INTRODUCTION

Fresh from the success of the 1965 Selma, Alabama, voting rights campaign and the passage of the landmark Voting Rights Act, Martin Luther King and the Southern Christian Leadership Conference (“SCLC”) decided to take their Southern civil rights movement north to Chicago. Dr. King and the SCLC joined forces with local Chicago activists to launch the Chicago Freedom Movement (“CFM”). The Southern civil rights activists decided that the Movement needed to address racism and poverty in the urban North and selected Chicago as the first site of this new initiative. The objectives to be achieved and the strategies and tactics to be employed remained to be determined.

By the middle of 1966, the CFM decided to target racial discrimination and segregation in Chicago’s housing market. That summer witnessed a direct action campaign aimed at white neighborhoods that excluded Blacks—starting
with testing for racial discrimination and vigils at real estate brokers’ offices and escalating into a series of marches into white neighborhoods to dramatize their exclusionary character. The leaders hoped that their Chicago initiative would also provide a model for similar campaigns in other Northern cities.

This Article focuses on yet another goal of the CFM—to raise the nation’s awareness about the problem of housing discrimination and to press Congress to enact the pending corrective legislation. The Article argues that the CFM contributed to both the initial failure in 1966, and the final success in 1968, of the effort to secure passage of a federal fair housing law. Ironically, the Movement made an unlikely prospect—passage of fair housing legislation in 1966—even more unlikely. However, in 1968, Congress managed to enact a fair housing law. This time around, the CFM contributed to the bill’s surprising passage.

This Article will show how, through a series of indirect effects, the CFM contributed to the bill’s passage, notwithstanding its contrary impact two years earlier.

Part I provides background on the purposes and strategies of the CFM. Part II examines the CFM’s impact on the unsuccessful effort to enact fair housing legislation in 1966. Finally, Part III assesses the indirect effects of the Chicago Movement in helping to facilitate the enactment of the Fair Housing Act in 1968.

I. THE CFM

A. Why Go North?

Martin Luther King saw racial discrimination as a national problem. Racism in the North had manifested itself in overt and covert discriminatory
policies and practices, rather than unjust laws; however, the Northern racism had effects just as devastating as the Jim Crow laws and customs of the South.\textsuperscript{15}

Dr. King envisioned the civil rights movement as a national movement rather than a regional one.\textsuperscript{16} While its roots were in the South, King’s larger vision included creating a national movement to address the racial inequality that pervaded American society.\textsuperscript{17} That meant an ideological shift, away from attacking the legal segregation of the South to focusing on the poverty, living conditions, and segregation of Blacks in the Northern cities.\textsuperscript{18} King viewed a Northern campaign as a logical next step in the organization’s efforts to apply its Southern strategies and tactics to the rest of the country.\textsuperscript{19} At the same time, the SCLC had lost some of its momentum and direction after Selma.\textsuperscript{20} After its voting rights success, the organization found itself searching for a new direction.\textsuperscript{21} For King, the new direction was north, where he could make the case to the public and to those in power locally and nationally that race was an American problem.

The reality of the conditions for Blacks in the urban north became evident to the country in the summer of 1965, when the Los Angeles community of Watts erupted in violence.\textsuperscript{22} The Watts rebellion demonstrated dramatically that eliminating the formal barriers of discrimination in the South left the problems

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\item \textsuperscript{15} ANDERSON & PICKERING, supra note 2, at 2; \textit{Program of the Chicago Freedom Movement} (July, 1966), \textit{in Chicago 1966}, supra note 6, at 97-98.
\item \textsuperscript{16} GARROW, \textit{BEARING THE CROSS}, supra note 2, at 452 (noting that King said that “the movement had to transform itself from a southern to a countrywide effort”); RALPH, supra note 2, at 31. King felt a moral duty to address racism at the national level. \textit{Id.} at 33. Additionally, as SCLC’s efforts had always included an eye toward encouraging federal action, taking the movement national also seemed a natural step. \textit{See} ADAM FAIRCLOUGH, \textit{TO REDEEM THE SOUL OF AMERICA: THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE & MARTIN LUTHER KING, JR.} \textit{7} (1987).
\item \textsuperscript{17} BRANCH, supra note 2, at 319-21; GARROW, \textit{BEARING THE CROSS}, supra note 2, at 430, 452; RALPH, supra note 2, at 29-34.
\item \textsuperscript{18} See ANDERSON & PICKERING, supra note 2, at 153; BRANCH, supra note 2, at 282, 319-20; GARROW, \textit{BEARING THE CROSS}, supra note 2, at 430, 452; RALPH, supra note 2, at 29-32; Finley, supra note 6, at 1, 1.
\item \textsuperscript{19} See ANDERSON & PICKERING, supra note 2, at 153; BRANCH, supra note 2, at 319-20; GARROW, \textit{BEARING THE CROSS}, supra note 2, at 430, 452-53; RALPH, supra note 2, at 29-32; Finley, supra note 6, at 1, 1.
\item \textsuperscript{20} RALPH, supra note 2, at 33; FAIRCLOUGH, supra note 16, at 253-55.
\item \textsuperscript{21} ANDERSON & PICKERING, supra note 2, at 150; LEE RAINWATER & WILLIAM L. YANCEY, \textit{THE MOYNIHAN REPORT AND THE POLITICS OF CONTROVERSY} 9-10 (1967).
\item \textsuperscript{22} BRANCH, supra note 2, at 284-85, 288-89. “In August . . . , a police stop . . . escalated into six days of chaos that left thirty-four people dead, nine hundred injured, and four thousand arrested.” CHRISTOPHER BONASTIA, \textit{KNOCKING ON THE DOOR: THE FEDERAL GOVERNMENT’S ATTEMPT TO DESEGREGATE THE SUBURBS} \textit{77} (2006). Fourteen-thousand National Guard members joined with several thousand local police to get the situation under control. \textit{Id.}
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of race and poverty that beset the rest of the country untouched.\textsuperscript{23} The violence in Watts convinced Martin Luther King that he needed to take his movement to the urban North and demonstrate that non-violence could be effective there.\textsuperscript{24}

Still, the idea of taking the movement north had its detractors within SCLC.\textsuperscript{25} They argued that a Northern movement would face opponents who were more sophisticated than the Southern law enforcement officials whose violent reactions to the civil rights marches garnered nationwide support for activists.\textsuperscript{26} In addition, SCLC’s fundraising base, which was primarily Northern, would suffer if the movement left the South.\textsuperscript{27} The SCLC’s supporters could have been offended at the thought that they, or their communities, were being accused of racial discrimination. The organization’s proven recruitment base was in the South, thus a Northern initiative might face greater uncertainty on the recruiting front as well.\textsuperscript{28}

Still other concerns revolved around the perceived unfinished business in the South. Some SCLC activists thought there was too much work left to be done in the South, including voter registration initiatives to make the promise of the hard-won Voting Rights Act of 1965 into a reality.\textsuperscript{29}

\textbf{B. Why Chicago?}

Having decided that it was time for an initial foray into a Northern city, King and his SCLC colleagues spent much of the summer of 1965 visiting potential sites for their first Northern movement.\textsuperscript{30} That summer witnessed exploratory

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\item Branch, supra note 2, at 319; Ralph, supra note 2, at 31-32, 38-39. King came to believe that SCLC made a mistake in neglecting the cities of the North. Adam Cohen & Elizabeth Taylor, \textit{American Pharaoh—Mayor Richard J. Daley: His Battle for Chicago and the Nation} 347 (2000).
\item The skeptics included King’s close advisor Bayard Rustin and union leader Don Slaiman, the Executive Director of the AFL-CIO. Branch, supra note 2, at 320.
\item Garrow, \textit{Bearing the Cross}, supra note 2, at 437.
\item Branch, supra note 2, at 320.
\item \textit{Id.}
\item Bayard Rustin argued that the passage of that legislation made it imperative for SCLC to keep its focus on the South. “He urged King to go ‘from city to city, and from county to county, leading people into voter registration centers.’” John D’Emilio, \textit{Lost Prophet: The Life and Times of Bayard Rustin} 454 (2003).
\item Rustin believed that “SCLC’s special mission [was] to transform the eleven southern states.” Cohen & Taylor, supra note 24, at 330. He also believed, that “[t]here [would not] be any real change in American politics and the American social situation until that [was] done.” \textit{Id.}
\item Andrew Young expressed skepticism that the Justice Department would take the steps to make the legal changes a reality on the ground. \textit{Id.}
\item Young also cautioned that the organization’s limited resources could not support the move North while maintaining a presence in the South. \textit{Id.}
\item Garrow, \textit{Bearing the Cross}, supra note 2, at 435-37; Ralph, supra note 2, at 34-38.
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trips to Cleveland, Philadelphia, and Washington, D.C., as well as Chicago.\textsuperscript{31} Chicago soon emerged as the most attractive possibility, due to its own appealing aspects as well as the shortcomings of the other options that the SCLC considered.\textsuperscript{32}

Chicago seemed to epitomize the urgent problems of urban poverty and racial segregation that drew Dr. King’s attention to the North in the first place.\textsuperscript{33} It represented the plight and challenges of Northern cities—writ large.\textsuperscript{34} The city’s size and extreme segregation made it an appealing site for the initial Northern thrust.\textsuperscript{35} Moreover, Chicago’s segregation made the city ripe for creating opportunities for the kind of confrontations and drama that had been the source of much of SCLC’s Southern success.\textsuperscript{36}

King believed that change in Chicago could serve as a catalyst for action in other Northern cities, leading to major changes elsewhere.\textsuperscript{37} He hoped to create a pattern for action in Chicago that could be replicated in other Northern cities.\textsuperscript{38}

King wanted to demonstrate that nonviolent tactics could work in the North, while also raising the consciousness of the nation about racism and its consequences there.\textsuperscript{39} He hoped “that Chicago . . . could well become the metropolis where a meaningful nonviolent movement could arouse the

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\item 31. \textit{Ralph, supra} note 2, at 34-39. Local Black politicians in New York and Philadelphia quickly made clear their opposition to the movement choosing their cities. \textit{Id.} at 35-36. King did not even visit New York, after a local Black leader, Adam Clayton Powell, informed reporters that the local Black leadership did not need King. \textit{Branch, supra} note 2, at 321; \textit{Garrow, Bearing the Cross, supra} note 2, at 435; \textit{Ralph, supra} note 2, at 35.

\item 32. \textit{Anderson & Pickering, supra} note 2, at 143-44, 197; \textit{Ralph, supra} note 2, at 39.

\item 33. \textit{Id.}

\item 34. \textit{Id.}

\item 35. \textit{See Douglas S. Massey & Nancy A. Denton, American Apartheid: Segregation and the Making of the Underclass} 47 tbl. 2.3 (1993); \textit{Ralph, supra} note 2, at 39. In 1959, the U.S. Civil Rights Commission called Chicago the country’s “most residentially segregated large city.” \textit{Cohen & Taylor, supra} note 24, at 347.

\item 36. \textit{See Anderson & Pickering, supra} note 2, at 197; \textit{Ralph, supra} note 2, at 39.

\item 37. King suggested, “Chicago represents all the problems that you find in the major [metropolitan] areas of the country . . . . If we can break the system in Chicago, it can be broken any place in the country.” \textit{Anderson & Pickering, supra} note 2, at 183.

\item 38. \textit{Anderson & Pickering, supra} note 2, at 183; \textit{Shaw, supra} note 23, at 318.

\item 39. \textit{Anderson & Pickering, supra} note 2, at 183; \textit{Garrow, Bearing the Cross, supra} note 2, at 444; \textit{Shaw, supra} note 23, at 317-18; \textit{see also Ralph, supra} note 2, at 105.
\end{itemize}
conscience of this nation to deal realistically with the northern ghetto." He believed that success in Chicago could bring significant national press and attention.

Chicago also seemed to have the potential for mobilization of a major movement. King believed that local people wanted and needed his movement to come to the city. By the summer of 1965, he had already become familiar with the city. During the previous summer, King had participated in the Illinois Rally for Civil Rights at Soldier Field in Chicago. The rally, held on June 21, two days after the passage of the Civil Rights Act of 1964, was meant to celebrate the new Act and encourage progress in civil rights in Illinois and Chicago, including integration of the city’s schools. King delivered a speech to 75,000 people. The rally was the largest civil rights gathering ever held in Chicago.

King also received a very warm welcome from the public, including the Black community and local activists, during his July 1965 exploratory visit. He spoke to large, enthusiastic crowds, and led a group protesting Chicago’s segregation on a march to City Hall.

King found in the city what he believed to be a strong, experienced organizational base on which to build. Chicago had an active and experienced local movement that was eager to join forces with SCLC. King was very impressed with the Coordinating Council of Community Organizations—known as CCCO or Triple C-O. This was a coalition of civil rights organizations, community groups, and church groups that for several years prior to King’s arrival protested Chicago’s “separate and unequal” schools. These prior efforts

40. Garrow, Bearing the Cross, supra note 2, at 444. King announced at an SCLC executive staff meeting on August 26, 1965, that the movement would go to Chicago. Ralph, supra note 2, at 38-39. He explained that “[t]he present mood dictates that we cannot wait.” Id. at 39.

41. See Ralph, supra note 2, at 39.

42. Id.

43. Anderson & Pickering, supra note 2, at 138.

44. Ralph, supra note 2, at 39.

45. See Anderson & Pickering, supra note 2, at 138.

46. Ralph, supra note 2, at 39.

47. Garrow, Bearing the Cross, supra note 2, at 433-34; see also Ralph, supra note 2, at 39.

48. Garrow, Bearing the Cross, supra note 2, at 434; Ralph, supra note 2, at 39-40; Mary Lou Finley, The Open Housing Marches: Chicago, Summer ’66, in Chicago 1966, supra note 6, at 1, 2.

49. Ralph, supra note 2, at 14-28, 39-40; Finley, supra note 6, at 1, 2. King said that “[s]ince there is a vibrant, active movement alive [in Chicago], we felt that this was the first community in which we should work and start our visits in the north.” Garrow, Bearing the Cross, supra note 2, at 434.

For several years, CCCO had fought against school segregation in Chicago. After letters to the Board of Education, conversations with school officials, and testimony at public meetings
faced great resistance from school and city officials, and made very little progress as a result. The organization’s leaders hoped that Dr. King’s reputation and organization would inject energy and experience into the movement to address the City’s racial problems. Both the presence of what appeared to be a well-developed organization and the persistent entreaties from its leaders to come to Chicago added to the city’s appeal.

Mayor Richard J. Daley’s position as the city’s leader also attracted King. Some aspects of Daley’s record and rhetoric led King to believe that the Mayor could be persuaded to respond positively to the Movement’s concerns.

Daley had demonstrated his support for SCLC’s Southern civil rights movement. Andrew Young, Dr. King’s chief aide, recalled that

one of SCLC’s most successful fund-raisers had been held in Chicago with the sponsorship of Mayor Daley and Mahalia Jackson: [In this 1963 event,] SCLC took home virtually all the money that was contributed. Mayor Richard J. Daley’s position as the city’s leader also attracted King. Some aspects of Daley’s record and rhetoric led King to believe that the Mayor could be persuaded to respond positively to the Movement’s concerns.

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expenses. This was not the kind of thing Martin forgot.\textsuperscript{54}

In 1965, Mayor Daley had even praised King publicly, stating that “all right-thinking Americans should support” King’s goals of ending poverty and discrimination, and emphasizing Daley’s own desire to end poverty, slums, discrimination, and segregation.\textsuperscript{55} Daley also invited King to meet with him so he could show the visitor the City’s progress on civil rights.\textsuperscript{56} However, on that trip King declined the invitation to meet with the mayor, citing his tightly-packed schedule.\textsuperscript{57}

Daley had taken steps to further Blacks’ progress in the city. He supported Blacks for elective office and hired Blacks to patronage positions.\textsuperscript{58} In addition, in 1963, Daley proposed, and the City Council passed, a local fair housing ordinance—another indication that he might be sympathetic to CFM’s concerns.\textsuperscript{59}

King also believed that it was advantageous that Daley was such a strong Mayor who seemed to have the power to bring about significant change.\textsuperscript{60} The mayor’s dominance represented a contrast to other Northern cities, where power was much more diffused.\textsuperscript{61} With so much political power centralized in one person, King thought that persuading Daley to take action could bring about major changes in Chicago.\textsuperscript{62} Mayor Daley’s power at the national level also presented the possibility that putting pressure on him would lead to pressure on officials in Washington to act.\textsuperscript{63}

The idea of going to Chicago elicited substantial controversy within the movement. Bayard Rustin, one of King’s key advisors since the Montgomery bus boycott a decade earlier, believed that challenging Mayor Daley was naïve and ill-advised. He warned King:

You don’t know what Chicago is like. . . . There are powerful political

\textsuperscript{54} Andrew Young, An Easy Burden: The Civil Rights Movement and the Transformation of America 406 (1996).


\textsuperscript{56} Garrow, Bearing the Cross, supra note 2, at 433.

\textsuperscript{57} Id.

\textsuperscript{58} Cohen & Taylor, supra note 24, at 359.

\textsuperscript{59} Ralph, supra note 2, at 279 n.68.

\textsuperscript{60} Cohen & Taylor, supra note 24, at 337-38; Garrow, Bearing the Cross, supra note 2, at 444; Ralph, supra note 2, at 39; Finley, supra note 6, at 1, 2.

\textsuperscript{61} Biles, Richard J. Daley, supra note 55, at 119.

\textsuperscript{62} The Democratic political machine was so notoriously powerful that King believed that Daley and Chicago’s other leaders would have the ability to make needed changes, if they could just be convinced. Garrow, Bearing the Cross, supra note 2, at 444. King thought that success would be more likely in a city where the power was centralized in one person, rather than one like New York, where far more people would need to be convinced. Cohen & Taylor, supra note 24, at 337.

\textsuperscript{63} Finley, supra note 6, at 1, 13.
figures. You’ve got the Daley machine to deal with . . . You’ve got problems . . . which you don’t have in the little southern communities that you are accustomed to. . . . [T]here is no political vacuum in Chicago. . . . You’re going to be wiped out.”

Others shared Rustin’s view that Mayor Daley would be a major obstacle to progress. He was a far more sophisticated adversary than those they encountered in the South. He was not likely to counter demonstrations with violence that would give the Movement political and media victories, but would employ more subtle and effective defenses.

The challenges abounded. Chicago was far larger and more complex than any of the Southern cities in which the SCLC had worked. The city’s population of three million, one-third of whom were Black, dwarfed both the overall and Black populations of Southern cities like Selma and Birmingham. Also, the city lacked the highly visible, legally and culturally embedded Jim Crow system that had provided an obvious target in the South.

At least one key advisor, Andrew Young, expressed concern that Chicago’s Black residents would not be receptive to King’s non-violent campaign. The Democratic machine held great sway in the city’s Black community. Black City Council members and other elected officials displayed unwavering loyalty to the Daley machine, which also reached deep into the Black community with its thousands of patronage jobs. Many Black churches also had close ties to the political establishment.

64. D’Emilio, supra note 29, at 454; see Cohen & Taylor, supra note 24, at 330; Garrow, Bearing the Cross, supra note 2, at 455.

65. Cohen & Taylor, supra note 24, at 330; Garrow, supra note 2, at 455.

66. Anderson & Pickering, supra note 2, at 183; see Branch, supra note 2, at 444. In fact, Daley’s political sophistication created significant problems for the Movement. See infra notes 92-93 and accompanying text.

67. Chicago had nearly a million Black residents crammed into ghettos, primarily on the south and west sides of the city. Fairclough, supra note 16, at 280. The sheer scale of a movement necessary to impact a city of that size made the challenge daunting. Also, rather than racist laws, Chicago had racist conditions in the form of “block by block housing segregation” and a neighborhood school system that created de facto segregation. Anderson & Pickering, supra note 2, at 68.


69. Ralph, supra note 2, at 98.

70. D’Emilio, supra note 29, at 455.


72. Cohen and Taylor suggested that many Blacks supported and appreciated Mayor Daley and did not want King to challenge him:

Daley, who needed black votes in a way that southern politicians did not, had handed out elected offices, patronage jobs, and money in the black community, and had singled out a few Dawsons and Metcalfs to represent blacks on a citywide level. These black leaders, and their armies of patronage workers, had a personal stake in the status quo,
Further, the frustrating experience of the previous several years’ civil rights efforts provided additional cause for concern. The presence of CCCO’s developed, active movement seemed to be an advantage to choosing Chicago; however, the fact that its efforts to combat school segregation had largely met with failure raised serious questions about the possibilities for bringing about change in the city.73

C. Why Fair Housing?

When SCLC announced in September 1965, that it would join forces with the CCCO and form the “Chicago Freedom Movement,” the organization’s specific objectives and strategies remained to be determined.74 Initially, most Chicago activists expected the new movement to continue to challenge the city’s segregated and unequal schools.75 However, it soon became clear that this effort had run its course. Boycotts, demonstrations, and litigation had met with little success.76 In addition, Superintendent Benjamin Willis, whose intransigence had motivated much of the protest, announced that he was taking early retirement.77 His departure from the scene dampened the urgency of that effort.78

More importantly, Black Chicagoans faced many other problems besides the separate and unequal schools, including housing, jobs, and other economic woes.79 By the fall of 1965, the Movement defined its goals in very broad terms: to end slums and attack the segregation that pervaded the city.80 It struggled to define more specific objectives and strategies to pursue those goals. Narrowing the Movement’s efforts was especially difficult given the breadth of problems Black Chicagoans faced, as well as the challenge of convincing local groups and activists to come together around a single agenda and give up some of their own projects.81

in a way that few blacks in Selma or Birmingham did.

COHEN & TAYLOR, supra note 24, at 359.

Bayard Rustin warned that “you’ve got the powerful black ministers who are going to be jealous of you coming in here.” D’EMILO, supra note 29, at 454.

73. See FAIRCLOUGH, supra note 16, at 283.
74. Finley, supra note 6, at 1, 3; see GARROW, BEARING THE CROSS, supra note 2, at 442-43.
75. ANDERSON & PICKERING, supra note 2, at 173.
76. Id. at 121; see BRANCH, supra note 2, at 506.
77. RALPH, supra note 2, at 98.
78. Id.
79. ANDERSON & PICKERING, supra note 2, at 173-89.
80. Though SCLC and CCCO came to view a system that bred slums and poverty, there was no overall action plan for the Movement. RALPH, supra note 2, at 50-51. Coalition members wanted to address a number of problems facing Northern cities, including education, housing, poverty, wages, and employment practices, in an effort to create a blueprint for change. ANDERSON & PICKERING, supra note 2, at 182-83. It quickly became clear that the scope of the Movement’s goals was moving beyond basic civil rights to encompass human rights. Id. at 183.
81. ANDERSON & PICKERING, supra note 2, at 187; RALPH, supra note 2, at 95.
Slum conditions pervaded many of the city’s Black neighborhoods. Many Blacks were forced to live in “dingy, unsanitary apartments,” which lacked heat and hot water, and were often rat infested. For the privilege of living in such quarters, Blacks paid far more in rent than a family in a white neighborhood would pay for a comparable apartment. This reality led to a plan at the beginning of 1966 to address the problem of economic exploitation by ridding the city of slums, which the Movement saw as representing most of the problems Blacks faced. The first initiative aimed to organize residents of the city’s West Side Black community into an “end slums” Movement. It targeted local slum landlords and attempted to bring national attention to issues of poverty.

Activists planned to move this campaign from organizing and mobilizing residents to staging small demonstrations and, eventually, substantial protests in May 1966. However, as CFM began to realize just how much effort it would take to effectively organize the Black community, and as the self-imposed deadline of the summer of 1966 came closer, it became clear that a change of direction was required.

The effort to address slum conditions had encountered both internal and external obstacles. Organizing low-income tenants was a slow, difficult process, even for professional community organizers. The SCLC typically had a very different modus operandi—mobilizing large numbers of people for dramatic, short-term movements and then moving on to another community.

At the same time, Mayor Daley announced his own anti-slums campaign, to pre-empt the slums issue by using local and federal funds to improve housing and living conditions enough to defuse public criticism. Daley’s rhetoric, as well
as his actions, were overshadowing the CFM’s initiatives to address the problems of the slums.93 The CFM would need to pursue a different strategy in order to move beyond Daley’s shadow.

It was not until late June 1966, that the CFM leadership settled on challenging housing discrimination and segregation, which in turn forced large numbers of Blacks to live in slum conditions.94 They would embark on an “Open City Campaign.”95 Fair housing would become the core of the Chicago campaign that summer because of the advantages it offered for a nonviolent, direct action movement.96

The problem of housing discrimination had deep roots and a pervasiveness and severity that made it highly visible. Chicago had a long and sad history of housing discrimination that confined Blacks into increasingly overcrowded areas—first, on the city’s south side and later on the west side, with a small area on the near north side.97 Real estate brokers played a central role in the process, beginning with an official policy adopted in 1917 of excluding Blacks from white

announced the end of the slums program, Daley announced his own anti-slums campaign. COHEN & TAYLOR, supra note 24, at 363. Throughout CFM’s efforts to dramatize the state of slums in Chicago, Daley made efforts to co-opt their arguments and undercut any drama. Id. Soon after King assumed trusteeship of a slum building, Daley reported on the results of his own anti-slums initiative and announced to the press that his team had visited 96,761 poor families and exterminated 1,675,941 rats in its efforts to clean up the slums. Id. at 369. Daley also sometimes scheduled his own events to coincide with the CFM public events in an attempt to overshadow the CFM. See id. at 501-02.

93. See RALPH, supra note 2, at 89.
94. Id. at 102. Dr. King foreshadowed his concern with segregated housing as early as March 24, 1965, when he spoke to supporters at the end of the voting rights march from Selma to Montgomery, Alabama: “Let us march on segregated housing until every ghetto of social and economic depression dissolves and Negroes and whites live side by side in decent, safe, and sanitary housing.” MARTIN LUTHER KING, JR., THE AUTOBIOGRAPHY OF MARTIN LUTHER KING, JR. 285 (Clayborne Carson ed., 1998).
95. ANDERSON & PICKERING, supra note 2, at 216.
96. Finley, supra note 6, at 1, 12, 14; see ANDERSON & PICKERING, supra note 2, at 201.
97. Leonard S. Rubinowitz & Ismail Alsheik, A Missing Piece: Fair Housing and the 1964 Civil Rights Act, 48 HOW. L.J. 841, 898-900 (2005). Housing discrimination, in both private and public housing, was the “most dramatic, persistent, and pervasive form” of racism in Chicago. Id. at 898-99. “[S]upport for racial discrimination and residential segregation came from public officials, the housing industry . . . , and white citizens.” Id. at 899. Blacks were denied access to predominantly white areas and attacked if they did manage to gain access. Id. The 1950s saw episodes of “extensive violence against Black families moving into . . . white neighborhoods,” including a mob attacking and burning down the apartment building that a Black family had just moved into in all-white Cicero (a suburb adjacent to Chicago), bombings, acts of arson and attempted arson, and other terrorist incidents. Id. Such violence received national and international attention. Id.; see generally ARNOLD R. HIRSCH, MAKING THE SECOND GHETTO: RACE & HOUSING IN CHICAGO, 1940-1960 (1983); MASSEY & DENTON, supra note 35.
neighborhoods. Subsequently, racially restrictive covenants became pervasive in large parts of the city. Throughout the first two-thirds of the twentieth century, violence greeted many Blacks who dared to move into white neighborhoods.

Moreover, a fair housing campaign held the potential to create drama and draw attention to Chicago’s racism and its consequences. Housing segregation was a volatile issue in Chicago that presented the potential for confrontation. In Birmingham and Selma, confrontation and the attendant drama had been the key to the civil rights activists’ success. King believed that a similar scenario was required in Chicago.

Also, local activists had already identified significant problems in the housing sales and rental markets. The American Friends Service Committee (“AFSC”), an organization devoted to pursuing social justice, had initiated an open housing project in the Chicago area. The AFSC tested real estate offices to determine whether they discriminated against Black customers. The project found widespread, blatant racial discrimination, thus providing clear evidence on which to base the Movement.

Movement leaders hoped that the housing issue would attract a broad base of support within the Black community. Housing discrimination existed in all parts of the housing market, so its impact cut across class and neighborhood lines. Expanding Blacks’ housing options could have other benefits, as well. In addition to improving housing conditions, moving into middle-class white neighborhoods could mean better schools and more access to jobs.

While housing discrimination may not have been of central concern to much of Chicago’s Black community, it did raise questions about basic human

98. Anderson & Pickering, supra note 2, at 46-47.
99. Id. at 48.
101. Finley, supra note 6, at 1, 9; see Anderson & Pickering, supra note 2, at 203-04.
102. See Garrow, Bearing the Cross, supra note 2, at 498.
103. See id.
104. Anderson & Pickering, supra note 2, at 196-201; Fairclough, supra note 16, at 292; Ralph, supra note 2, at 99-102.
105. Anderson & Pickering, supra note 2, at 198-99; Ralph, supra note 2, at 100-02.
106. Anderson & Pickering, supra note 2, at 198-99; Fairclough, supra note 16, at 292; Ralph, supra note 2, at 99, 101-02.
dignity. For some Movement leaders, focusing on Blacks’ mistreatment by real estate brokers dramatized the failure of the system to accord Blacks their basic rights as human beings. Additionally, open housing was more concrete than education or poverty and provided a clear target for the Movement. Further, housing segregation in Chicago was the form of Northern racism that most closely resembled the overt nature of Southern racism, which was a known adversary for veterans of SCLC’s earlier campaigns.

King also favored the fair housing focus because of the possibility of helping to enact federal legislation. Congress was debating President Johnson’s fair housing bill at the time.

109. Finley, supra note 6, at 1, 8. Journalist Mike Royko said that “Chicagoans already knew about slums. Whites were indifferent and Negroes didn’t have to be reminded where they lived.” Fairfax, supra note 16, at 290 (citing Mike Royko, Boss: Richard J. Daley of Chicago 143 (1988)).

Civil rights activists in other parts of the country also had other priorities than housing discrimination at that time. The Chicago Freedom Movement was one of only twelve of the 181 protests challenging segregation between 1966 and 1970 that targeted housing discrimination.

110. According to Mary Lou Finley, assistant to James Bevel, Bevel thought that Black men needed to build confidence and to assert themselves as people deserving equal treatment. Finley, supra note 6, at 1, 7-8. To Bevel, fair housing was an example of a basic human right. Id. If Black men could take a stand on this issue and demand to be treated like human beings, they would build confidence to push them forward in the Movement and build on their success, feeding into subsequent movements. Id. at 8. Finley believed that Bevel had probably convinced Dr. King, and that King and Andrew Young sold the idea to CCCO at a meeting on the “demands” shortly before the July 10th rally. Id. at 7.

111. Ralph, supra note 2, at 101-02. Some also believed that the problem of housing discrimination lent itself to a more straightforward solution than others, since executive or legislative action at the local, state, or federal level could end discrimination in housing. Finley, supra note 6, at 1, 8.

112. See Branch, supra note 2, at 507. King had encountered housing discrimination when he attended graduate school in Boston. Garlow, Bearing the Cross supra note 2, at 423. That experience may have affected his willingness to focus on fair housing in Chicago. Id.


leaders met with President Johnson to discuss the bill. The President invited the major civil rights leaders to the White House to solicit their help at a time when civil rights legislation did not seem to have the support or urgency of earlier bills. Moreover, President Johnson recognized that fair housing legislation was different from, and more difficult than, anything he had proposed up to that point.

From the outset of the discussions of housing discrimination as a target, King and others viewed national legislation as at least a secondary goal of the Movement. When announcing the Chicago Plan, King stated, “[O]ur objectives in this movement are federal, state and local. On the federal level we would hope to get the kind of comprehensive legislation which would meet the problems of slum life across the nation.” Just as the movement in Birmingham had influenced the introduction of the 1964 Civil Rights Act, and the Selma march had been instrumental in the passage of the Voting Rights Act in 1965, King hoped that the Chicago Movement’s shining a light on housing discrimination would lead to legislation that specifically addressed open housing, as well as other civil rights concerns affecting the urban North. He described the connection: “Congress is debating this issue of open housing this session. You can present bodies or bring about creative tension to expose the problem most creatively.” The connection between a local fight for open housing and


115. KOTZ, supra note 87, at 367. According to a memorandum from Joseph Califano, Domestic Program Coordinator to Lyndon Johnson, U.S. President, March 16, 1966, King, Roy Wilkins, Whitney Young, Floyd McKissick, John Lewis, Dorothy Height, A. Philip Randolph, Joseph Rauh, Andy Biemiller, Clarence Mitchell, and Dave Brody were all confirmed for the meeting on March 18. Memorandum from Joseph Califano, Special Assistant for Domestic Affairs, to Lyndon Johnson, U.S. President (Mar. 16, 1966) (copy on file with the Indiana Law Review).


117. Id.


119. Shaw, supra note 23, at 318 (quoting Press Release, Martin Luther King, Jr., Southern Christian Leadership Council, The Chicago Plan (Jan. 7, 1966)). On July 11, in the first meeting with Mayor Daley after the kickoff of the campaign, the Mayor refused to “announce his support for President . . . Johnson’s civil rights bill that was pending in Congress.” BILES, RICHARD J. DALEY, supra note 55, at 124.

120. ANDERSON & PICKERING, supra note 2, at 190; FAIRCLOUGH, supra note 16, at 133.

121. ANDERSON & PICKERING, supra note 2, at 201. King made this point in a conversation with his aide, Andrew Young. Id.
the fair housing bill offered him an opportunity to impact federal legislation.\textsuperscript{122} As Jesse Jackson suggested, ““[T]he CFM was an attempt to get the nation to make housing segregation illegal.”\textsuperscript{123} Thus, the CFM settled on the goal of an “Open City,” with fair housing as its primary objective.\textsuperscript{124} Its official program announced that as of July 10th, “we shall cease to be accomplices to a housing system of discrimination, segregation, and degradation.”\textsuperscript{125}

The Chicago activists considered fair housing to be at the center of many injustices faced by Black Chicagoans.\textsuperscript{126} After the rally inaugurating the direct action campaign on July 10, designated “Freedom Sunday,” King and several thousand others marched to City Hall to post their list of demands there.\textsuperscript{127} The local demands included appeals to the Mayor, City Council, Governor, real estate brokers, and others regarding open housing, employment, welfare, education, and political representation for Blacks in Chicago.\textsuperscript{128} The program for the Movement also included a demand for the ““[p]assage of the 1966 Civil Rights Act with a provision to make it illegal to discriminate in the sale or renting of property on the basis of race, color, creed, or national origin.”\textsuperscript{129}

\textit{D. Strategies and Tactics: From Vigils to Marches}

The CFM employed two major strategies. Initially, it targeted real estate brokers. Since the Movement’s leaders viewed real estate brokers as major culprits in perpetuating housing discrimination and segregation, they “tested” brokers in selected white neighborhoods to see if they would serve Black

\textsuperscript{122} Id. at 190. CFM did not select that issue because of its priority in the minds of the city’s Black population. Finley, supra note 6, at 1, 7. At the time, many Black Chicagoans were most concerned with the struggles of daily life, such as finding jobs, coping with poverty, and enduring slum conditions. Id. at 8; see Bonastia, supra note 22, at 78-79.

\textsuperscript{123} Henry Hampton & Steve Fayer, Voices of Freedom: An Oral History of the Civil Rights Movement from the 1950s Through the 1980s, at 308 (1991); The Chicago Freedom Movement—Activists Sound Off, supra note 1; see Shaw, supra note 23, at 328. Some civil rights historians have deemed the CFM a failure. Anderson & Pickering, supra note 2, at 3.

\textsuperscript{124} Anderson & Pickering, supra note 2, at 201.

\textsuperscript{125} Id. at 201-07. King announced the program and the housing initiative on July 10 to an estimated 23,000 at Soldier Field. Cohen & Taylor, supra note 24, at 384.

\textsuperscript{126} Garrow, Bearing the Cross, supra note 2, at 493; see Finley, supra note 6, at 1, 3-4.

\textsuperscript{127} Biles, Richard J. Daley, supra note 55, at 123-24; see Program of the Chicago Freedom Movement, supra note 15, at 97, 104-09.

\textsuperscript{128} Program of the Chicago Freedom Movement, supra note 15, at 97, 104-09.

\textsuperscript{129} Id. at 106. King wanted a strong, effective bill. Anderson & Pickering, supra note 2, at 278. When the House stripped the bill of much of its scope and coverage, King objected in strong terms, ““The housing section is virtually meaningless . . . . It is so watered down that it will hardly do anything to undo the long-standing evil of housing discrimination in this country.” Ralph, supra note 2, at 179; see also Anderson & Pickering, supra note 2, at 278.
customers.\footnote{130}{Ralph, supra note 2, at 114.} Black and white “dummy” home seekers applied for the same units, so they could compare the results to determine whether there was evidence of racial discrimination.\footnote{131}{Fairclough, supra note 16, at 292.} They targeted blue collar neighborhoods where the homes were well-maintained yet fairly affordable.\footnote{132}{Ralph, supra note 2, at 114, 116.} The testers documented blatant discriminatory practices by brokers.\footnote{133}{Fairclough, supra note 16, at 292.} Armed with that evidence, activists initiated vigils at the offending real estate brokers’ offices and in local churches, as well as small marches and picnics in the surrounding neighborhoods.\footnote{134}{Ralph, supra note 2, at 114-19.} While continuing to coordinate real estate testing, the Movement held vigils in July, which were met with little resistance, few hecklers, and modest press.\footnote{135}{Id. at 114.} The campaign was receiving far less public attention than the Movement had hoped.\footnote{136}{Id. at 114-19.} It had yet to encounter the kind of confrontation it needed to generate significant media coverage.\footnote{137}{Id. at 119.}

In an effort to escalate the Movement, activists began a series of larger marches into white neighborhoods on the southwest and northwest sides of the city—neighborhoods that were at some distance from the Black community, where Black purchasers and renters were clearly unwelcome.\footnote{138}{Id. at 119-26, 188-91; Finley, supra note 6, at 1, 24.} As in the marches in the Alabama cities of Birmingham in 1963 and Selma in 1965, the Chicago marchers were met with violent resistance; but this time the violence came from white bystanders, rather than the police.\footnote{139}{Anderson & Pickering, supra note 2, at 228; Cohen & Taylor, supra note 24, at 392-93; Ralph, supra note 2, at 120.} Mayor Daley was determined not to turn the demonstrators into martyrs by using the force of the police against them; but marchers in Gage Park (on the city’s Southwest side), and later in Belmont-Cragin (on the Northwest side), encountered crowds throwing rocks, bottles, cherry bombs, pieces of coal, and even knives.\footnote{140}{Anderson & Pickering, supra note 2, at 220, 224; Ralph, supra note 2, at 120-21; Finley, supra note 6, at 1, 22.} On occasion, white mobs burned, overturned, or pushed marchers’ parked cars into nearby bodies of water, such as the lagoon in Marquette Park.\footnote{141}{Biles, Richard J. Daley, supra note 55, at 127.}

Though the Chicago police provided a buffer between the marchers and the
protestors, the marchers were still hit by objects thrown by the crowd. Movement leader Andrew Young said that the violent white mobs were “in some ways . . . more frightening” than the opposition they faced in the South.142

As the marches continued to grow in size, with groups as large as 600 or 1500 demonstrators, so did the size of the mobs that greeted them, with one mob estimated at nearly 8000 people. At a march in early August into Marquette Park—a white working-class neighborhood on the city’s southwest side—Dr. King was hit in the head and knocked to the ground by a rock, while bystanders shouted “Kill him, Kill him.”145 King said that he had “never seen as much hatred and hostility on the part of so many people.”146 This violence drew the national press to Chicago and produced horrific images on national television.147 People across the country were once again exposed to the violence that peaceful civil rights demonstrators encountered.148

Locally, the marches had serious negative consequences for Mayor Daley.149 For a powerful leader who viewed Chicago as “his” city, the demonstrations represented an unacceptable loss of his control of the city.150 Outsiders threatened the order that he prized so highly.151 With CFM carrying out multiple marches, the risk loomed that angry, violent white mobs could overpower the police and inflict serious casualties on the marchers.152

Moreover, the marches carried a substantial political cost for him. Blacks and working class ethnic whites constituted two of the major voting blocs that
helped bring him to office and keep him there.\textsuperscript{153} The marches pitted these two crucial constituencies against each other, with potentially disastrous consequences for the Mayor.\textsuperscript{154} White home owners criticized him for permitting the marches to continue and for the rough treatment they received at the hands of the police.\textsuperscript{155} Providing police protection for the marchers aroused the ire of whites who viewed Daley as facilitating a Black invasion of their neighborhoods.\textsuperscript{156} Anti-Daley placards began to appear along with the racist ones at the marches, and Democratic officials feared increasing defections from the party.\textsuperscript{157}

There seemed to be no way out of this quandary for Daley as long as the marches continued.\textsuperscript{158} Referring to the upcoming fall elections, Movement leader James Bevel asserted that “[e]very time we march, . . . Daley loses 10,000 votes—from the whites.”\textsuperscript{159} A white precinct captain echoed the refrain that the civil rights activity was causing damage to the machine: “We lose white votes every time there’s an outburst like this.”\textsuperscript{160} As a result, Daley received great pressure from home owners and from machine functionaries to find a way to stop the marches.\textsuperscript{161}

In addition, hundreds of police officers were present for every march.\textsuperscript{162} Mayor Daley claimed that this led to a dearth of police officers and a rising crime rate in other parts of the city.\textsuperscript{163}

\textit{E. Summit Meetings and Agreement}

By mid-August, several large marches had encountered mobs of thousands of angry, jeering, and violent onlookers.\textsuperscript{164} Mayor Daley had become desperate to put an end to the disruption on the streets of his city.\textsuperscript{165} He would soon use

\begin{itemize}
  \item \textsuperscript{153} Cohen \& Taylor, supra note 24, at 149.
  \item \textsuperscript{154} Id. at 412-21.
  \item \textsuperscript{155} Biles, Richard J. Daley, supra note 55, at 128-29.
  \item \textsuperscript{156} Id.
  \item \textsuperscript{157} Id.
  \item \textsuperscript{158} As much as he wanted the marches to stop, Daley knew that “issuing an order” to that effect or “having the police stop them forcibly” would play into the hands of CFM and advance their cause. Cohen \& Taylor, supra note 24, at 394.
  \item \textsuperscript{159} Fairclough, supra note 16, at 299-300.
  \item \textsuperscript{160} Cohen \& Taylor, supra note 24, at 412-13. At the same time, some Blacks became radicalized to the point that they were prepared to break their ties to the machine. Id. at 413. Overall, the 1966 elections in Chicago and surrounding Cook County were disastrous for the Democrats, in part because of CFM. Id. at 426-27.
  \item \textsuperscript{161} Biles, Richard J. Daley, supra note 55, at 128-29; Fairclough supra note 16, at 300.
  \item \textsuperscript{162} Anderson \& Pickering, supra note 2, at 223-30; Ralph, supra note 2, at 165.
  \item \textsuperscript{163} Ralph, supra note 2, at 164-65.
  \item \textsuperscript{164} Id. at 119-47; Anderson \& Pickering, supra note 2, at 221-33.
  \item \textsuperscript{165} Fairclough, supra note 16, at 300.
\end{itemize}
whatever means were at his disposal to accomplish that objective.\textsuperscript{166}

As a strategic step, Daley agreed to negotiate with the CFM.\textsuperscript{167} He made very clear that his primary purpose in meeting with the Movement leaders and reaching an agreement with them was to end the marches.\textsuperscript{168} The Chicago Conference on Religion and Race coordinated the so-called “summit” meeting, which convened on August 17, 1966.\textsuperscript{169} Participants included the Mayor, his colleagues and advisors, CFM leaders, business leaders, and leaders of the Chicago Real Estate Board.\textsuperscript{170} The Movement’s demands emphasized the cessation of discrimination by real estate brokers in the sale and rental of housing.\textsuperscript{171}

The initial all-day meeting did not result in a negotiated agreement, in part because of the unwillingness of the real estate officials to make commitments on behalf of their members.\textsuperscript{172} Fearing increasing white backlash and violence, the Mayor and his staff argued throughout the meeting for a suspension of the demonstrations; however, without an agreement on the actions to be taken, CFM representatives rejected these repeated requests.\textsuperscript{173} A subcommittee was chosen to work on developing a proposed agreement to bring back to the whole body the

\textsuperscript{166} Id. For example, Representative Roman Pucinski, one of Mayor Daley’s Chicago Democrats in Congress, met with President Johnson to ask him to meet with CFM leaders to persuade them to stop the marches. Shaw, supra note 23, at 324 (citing Basil Talbott Jr., \textit{Demonstrate at Loop Real Estate Board}, CHI. SUN-TIMES, Aug. 11, 1966, at 4). Pucinski requested Johnson tell the CFM that the demonstrations would jeopardize the passage of additional civil rights legislation. \textit{Id}.

\textsuperscript{167} FAINCLough, supra note 16, at 300; Ralph, supra note 2, at 149-50.

\textsuperscript{168} Ralph, supra note 2, at 158-60; John McKnight, \textit{The Summit Negotiations: Chicago, August 17, 1966-August 26, 1966, in Chicago 1966}, supra note 6, at 111, 116, 132. John McKnight, who attended the meetings as a U.S. Civil Rights Commission observer, commented on Daley’s motives: “It never seemed to me that Daley was trying to figure out how to deal with the broader race and housing problems in Chicago. . . . It was about stopping the marches, which were tearing at the heart of the Democratic Party.” \textit{Id}.

\textsuperscript{169} Cohen & Taylor, supra note 24, at 402.

\textsuperscript{170} Anderson & Pickering, supra note 2, at 237.

\textsuperscript{171} Anderson & Pickering, supra note 2, at 239; Garrow, \textit{Bearing the Cross}, supra note 2, at 519; McKnight, supra note 168, at 111, 115. Other demands included enforcement of Chicago’s Fair Housing Ordinance and an end to construction of high-rise public housing developments limited to Black neighborhoods. Anderson & Pickering, supra note 2, at 239. Mayor Daley’s response to King’s demands was to concentrate on whether satisfying the demands would lead to an immediate moratorium on marches. \textit{Id}.

\textsuperscript{172} Cohen & Taylor, supra note 24, at 405-12.

\textsuperscript{173} Id. at 408-11.
following week.\footnote{174}{\textit{Anderson \\& Pickering, supra} note 2, at 253.}

In the meantime, Mayor Daley sought and obtained an injunction limiting the number, size, and timing of the marches—one per day, with no more than 500 marchers, and during daylight hours.\footnote{175}{\textit{Branch, supra} note 2, at 518-19; \textit{Garrow, Bearing the Cross, supra} note 2, at 516; \textit{Ralph, supra} note 2, at 161.} Leaders of the CFM faced a very difficult choice, but they ultimately decided not to break the injunction.\footnote{176}{In the following week.\textit{Anderson \\& Pickering, supra} note 2, at 253.\textit{Branch, supra} note 2, at 518-19; \textit{Garrow, Bearing the Cross, supra} note 2, at 516.\textit{Ralph, supra} note 2, at 161.\textit{Cohen \\& Taylor, supra} note 24, at 415; \textit{Garrow, Bearing the Cross, supra} note 2, at 516-17; \textit{Ralph, supra} note 2, at 160. King feared that breaking the injunction would distract public attention from the open housing question. \textit{Ralph, supra} note 2, at 162. He was also concerned that the overt unlawfulness would undermine the moral high ground taken by the Movement’s non-violent, law-abiding strategy. \textit{Id.} As a pragmatist, he also realized that many of his supporters were middle-class people who would not be willing to go to jail. \textit{Id.} Moreover, any such effort would put a serious strain on the Movement’s limited financial resources. The Movement’s attorneys also strongly recommended complying with the injunction. \textit{Garrow, Bearing the Cross, supra} note 2, at 515. Finally, King was becoming increasingly tired from his whirlwind schedule and myriad of responsibilities. \textit{Id.} at 515.\textit{Biles, Richard J. Daley, supra} note 55, at 133.\textit{Anderson \\& Pickering, supra} note 2, at 272.\textit{See Koz, supra} note 87, at 367 (describing settlement as “toothless set of pledges”).\textit{Biles, Richard J. Daley, supra} note 55, at 133.\textit{Anderson \\& Pickering, supra} note 2, at 268; \textit{Biles, Richard J. Daley, supra} note 55, at 133-35. Many local Black activists felt that the agreement had sold out the Black people of Chicago to the city administration. \textit{Garrow, Bearing the Cross, supra} note 2, at 524. Critics complained that the agreement was little more than pledges of non-discrimination with no real commitments. \textit{Fairclough, supra} note 16, at 303. They were especially concerned that the agreement included no timetable for implementing the elements of the agreement and no enforcement provisions. \textit{Id.} Still, the agreement was stronger than the one in Birmingham.} Instead, on August 21 and August 23, King led individual marches into white neighborhoods on Chicago’s southeast and southwest sides, thus complying with the injunction.\footnote{177}{\textit{Biles, Richard J. Daley, supra} note 55, at 133.} On August 26, 1966, the parties reached what was later called the Summit Agreement, which included a commitment from the Chicago Commission on Human Relations to enforce the city’s 1963 open housing ordinance, an agreement from Mayor Daley to advocate for state open occupancy legislation the following year, and a general agreement from the Chicago Real Estate Board “to withdraw its opposition to . . . open housing and to urge its members to obey the law.”\footnote{178}{\textit{Cohen \\& Taylor, supra} note 24, at 415; \textit{Garrow, Bearing the Cross, supra} note 2, at 516-17; \textit{Ralph, supra} note 2, at 160.} The agreement did not contain any timetable for the various actions specified, nor did it include any enforcement provisions.\footnote{179}{\textit{Biles, Richard J. Daley, supra} note 55, at 133.} With the agreement, King announced the end of the marches—Mayor Daley’s primary objective.\footnote{180}{\textit{Biles, Richard J. Daley, supra} note 55, at 133.} While Dr. King declared the agreement a “victory for justice,” and the initial national media response was similarly positive, critics both within and outside the CFM considered it a sell-out and a failure.\footnote{181}{\textit{Anderson \\& Pickering, supra} note 2, at 268; \textit{Biles, Richard J. Daley, supra} note 55, at 133-35. Many local Black activists felt that the agreement had sold out the Black people of Chicago to the city administration. \textit{Garrow, Bearing the Cross, supra} note 2, at 524. Critics complained that the agreement was little more than pledges of non-discrimination with no real commitments. \textit{Fairclough, supra} note 16, at 303. They were especially concerned that the agreement included no timetable for implementing the elements of the agreement and no enforcement provisions. \textit{Id.} Still, the agreement was stronger than the one in Birmingham.}
As with the Birmingham agreement negotiated three years earlier that identified modest initial steps to be taken to desegregate the city, the Summit Agreement focused entirely on local actions. At the same time, there was the possibility that the events on the streets of Chicago could raise national awareness of the problem of housing discrimination and help bring about legislative action in Washington, as they had with Birmingham and Selma. King continued to hold out hope that Congress would respond to the Chicago marches by passing fair housing legislation. There was nothing in the Summit Agreement itself that would have provided the basis for hope about federal legislation, but the precedents of Birmingham and Selma contributing to the pressure on Congress may have led King to think that the same dynamic might work after Chicago. The Birmingham experience was perhaps the most relevant for King, since the explicit goals there were local, the agreement was both local and modest, and the violence that the demonstrators encountered provided an impetus for Congress to act.

II. 1966: The CFM and the Prospects for Enacting Fair Housing Legislation

In 1965, Martin Luther King wrote:

The goal of the demonstrations in Selma, as elsewhere, is to dramatize the existence of injustice and to bring about the presence of justice by methods of nonviolence. Long years of experience indicate to us that Negroes can achieve this goal when four things occur: 1. Nonviolent demonstrators go into the streets to exercise their constitutional rights. 2. Racists resist by unleashing violence against them. 3. Americans of conscience in the name of decency demand federal intervention and legislation. 4. The administration, under mass pressure, initiates measures of immediate intervention and remedial legislation.

King’s explanation of his strategy in Selma sounds like a blueprint for the CFM’s efforts to create the pressure that would lead to passage of federal fair housing legislation in 1966. That fall, while speaking in Washington, D.C., King reiterated that “[w]e need civil rights legislation,” and emphasized the fair
housing bill President Johnson had proposed earlier that year.  

In early 1966, Johnson asked Congress to enact fair housing legislation as part of a larger civil rights package. In April, he introduced the bill to the same Congress that had passed the landmark Voting Rights Act the year before. Yet the new bill was unsuccessful in both 1966 and 1967. In 1966, the House passed a modest fair housing bill that covered about forty percent of the nation’s housing. In the Senate, the President’s proposal encountered the Southern filibuster that had greeted his initiatives the previous two years. However, unlike the Civil Rights Act of 1964 and the Voting Rights Act, the effort to invoke cloture to end the filibuster and bring the bill to a vote of the full Senate failed. The bill died.

With or without the CFM, fair housing legislation faced an extremely uphill battle in 1966. The CFM could not build sufficient public and political support to overcome the obstacles the bill faced. In fact, the Chicago Movement made matters worse, reducing still further the chances of passage that year.

A. The Obstacles

By 1966, public support for civil rights had waned. Some thought that the
country had already gone too far in responding to Black protests.195 Much of this attitude shift stemmed from white resistance to efforts to desegregate the North, as well as growing frustration with urban riots and hostility toward the growing Black Power movement.196

As the civil rights movement migrated north, many white Northerners chose not to support it. Even many of those who opposed the formal Jim Crow system of racial segregation in the South had little sympathy for challenges to systemic racism in their own backyard.197 The civil rights movement also lost support due to urban disorders in a number of cities, as well as the emergence of the Black Power movement with its powerful rhetoric.198

Fair housing legislation faced particularly tough sledding because of the national scope of the bill. Previous civil rights statutes primarily affected the South and, as a result, legislators and their constituents in much of the country were largely unaffected by their passage.199 At that time, housing discrimination and segregation were more pervasive outside the South.200 If anything, fair housing legislation would have a greater impact in the North and West than in the South. That made the bill especially controversial. Worse yet, 1966 was an election year, a time when members of Congress are least likely to take on controversial matters.

Much of the organized pressure on Congress aligned itself against passage of fair housing legislation. The National Association of Real Estate Boards (“NAREB”) carried out an aggressive and effective lobbying campaign against the bill.201 NAREB included about 83,000 real estate brokers, accounting for about ninety percent of the country’s real estate transactions.202 The organization distributed large numbers of leaflets and put together a major letter writing initiative to members of Congress in opposition to the bill.203 Largely as a result of that effort, Congressional mail ran dramatically against open housing


196. REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 38 (1968) [hereinafter KERNER REPORT]; RALPH, supra note 2, at 6, 186-88. Beginning in 1965, the nation witnessed “three consecutive summers of deadly [and costly] urban” rebellions in cities around the country. BONASTIA, supra note 22, at 77.

197. RALPH, supra note 2, at 186.

198. Id. at 184, 186; see BRANCH, supra note 2, at 531-32.

199. Rubinowitz & Alsheik, supra note 97, at 873-85.

200. Id.

201. RALPH, supra note 2, at 175, 184, 186.

202. BONASTIA, supra note 22, at 80.

203. Id.
While the House managed to overcome these obstacles to pass a bill—albeit a very weak one—the filibuster in the Senate prevented a full Senate vote. Senate Minority Leader Everett Dirksen, a Republican of Illinois, who had facilitated cloture in 1964 and again in 1965, stood firmly opposed to fair housing legislation. That ended the matter for 1966.

B. CFM’s Lack of Significant Positive Impact

Perhaps for some of the reasons discussed in Part A, the white violence that greeted the CFM did not generate the powerful public outrage and political momentum that had come from the brutality against peaceful demonstrators in Birmingham and Selma.

Both the Chicago violence itself and the public response to it were very different from the then-recent Southern experience. In Birmingham and Selma, Alabama, law enforcement officers—local police and state troopers—attacked the peaceful demonstrators. In Birmingham, in 1963, Police Chief Bull Connor ordered fire hoses and police dogs set on the peaceful young demonstrators. The graphic images in the media of those attacks helped build the public support required for passing the Civil Rights Act of 1964.

Similarly, in 1965, voting rights activists in Selma sought media attention as a means of advancing their cause. As the movement evolved, its centerpiece became a march from Selma to the state capitol in Montgomery to raise national consciousness about the exclusion of Blacks from the political process in the South and to create pressure on Congress to enact effective federal voting rights legislation. As the marchers left Selma and reached the Edmund Pettus Bridge,
scores of uniformed state troopers—many on horseback—turned them back. As the marchers knelt to pray before continuing on the march, the troopers surged forward and attacked them viciously with nightsticks, amidst clouds of tear gas. The national media coverage of this violence shocked the nation and generated widespread public and political support for congressional action, thus contributing to the passage of President Johnson’s proposed Voting Rights Act.

In Chicago, private citizens—white neighborhood residents and their supporters—not police officers, were responsible for the violence against the demonstrators. In contrast to the Alabama experience, Mayor Daley provided police protection for the marchers. While the protection was often inadequate and the police arrested few of the whites who attacked the marchers, the police were at least formally on the side of the marchers.

Mayor Daley’s provision of police protection for the marchers weakened the moral force of the Movement’s position. In the South, it was very clear that the authorities were attacking peaceful citizens who were exercising their constitutional right to demonstrate. For many white Northerners, the housing marches in Chicago had far more ambiguous implications. They were peaceful demonstrations, but for many people they also constituted an “invasion” of working-class white communities that threatened the well being of those neighborhoods. Violence and hostility directed at the marchers was often couched in the rhetoric of self-defense. Many whites blamed the protesters for seeking to foment unrest and for provoking violence.

As the marches continued, white supremacist sentiment took hold in Chicago. In late August, members of the American Nazi Party, the National States Rights Party, and the Ku Klux Klan all traveled to Chicago to hold rallies. Many white Chicagoans were shocked and angered by the influx of white supremacist groups; however, many blamed the civil rights activists for the sudden arrival of these unwelcome outsiders. Local politicians, like the police superintendent who publicly blamed the city’s unrest on the Black protesters,
further stoked whites’ anger.\textsuperscript{223}

Moreover, the CFM did not generate the extensive national media attention that the movements in Birmingham and Selma had attracted.\textsuperscript{224} That may have been attributable to the different strategies and tactics of the Southern and Chicago movements, as well as the white response to the respective initiatives.\textsuperscript{225} The Southern movement had made use of dramatic tactics that provided local movements with a national audience.\textsuperscript{226} In the South, King and many other demonstrators had gone to jail, thus garnering additional media attention. King himself, whether in jail or not, had been a strong draw.\textsuperscript{227} Often, the media focused on events simply because of King’s presence.\textsuperscript{228}

In responding to the Southern movement, the media paid special attention to the violent response of Southern law enforcement and the influx of youth into the movement.\textsuperscript{229} When Bull Connor turned the dogs and fire hoses on protesters in Birmingham, the national press reported widely on the incident.\textsuperscript{230} The day that hundreds of Black youth first joined the movement also received extensive national press and attracted hundreds of new volunteers to the movement.\textsuperscript{231} Birmingham quickly became front page news throughout the country.\textsuperscript{232}

Attracting press had been a significant element of the movement’s strategy in the South; however, there were fewer dramatic tactics and drastic measures designed to garner publicity in Chicago.\textsuperscript{233} Neither King nor any of his followers went to jail.\textsuperscript{234} Moreover, King was in Chicago only intermittently. He led only two marches, both of which attracted some of the most extensive press coverage

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223. Id.
224. Id. at 177-78. The Chicago marches made the front page of the New York Times only seven times in their twenty-seven days, compared to sixteen times in 1963 in Birmingham and thirty-five times in 1965 in Selma. Id. at 178.
225. Id. at 177.
226. Id. In Birmingham and Selma, hundreds of protesters were arrested, and images of arrested protesters standing in the courthouse made national headlines and aroused outrage throughout the country. Roberts & Klivanoff, supra note 207, at 380; see Garrow, Bearing the Cross, supra note 2, at 379-80. Additionally, the Southern movement actively encouraged people throughout the country, especially clergy, to join the protesters in the South. Ralph, supra note 2, at 177. The movement and its supporters fed and housed the thousands of protesters who traveled to Selma to participate in marches. Id.
227. Ralph, supra note 2, at 177.
228. See id.
229. See Roberts & Klivanoff, supra note 207, at 311-22.
230. Id. at 312, 318-19.
231. Id. at 314-15.
232. Ralph, supra note 2, at 178.
233. Id. at 177; see Roberts & Klivanoff, supra note 207, at 307-23, 380-88.
234. Ralph, supra note 2, at 177. King decided that they would not violate the injunction that the city obtained in August to limit the marches. See supra note 176 and accompanying text.
of any of the Chicago marches.\textsuperscript{235} Further, the Movement made no real effort to attract participants from around the country, which might have brought additional media coverage.\textsuperscript{236}

The lack of greater media attention may have reflected the lack of public support for the CFM, especially as compared to the national support the Southern movements generated in 1964 and 1965.\textsuperscript{237} As whites in the North showed ambivalence toward civil rights activities in their own backyards—especially those raising the highly controversial issue of housing discrimination—the Northern media followed suit.

Initially, the media seemed sympathetic to the CFM.\textsuperscript{238} However, as the Movement continued, the media not only failed to cover the Movement as extensively as the Southern demonstrations, it also became distinctly critical of King and his fellow activists.\textsuperscript{239} As the marches became the Movement’s primary tactic, the \textit{Chicago Tribune} sympathized with the white homeowners and “disparaged the imported prophets of ‘nonviolence’” who the paper said had “baited” the homeowners during their marches.\textsuperscript{240}

By the end of August, national media were also criticizing the Chicago Movement and calling for an end to the marches. During an appearance by King on the news show \textit{Meet the Press} in late August, moderator Lawrence Spivak asked King, “Isn’t it time to stop demonstrations that create violence and discord?”\textsuperscript{241} A few days later, the \textit{New York Times} urged the Movement to agree to a moratorium on marches to stall “the present downhill course to nowhere.”\textsuperscript{242}

The coincidence in timing of the CFM and the urban riots in Chicago and other Northern cities also distracted public attention from the violence that

\begin{itemize}
  \item \textsuperscript{235} \textsc{Ralph}, supra note 2, at 177. On the other hand, King was not present at the Edmund Pettus Bridge in Selma when state troopers and local police attacked the marchers. \textsc{Lewis}, supra note 213, at 324. His absence did not seem to detract from the national outrage that the violent resistance provoked. \textit{See supra} note 214 and accompanying text.
  \item \textsuperscript{236} \textsc{Ralph}, supra note 2, at 177-78. Ralph suggests that the Movement made no effort to attract marchers from beyond Chicago because Chicago already presented an interracial group of potential protesters. \textit{Id.} at 177. Also, there may have been concern that if the Movement imported marchers and created more disruption in the city, Daley would have clamped down on the marches harder and sooner.
  \item \textsuperscript{237} At the same time, there was substantial opposition outside of the South to the Southern movements. Jonathan L. Entin, \textit{Viola Liuzzo and the Gendered Politics of Martyrdom}, 23 HARV. WOMEN’S L.J. 249, 262 & nn.103-04 (2000) (reviewing \textsc{Mary Stanton, From Selma to Sorrow: The Life and Death of Vida Liuzzo} (1998)).
  \item \textsuperscript{238} \textsc{Biles, Richard J. Daley}, supra note 55, at 128.
  \item \textsuperscript{239} \textsc{See Branch}, supra note 2, at 441, 521. The winter before the marches began, when King assumed trusteeship over a rat-infested slum building, the \textit{New York Times} headline read “Dr. King Assailed for Slum Tactic.” \textit{Dr. King Assailed for Slum Tactic—Takeover of Building Stirs Wide Chicago Opposition}, \textsc{N.Y. Times}, Feb. 25, 1966, at 18.
  \item \textsuperscript{240} \textsc{Branch}, supra note 2, at 509.
  \item \textsuperscript{241} \textit{Id.} at 519 (quoting \textit{Meet the Press} (NBC television broadcast Aug. 21, 1966)).
  \item \textsuperscript{242} \textsc{Branch}, supra note 2, at 521.
\end{itemize}
Chicago’s civil rights demonstrators encountered. Both the public and the media frequently conflated the riots and mob violence against peaceful marchers, holding Blacks responsible in both cases for the turmoil involved. According to one historian, “A number of opponents [of the fair housing bill] implicitly used ‘rioters’ as a synonym for all African Americans.”

Consequently, the CFM was not able to stir the conscience of the nation in the same way that Birmingham and Selma had done. The violence in Chicago did not lead Congress to sympathize with the goals of the Movement. In fact, there were very few references to the CFM in the 1966 hearings on the fair housing bill in either the House or the Senate. Most of the references in the House hearings criticized the Movement.

C. CFM’s Negative Impact on the Drive for Fair Housing Legislation

While other forces would almost certainly have prevented the passage of a fair housing bill in 1966, the CFM inadvertently further undermined the effort to pass the bill. The Movement’s adverse impact seems attributable in large part to its initial decision to go north to Chicago and its subsequent strategic and tactical choices to shine the spotlight on housing discrimination there by marching into white neighborhoods.

1. President Johnson, the CFM, and the Fair Housing Bill.—President Johnson had used his official position as well as his exceptional political skills to push the Civil Rights Act of 1964 and the Voting Rights Act through Congress. However, Johnson made no such concerted effort in 1966. Several

243. RALPH, supra note 2, at 186, 193.
244. BONASTIA, supra note 22, at 83.
245. See RALPH, supra note 2, at 173.
247. RALPH, supra note 2, at 191 & nn.53-54 (citing the remarks of Congress in the Congressional Record, among other sources).
248. Johnson’s efforts included working closely with King to increase pressure on Congress to pass the Voting Rights Bill, as well as making public statements and privately lobbying members of Congress. JOHNSON, THE VANTAGE POINT, supra note 214, at 165; KOTZ, supra note 87, at 253,
key factors account for his relatively passive approach, including his preoccupation with the war in Vietnam, his declining popularity, the disruption caused by violence in major cities, and the decreasing public support for civil rights legislation in a congressional election year. Additionally, the CFM contributed to the President’s lack of engagement, largely because of his sharply contrasting relationships with the main protagonists—Mayor Richard J. Daley and Dr. Martin Luther King, Jr.

President Johnson took few steps publicly or privately to try to move the 1966 fair housing provisions through Congress. He walked a fine line by proposing progressive legislation—maintaining his image as a civil rights supporter—but not putting his political weight behind it, which might have made it look as if he was controlled by civil rights leaders. The events on the streets of Chicago contributed to Johnson’s lack of aggressiveness in pursuing fair housing legislation.

Unlike with Selma, President Johnson expressed no public support for the CFM. Privately, he expressed strong opposition to the marches, and the

368-70.


250. Although Johnson did make some speeches in support of the 1966 civil rights bill, there is little evidence that he engaged in the behind-the-scenes persuasion of members of Congress that marked the passage of earlier civil rights legislation. Shaw, supra note 23, at 320.

251. See Kotz, supra note 87, at 368-69.

252. The White House also expressed concern about the impact of the marches on the re-election chances of Illinois Senator Paul Douglas, a strong supporter of Johnson’s “Great Society” programs. Anderson & Pickering, supra note 2, at 270; Ralph, supra note 2, at 183. Since Douglas had a strong civil rights record, he was losing support to Republican candidate Charles Percy (also a supporter of civil rights legislation) in white neighborhoods where the marches were taking place. Anderson & Pickering, supra note 2, at 270. The White House was so concerned that Attorney General Nicholas Katzenbach called King to emphasize the potential negative impact the marches might have on Douglas’s campaign. Ralph, supra note 2, at 183.

253. When speaking in August of 1966 in the Northeast, Johnson’s message focused on “the importance of [seeking] change through established channels” and actively criticized those who took the law into their own hands. Ralph, supra note 2, at 183. He made no direct statements against the CFM, but certainly expressed subtle disapproval. Id.; President Lyndon B. Johnson, Remarks at the University of Rhode Island Ceremony Awarding President Johnson an Honorary Degree (Aug. 20, 1966), in Cong. Q. 1932 (1966).

Johnson had his surrogate, Vice President Hubert Humphrey, a long-time civil rights supporter, call for an end to the marches. Ralph, supra note 2, at 183. On August 13, 1966, on The Today Show, Humphrey said, “People are sick and tired of violence and disorder.” Id. To another reporter, he stated that demonstrators in Chicago had gone too far and were actually damaging the cause of social justice. Id.

When urging Congress to pass the Voting Rights Act, Johnson condemned the violence in
tensions and violence they provoked. Johnson’s response to the CFM reflected both his growing closeness to Chicago’s Mayor Richard J. Daley and his increasing distance from Martin Luther King.

a. The Johnson-Daley connection. — The close political and personal relationship between President Johnson and Chicago’s Mayor Richard J. Daley precluded the possibility of the President repeating his earlier approach to arguing for civil rights legislation. In 1965, President Johnson made explicit reference to the police violence against voting rights marchers in Selma in urging that the country support, and Congress pass, the Voting Rights Act. On March 15, Johnson spoke to Congress, condemning the violence in Selma, promising a voting rights bill, and associating himself with the Southern civil rights movement when he ended his speech with the civil rights battle cry, declaring “we . . . shall . . . overcome.” Johnson used similar tactics to ensure the passage of the 1964 Civil Rights Act in the wake of police violence against protesters in Birmingham.

Thus, the President made good use of the violence perpetrated against non-violent civil rights demonstrators in arguing for the passage of civil rights legislation. He could have pointed once again to the repeated violence that the non-violent CFM’s marchers encountered at the hands of whites in pressing for the passage of fair housing legislation. He even could have ignored the fact that this time the police protected the marchers and the violence came at the hands of private citizens.

However, the political and personal implications of Selma and Chicago were vastly different for President Johnson. Even though local and state elected...
officials in Alabama belonged to the President’s party, he could attack the law enforcement leadership publicly with little short-term political cost. Not so with Chicago’s Mayor Richard J. Daley, who was a crucial political ally and friend of the President.\textsuperscript{260} It was inconceivable that Johnson would point to the violence inflicted on civil rights demonstrators in Chicago as a reason for enacting a fair housing law. If Johnson had highlighted the Chicago violence, he would have embarrassed and alienated Daley. Daley would have interpreted such statements as claims that his city was racist and that he, the Mayor, could not control its citizens.\textsuperscript{261} Johnson did not want, nor could he afford, to risk disrupting his relationship with Daley.

Mayor Daley had received substantial credit—rightly or wrongly—for John Kennedy’s narrow victory in 1960, which brought Lyndon Johnson into the White House as Vice-President.\textsuperscript{262} Kennedy carried Illinois by a slim margin, and Daley was instrumental in Kennedy’s win in the state.\textsuperscript{263}

While Johnson probably knew that Daley had objected to Kennedy’s selecting him as his running mate, he understood the mayor’s political importance. As President, Johnson did not let that history interfere with a blossoming relationship with the Mayor. Upon assuming the presidency after Kennedy’s assassination in November 1963, Johnson began his efforts to connect with Daley. He called the Mayor frequently, invited him to the White House, and asked him to sit with the first family during his initial speech to a joint session.

\begin{itemize}
\item \textsuperscript{261} \textit{See Cohen & Taylor, supra} note 24, at 351.
\item \textsuperscript{262} Daley had urged presidential candidate John F. Kennedy to pick someone other than Lyndon Johnson as his running mate in 1960. \textit{Id.} at 260. Daley had helped Kennedy secure the Democratic nomination, so he thought that Kennedy should be responsive to his concern that Chicago Blacks would find the Democratic ticket less appealing with a Southerner on it, thus making it more difficult to win Illinois. \textit{Id.} However, Kennedy selected Johnson because he thought that the Texan would help secure Southern votes. \textit{Id.}
\item \textsuperscript{263} \textit{See id.} at 260, 265. The Kennedy-Nixon election in 1960 was one of the closest in history, and Illinois was a key state in the race. \textit{Id.} at 265. Kennedy won Chicago by a staggering margin of more than 456,000 votes, giving him Illinois. \textit{Id.} The results remain shrouded in controversy, with allegations that the Daley forces committed voter fraud to ensure that Kennedy would carry the state. \textit{Biles, Richard J. Daley, supra} note 55, at 73-74. After months of the Chicago Democratic political machine working on Kennedy’s behalf, on the night of the election, the race was close. \textit{Id.} at 73. Near the end of the night, both parties released votes that they had been holding, and in the end Kennedy won Illinois. \textit{Id.} Though the State Election Board unanimously certified the results, and an impartial investigation uncovered no voter fraud, the election results retained an air of mystery. \textit{Id.} at 73-74.
\end{itemize}
Johnson further expressed his appreciation by inviting Daley to be a special guest at his inauguration.

Over time, Lyndon Johnson and Richard Daley developed a mutual respect and a friendship. Their similar political and personal styles helped to cement the relationship. Both were loud, outspoken, and aggressive in their leadership.

Moreover, Daley was undoubtedly the most powerful big city mayor in the country. Johnson needed his support, and he worked hard to get it and then to maintain it. Daley actively supported Johnson’s legislative agenda, while Johnson helped Daley get federal funding for Chicago—on Daley’s terms.

At the time of CFM’s marches in Chicago, Johnson was contemplating a run for re-election, for which he would have needed Daley’s strong support. He “recognized that it would be politically insane for a Democratic President with

264. COHEN & TAYLOR, supra note 24, at 310. Speaking to Daley in early 1964, Johnson stated, “I never forget how you treated me in the ’60 thing and I always have a warm spot for you.” BESCHLOSS, supra note 260, at 168.

During the same conversation, Johnson said “I’m a Dick Daley man.” Id. Daley returned the compliment: “We’re Johnson men because, by God, Mr. President. I really mean it. All I hear is everything wonderful about you. You’re doing a great job and may the Lord continue to give you health to carry out the responsibilities the way you’re doing.” Id.

265. COHEN & TAYLOR, supra note 24, at 326. Johnson invited the Daleys to sit on the platform during the swearing-in ceremony and in the presidential box during the Inaugural Ball. Id. Daley was also chosen to introduce the President at one of the parties. Id.

266. As Lady Bird Johnson explains in her diary, her husband considered the Mayor “one of his favorite people . . . . He’s a very arch type of political boss, ruddy faced, emanating efficiency and friendliness.” BESCHLOSS, supra note 260, at 323-24.

267. See BILES, RICHARD J. DALEY, supra note 55, at 148.

268. According to Joseph Califano, Johnson’s domestic advisor, Daley was critical to the success of the Great Society, [Johnson’s major domestic initiative]. . . . A call to Daley was all that was needed to deliver the fourteen votes of the Illinois Democratic delegation. Johnson and others of us had made many calls to the Mayor and Daley had always come through.

COHEN & TAYLOR, supra note 24, at 351 (quoting BERNSTEIN, supra note 214, at 396).

In 1964, Chicago became one of the first cities in the country to develop a Community Action Program (CAP)—a Johnson initiative to provide funding to cities to alleviate poverty, which featured a requirement to include poor residents in decisionmaking. ANDERSON & PICKERING, supra note 2, at 170; COHEN & TAYLOR, supra note 24, at 316-18. However, it quickly became clear that CAP would survive in Chicago only if Daley ran it the way he wanted to, with little oversight and virtually no participation by poor residents. ANDERSON & PICKERING, supra note 2, at 170; COHEN & TAYLOR, supra note 24, at 342-46. Though at least one congressman complained about Daley’s ignoring the program’s requirements, Johnson allowed Daley to run the program as he saw fit, regardless of the program’s requirements. ANDERSON & PICKERING, supra note 2, at 170-71; COHEN & TAYLOR, supra note 24, at 316-18, 342-46. One program official said that “We had problems with Daley on everything. . . . and he always went to the White House, and always won.” Id. at 344.

269. COHEN & TAYLOR, supra note 24, at 351.
aspirations for another term to meddle in a crisis in a city governed by the most powerful Democratic mayor in the country. He certainly did not want the Mayor to turn on him and oppose his re-election. Daley had already conveyed to the President his strong opposition to the Vietnam War; however, the Mayor never criticized the war publicly, out of his political loyalty. Johnson did not want to risk endangering that loyalty, given the potentially disastrous political consequences.

Consequently, Johnson would not have contemplated the use of even implicit criticism of Daley by pointing to the violent resistance to open housing demonstrations in Chicago as a reason for Congress to enact fair housing legislation. Any public statement by the President or any member of his administration during that summer about the need to address housing discrimination might have been understood by the public as an implicit reference to the Chicago situation.

Instead, Johnson privately supported Daley in his handling of the threats posed by the CFM. As suggested earlier, CFM’s strategy and tactics raised the ire of Mayor Daley. The mayor shared with the President his anger and his frustration with the marches. During the course of the open housing marches in the summer of 1966, Daley and Johnson had a number of private telephone conversations about the events in the city. Daley consistently criticized the Movement and told the President at one point that “[w]e stand for justice for all our people, and we also stand for law and order, and I’ll be damned if we let

270. RALPH, supra note 2, at 182.
272. Johnson worked hard to protect his relationship with Daley. In 1965, federal education officials had threatened to suspend education funds to Chicago as a result of CCCO’s civil rights complaint. ANDERSON & PICKERING, supra note 2, at 178; COHEN & TAYLOR, supra note 24, at 334. After investigating the allegations of segregation and unequal treatment in Chicago’s schools, Francis Keppel, the U.S. Commissioner of Education, found the schools likely to be in violation of the Civil Rights Act of 1964 and froze any award of federal funds to Chicago pending a full investigation. ANDERSON & PICKERING, supra note 2, at 179; COHEN & TAYLOR, supra note 24, at 349-52. Daley angrily complained to the President, and the funds flowed almost immediately. ANDERSON & PICKERING, supra note 2, at 180-81; COHEN & TAYLOR, supra note 24, at 351-52. President Johnson sought to redeem himself with the Mayor as quickly as he could. ANDERSON & PICKERING, supra note 2, at 180-81; COHEN & TAYLOR, supra note 24, at 349-52; see GARY ORFIELD, THE RECONSTRUCTION OF SOUTHERN EDUCATION: THE SCHOOLS AND THE 1964 CIVIL RIGHTS ACT 151-207 (1969).
273. See supra notes 253-54 and accompanying text.
274. BRANCH, supra note 2, at 505-06. Daley also told Johnson that King was criticizing him publicly about Vietnam: “King’s rally . . . was fifty percent Johnson—Johnson’s a killer. Johnson’s a destroyer of human life, Johnson is a killer in Vietnam’ . . . . He [King] is not your friend. He’s against you on Vietnam. He’s a goddamn faker.” Id. at 505 (alteration in original).
anyone take over themselves the running of the city.”

On that occasion, Johnson replied, “You’re just as right as you can be, Dick, . . . [a]nd I’ll support you.” Johnson repeatedly expressed his sympathy and support for Daley in the face of what the Mayor described as highly disruptive and costly demonstrations.

b. The Johnson-King disconnect.—At the same time, the growing political and personal divide between President Johnson and Martin Luther King further adversely affected Johnson’s views about the CFM and his willingness to pursue fair housing legislation aggressively in its wake. Johnson and King worked together on both the Civil Rights Act of 1964 and the Voting Rights Act of 1965. However, there was always a tension between them, in part because of their very different personality styles. Johnson was brash and outspoken, while King was soft-spoken and modest.

275. Id. at 506. In one of those conversations, Daley conflated King’s movement with gang violence. Others seemed to share his difficulty in separating the violence perpetrated on peaceful marchers from the violence involved in urban riots. Telephone Conversation Between Richard J. Daley, Mayor of Chicago, and Lyndon B. Johnson, U.S. President (July 19, 1966) (on file at Lyndon B. Johnson Presidential Library and Museum, WH6607.02.10414).

276. BRANCH, supra note 2, at 506. Johnson and King were not in contact during this period, so the President did not hear the civil rights leader’s perspective on the Chicago Movement. RALPH, supra note 2, at 182.

277. BRANCH, supra note 2, at 506. Less than a week later, the President reassured Daley again, saying “there’s nobody that loves you more than I do.” Telephone Conversation Between Richard J. Daley, Mayor of Chicago, and Lyndon B. Johnson, U.S. President (July 19, 1966) (on file at the Lyndon B. Johnson Presidential Library and Museum, WH6607.03.10423). In conversations with many politicians, Johnson did most of the talking. However, his reputation for arm-twisting, browbeating, and intimidation did not surface when he spoke with Mayor Daley. Instead, Johnson’s time on the phone with Daley was spent mostly in listening, as Daley relayed all of his hopes and woes for Chicago. Johnson said very little beyond expressing concern and support. See Telephone Conversation Between Richard J. Daley, Mayor of Chicago, and Lyndon B. Johnson, U.S. President (July 19, 1966) (on file with the Lyndon B. Johnson Presidential Library and Museum, WH6607.02.10414-15) (lasting more than twenty-two minutes). Years after Johnson’s presidency, Daley remembered, “I loved LBJ. There was nothing he wouldn’t do for Chicago.” FRANK SULLIVAN, LEGEND: THE ONLY INSIDE STORY ABOUT MAYOR RICHARD DALEY 175 (1989).

278. GRAHAM, supra note 114, at 162-63; KOTZ, supra note 87, at 189-90. King and Johnson had both considered the Voting Rights Bill an allied effort. KOTZ, supra note 87, at 253. At one point in Selma, over the telephone, Johnson advised King as to how to continue putting pressure on Congress, and King in turn advised Johnson on how to ensure the Black vote in the next election. Id.

279. RALPH, supra note 2, at 181. For many reasons, including their personality differences and different approaches to achieving civil rights progress, the relationship between King and Johnson never moved beyond formality. Id. King considered righting social injustices to be a moral imperative, while Johnson relied on legislative arguments and methods in pushing for civil
Johnson had always been more comfortable with civil rights leaders who worked with Congress and the Administration through traditional political channels—like Roy Wilkins and Clarence Mitchell, Jr. of the NAACP and Whitney Young of the Urban League.  Johnson understood the legislative process, perhaps better than any politician of his generation.  Johnson feared that demonstrations would lead to violence and negative political repercussions.  He preferred the more predictable congressional lobbying.  He was much less comfortable with the confrontational direct action strategies that served as the hallmark of King’s approach to social change and with the trust in faith and religion underlying King’s movement.  Johnson even urged King during their first meeting to stop using demonstrations as a tactic.  Notwithstanding their differences, they maintained a mutually respectful and constructive—if somewhat distant—relationship during Johnson’s early years in the White House.

However, by the time of the CFM in 1966, President Johnson had become increasingly disenchanted with King.  Mayor Daley knew about the tension between Johnson and King, and he exploited it in seeking the President’s support in the summer of 1966.

The growing distance between Johnson and King arose from both strategic and political differences that increasingly came to the fore by the middle of the decade.  King had supported the upstart Mississippi Freedom Democratic Party (“MFDP”) at the 1964 Democratic National Convention.  The racially integrated MFDP objected to the all-white delegation and threatened to protest if they were not allowed to be seated at the Convention.  President Johnson viewed the MFDP as disruptive and counter-productive, and he denied King’s request for

rights.  *Id.*

280.  *Woods, supra* note 256, at 575;  *see Kotz, supra* note 87, at 179, 270.


282.  *Kotz, supra* note 87, at 270.


285.  *Id.*  at 278.  However, Johnson was not completely consistent in his discomfort with protests.  During the civil rights protests in Selma, Johnson explicitly encouraged King to keep the pressure on Congress, which quite likely meant continuing the demonstrations.  *Id.*  at 253.

286.  *Anderson & Pickering, supra* note 2, at 180;  *Ralph, supra* note 2, at 181.

287.  *See supra* text accompanying notes 260-69.

288.  *Garrow, Bearing the Cross, supra* note 2, at 341-43;  *Kotz, supra* note 87, at 250.

The Mississippi Freedom Democratic Party (“MFDP”) threatened to protest at the convention if their demands were not met.  Johnson had requested a moratorium on all marches, protests, and other potentially disruptive activities until after election day because he feared such events would improve Republican Barry Goldwater’s chances in the presidential election.  *Garrow, Bearing the Cross, supra* note 2, at 343.  Johnson expected King and other civil rights leaders to back him up.  *Id.*  Though the National Association for the Advancement of Colored People (“NAACP”) supported the call for a moratorium, King continued to speak out on behalf of the MFDP.  *Id.*  at 341-43, 346, 348.
them to be represented at the Convention.\textsuperscript{289}

Most importantly, Dr. King had begun to speak out publicly against the Vietnam War in August 1965, less than a week after the President signed the Voting Rights Act.\textsuperscript{290} King’s opposition to the war grew to the point that he could no longer remain silent. At the annual convention of SCLC, King told a crowd of 3500 people that “the true enemy is war itself.”\textsuperscript{291} He began to call on those in power to stop the war.\textsuperscript{292} He called on the President to state clearly that the administration would be willing to negotiate with the Viet Cong.\textsuperscript{293}

The heart of the issue was a moral question for King. Peace was a moral imperative.\textsuperscript{294} He also viewed the Vietnam War as closely connected with the issues of civil rights and poverty, about which he cared so deeply.\textsuperscript{295} Funding the war drained resources from those desperately needed for civil rights and Johnson’s “Great Society” programs.\textsuperscript{296} Additionally, Black draftees disproportionately waged the war and suffered the sacrifices of Vietnam, still another form of exploitation and oppression the system imposed on Blacks.\textsuperscript{297}

For President Johnson, King’s public opposition to the war constituted a betrayal that ruptured an already tenuous and tense relationship.\textsuperscript{298} The President was outraged by King’s outspoken opposition to the war, especially because Johnson had worked so hard to get landmark civil rights legislation through Congress.\textsuperscript{299}

\textsuperscript{289} Garrow, Bearing the Cross, supra note 2, at 346-48.
\textsuperscript{290} Id. at 438.
\textsuperscript{291} Branch, supra note 2, at 287.
\textsuperscript{292} Garrow, Bearing the Cross, supra note 2, at 438.
\textsuperscript{293} Id.
\textsuperscript{294} Ralph, supra note 2, at 181; see Garrow, Bearing the Cross, supra note 2, at 443, 453.
\textsuperscript{295} See Garrow, Bearing the Cross, supra note 2, at 438; Kitz, supra note 87, at 346.
\textsuperscript{296} Woods, supra note 256, at 786. Johnson introduced his Great Society initiative in May 1964, as a plan to develop a series of working groups tasked to tackle specific problem areas in an effort to create a great society. Graham, supra note 114, at 153. Johnson’s plan to “provide material benefits to the needy but also improve the quality of life for everyone” included, among other programs, education assistance, health programs, immigration reforms, and antipoverty measures. Kitz, supra note 87, at 259. Johnson was able to push a number of these reform bills through Congress before the lack of progress in Vietnam took its toll on his political capital. Id. at 368-69.
\textsuperscript{297} Woods, supra note 256, at 786.
\textsuperscript{298} See Dallek, supra note 249, at 467.
\textsuperscript{299} Id. In a telephone conversation on August 20, 1965, Johnson told King “that members of Congress had ‘the impression that you are against me on Vietnam.’” Kitz, supra note 87, at 345. Johnson also said, “You better not leave that impression . . . . I want peace as much as you do . . . . Let’s not let this country get divided.” Id. at 345-46.

The White House Conference on Civil Rights planned for the spring of 1966 also illustrated the growing rift between Johnson and King. The conference, initially supported by all of the major
As criticism of the war mounted, Johnson became even more sensitive to his critics. In November 1965, the President called King, and they discussed Vietnam. Johnson laid out his reasoning and his “middle [of the] road” strategy for the war. King listened, but the conversation did nothing to change his views. Johnson and King never spoke privately again.

Johnson also had serious concerns about King’s relationship with the Communist Party. FBI head J. Edgar Hoover repeatedly sent the President reports detailing the Communist influence on King and his movement. The FBI emphasized the Communist connections of two of King’s closest advisors.

civil rights groups, was supposed to launch a new dialogue about the status of civil rights in the United States. Anderson & Pickering, supra note 2, at 171, 195; Kotz, supra note 87, at 359. However, Johnson’s seeming embrace of the controversial Moynihan report was the beginning of a significant split between civil rights leaders and the President, and ensured that the conference would be disastrous. Anderson & Pickering, supra note 2, at 171, 195; Kotz, supra note 87, at 359; Rainwater & Yancey, supra note 21, at 5, 6, 16, 275. The Moynihan report, which attributed the condition of Blacks in the United States to the breakdown of the Black family, and the White House’s response, enraged civil rights leaders. Anderson & Pickering, supra note 2, at 171, 195; Kotz, supra note 87, at 359; Rainwater & Yancey, supra note 21, at 5, 6, 16, 275. Though the civil rights conference did ultimately take place, Johnson did not personally invite King, as he might have previously. Anderson & Pickering, supra note 2, at 171, 195; Kotz, supra note 87, at 359. The conference itself provided little room for new dialogue, instead expecting attendees to respond to the White House’s proposed policies. See Anderson & Pickering, supra note 2, at 171, 195; Kotz, supra note 87, at 359; Rainwater & Yancey, supra note 21, at 5, 6, 16, 275.

300. Kotz, supra note 87, at 346.
301. Id. at 371.
302. Id.
303. Id.
304. Id.
305. Id. at 195-96. Hoover’s reports consisted of secondhand information, most of which was uncorroborated. Woods, supra note 256, at 577. The reports emphasized that King was being used by communists for their political advantage, and they concluded by summarizing the “communist credentials” of King’s advisors. Id. Hoover’s accusations had led Attorney General Robert Kennedy to authorize wire taps of King’s house and his Atlanta and New York offices in 1963. Id. at 576.

306. King first worked with Bayard Rustin, a longtime advocate of nonviolent protest, on the Montgomery bus boycott, and Rustin soon became one of King’s closest advisors. Garrow, Bearing the Cross, supra note 2, at 93. Rustin also was rumored to have communist sympathies, so the FBI kept him under close watch which included wiretapping Rustin’s phone. Kotz, supra note 87, at 351. Another of King’s close advisors, Stanley Levinson, was also kept under tight surveillance due to his ties to the Community party, including FBI allegations that Levinson was a Communist agent. Garrow, Bearing the Cross, supra note 2, at 116-17, 195. By the time he became close to King, Levinson had severed all direct ties, but he did continue to offer some financial assistance to the party. Id. at 195. After King violated a direct request from Robert
King’s public opposition to the Vietnam War only increased Johnson’s concerns about the civil rights leader’s possible communist connections.307

Moreover, by 1966, Johnson had become convinced that civil rights demonstrations had outlived their usefulness, as evidenced by the disruption they caused in Chicago.308 By the time Congress was considering the fair housing bill that year, Johnson and King were largely estranged.309 So while Johnson and Daley had frequent conversations about the CFM in the summer of 1966, Johnson and King had none.310

2. Public Reaction to the CFM.—As in the South, the Chicago Movement’s leadership wanted to take dramatic action that would provoke resistance and elicit both local and national public support for their cause. To a large extent, however, that strategy backfired in Chicago. The CFM’s activities alienated many of those who had previously supported the Southern civil rights movement politically and even financially.311 For many whites in the North, racial discrimination was a Southern phenomenon, epitomized by Jim Crow laws and customs, barriers to political participation, and violence by white supremacist organizations. These whites thought that Southern civil rights activists had no reason to come North and were not welcome there.312

Moreover, Chicago was a great American city and a destination for two great 20th century migrations of Southern Blacks. It was a land of opportunity, where Blacks participated actively in the political process as well as the labor market. Consequently, many whites thought that it was particularly offensive for “outside agitators” to target Chicago. Much of Chicago’s Black community shared the view that Southern civil rights activists should have continued their work in the South rather than disrupting the racial accommodation that they had reached in Chicago.313
The vast majority of whites living in Gage Park, Marquette Park, and the other neighborhoods in which marches took place strongly objected to these intrusions into their communities. Private property rights were at stake, unlike the public discrimination that activists and legislators were appropriately challenging in the South. When Jesse Jackson announced a plan to march into the racially exclusionary suburb of Cicero, whites in and outside of Cicero criticized the activists for their provocative plans rather than the Cicero residents for their racist attitudes and actions.

3. Congress.—While the House of Representatives passed a very limited fair housing bill in 1966, Senate opponents filibustered the bill to death. The events in Chicago seem to have contributed to the opposition among legislators. According to Justice Department official Roger Wilkins, “The most significant and best publicized opposition to the [fair housing bill] was . . . based on the opposition to ‘conduct,’ i.e., the marches of the Chicago Freedom Movement through white neighborhoods in Chicago.”

a. The Senate: Senator Everett Dirksen’s role.—While much of the civil rights legislation of the 1960s had the support of the majority of the Senate, there was a coalition of segregationist Southern Democrats and conservative Republicans that repeatedly used the filibuster device in an attempt to block a full Senate vote. Since cloture required a two-thirds vote, the filibuster was a potent weapon and a major obstacle to enacting civil rights legislation. Thus, the largest hurdle in Congress was usually the threat or reality of a filibuster in the Senate. The two-thirds vote required for cloture could be achieved only if Republicans joined with non-Southern Democrats in sufficient numbers to invoke cloture and pave the way for the majority of the senators in favor of civil rights.
As a result, Senate Minority Leader Everett Dirksen, a Republican from Illinois, played a critical role in all of the civil rights legislation of the 1960s. Senator Dirksen held the key to securing the Republican votes needed for cloture. He was a powerful minority leader who had great influence with Senate Republicans and was the only person potentially capable of securing enough Republican votes for cloture to avoid a legislation-killing filibuster. Dirksen had established a pattern of withholding his support until late in the process, negotiating changes in the bills that were favorable to his interests—especially mitigating their impact on the North—and then securing the needed Republican votes for cloture. He also had a close political and personal relationship with President Johnson, which made his role in civil rights legislation even more crucial. So the Johnson Administration turned to Dirksen for his support in 1966, just as it had in previous years.

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Early on, Senator Dirksen made clear his strong opposition to the fair
housing bill. He argued that it was an unconstitutional intrusion on property rights and beyond the power of Congress under the Fourteenth Amendment and the Commerce Clause.

The CFM’s marches into white neighborhoods seemed to harden Dirksen’s opposition to fair housing legislation. He expressed his opposition to the Movement publicly, labeling it as “calculated harassment” and “a species of intimidation.” He said, “It’s like saying they’re gonna do this or else.” He viewed the marches as designed to pressure Congress to enact what he considered to be bad legislation.

In his objections to CFM marches, Dirksen seemed to conflate violence by whites against Black civil rights marchers with Blacks carrying out violence in their own communities in the form of riots or urban rebellions. He considered these very different forms of violence as equally “caused” by Blacks. He thought that Blacks were culpable in the civil rights violence because they had the unseemly goal of interfering with white people’s property rights and their well-founded belief that their home was their “castle.” To Dirksen, not only was the goal of the Chicago Movement illegitimate, but its means were reprehensible. He saw civil rights activists as exacerbating the situation by generating confrontations with their marches into white neighborhoods. In his view, the marchers were responsible for the violence they provoked from white resisters.

b. The House of Representatives.—While the House did pass a fair housing bill in 1966, it had become watered down as it worked its way through the legislative process. In August, the House exempted real estate brokers who sold single-family homes. It also excluded from coverage privately owned

329. Kotz, supra note 87, at 116. Dirksen was deeply committed to protecting property rights and expected private property to remain exempt from public regulation. See id.; Hulsey, supra note 324, at 188, 224-25.
330. 1966 Senate Hearings, supra note 246, at 1160-65 (statement of Nicholas deB. Katzenbach, U.S. Att’y Gen.) (displaying argument between Dirksen and Katzenbach about the constitutionality of the proposed legislation under the Fourteenth Amendment and the Commerce Clause); Biles, Crusading Liberal, supra note 324, at 189; Hulsey, supra note 324, at 224.
331. Ralph, supra note 2, at 192.
332. Id.
333. Id.
334. See id.
335. See id.
336. Id.
337. Id.
338. See id.
339. Graham, supra note 114, at 261. Graham indicates that the House Republicans had little power in 1966 because of the “Goldwater debacle,” implying that the bill passed the House because of the sheer numbers of Democrats. Id.
340. See Harvey, supra note 190, at 38.
homes with less than five residential units.\textsuperscript{341} The amended bill covered only large apartment buildings and developments—about forty percent of the nation’s housing.\textsuperscript{342}

Some members of Congress conflated the CFM—and the violence by whites—with the violence in the urban rebellions in Chicago and elsewhere.\textsuperscript{343} The bill’s supporters tried to draw a clear distinction between the Blacks who were rioting and those who were engaged in lawful protest.\textsuperscript{344} However, many of the opponents used the word “rioters” to refer to all Blacks, regardless of whether they were peacefully protesting or engaged in violence.\textsuperscript{345}

The resulting confusion undermined support for any civil rights legislation. In early August 1966, Illinois Congressman Dan Rostenkowski, a staunch Daley ally, stated that “his mail has been extremely heavy in opposition to the Civil Rights Bill.”\textsuperscript{346} He referred to the “touchiness” of the “race problems” in Chicago “and how the white citizens and the police are becoming very aggravated.”\textsuperscript{347}

When the 1966 civil rights bill died in September, Martin Luther King expressed the depth of his disappointment and his concern about the consequences.\textsuperscript{348} He lamented that “[t]he executioners of the 1966 civil rights bill have given valuable assistance to those forces in the Negro communities who counsel violence. Although I will continue to preach with all my might the moral rightness of nonviolence, my words are now bound to fall on more deaf ears.”\textsuperscript{349}

III. 1968: PASSING THE FAIR HOUSING ACT

It is certainly possible that with the passage of time and the presence of intervening forces pressing for fair housing legislation, the CFM made little or no contribution to the passage of the Fair Housing Act in 1968. Factors that have been credited with contributing to its passage include: the election of several moderate Republicans to the Senate in 1966, President Johnson’s increased efforts to push the legislation through, Senator Dirksen’s last minute switch to support cloture, and Martin Luther King’s assassination.\textsuperscript{350} It is also possible that

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341. \textit{RALPH}, supra note 2, at 174-75.
342. \textit{Id.}; \textit{HARVEY}, supra note 190, at 38.
343. \textit{BONASTIA}, supra note 22, at 83; \textit{RALPH}, supra note 2, at 191.
344. \textit{BONASTIA}, supra note 22, at 83.
345. \textit{Id.}
347. \textit{Id.}
348. When the House-passed bill was sent to the Senate, King changed his position and expressed his support for the proposed fair housing legislation. \textit{BONASTIA}, supra note 22, at 80.
350. Jean Eberhart Dubofsky, \textit{Fair Housing: A Legislative History and a Perspective}, 8 \textit{WASHBURN L.J.} 149, 149, 158, 160 (1969); \textit{see GRAHAM}, supra note 114, at 270-72. CFM contributed inadvertently to the election of Charles Percy—one of the moderate Republicans who
\end{flushleft}
the bill was passed *in spite of* the impact of the CFM, given the arguably negative impact on the legislative process in 1966.351

However, the evidence suggests that the CFM probably constituted one of the “constellation of forces” that contributed to the surprise enactment of the Fair Housing Act in April of 1968.352 In spite of its negative short-term effects on the efforts to pass fair housing legislation, the CFM’s lingering positive impact came to the fore in support of its final passage.

### A. President Johnson’s Role

By 1968, the implications of the CFM for President Johnson had changed. The Movement itself had long since ended, and the key players had left Chicago. Johnson could pursue fair housing legislation without the risk of embarrassing and alienating Mayor Daley.353 Finally, Dr. King’s assassination provided an opportunity for President Johnson to press for prompt passage of the Fair Housing Act as a step towards fulfilling King’s dream of racial equality.

While President Johnson could not use the violent reaction to Chicago’s 1966 open housing marches as a basis for pressing for Congressional legislation, his knowledge of the events on the ground there certainly deepened his understanding of the problem of housing discrimination and the need for federal legislation. From the outset, he had defined the problem of housing discrimination as national in scope—rather than as solely regional. In his first State of the Union Message, on January 8, 1964, Johnson said, “Let me make one principle of this administration abundantly clear: All of these increased opportunities—in employment, in education, in housing, and in every field, must be open to Americans of every color.”354 As a Southerner, he had no incentive to think of this form of racial discrimination as confined to the South. Unlike many Northern politicians, Johnson had nothing invested in the false belief that racial discrimination was exclusively a Southern problem.355

Ironically, the telephone conversations with Mayor Daley in the summer of 1966 helped inform President Johnson of the vehemence of whites’ resistance to Black families’ entry into all-white neighborhoods.356 While Mayor Daley was conveying a message of disruption and disorder, with which the President could
empathize, the Mayor was also painting a picture of a city that was extremely hostile to Blacks’ moving freely into traditionally white neighborhoods.\footnote{357} Moreover, President Johnson received reports from his staff about events on the ground in Chicago that summer. At one point, he sent high-level administration officials to Chicago to observe what was happening and report back to him.\footnote{358} This provided additional information about the nature and extent of white resistance to Blacks moving into “their” white neighborhoods. He also received reports from his staff in Washington who were keeping tabs on the situation in Chicago.\footnote{359}  

After the Summit Agreement was signed in August 1966, King left Chicago.\footnote{360} While he talked of monitoring compliance and renewing activities in the city if the parties did not meet their commitments, there was little substance to those threats.\footnote{361} As a practical matter, the Movement had ended with the signing of the Summit Agreement.\footnote{362} In February 1967, President Johnson’s staff reported to him that Martin Luther King had left Chicago and the Movement there had ended.\footnote{363} The disruption in the streets that had so angered
and frustrated Mayor Daley had long since passed. So the President’s active efforts on behalf of fair housing legislation would no longer risk undermining his relationship with Chicago’s mayor. Early in 1967, Johnson had asked for and received assurances from his staff concerning “the plans of civil rights organizations in Chicago.”\textsuperscript{364} With King and the Movement gone from Chicago, Johnson’s support for fair housing legislation could not readily be associated with earlier events in Chicago.\textsuperscript{365}

Ironically, President Johnson’s call for Congress to enact the fair housing bill in the wake of King’s 1968 assassination—something he had been pushing all along—may have been rooted implicitly in the CFM. The best evidence that enactment of that bill would serve as a step toward fulfilling King’s dream was the campaign Dr. King waged against housing discrimination and segregation in Chicago during the summer of 1966.\textsuperscript{366}

While King’s involvement in housing desegregation served as a rhetorical basis for the President and Congress to move forward on fair housing legislation in the aftermath of Dr. King’s death, still another irony remained. It is highly unlikely that King would have sought that particular legislation as the way of continuing his work. Instead, he had shifted his energy during the last part of his life to more fundamental problems of poverty and economic inequality.\textsuperscript{367} In his testimony before the President’s Advisory Commission on Civil Disorders only a few months before his death, King emphasized these concerns in both his own statement and response to commissioners’ questions.\textsuperscript{368} While he mentioned the need for strong fair housing legislation,\textsuperscript{369} King devoted most of his attention to the need for a massive federal spending program to provide jobs and income for
low-income Americans.  

B. The Senate: Ending the Filibuster

As with other 1960s civil rights legislation, opponents in the Senate used the filibuster to try to prevent a full Senate vote on what became the 1968 Civil Rights Act. As discussed earlier, fair housing opponents had engineered a successful filibuster in 1966, even using the CFM as fodder for their opposition.

Virtually all observers expected the same result in the Senate in 1968. Since the summer of the CFM, fair housing had developed into a politically charged issue at the national level. Additionally, some Northern members of Congress had been frightened by the violent white response to the Chicago demonstrations and were hesitant to take any action that might provoke similar violence in their districts. The civil rights movement was also suffering from declining support in the wake of white backlash to civil rights progress and the fear of the growing Black Power movement.

Early in 1968, Senate Minority Leader Everett Dirksen of Illinois seemed to remain unalterably opposed to federal fair housing legislation. His continued opposition would probably have doomed the bill, because Dirksen’s support was required to bring along enough moderate Republicans to reach the two-thirds votes needed for cloture.

While Senator Dirksen strongly objected to the CFM’s strategies and tactics, he, like President Johnson, learned more about the depth of housing discrimination from CFM. Moreover, to the extent that Dirksen viewed all violence as equally problematic, his desire to stem the tide of urban violence may have come in response to the events of the CFM as well as several “long, hot summers” in Chicago and many other cities. The Fair Housing Act could be a vehicle for reducing the level of urban violence—a critical task for Congress.

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370. Id. at 2776-77, 2810-25.
371. GRAHAM, supra note 114, at 150-52, 171.
372. See supra Part II.
373. KOTZ, supra note 87, at 389; Dubofsky, supra note 350, at 149. Unlike in 1966, NAREB did little lobbying before the Senate vote. BONASTIA, supra note 22, at 87. Apparently, the organization was taken by surprise by the broad support this time around. Id.
374. KOTZ, supra note 87, at 389.
375. Id. at 389-90.
376. See id.
377. See supra note 330 and accompanying text.
378. Johnson depended on Dirksen to gather votes among the Senate Republicans, primarily by agreeing to amendments, often weakening ones, in exchange for votes. 1966 Legislative Chronology, supra note 189, at 370; GRAHAM, supra note 114, at 141-42; see SCHAPSMEIER & SCHAPSMEIER, supra note 323, at 150-51.
379. GRAHAM, supra note 114, at 273; see also BONASTIA, supra note 22, at 86.
to undertake.\textsuperscript{380}

In announcing his changed position on cloture, Senator Dirksen also spoke of his concern that Black Vietnam veterans could face discrimination in housing upon their return.\textsuperscript{381} The CFM could only have made him more aware of that possibility, which he wished to prevent through federal legislation.

The results of the election for the other Illinois Senate seat in November 1966 may also provide a connection between the CFM and Senator Dirksen’s changed position on fair housing legislation. In that election, incumbent Democrat Paul Douglas lost his seat to Republican Charles Percy.\textsuperscript{382} Part of the reason for the Republican victory was a negative reaction among white voters to the marches of the CFM.\textsuperscript{383} Nevertheless, Dirksen may have interpreted the election of Percy as an indication of Republican strength in Illinois. Dirksen would be running for re-election in 1968, and the Percy victory in 1966 may have given him reassurance that his support of fair housing legislation would not endanger his victory in November.

\section*{C. The House of Representatives: Honoring Dr. King’s Memory?}

When Martin Luther King was assassinated on April 4, 1968, the fair housing bill had already passed in the Senate and had been debated in the House.\textsuperscript{384} It was passed by the House six days later and signed into law by

\textsuperscript{380} The President’s Advisory Commission on Civil Disorders (the “Kerner Commission,” after Governor Otto Kerner of Illinois, the chair of the commission) was released shortly before the successful cloture vote in the Senate. \textit{Bonastia, supra} note 22, at 86. The Commission recommended that Congress enact comprehensive fair housing legislation. \textit{Kerner Report, supra} note 196. It is uncertain what effect, if any, the report had on ending the Senate filibuster. It is also uncertain what effect, if any, the CFM had on the Commission’s report and recommendation. Governor Kerner was certainly aware of the resistance to racial integration in Chicago, a view reflected in the Commission’s report. In fact, Kerner had prepared the Illinois National Guard in anticipation of an announced CFM march into Cicero, a notoriously racially exclusionary suburb bordering Chicago. \textit{Ralph, supra} note 2, at 111, 166; \textit{Recordings Prove Charge, Says Daley; Guard Patrols Streets, Chic. Trib., July 16, 1966, at 1}.

\textsuperscript{381} Mathias & Morris, \textit{supra} note 190, at 25; Morales-Doyle, \textit{supra} note 326, at 47 (citing Mathias & Morris, \textit{supra} note 190, at 25).

\textsuperscript{382} \textit{Biles, Crusading Liberal, supra} note 324, at 197-98.

\textsuperscript{383} \textit{Id.; Schapsmeier & Schapsmeier, supra} note 323, at 186. Biles describes fair housing as the “most volatile” issue on the table during the 1966 race between Douglas and Percy. \textit{Biles, Crusading Liberal, supra} note 324, at 194. He points out that Douglas not only lost some of Chicago’s white homeowners who were upset by the marches because of his racial liberalism, but he also lost the votes of some of those who supported the CFM because he had not provided enough support to the Movement. \textit{Id.} Douglas complained of Percy’s forces, saying, “They are trying to get the young Negroes to oppose me on the ground that I haven’t done enough, and to get the Whites to oppose me on the ground that I had done too much.” \textit{Id.} at 194.

\textsuperscript{384} At the beginning of April, it looked like that bill might die in committee. \textit{Bonastia, supra} note 22, at 87.
President Johnson on April 11.\textsuperscript{385}

The assassination of Martin Luther King demanded prompt action by the federal government for both symbolic and practical reasons.\textsuperscript{386} The nation was in mourning and in flames, and congressional action represented a way to make a unifying statement about the collective loss the country had suffered.\textsuperscript{387} At the same time, Black communities in a number of cities, including the nation’s capital, erupted in violence in the aftermath of the assassination.\textsuperscript{388} Some members of Congress believed that a legislative response would help to address the frustrations triggering the violence and restore calm and order in those communities.\textsuperscript{389}

Supporters of the fair housing bill successfully used the tragedy to press the House for its passage.\textsuperscript{390} Some suggest that President Johnson and the House of Representatives focused on open housing legislation as a memorial to Dr. King because of the commitment King had shown to this issue through the CFM.\textsuperscript{391}

It was the Chicago Movement that first associated King with the issue of housing discrimination and the goal of federal fair housing legislation. So there was a logic, or at least a political rationale, for using the passage of the Fair Housing Act as a way of memorializing him.

The day after the assassination, President Johnson urged prompt passage of
the Civil Rights Act of 1968, including the fair housing provisions.\textsuperscript{392} He suggested that this would be a way of continuing King’s work.\textsuperscript{393} The fair housing bill provided an opportunity for the Congress to act quickly on a measure that could be linked directly to King’s agenda. Both in the CFM and in his follow-up statements, Dr. King had argued for the importance of enacting federal fair housing legislation.\textsuperscript{394} The CFM was the one time in his career that King focused primarily on the issue of fair housing on a sustained basis.\textsuperscript{395} His leadership of that Movement made it credible to invoke his name and his memory in pressing for passage of the Fair Housing Act in the immediate aftermath of his death.

The assassination seemed to motivate President Johnson to pursue passage of the bill more aggressively. A charitable version of his actions would suggest that enmities may die with the antagonist’s death, particularly if it is a tragic death. A more cynical view of the President’s actions is that he decided to exploit King’s death for his own political purposes. For whatever reason, Johnson used the occasion of the assassination to press for passage of the civil rights bill in the House.

The morning after King was killed, Johnson sent letters to House Speaker John McCormack and Minority Leader Gerald Ford calling for passage of the fair housing bill: “Last night, America was shocked by a senseless act of violence. A man who devoted his life to the nonviolent achievement of rights that most Americans take for granted was killed by an assassin’s bullet. . . .”\textsuperscript{396} He went on to urge passage of the fair housing act: “I urge the members of the House of

\textsuperscript{392} In pressing for passage of the fair housing bill after King’s death, Johnson told key congressmen, “It’s been sitting too long in the Congress.” K\textsuperscript{OTZ, supra} note 87, at 417.

\textsuperscript{393} After King’s assassination, Johnson told aides, “We’ve got to show the nation . . . that we can get something done.” \textit{Id.} There is controversy about the extent to which House action on the Civil Rights Act was intended as a way of honoring Dr. King. To the extent it was, it is also unclear how much that depended on his interest in fair housing, as opposed to simply enacting some civil rights legislation in his memory. To the extent it was about fair housing in particular, it is also unclear how much that emphasis is related to Dr. King’s involvement in the CFM. It is not a large inferential leap, however, to suggest that Dr. King’s fair housing efforts in Chicago less than two years before his death were in the minds of members of Congress and the Administration as they moved the Fair Housing Act toward passage.

\textsuperscript{394} See \textit{supra} note 391 and accompanying text. This is not to suggest, however, that fair housing legislation was a high priority for King at the time of his death. Instead, he was focused on his newly-developed “Poor People’s Campaign”—a campaign more concerned with broad economic justice than housing discrimination specifically. K\textsuperscript{OTZ, supra} note 87, at 381. His presence in Memphis in support of the garbage workers’ strike represented a shift in his focus to economic issues. \textit{Id.} He was preparing to embark on a major initiative, the Poor People’s Campaign, in Washington, D.C., at the time he was shot. Both the goals and the methods of that campaign were highly controversial. \textit{Id.} at 379-87. Moreover, they did not provide an obvious opportunity for a quick Congressional response as did the Fair Housing Act.

\textsuperscript{395} See \textit{supra} Part I.

\textsuperscript{396} See K\textsuperscript{OTZ, supra} note 87, at 417.
Representatives to rise to this challenge . . . . In your hands lies the power to renew for all Americans the great promise of opportunity and justice under law . . . . The time for action is now.

However, quick passage would require House concurrence with the Senate version of the bill rather than approval of its own version. The latter course would have required sending the House and Senate versions to a conference committee to resolve the differences between the two houses’ bills. That would have resulted in delay, at least, and perhaps even resulted in another Senate filibuster and ultimate defeat. President Johnson’s announcement on March 31, 1968, that he would not run for re-election created additional uncertainty about what the future would hold for a revised bill. At the same time, Senator Dirksen might have declined to take on the responsibility for facilitating cloture again. Even if he had tried, he might have failed because of his declining influence with his Republican colleagues.

Proponents of the bill, especially fair housing advocates, sought to avoid this uncertain path. Instead, they argued for concurrence with the Senate version, which would send the bill to the President for his signature.

At that stage, President Johnson used his legendary persuasive powers to encourage House members to accept the Senate’s version of the bill. NAACP head Roy Wilkins suggested that “[a]fter Dr. King’s assassination, Congress, [presumably, the House of Representatives] could not resist L.B.J., who pressed harder than ever for passage.”

It is unclear how much of an impact the assassination had on the House decision to concur with the Senate version of the bill rather than going to conference. The House had, of course, passed a fair housing bill in 1966, so the major obstacle seemed to have been overcome when the Senate passed a bill in 1968. However, there were differences between the House’s 1966 version and

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397. Id.
398. The civil rights bill was in the hands of the Rules Committee of the House, which would decide whether the House would consider its own bill or vote in concurrence with the Senate version. Id. at 417-20.
399. Id. at 419-20.
400. See Graham, supra note 114, at 271; infra note 408 and accompanying text.
403. Graham, supra note 114, at 271-72.
405. Effective Lobbying Put Bill Across, supra note 402, at 388 (describing disagreement among the bill’s opponents and proponents in the House regarding the likelihood that the bill would have gone to conference prior to King’s assassination). One commentator suggests that “[m]ost observers agree that King’s death was critically important in gathering sufficient support for the 1968 fair housing legislation.” Bonastia, supra note 22, at 87.
the Senate’s somewhat stronger 1968 version.\footnote{406} Moreover, the Senate’s bill incorporated other provisions besides fair housing that had not been part of the House-passed 1966 package.\footnote{407} Thus, while the House might have passed a bill without King’s assassination, the bill might have been different from the Senate’s—thus leading to a conference that could have delayed or even killed the fair housing provisions.\footnote{408}

King’s assassination was certainly on the minds of members of Congress as they decided whether to concur in the Senate bill or pass their own. In the House hearings in the immediate aftermath of King’s death, many of the bill’s opponents argued for delaying consideration of the bill until a time when emotions were not running so high.\footnote{409} They expressed fear that the bill would be passed as a “memorial” to King, rather than after calm, thorough, and thoughtful deliberation.\footnote{410} On the other hand, the bill’s supporters seemed to avoid references to King, perhaps in order to suggest that the bill should be passed as a matter of principle, rather than in reaction to a tragedy.\footnote{411} The opponents’ use of King’s assassination may have been a last resort tactic to block passage of the bill—an effort that ultimately failed.\footnote{412} Just as cloture in the Senate came about by the narrowest of margins, the House Rules Committee approved concurrence with the Senate version by one vote. After approval by the full House, President Johnson completed the surprising passage into law of the Fair Housing Act, just a week after the death of the leader of so many local movements that reverberated

\footnote{406} Graham, supra note 114, at 271.

\footnote{407} The Senate’s bill included anti-riot provisions and provisions intended to protect Native Americans’ civil rights. The anti-riot provisions prohibited traveling in interstate commerce with the intent to incite or participate in a riot and manufacturing, transporting, or teaching the use of firearms and explosives for use in a riot. Morales-Doyle, supra note 326, at 15 (citing Effective Lobbying Put Bill Across, supra note 402, at 382).

\footnote{408} Morales-Doyle, supra note 326, at 52-53; see Graham, supra note 114, at 271.


\footnote{410} Id. at 69 (statement of Rep. Joe D. Waggonner). Congressman Latta recalled the passage of the Civil Rights Act of 1964, which he viewed as a memorial to President Kennedy, as an inappropriate way for Congress to proceed. Id. at 60-61 (statement of Rep. Albert W. Watson). He feared that if Congress passed legislation “on the basis of the fact that a great man died,” they would “see many other great men in this country dying just to see legislation passed in the future.” Id. at 61. Congressman Latta also continued to make the same “chicken and egg” arguments about fair housing laws and riots as mentioned above with regard to the series of riots that took place after King’s assassination. Id. at 86 (statement of Rep. Charles E. Wiggins).

\footnote{411} For example, Congressman John Anderson suggested that the bill’s supporters had made their decision long before King died. Id. at 61 (statement of Rep. Albert W. Watson).

\footnote{412} Id. (statement of Rep. Albert W. Watson); id. at 31-32 (statement of Rep. Clark MacGregor) (Rep. Madden discusses the unfairness of the use of the filibuster by the Senate).
CONCLUSION

Many factors contributed to the failure of the fair housing bill in 1966 and its ultimate passage two years later. So it is extremely difficult to isolate a single one such as the CFM and assess the role that it played in each instance. At the same time, the evidence suggests that the Movement had an impact each time. Ironically, it seemed to undermine efforts to secure passage at the time of the marches in 1966, an unintended consequence directly contrary to the hopes of the Movement’s leaders. Mayor Daley’s opposition to the Movement hindered it nationally as well as locally, because of his close relationship with President Johnson. Moreover, the violent resistance to the non-violent marches in Chicago failed to generate the kind of public and congressional support that the violence perpetrated on Southern civil rights activists had produced in previous years.

Yet, in still another ironic twist, the CFM seems to have had the opposite effect—the originally intended one—when it came to the ultimate passage of fair housing legislation in 1968. The Movement had raised the consciousness of the major players about the depth and breadth of the problem of housing discrimination. By that time, the Movement in Chicago had ended, Mayor Daley was no longer an obstacle to pressing for passage, Martin Luther King had been assassinated, and the political situation had changed just enough to permit congressional action. Still another piece of the civil rights leader’s dream had been realized.