

In 1969, Brooke validated his reputation as a defender of civil rights when he helped organize a bipartisan coalition to reject the nomination of federal judge Clement F. Haynsworth, Jr. to the Supreme Court. Haynsworth, a Republican proselyte, was also a southerner who upheld segregation from the bench. His dismal record on civil rights, race relations and labor unions, as well as allegations of ethical impropriety, should have prevented him from being nominated but Nixon wanted to repay the white South for its support during the 1968 presidential election that led to his victory. Thus, the President trusted his advisors a little too much and the southern strategy to gain favor with the white South backfired. He appointed the federal jurist to the Supreme Court in August 1969. Haynsworth's record of opposing civil rights and labor unions was fine with Nixon because he wanted strict constructionists on the Supreme Court to roll back civil rights gains and the liberalism of the Warren Court. Brooke's politicking during the Senate nomination debates enabled him to collaborate with Republican leaders Margaret Chase Smith, Mark O. Hatfield, Len B. Jordan, Charles H. Percy, and John J. Williams. Their critical votes, along with liberal Democrats and other moderate Republicans, enabled the Senate to reject Haynsworth's nomination in a vote of fifty-five nays to forty-five yeas on November 21, 1969.¹²

¹¹ Housing and Urban Development Act of 1968, Public Law 90-448, 90th Cong., 2d sess., *U.S. Statutes at Large* 82 (August 1, 1968), 476-611, HeinOnline, accessed July 29, 2019.

¹² "Background," and "Pressures, Voting," under "Senate Rejects Haynsworth Nomination to Court," in *CQ Almanac 1969*, accessed March 31, 2020.

Determined to appoint a strict constructionist to the Supreme Court, President Nixon nominated federal judge G. Harrold Carswell to be an associate justice in January 1970. This nominee's bleak record on civil rights, labor unions, and lackluster rulings from the bench, as well as the discovery of a racist 1948 campaign speech, should have also prevented his appointment. Throughout the tense Senate debates, many legislators spoke in favor of and against the nominee. Brooke and his Democratic colleague Birch Bayh opposed the nomination because Carswell's unjust rulings would have polarized the nation politically, socially and racially if the Senate confirmed him. In addition, the Republican coalition that Brooke organized during the Haynsworth nomination debates dissipated. However, politicking with Senators Marlow Cook, Winston Prouty, Margaret Chase Smith, and Birch Bayh sealed Carswell's fate. The Senate rejected his appointment by a vote of fifty-one nays to forty-five yeas on April 8, 1970, thus defeating Nixon's southern strategy for a second time.¹³

Despite the scandals that plagued the nineteen seventies, Brooke easily won re-election in 1972. He continued fighting for civil rights during his second term in the Senate and was a strong advocate for busing despite the Nixon Administration's demonization of the federal policy. The Watergate Affair witnessed the demise of Richard Nixon's career and the nation's distrust for the Presidency. Vice President Gerald Ford was inaugurated to serve the remainder of his disgraced predecessor's second term. The new President worked to regain the people's trust and shepherd the

¹³ John Paul Hill, "Nixon's Southern Strategy Rebuffed: Senator Marlow W. Cook and the Defeat of Judge G. Harrold Carswell for the U.S. Supreme Court," *Register of the Kentucky Historical Society* 112.4 (Autumn 2014): 638.

nation through the tumultuous end of the Vietnam War after Saigon fell to the Vietcong in 1975. Moreover, President Ford quietly worked with Senator Brooke and others within his administration to strengthen Supreme Court–mandated busing, which was in danger of losing support from the federal government. Nevertheless, the President’s discreet enforcement of the law was a pyrrhic victory for civil rights activists, including Brooke, which ended in disappointment and no recognition.¹⁴

In 1978, Brooke campaigned for re–election against Massachusetts Representative Paul Tsongas while simultaneously going through divorce proceedings with his wife, Remigia Ferrari–Scacco Brooke. The subsequent family turmoil, combined with the divisive campaign issues of nuclear arms, military expansion, and national healthcare, greatly impacted the senator’s performance. His campaign message of bipartisanship within an increasingly conservative national Republican coalition no longer appealed to the millions of constituents that elected him to the Senate twice.¹⁵ On November 7, 1978, the people of Massachusetts wanted change and elected Paul Tsongas to the Senate. Defeated and dejected, Brooke withdrew into privacy as he attempted to restore his life. In 1979, he married Anne Fleming and the couple gave birth to a son, Edward W. Brooke, IV, in 1981. During his retirement years, Brooke focused on enjoying his family, rearing his son and reconciling with his adult daughters. More importantly, he resolved any issues with his ex–wife shortly before she passed away from

¹⁴ Brooke, *Bridging the Divide*, 222–223.

¹⁵ Dr. Richard Arenberg, January 11, 2019, interview by Jordan Alexander, *The Legacy of Gentlemen: Civil Rights, the Fair Housing Act, and the 1978 Massachusetts Senate Campaign*, Murfreesboro, TN, January 11, 2019; Brooke, *Bridging the Divide*, 112, 235–242.

lung cancer in 1994. In 2000, the Massachusetts state government paid homage to Brooke's legacy by naming a state courthouse in his honor.¹⁶ In 2002, a charter school in the commonwealth was named after him as a tribute.¹⁷ Brooke also received the Presidential Medal of Freedom in 2004 and the Congressional Gold Medal in 2009 for his work that led to the successful passage of fair housing legislation.¹⁸

Brooke's position in the Senate enabled him to protect civil rights during his two terms in office. His service on the Kerner Commission, co-sponsorship and passage of the 1968 Brooke-Mondale Fair Housing Act, sponsorship of Senate bill 2681, establishing a Moderate Housing Division within the Department of Housing and Urban Development, which was incorporated into the Housing and Urban Development Act of 1968, politicking to reject the Supreme Court nominations of federal judges Clement F. Haynsworth and G. Harrold Carswell, and tireless work to ensure the federal government's protection of Supreme Court-mandated busing, deserves more acknowledgement and respect. Brooke's story is commendable when viewed in the context of an African American legislator striving to protect civil rights while helping the national Republican coalition remember its historical foundations as a political party that

¹⁶ Brooke, *Bridging the Divide*, 265–273, 294–296.

¹⁷ Jordan Alexander, "The Campaign Memorabilia of Senator Edward W. Brooke," November 5, 2014, blog, WordPress, accessed September 4, 2019, <https://tcmosedwbroke1966.wordpress.com>; "Our Story" under "Our Schools," Brooke Charter Schools, accessed September 6, 2019, <https://www.ebrooke.org/ourschools/our-story/>.

¹⁸ Brooke, *Bridging the Divide*, 302–303; Tribune Wire Reports, "Edward Brooke, First Black Man Elected to U.S. Senate, Dies," *Chicago Tribune*, January 3, 2015, accessed December 25, 2019, <https://www.chicagotribune.com/nation-world/chi-edward-brooke-dies-20150103-story.html#>; Martin, "Edward W. Brooke, III, 95, Senate Pioneer Is Dead," *New York Times*, January 3, 2015, accessed February 1, 2020; "Congressional Gold Medal Ceremony for Edward William Brooke," October 28, 2009, C-Span, accessed April 7, 2020, <https://www.c-span.org/video/?289686-1/edward-brooke-october-26-1919-january-3-2015>.

once represented a diverse American public. While he was an elitist, Brooke did not cater to large corporations, upper middle class whites and the social elites, but sought to protect civil rights for black Americans, the socioeconomically disadvantaged and the politically marginalized within American society because "... he [was] a very sensitive, informed civil righter, adhering more to constructive programs of education, employment and health than to 'agitation via riots[,]'" whose "... greatest service to Negroes ... [came] in face-to-face confrontations in the 'club' and in behind-the-scene negotiations to strengthen legislation."¹⁹ Consequently, he struggled to help Republican politicians understand the need for bipartisanship because stronger cooperation from both political parties could inspire all Americans to work for the greater good of humanity as the nation experienced unprecedented challenges domestically and abroad.²⁰

Although he was not as renowned as some of his more famous contemporaries, such as Dr. Martin Luther King, Jr., Shirley Chisholm and John Lewis, Brooke made an indelible impact in the area of civil rights, specifically fair housing and education. Senator Edward W. Brooke's legacy has been ignored for many years within Civil Rights Movement historiography. His neutrality and moderate political views cost him the

¹⁹ Booker, "I'm a Soul Brother – Senator Edward W. Brooke," *Ebony*, April 1967, 150, accessed March 5, 2020.

²⁰ Edward W. Brooke, *The Challenge of Change: Crisis in Our Two-Party System* (Boston: Little, Brown, and Company, 1966), 12–18, 35–50, 65–77, 140–147, 148–159, 170–183, 184–215, 266; Senator Edward W. Brooke to Pfc. Willie C. Preston, May 25, 1967; Senator Edward W. Brooke to Morris M. Newman, July 10, 1967; Senator Edward W. Brooke to H.W. Quick, August 22, 1967, Box 194; Senator Edward W. Brooke to Clarence Mitchell, September 25, 1967, Box 187; Senator Edward W. Brooke to John H. Murphy, April 26, 1968; Senator Edward W. Brooke to Kathleen Flynn, May 22, 1968, Box 197; Senator Edward W. Brooke to Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, Fort McDowell Indian Community, Papago Indian Community, Gila River Indian Community, April 6, 1976; Senator Edward W. Brooke to Rosanne Agnitti, April 30, 1976; Senator Edward W. Brooke to Russell Arnell, November 2, 1976, Box 341, Edward William Brooke Papers, Manuscript Division, Library of Congress.

respect of black Americans nationwide. There are two groups of black Americans whom Brooke failed to engage – the working class blacks and the younger, more militant civil rights activists. Yet, black professionals and upper middle class blacks whom he did engage with still questioned his commitment to the black cause. People remember visible social justice leaders who make them feel valued. Essentially, as Brooke observed, “[T]here is no national black press. [It] just doesn’t exist. ... So we are really at the mercy, as ... all politicians, of the white press,” including the *Washington Post*, *New York Times*, *Boston Globe* and the *Los Angeles Times*, “who report and ... are responsible for bringing these things to the forefront.”²¹ Brooke was disappointed that his civil rights work received very little recognition from the public, especially black Americans. Nevertheless, he was glad that the Congressional Record preserved his legacy.²²

What does this neglect mean for public historians who wish to interpret the whole story of the Civil Rights Movement of the twentieth century? The Civil Rights Movement is too often glorified and relegated to pivotal moments in the struggle for socioeconomic and racial equality. Thus, public perception of the social justice movement is greatly distorted. Activists who confronted the violence of the era are often at the forefront of how the movement is remembered, and rightfully so since their courage and determination put their actual lives on the line, as was the case with the Rev. Dr. Martin Luther King, Jr., Medgar Evers, and so, so many others.

²¹ Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 74–75.

²² Ibid.

As the white-recognized spokesperson for the Civil Rights Movement, Dr. King “was an advocate of ‘people power’ [marches and demonstrations – i.e. the strategy of immediacy]” who also “understood the need for political power [the strategy of gradualism] as well.”²³ The tactics of gradualism and immediacy represented the Civil Rights Movement’s two-pronged attack against racism and systemic oppression. King was at the forefront of the social justice movement, participating in marches with local people and prominent civil rights activists. Thus, he is remembered because “Historical imagery disseminated by government and mass media advance the imagined community of the nation while suppressing authentic local and group memories and collective identities.”²⁴

The early Civil Rights Movement museums, the National Civil Rights Museum at the Lorraine Motel in Memphis, the King Center in Atlanta, and the Birmingham Civil Rights Institute, focus on violent flashpoints in the struggle for equal rights. Those same struggles are typically commemorated at annual public anniversary celebrations.

Senator Edward W. Brooke was not a southern street activist; he was an established policymaker who was nurtured by a generations-old, but rapidly diminishing, tradition of public service in the Republican Party. Local civil rights activists confronting issues of police brutality, voter suppression, unequal education, and fair housing through such methods as registering voters, organizing demonstrations and lobbying for change opened the doors for policymakers like Senator Brooke to make their considerable

²³ Brooke, *Bridging the Divide*, 165.

²⁴ David Glassberg, “Public History and the Study of Memory,” *Public Historian* 18.2 (Spring 1996): 12.

contribution. Protest became policy and laws and regulations that addressed so many of the pressing issues of the movement became the law of the land, although activists today continue to take steps to ensure that the gains of the 1960s and 1970s are not lost.

So again, what is today's public historian to do? The Brooke biography at the heart of the dissertation is a first step: we need to know the facts, place them in context, and begin to understand how the process of protest to policy is a fundamental theme in the history of the Civil Rights Movement. There are many next steps: we need other studies of African American policymakers of the 1960s and 1970s or better yet comparable studies of such figures as Shirley Chisholm and Adam Clayton Powell. Then, public historians must take the tools of their trade to broaden the Civil Rights Movement narrative to include such significant policymakers. Are the homes and offices of such figures as Edward Brooke listed in the National Register of Historic Places? Why not? Where are the websites within various federal agencies that would tell the story of African American congressman, senators, ambassadors, and agency heads who helped to turn protest into policy?

The next steps with Senator Edward W. Brooke's story include several phases. First, create a traveling museum exhibit of the late senator's life, political career and civil rights legacy, which will allow his story to reach a diverse audience. The exhibit will emphasize Brooke's civil rights work with the 1963 Massachusetts Fair Housing Practices Act, filing an *amicus curia* brief in *South Carolina v. Katzenbach*, which reaffirmed the constitutionality of the 1965 Voting Rights Act, the 1968 Brooke–Mondale Fair Housing Act and mediation in the Boston busing crisis during the early 1970s. The themes of bipartisanship, cooperation and enlightened policymaking will

serve as the foundation for the exhibit. After developing a layout and mission statement for the exhibit, gathering artifacts, photos and memorabilia from Brooke's career to accentuate these themes is the next task. Partnering with an exhibit development company, such as Exhibits Development Group (EDG), will bring the exhibit to fruition. Touchscreen panels featuring an interactive timeline of milestones in Brooke's career and oral history interviews with Brooke's family will allow visitors to explore the late senator's legacy and humanity. Second, evaluate and nominate the site of Brooke's law office, located in Roxbury, Massachusetts, to the National Register of Historic Places. Third, create a panel about Senator Brooke's civil rights work for the National Council on Public History's Annual Conference, and collaborate with interested public historians to not only preserve the Civil Rights Movement's legacy but also engage our diverse audiences in meaningful discussions about the social justice movement's struggles, victories, unfulfilled objectives and steps forward. Lastly, revising the dissertation into a book will require more research into Senator Brooke's papers at the Library of Congress.

Today, we recognize the Civil Rights Movement as richer and more complex as we try to understand its implications for our current times. Progressive change will only come through voting, and political and social reform; however, the massive, global protests can be attributed to bringing awareness to systemic oppression in the United States. Brooke's subtle revolutionist methodology created a foundation for future political leaders to become more vocal while working within the political system.²⁵

²⁵ Booker, "I'm a Soul Brother – Senator Edward W. Brooke," *Ebony*, April 1967, 150, 152–154, accessed March 5, 2020; Martin, "Edward W. Brooke, III, 95, Senate Pioneer Is Dead," *New York Times*, January 3, 2015, accessed February 1, 2020.

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APPENDICES

APPENDIX A

The state of public history theory and practice regarding the life of Senator Edward W. Brooke is scant. The late senator does not have a museum or political center dedicated to preserving his legacy and work although his official papers are housed in the Library of Congress's Manuscript Division.¹ Moreover, a charter school and state courthouse in Massachusetts are named in his honor.² To address the public history component, the author created a civics lesson that can be used in middle schools and high schools throughout the nation. The author took several steps to create this lesson. First, he assessed the need for a newer perspective regarding the political process, African American history and the role of bipartisanship, which is greatly needed in our current political climate of demagoguery, divisiveness and partisanship. Senator Brooke summarized the nation's political mood best in 1969 when he commented, "... the lack of understanding, exhibited in appalling amounts by persons of both races, ... presently divides this nation. The root of the problem should be clear – Americans simply do not understand each other."³ This sentiment has worsened with time as many schools have experienced re-segregation throughout the country.

In order to move forward as a people, we must know and understand our historical roots. Therefore, studying the mistakes, successes and failures of the past will

¹ Jordan Alexander, "The Campaign Memorabilia of Senator Edward W. Brooke," November 5, 2014, blog, WordPress, accessed September 4, 2019, <https://tcmosedwbroke1966.wordpress.com>.

² Ibid.

³ Senator Edward W. Brooke, "Statement of Senator Edward W. Brooke in Opposition to the 'Whitten Amendments,'" press release, December 16, 1969, Box 575, EWB Papers, 1.

ensure that we do not repeat the same errors in the present while preparing future generations to lead and live in the world as conscious, globally minded citizens. The author used key themes from this dissertation to develop a lesson plan to educate middle and high school students about Senator Brooke's life, political career and legacy. The lesson plan is divided into smaller units to make learning information more attainable. Middle school teachers could incorporate Brooke's work and civil rights legacy into a unit of their eighth-grade civics classes. Similarly, high school teachers may want to discuss Brooke's life and experiences in their units on twentieth century political and social transformations engulfing the nation. For example, his experiences with Jim Crowism during World War II, interracial marriage and family, political affiliation, roles as Massachusetts' attorney general, and later, senator, during some of the nation's most difficult times, are good ways to introduce topics about citizenship, civil rights, equality, socioeconomic justice and race relations within the larger context of the Civil Rights Movement during the 1950s and 1960s.

In addition, the author used the same themes to write questions that will test students' knowledge in a Jeopardy type trivia game to help them develop a greater understanding of American history, the political process and respect for African American history. He looked at several templates for Jeopardy games before using *Jeopardy Labs* for this project. The game is designed for numerous teams to participate. Questions range in difficulty from one hundred to five hundred points. Therefore, students must be attentive in class to fully participate in the game. As they teach the lessons, teachers may suggest that students pay attention to certain names, dates, laws and historical figures in preparation for the Jeopardy game at the end of the study unit.

Although the team with the highest score wins, teachers can also decide on which incentives will encourage their students. The Jeopardy game could possibly serve as a quiz or other type of assessment. Sample lessons are included in following appendices.

The screenshot shows a Jeopardy game interface on a web browser. The game is titled "The Life and Political Career of Senator Edward W. Brooke III". The board is divided into five columns, each representing a different category of the senator's life and career. Each column has five rows of values, ranging from 100 to 500. At the bottom of the board, there are three team score boxes for Team 1, Team 2, and Team 3, each showing a score of 0 and plus/minus buttons. A "MENU" button is visible on the left side of the board.

Early Life	World War II Combat	Early Career in Massachusetts	Tenure in the Senate	The Apex of Brooke's Career/Life after Politics
100	100	100	100	100
200	200	200	200	200
300	300	300	300	300
400	400	400	400	400
500	500	500	500	500

Team 1: 0
Team 2: 0
Team 3: 0

MENU

Jeopardy – The Life and Political Career of Senator Edward W. Brooke III

Link: <https://jeopardylabs.com/play/the-life-and-political-career-of-senator-edward-w-brooke-iii-2>

The Life and Political Career of x +

jeopardylabs.com/play/the-life-and-political-career-of-senator-edward-w-brooke-iii-2

Continue ESC

Early Career in Massachusetts
for 200

Reveal Correct Response Spacebar

From 1961 until 1962, he was the chairman of this quasi-judicial government organization that investigated corruption in Boston and abuse of the public's trust

What is the Boston Finance Commission?

MENU

Team 1	Team 2	Team 3
0	0	0
+ -	+ -	+ -

Sample Jeopardy Question and Answer

APPENDIX B

Unit 1: The Life and Political Career of Senator Edward W. Brooke – Introduction**Duration:** 1 hour**Themes:** U.S. History and Civics; Black History**Resources:** Computer and Internet access

Senator Edward W. Brooke was a noble statesman. As the first popularly elected, African American, Republican senator since Reconstruction, Brooke destroyed many stereotypes and misperceptions about the African American community during the 1950s and 1960s. His upbringing in Washington, D.C. within a middle class, segregated suburb, surrounded by his family, as well as friends, provided Brooke with the knowledge and resources to navigate the complex world. His career and remarkable accomplishments are worth studying. As a moderate Republican, he charted a course of bipartisanship in an increasingly conservative national Republican Party. Moreover, he served as the first African American attorney general in Massachusetts, fought to protect civil rights during his two terms in the Senate and advocated the cause of marginalized, downtrodden and politically disenfranchised within American society. His commitment to **bipartisanship (cooperation between two political parties)**, equality and justice was unparalleled. Brooke redefined the concepts of race and respect in American society and politics. His quiet legislative record has been forgotten within American history. In this unit study on Senator Brooke, we will discover the causes he advocated and his vision for a more diverse, open minded Republican Party.

Early Years

Edward W. Brooke was born on **October 16, 1919, in Washington, D.C.** His **father, Edward W. Brooke, Jr.**, was a lawyer for the Veterans Administration while **his mother, Helen Seldon Brooke**, was a homemaker. Brooke had an **older sister, Helene**. His parents instilled in him the values of a solid Christian faith, hard work, character, integrity, racial pride, and respect for himself, as well as others, traits that served Brooke well in politics and the larger world. In 1936, Brooke graduated from high school and enrolled in **Howard University, where he majored in social science (concentrating on history, economics, political science, and literature)**. He was a member of Alpha Phi Alpha Fraternity and joined **the Reserve Officer Training Corps (ROTC) during his undergraduate career. Brooke received his commission as a second lieutenant in the Army after completing the program.** When he graduated from Howard University in June 1941, much of the world was engulfed in World War II.

Teacher Questions:

1. Does segregated mean equal?
2. What is the definition of bipartisanship?
3. What stereotypes and misperceptions did Brooke help destroy through his long political career?
4. What is disenfranchisement?

APPENDIX C

Unit 3: Early Career**Duration:** 1 hour**Themes:** U.S. History and Civics; Black History**Resources:** Senator Edward W. Brooke, “Chapter 6: The Boston Finance Commission,” in *Bridging the Divide: My Life*, 71–78.

In the early 1950s, Brooke, **a lawyer, decided to affiliate with the Republican Party** because

[M]y parents were Republicans, and I had always admired the party of Lincoln and the Republican virtues of duty and self-help. My father had taught me to believe in free enterprise and distrust big government. ... I admired the conservative regard for history and precedent. Like my father, I agreed with Abraham Lincoln that government should do for people only that which they cannot do for themselves.¹

In 1961, Republican Governor John Volpe confirmed Brooke as a member of the **Boston Finance Commission and appointed him to serve as the chairman.**² **The purpose of the agency was to eliminate corruption within the city government by investigating various cases, reporting on the evidence, and providing recommendations that would not only deal with corrupt officials but also strengthen the people’s trust in locally elected officials by introducing massive reforms.**

Corruption was so pervasive in Boston that various city officials brazenly committed

¹ Senator Edward W. Brooke, *Bridging the Divide: My Life* (Piscataway, NJ: Rutgers University), 55.

² City of Boston Finance Commission, “I. Organization of the Commission,” in *Annual Report to the Legislature for 1961*, Vol. LVII (Boston: Administrative Services Department, Printing Section, 1962), Boston City Archives, West Roxbury, Massachusetts, 1.

crimes without any fear of reprimand. The situation angered Brooke, who lived by a code of respect, order, and discipline throughout his career and personal life. Although he was the only Republican and the other members were Democrats, they all shared a desire to “restore the city and re-establish its status” because Boston, “as the capital city of the commonwealth and the very heartbeat of the metropolitan region,” needed to “assume its rightful place in the life of the Commonwealth.”³ Therefore, the commissioners devoted themselves to uprooting corruption in the city during their yearlong investigative work.

Consequently, when residents of Boston began seeing tangible results of the municipal government’s commitment to protecting their rights, they could take pride in their city and contribute to the wellbeing of their communities.⁴ The chairman position was full time and came with a \$5,000 annual salary.⁵ The four non-paid commissioners worked part-time, in addition to having careers and families. Brooke accommodated their schedules by later having the entire commission vote to reduce the duration of hearings from five hours to three hours.⁶ In his role as the chairman, Brooke, whom one reporter described as “[s]oft spoken, hard-working, affable and vested with undeniable personal dignity,” demonstrated tenacity, fairness and courage in the midst of pervasive

³ City of Boston Finance Commission, “I. Organization of the Commission,” in *Annual Report to the Legislature for 1961*, 127; Senator Edward Brooke, interview, October 31, 2001, transcript, National Visionary Leadership Project Collection of African American Oral Histories, Library of Congress, Washington, D.C., 59; Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

⁴ Ibid. The term *ibid.* is Latin for “same source”.

⁵ Ibid., 2.

⁶ “McGrath’s Counsel to Fight Fin Com on Short Sessions,” *Boston Globe*, March 26, 1962, accessed January 12, 2020, <https://bostonglobe.newspapers.com/image/433032503>; James H. Hammond, “Short Sessions Protested,” under “Fin Com Will Ask Court Order McGrath Records,” *Boston Globe*, March 26, 1962, accessed April 9, 2020, <https://bostonglobe.newspapers.com/image/433032931>.

corruption.⁷ The Boston Finance Commission's positive results in several investigations not only increased Brooke's political standing but also his reputation as a government reformer because he was "conscientiously trying to clean up an unsavory situation."⁸ Even more significantly, as an African American Republican and chairman of a quasi-judicial municipal agency, Brooke's work "efficiently knock[ed] down the artificial barriers that have prevented the members of his race from playing their full role in the state's political life."⁹

Teacher Questions:

1. Why did Brooke affiliate with the Republican Party?
2. Who appointed Brooke to serve on the Boston Finance Commission?
3. What was the agency's role?
4. What philosophy did Brooke live by?

⁷ William H. Wells, "Brooke's Fire Alarms Probe Wakes Up Sleepy Fin Com," *Boston Globe*, August 10, 1961, accessed April 19, 2020, <https://bostonglobe.newspapers.com/image/433005924>.

⁸ Ibid.

⁹ Ibid.

APPENDIX D

Unit 4: Brooke’s work as attorney general of Massachusetts**Duration:** 2 hours**Themes:** U.S. History and Civics; Black History**Resources:** Senator Edward W. Brooke, “Chapter 8: Attorney General,” in *Bridging the Divide: My Life*, 96–114.

Brooke’s desire to eliminate corruption, regain the people’s trust and defend African Americans’ civil rights intensified when he served as attorney general of Massachusetts. For example, on April 15, 1963, assistant attorney general Lee Kozol, chief of the Civil Rights and Liberties Division, wrote a first quarter report to Brooke summarizing the various cases the division oversaw. Kozol noted how **the department worked on comprehensive housing legislation, Massachusetts Senate Bill 350, which Governor Endicott Peabody signed into law on April 1, 1963, as chapter one hundred ninety–seven, section two, of the Massachusetts Fair Housing Practices Act**, that the Massachusetts Commission Against Discrimination (MCAD) would oversee and enforce.¹ The purpose of the law was to “prevent discrimination because of race, creed, color, national origin, or ancestry in the sale, rental, or lease of housing

¹ Lee H. Kozol to Attorney General, first quarter report, “The Condition of the Civil Rights Division as at 4/15/63,” April 15, 1963, Box 27, Edward William Brooke Papers, Manuscript Division, Library of Congress, Washington, D.C., 4 (hereafter known as EWB Papers); Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area* CR1.2:H81/2 (Boston, 1963), 35, <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12h812.pdf>, accessed May 26, 2020. See chapter four, footnote three, which discusses a statement by Governor Peabody as he signed the bill into law.

accommodations (or of land intended for the erection of housing accommodations) that are made generally available to the public.”²

Moreover, black residents experienced blatant and overt racism from real estate agents, landowners, land developers and homeowners, thus hindering their attempts to enter the middle class.³ To strengthen the legislation, the Civil Rights and Liberties Division worked privately with the Massachusetts Commission Against Discrimination and the state legislature to draft a stronger amendment. Chapter one hundred ninety–seven, section two, of the Massachusetts Fair Housing Practices Act revised the bill to cover most housing under the anti–discrimination policies.⁴ However, single unit apartments and suites in two–family dwelling units were not covered in the law.⁵ Although the amended bill had its limits, the provisions went further in protecting African Americans’ civil rights and attempting to destroy the last vestiges of Jim Crowism. **Attorney general Brooke, who was a strong advocate of fair housing, provided the Civil Right and Liberties Division with more resources, as well as**

² Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area*, 35, accessed May 26, 2020.

³ Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 2: Patterns and Practices of Discrimination,” in *Discrimination in Housing in the Metropolitan Boston Area*, 20–26, accessed May 26, 2020.

⁴ Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area*, 35, accessed May 26, 2020.

⁵ Ibid.

personal support, to assist the department's work with MCAD and the state legislature in drafting the amendment.⁶

In June 1963, the Boston Branch of the NAACP held several negotiations with the Boston School Committee, hoping the council would address the issue of de facto segregation in the school system.⁷ Led by Mrs. Louise Day Hicks, an ardent segregationist and committee chairwoman, the members voted three to two, rejecting a motion to say the term “de facto segregation.”⁸ In addition, the NAACP representatives wanted the school committee and Dr. Frederick J. Gillis, the superintendent of Boston's public schools, to accept responsibility for the underfunded institutions, lack of black principals, shortage of teachers, lack of resources, outdated textbooks that excluded black Americans, and dilapidated conditions of school buildings, which were primarily located in urban neighborhoods.⁹ In response to the school's committee's inaction, the NAACP and Citizens for Human Rights (CFHR), another civil rights organization, began planning

⁶ Massachusetts Advisory Committee to the United States Commission on Civil Rights, “Chapter 4: Counter Measures; The Law,” in *Discrimination in Housing in the Boston Metropolitan Area*, 35, accessed May 26, 2020; Kozol to Attorney General, first quarter report, “The Condition of the Civil Rights Division as at 4/15/63, April 15, 1963, Box 27, EWB Papers, 4.

⁷ “School Boycott Arouses Boston: Violence Feared Tuesday When Negroes Plan to Stay Home,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020, <https://newscomwc.newspapers.com/image/604292519>; “Boycott Is to Protest ‘De Facto’ Segregation,” *Muscatine Journal and News-Tribune* (Muscatine, IA), June 18, 1963, accessed January 28, 2020, <https://newscomwc.newspapers.com/image/42643680>; Seymour R. Linscott, “8260 Stay Out – But All Calm,” *Boston Globe*, June 19, 1963, accessed April 16, 2020, <https://bostonglobe.newspapers.com/image/433615389>.

⁸ Ibid.

⁹ “Protesting Boston Negroes to Boycott Schools on Tuesday,” *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/545533171>; “School Boycott Arouses Boston,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020.

a daylong boycott of the city's schools, which initially required the participation of all fourteen thousand black students.¹⁰ During the revision process, the civil rights organizations relegated the protest to five thousand black students who attended junior and senior high schools.¹¹ On the day of the boycott, the students would miss their regular classes to attend "Freedom Schools," where they would learn about their rich history and culture, the Civil Rights Movement, the importance of voting, and protesting.¹² The NAACP and CFHR also allied themselves with St. James Episcopal Church in Roxbury to strengthen support for the boycott.¹³

Attorney general Brooke demonstrated his commitment to civil rights by refusing to support the Boston School Committee's hindrance of the Freedom Stay-Out. Mrs.

¹⁰ "Brooke Urged to Bar School Boycott by Boston Negroes," *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/54821904>.

¹¹ "Brooke Urged to Bar School Boycott by Boston Negroes," *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020; "Boston Faces Boycott over Race Dispute: Two Negro Rights Groups Take Action, Cite Barrier in Schools," *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/18383910>.

¹² "Protesting Boston Negroes to Boycott Schools on Tuesday," *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020; "Brooke Urged to Bar School Boycott by Boston Negroes," *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020; "Protest De Facto Segregation: Negro Students Boycott Boston Public Schools," *Carroll Times Daily Herald* (Carroll, IA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/1348811>; "Boston Faces Boycott over Race Dispute," *Cumberland Evening Times* (Cumberland, MD), June 18, 1963, accessed January 29, 2020; Freedom Stay Out Steering Committee, "Freedom Stay-Out Informational Handout," promotional materials, June 6, 1963, Box 195, Folder 8, Mayor John F. Collins Records, Boston City Archives, West Roxbury, MA (hereafter known as MJFC Records); Civil rights leaders also encouraged "sympathetic white parents" to send their children to the Freedom Schools. The invitation to white parents demonstrates that some white residents of Boston disagreed with de facto segregation in the city's public schools.

¹³ "Some 3,000 Boston Negro Pupils Boycott Classes in Mass Protest: Charge 'De Facto Segregation' in City's Schools," *North Adams Transcript* (North Adams, MA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/545533468>; "Protesting Boston Negroes to Boycott Schools on Tuesday," *North Adams Transcript* (North Adams, MA), June 13, 1963, accessed January 29, 2020.

Hicks wanted him to intervene in the conflict because he was “... the foremost man in his racial group,” who could effectively serve as the voice of reason in urging the civil rights organizations to call off the boycott.¹⁴ Moreover, she hoped that Brooke, in his capacity as attorney general, would “inform these groups of the state law concerning compulsory education and ... take steps to assure the attendance of all children at school on Tuesday, [June 18, 1963].”¹⁵ Recognizing Mrs. Hicks’s political schemes, Brooke refused to comment on the situation or become involved “only if [the situation] reaches a dangerous stage and there is a breakdown of the law somewhere along the line.”¹⁶ However, he met with NAACP representatives and other civil rights leaders in Boston to discuss the issue, on Friday, June 14, 1963.¹⁷ Their meeting lasted until 3:30am.¹⁸ During the town hall forum, Brooke reasserted his official ruling in which, “The law provide[d] that [parents] [couldn’t] keep [their] children out of school for that reason [the purpose of protesting school segregation], which led Boston’s African American community to be “against [him] on that opinion.”¹⁹ While sympathizing with their anger, Brooke remained

¹⁴ “Brooke Asked to Head Off Boston Protest: Negroes Want More Integration in Schools,” *Berkshire Eagle* (Pittsfield, MA), June 15, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/531306364>.

¹⁵ “Brooke Urged to Bar School Boycott by Boston Negroes,” *North Adams Transcript* (North Adams, MA), June 17, 1963, accessed January 29, 2020.

¹⁶ “School Boycott Arouses Boston,” *Chattanooga Daily Times*, June 17, 1963, accessed January 28, 2020.

¹⁷ Cornelius E. Hurley, “Man in the News: E.W. Brooke,” *Richmond Times-Dispatch* (Richmond, VA), June 19, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/616256758>.

¹⁸ *Ibid.*

¹⁹ Edward W. Brooke Interview, August 16, 2006, Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

neutral in his role as attorney general. He realized that both the segregationist and pro-civil rights factions in Boston wanted him to side with their respective causes. **Thus, his decision to not make any public statements or become directly involved in the peaceful and ultimately, successful, boycott on Tuesday, June 18, 1963, was tacit support for the civil rights demonstrators who simply wanted equal, integrated education for their children.**²⁰

In December 1965, the Supreme Court invited all the states to take part in a test case that would define the constitutionality of the recently passed Voting Rights Act. **After Brooke accepted the primary leadership role in filing an *amicus curia* brief on behalf of the U.S. attorney general, he reached out to other attorney generals and the states of California, Illinois, Hawaii, Indiana, Iowa, Kansas, Maine, Maryland, Michigan, Montana, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin joined him in supporting the brief.** His office, in conjunction with several law professors, college students and volunteers from collegiate civil rights groups, wrote a strong, well-defined brief that supported the Voting Rights Act. Assistant attorney general Levin H. Campbell, the chief of the Civil Rights and Liberties Division, served as the liaison between Brooke's office and the other states. **Despite Brooke's busy schedule, he had a role in**

²⁰ Hurley, "Man in the News," *Richmond Times-Dispatch* (Richmond, VA), June 19, 1963, accessed January 29, 2020; "Negroes Claim Success in Boycott of Schools," *Journal Gazette* (Mattoon, IL), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/81564151>; "Boycott Is Protest to 'De Facto' Segregation," *Muscatine Journal and News-Tribune* (Muscatine, IA), June 18, 1963, accessed January 29, 2020, <https://newscomwc.newspapers.com/image/42643680>; "Some 3,000 Boston Negro Pupils Boycott Classes in Mass Protest," *North Adams Transcript* (North Adams, MA), June 18, 1963, accessed January 29, 2020.

overseeing the organization of the legal brief and contributed ideas to strengthen their case before the Supreme Court.²¹

In January 1966, the state of South Carolina filed a bill of complaint against the federal government and U.S. attorney general Nicholas Katzenbach.²² The state challenged that the 1965 Voting Rights Act was “arbitrary, discriminatory and beyond the legislative powers of Congress.”²³ The states of Georgia, Alabama, Louisiana, Mississippi and Virginia also joined South Carolina’s suit against the federal government.²⁴ The southern states attacked four areas of the Voting Rights Act’s provisions: (1) a coverage method for federal officials to ascertain if certain provisions applied to specific cases of discrimination; (2) brief suspension of a state’s literacy tests or other practices; (3) an assessment of states’ new voting rules to determine if they circumvented the law; and, (4) the use of federal examiners to oversee the voter registration process in states where blatant discrimination persisted.²⁵ The Supreme Court heard arguments between January 17 and 18, 1966. On March 7, 1966, in an eight-to-one decision, the Court declared that the Voting Rights Act was constitutional, and the

²¹ Levin H. Campbell to Attorney General Edward W. Brooke, “Quarterly Report for Period Ending December 31, 1965,” December 31, 1965, Box 27, EWB Papers, 8–10.

²² James J. Kilpatrick, “Great Federal–State Battle,” *Great Bend Tribune* (Great Bend, KS), January 13, 1966, accessed February 1, 2020, <https://newscomwc.newspapers.com/image/65538436>; “Syllabus,” under *South Carolina v. Katzenbach*, 383 U.S. 301, Cornell Law School Legal Information Institute, accessed March 27, 2020, <https://www.law.cornell.edu/supremecourt/text/383/301>.

²³ Kilpatrick, “Great Federal–State Battle,” *Great Bend Tribune* (Great Bend, KS), January 13, 1966, accessed February 1, 2020.

²⁴ *Ibid.*

²⁵ “Syllabus,” under *South Carolina v. Katzenbach*, 383 U.S. 301, Cornell Law School Legal Information Institute, accessed March 27, 2020.

U.S. attorney general had the authority to enforce the law. Thus, Brooke's collaboration with other states to file an *amicus curia* brief on behalf of the U.S. attorney general culminated in a victory for the Civil Rights Movement. Although the public did not know about Brooke's work, his actions demonstrated a commitment to ensuring protection of civil rights for African Americans.²⁶

Teacher Questions:

1. What was the name of the housing law that Brooke supported during his work as attorney general?
2. Who was Mrs. Louise Day Hicks? What was her role in the 1963 Boston School Boycott?
3. Why did African American students boycott their schools?
4. What was Brooke's position on the issue?
5. What states joined Brooke in filing an *amicus curia* brief on behalf of the U.S. attorney general, Nicholas Katzenbach, in the Supreme Court test case over the Voting Rights Act's constitutionality?
6. Which southern states joined South Carolina's lawsuit against the federal government?
7. What was the Supreme Court's ruling?

²⁶ Campbell to Brooke, "Quarterly Report for Period Ending December 31, 1965," December 31, 1965, Box 27, EWB Papers, 8–10.

APPENDIX E

Timeline of Senator Edward W. Brooke's Career

