A striking example of the value of these networks proved so valuable that they were eventually placed under the supervision of the Weather Bureau and materially expanded.

A striking example of the value of these warnings comes from my district. On February 13, 1950 the town safety officials of Haynesville received a warning from the Shreveport Weather Bureau office, about 50 miles away, that a tornado had been reported in the Shreveport area and could be expected to hit Haynesville. The safety officials went to work immediately, getting people off the streets and into places of safety.

Within an hour after the warning was received the storm struck. Considerable property was damaged, but no lives were lost.

Today there is no definite way of spotting a tornado at the point of genesis, but several methods of determining the formation of a tornado are being tested. One of them requires observation of lightning.

It has been found that lightning generated from high-voltage sources is brighter, bluer, and more vicious in appearance than that from other storm clouds. Graphs from these lightning strokes that are registered on the oscilloscope show that they are of much greater amplitude than any others and that the top of the stroke is flat and rugged.

It is reassuring to the people of my district that today the United States Weather Bureau office in Shreveport maintains a network that covers 18 parishes in Louisiana, 7 counties in southwest Arkansas, and 2 in east Texas.

And to me it is reassuring that we have a man like Francis W. Reichelderfer as Chief of the United States Weather Bureau, who realizes the importance of determining tornadoes at their inception, and who understands the necessity of having the best possible system of warning in advance the approach of this destructive force of nature which strikes with such sudden and deadly power. I am grateful to him and his coworkers for their effort to evaluate and summarize the results of all research that deals in a comprehensive manner with the frequency and damage of tornadoes, their appearance and their causes, and that he seems determined to find the best method of forecasting them, thus saving human lives. He is also trying to determine the different types of buildings that are strong enough to resist the instantaneous power of tornadoes.

Much progress has been made by the Weather Bureau under the able management of Dr. Reichelderfer since the Cotton Valley disaster in 1947. Since I returned to Washington from that disaster and discussed with this quiet, sincere, but most capable, public servant the need of diagnosing and predicting the course of tornadoes, headquarters for this work has been placed in the State of Oklahoma for this area. Since that fateful time, the Weather Bureau has made much progress in this work and by this progress has saved thousands of lives of our people and hundreds of millions of dollars in loss of property. During the interim I have been able to interest the Congress in giving the Weather Bureau more money, a part of which was for this purpose. During this period of time I have always maintained an active interest in the tremendous job of diagnosing tornadoes and predicting their course. I am proud of the part I played in this work which is already a decade of conscientious and prayerful effort, and I am proud of the achievements that the Weather Bureau has contributed to a monumental fight to make America more safe from the ravages of nature's most violent forces.

Statement by Hon. John Lesinski, of Michigan, on Bill To Prevent Loss of Salary by Federal Employees Whose Positions Have Been Downgraded

EXTENSION OF REMARKS

OF

HON. JOHN LESINSKI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 1957

Mr. LESINSKI. Mr. Speaker, last year the 84th Congress enacted Public Law 594 which was designed to prevent loss of salary of those Federal employees who after having served in a position satisfactorily for a period of 2 years, through reclassification were placed in a lower grade.

The Civil Service Commission's regulations, based upon an interpretation of the law by the Comptroller General, were not as broad as had originally been intended by Congress. Many employees who felt they were covered by the law found that the statute did not apply to their cases.

In view of the confusion arising from the administration of Public Law 594, I am today introducing a bill to make explicit the intent of Congress in this matter. I shall attempt to have early and immediate action taken to have it processed.

SENATE

FRIDAY, JANUARY 4, 1957

(Legislative day of Thursday, January 3, 1957)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou God of love and hope, through all the length of changing years Thy goodness faileth never. Because we draw our inner strength from deep wells, in this confused day, save us from any panic of spirit. May the highest truth illumine the nearest duty, and holy aspirations transfigure the humblest task.

Enable with the light of Thy wisdom and the strength of Thy might those who in these fearful times have been entrusted in this Chamber with the stewardship of the national life. Help us to fill swift hours with mighty deeds, to bear the fret of care, the sting of criticism, the drudgery of unapplauded toil; to think clearly, to act kindly, to play valiantly our part in the life of our time, to strike our blow for freedom; and, as swift to its close ebbs out life's little day, to keep the unbroken vigil of the inner light, and to leave the world the better for our sojourn in it. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Journal of the proceedings of Thursday, January 3, 1957, was approved, and its reading was dispensed with.

APPOINTMENT OF TELLERS TO COUNT ELECTORAL VOTES

The VICE PRESIDENT. Pursuant to the provisions of Senate Concurrent Resolution No. 1, agreed to by both Houses, the Chair appoints the Senator from Rhode Island [Mr. GREEN] and the Senator from Indiana [Mr. JENNER] as tellers on the part of the Senate, at the joint session of the two Houses on Monday next, to count the electoral votes.

CALL OF THE ROLL

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, the time required therefor to be charged equally to both sides.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Frear	McClellan
Allott	Fulbright	McNamara
Anderson	Goldwater	Monroney
Barrett	Gore	Morse
Beall	Green	Morton
Bennett	Hayden	Mundt
Bible	Hennings	Murray
Bricker	Hickenlooper	Neuberger
Bridges	Hill	O'Mahoney
Bush	Holland	Pastore
Butler	Hruska	Payne
Byrd	Humphrey	Potter
Capehart	Ives	Purtell
Carlson	Jackson	Revercomb
Carroll	Jenner	Robertson
Case, N. J.	Johnson, Tex.	Russell
Case, S. Dak.	Johnston, S. C.	Saltonstall
Chavez	Kefauver	Schoeppel
Church	Kennedy	Scott
Clark	Kerr	Smathers
Cooper	Knowland	Smith, Maine
Cotton	Kuchel	Smith, N. J.
Curtis	Langer	Sparkman
Daniel	Lausche	Stennis
Dirksen	Long	Symington
Douglas	Magnuson	Talmadge
Dworshak	Malone	Thurmond
Eastland	Mansfield	Thye
Ellender	Martin, Iowa	Watkins
Ervin	Martin, Pa.	Williams
Flanders	McCarthy	Young

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. MANSFIELD. I announce that the Senator from West Virginia [Mr. NEELY] is absent because of illness.

Mr. DIRKSEN. I announce that the Senator from Wisconsin [Mr. WILEY] is absent on official business.

The VICE PRESIDENT. A quorum is present.

LEGAL HOLIDAY ON INAUGURATION DAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senator from Kansas [Mr. CARLSON] may be recognized for a few moments, without the time being charged to either side, for the purpose of calling up a resolution concerning Inauguration Day.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CARLSON. Mr. President, this year Inauguration Day occurs on Sunday, January 20. In order that there may be a legal holiday in the District of Columbia on Monday, January 21, it is necessary that a resolution be passed providing that January 21 be a holiday.

I introduce at this time a joint resolution to that effect, and ask for its immediate consideration.

The VICE PRESIDENT. The joint resolution will be stated by the clerk.

The joint resolution (S. J. Res. 1) was read the first time by title, and the second time at length, as follows:

Resolved, etc., That the 20th day of January 1957 and the 20th day of January in every fourth year thereafter, known as Inauguration Day, is hereby made a legal holiday in the metropolitan area of the District of Columbia for the purpose of all statutes relating to the compensation and leave of employees of the United States, including the legislative and judicial branches, and of the District of Columbia employed in such area: *Provided, however*, That whenever the 20th day of January in any such year shall fall on a Sunday, the next succeeding day selected for the public observance of the inauguration of the President of the United States shall be considered a legal holiday as provided by this joint resolution.

SEC. 2. For the purposes of this joint resolution, the term "metropolitan area of the District of Columbia" shall include, in addition to the District of Columbia, Montgomery and Prince Georges Counties, Md.; Arlington and Fairfax Counties, Va.; and the cities of Alexandria and Falls Church, Va.

The Senate proceeded to consider the joint resolution.

The VICE PRESIDENT. The question is on the engrossment and third reading of the joint resolution.

Mr. KNOWLAND. Mr. President, will the Senator yield for a question?

Mr. CARLSON. I yield.

Mr. KNOWLAND. This is the same type of resolution as was submitted 4 years ago, and it has been customary to make Inauguration Day a legal holiday in the District of Columbia and the immediate vicinity. Is that correct?

Mr. CARLSON. That has been the past history. In the past Congress has set aside Inauguration Day as a legal holiday. The pending resolution does that. In addition, it provides that hereafter Inauguration Day shall be a legal holiday when that day occurs on a date other than January 20.

Mr. KNOWLAND. I have no objection, and I think the joint resolution should be passed.

The VICE PRESIDENT. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

RULES OF THE SENATE

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSON of Texas. As I understand the unanimous-consent agreement, from now until 6 o'clock the time will be evenly divided between the distinguished Senator from New Mexico [Mr. ANDERSON] and the majority leader. Is that correct?

The VICE PRESIDENT. The Senator is correct. The Senate is now operating under that agreement.

Mr. ANDERSON. Mr. President, I yield myself 10 minutes.

We are again facing the question of whether or not the Senate of the United States, round by round, shall determine its own rules, or whether it shall be bound by rules adopted a century ago.

Jointly, with some 30 other Senators, and in accordance with article I, section 5 of the Constitution of the United States, which declares that each House may determine the rules of its proceedings, we have moved that the Senate take up for immediate consideration the adoption of rules for the Senate of the 85th Congress.

This motion, if agreed to, would not prejudge the nature of the rules which the Senate of the 85th Congress in its wisdom might adopt. It has been suggested to me that this is nothing but a majority cloture proposal. It is nothing of the kind. If a majority of the Senate should wish to adopt the old rules as the rules of the Senate of the 85th Congress, the majority could do so.

My motion supports, but does not deny, the right of the Senate to determine the rules of its proceedings, but my motion declares, in effect, that the Senate of the 85th Congress is responsible for and must bear the responsibility for the rules under which the Senate will operate. That responsibility cannot be shifted back upon the Senate of past Congresses. No Congress, and no House of the Congress, can tie the hands of future Congresses or future Houses of the Congress. That principle is basic to our Constitution and to our democratic form of government. I hope that not only those who believe, with me, that the Senate should not continue rule 22 in its present form as a part of the rules of the Senate, but many of those of a contrary mind, will support this motion, so that, in accordance with the letter and spirit of the Constitution, this body may determine the rules of the proceedings. Let us assume and not shirk or evade that responsibility.

That constitutional responsibility is very clear. Article I, section 5 of the Constitution declares that each House may determine the rules of its proceedings. The language of the Constitution is very clear in its application to each House of the Congress.

It is not disputed that the House of Representatives of each new Congress has the power to adopt, and for many years has adopted, the rules of its proceedings at the opening of each Congress. For a period of time, from 1860 to 1890, the House operated much as the Senate has operated, under a system of acquiescence in past rules stemming from a resolution of the House that the 1860 rules should be the rules of the present and subsequent Houses unless otherwise provided. But in 1890 Speaker Reed ruled that at the beginning of each new Congress the House operates under general parliamentary law until new rules are adopted. Thereupon the House adopted new rules designed to permit efficient majority exercise of legislative functions, and to prevent minority obstructions. Since 1890 the House rules have been adopted anew by each incoming House.

I have heard recently—and I assume new Members of the Senate have been hearing recently—that if we fail to adopt rules we shall tie up the Senate for weeks to come. I only hope that each Member of the Senate will take time to refer to the CONGRESSIONAL RECORD of yesterday and see what happened in the House of Representatives when it was ready to adopt rules. The chairman of the Rules Committee rose and moved that the rules be the same as those of the 84th Congress. There was not a word said on either side. The Speaker put the question on the motion, and within scarcely 30 seconds from the time the chairman of the Rules Committee had been recognized the House of Representatives had adopted its rules; and there is nothing in any record that would indicate that, after a preliminary skirmish, the Senate of the United States would not do the same thing.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. JOHNSTON of South Carolina. As I understand, the Senator is discussing the House of Representatives, and not the Senate, all the way through.

Mr. ANDERSON. Not all the way through. I am discussing at the moment what the House of Representatives did yesterday.

For a long period of years the House of Representatives was tied in the same fashion, and by the same strings with which the Senate is now tied. The House was working on the assumption that the old rules applied all the way through unless some change was made.

In 1890 the Speaker of the House of Representatives banged down his gavel and stated that the Constitution of the United States provides that each House shall determine the rules of its proceedings, and that the House of Representatives would proceed immediately to adopt its rules.

If that had not been done, we would have the most unwieldy organization imaginable. I was formerly a Member of the House, as many other Senators

have been. No one can imagine the chaos which would result, with the complication of modern issues, if the 435 Members of the House were governed by the old rules. It was necessary to make it possible for the House of Representatives to act. That was what was done in 1890.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. JOHNSTON of South Carolina. Is it not also true that since 1890 the House of Representatives has been acting under those rules?

Mr. ANDERSON. Yes; it has been acting under those rules, with some exceptions. At one time, upon motion by a Representative from the State of Mississippi, there was added to the rules of the House the provision that the Committee on Un-American Activities should be a permanent committee. As a Member of the House I participated in long debates on the question of the Committee on Un-American Activities. When I entered the House of Representatives in 1941, the Dies Committee was about the hottest subject in the Congress. However, when the proposed rule came before the House, Representative Rankin was able to have it placed in the rules in a matter of seconds.

The rules have not remained the same. They have been changed as occasion required; and the changes have been made in accordance with the Constitution, and in accordance with proper legislative practice.

Mr. JOHNSTON of South Carolina. So far as filibusters are concerned, the rules have remained the same, have they not?

Mr. ANDERSON. I think that is a correct statement.

Mr. JOHNSTON of South Carolina. I believe the Senator from New Mexico will agree that in the case of a body consisting of 435 Members, the rules must be different from the rules governing a body of 96 Members.

Mr. ANDERSON. I do not think I can quite concede that. I will say to the Senator from South Carolina that I think the rules of the Senate might very well be different from the rules of the House. I have never said otherwise. That is why I said in the beginning that this is not merely a question of majority cloture. I do not favor majority cloture, but I emphasize the fact that the Constitution of the United States provides that the Senate of the United States may determine its own rules, and I refuse to be bound by the action of someone who is not now in the Senate, who has long since gone to his reward, but who ties my hands, and says to me, through his action, that I cannot participate in the deliberations of this body as fully as I should like because 2 generations or 4 generations ago he wrote a rule which I am required to follow.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. JOHNSTON of South Carolina. Members of the House of Representatives are elected every 2 years, are they not?

Mr. ANDERSON. That is correct.

Mr. JOHNSTON of South Carolina. In the Senate two-thirds of the membership carries over.

Mr. ANDERSON. That is correct.

Mr. President, there will be further discussion of this question throughout the entire day, and I shall perhaps participate in that discussion. When we went into this question 4 years ago, I made a motion that the Senate proceed in the fashion now proposed, and I was surprised to hear it said that this was a Walter Reuther proposal. I grant that Walter Reuther has advocated a similar course to that which I am now advocating. However, Mr. Reuther also advocates allegiance to the country and respect for the flag. If Mr. Reuther happens to say that we should respect the flag of the United States, I do not intend to be disrespectful to it because respect for the flag is a Reuther proposal. I did not get my proposal from Walter Reuther.

Senator James, of Kentucky, spoke on this subject in 1915. I will say to the able Senator from Kentucky [Mr. COOPER] that the State of Kentucky has taken on increased interest since the last election. The President of the United States, when he was appearing on a television program after his overwhelming election last fall, said he was speaking about modern Republicanism. I realize that the Senator from Kentucky was one who participated, with many of us, in liberal and progressive fights. Therefore, I was glad to find that when this question was raised many years ago it was raised by Senator James, of Kentucky. On February 15, 1915, he felt impelled to say something about the shipping bill filibuster, which, as he saw it, was threatening the welfare of the country.

He questioned the continuity of the Senate as a body. He said:

> These rules have not been adopted by the Senate. They are merely the inheritance of hundreds of years behind us, with the gathered cobwebs and dust that have come down through the centuries.

I find that in the statement filed by the able minority leader yesterday afternoon, and I pick it up and commend it as good language for us to remember.

That statement was challenged by Senator Root of New York. He asked if anyone disputed that the Senate was a continuing body. Senator Thomas of Colorado got up and said, "I challenge it, and I intend to test it."

Senator Thomas proceeded to get ready to test it at the opening session of the next Congress. When he tried to test it, Walter Reuther was a boy of 9 years. Somehow I find it difficult to believe that Mr. Reuther had reached his 9-year-old hand all the way out to Colorado to influence Senator Thomas. Nor do I believe that he influenced me. I was in the Senate of the United States in 1949 when the present rule was adopted. I had lived through the long dreary hours, waiting for the filibuster then in progress to come to an end. I recognized that there were Senators who decided that it would be desirable to terminate that filibuster. They circulated a round robin throughout the corridors of the Senate and through the adjoining rooms, where gin rummy games were going on, and they said, "Let us have a chance to go home. Let us sign the round robin and get this over."

They said, "Our friends will consent to a wholly new version which will give us a wholly new rule. Let us sign up quickly and adopt it."

Let me say, Mr. President, that I did not accept that version, and I am glad today that I did not accept it. I say that because, while there was great assurance that the rule would effectively prevent filibusters, I questioned whether anyone really believed it would.

Mr. President, a great many Senators who were interested in this proposal were not influenced in the slightest by subsequent events, but determined that night, so long as they remained in the Senate, they would try to wipe out a cloture rule which seemed to run contrary to the Constitution of the United States and its sacred provisions.

Mr. President, the whole question of constitutionality must some day be raised. The Constitution provides that each House may determine the rules of its procedure.

When we look at rule 22, we find paragraph 3, which denies that the Senate may adopt its own rules. That provision reads:

> The provisions of the last paragraph of rule VIII * * * and of subsection 2 of this rule shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the standing rules of the Senate.

Mr. President, we cannot move in the field of changing the standing rules of the Senate because this prohibition exists. We are told now that we cannot take it out of the rules by majority vote, because a previous Congress wrote that provision into the rules.

Mr. President, suppose that a previous Congress had said, instead, that the rule relating to cloture may never be changed except by unanimous consent.

On the night, in 1949, when this rule was adopted, there was so much sentiment in favor of ending the filibuster then going on that I am sure the Senators who signed that round robin would just as soon have signed one which provided that a filibuster could not be stopped except by unanimous consent.

They were ready, apparently, to sign anything that was presented to them, and they agreed that this rule should go into the Senate's rules. Let us suppose that a provision had been adopted in 1949 that the rule could not be changed except by unanimous consent. In that case, Mr. President, how many Senators today would be willing to accept such a restriction, if it had been put upon them in 1949? Therefore I say we should not accept this provision of the rules. The only chance we will ever have of ridding ourselves of this improper provision, as I see it, is by acting upon it in the early days of the session of Congress. Therefore, I say that this is a step that we must take.

I hope every Member of the Senate will write down in his copybook or in some other document these words:

To say that the Senate in 1949 could pass an irrepealable rule on cloture is to say that it can alter the very Constitution from which it derives its power to meet and conduct its business.

Cooley's Constitutional Limitations as cited in the document filed by the able minority leader [Mr. KNOWLAND] uses almost this language and points out that this is true because insofar as one Senate could bind a subsequent one by its enactments, it could—and I am now quoting from the first column of page 33 of yesterday's RECORD—"in the same degree reduce the legislative power of its successors; and the process might be repeated until, one by one, the subjects of legislation would be excluded altogether from their control, and the constitutional provision that the legislative power shall be vested in two Houses would be to a greater or less degree rendered ineffectual."

Mr. President, my quarrel has been largely with section 3. I do not like everything in the provisions regarding cloture, but I am outraged by section 3, which provides that I may do nothing about it. Unless the Senate moves in the particular way now proposed, at this particular time, Senators will never have a chance to change that provision.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. HUMPHREY. I should like to say, first, that I believe the Senator has put his finger upon the vital point in this entire discussion. I have listened with keen interest to the Senator's dissertation on the rules of the Senate. I know his position is very clear. He is not arguing about any new form of cloture; he is arguing for the constitutional right of the Senate to adopt its own rules. Is that correct?

Mr. ANDERSON. Yes. I say to the Senator from Minnesota that when I received the letter written by the Senator from Illinois [Mr. DOUGLAS] and the Senator from Minnesota [Mr. HUMPHREY], I replied that I was willing to go along with them on the question of the Senate having a right to adopt its own rules, but as to what the rules should be, I said, I may be diametrically opposed to them; but, nevertheless, I believe I have a right, as does the Senator from Minnesota, who entered the Senate on the same day on which I entered it, as did the Senator from Illinois, to have a part in the determination of the rules under which the Senate may operate.

Mr. HUMPHREY. However, the Senator does say that, although the Senate may adopt clause 3 of rule 22 for one Congress, as was done in 1949, this rule does continue applicable, without the acquiescence or overt consent of the Senate, to the 82d Congress, 83d Congress, 84th Congress, or 85th Congress. Is that correct?

Mr. ANDERSON. The Senator has stated it exactly correctly. I was a Member of the Congress which adopted the rule to which I object. During that time I raised no question about it, because the majority had overridden men. I do not believe we shall be overriden in the 85th Congress. The Constitution provides that each House may determine the rules of its procedure. It is not provided that a previous House may determine that the rules may never be changed except by unanimous consent, and that they may be shoved down the throat of every new Member coming into the Congress. Some day the objectionable parts of rule 22 will be taken out of the book. It may take time, but it will be eliminated. The proposal received 21 votes 4 years ago. There are 31 sponsors at this time, and that should tell the Members of the Senate what is going on; namely, that the hands of the Senate of the United States cannot forever be tied by rules adopted in 1949.

Mr. HUMPHREY. Mr. President, will the Senator from New Mexico yield?

Mr. ANDERSON. I yield.

Mr. HUMPHREY. The point has been made on other occasions that the fact that the Senate has not changed its rules since 1949 is conclusive evidence that the rules continue, and that, therefore, they are not subject to change through the process in which we are now engaged; namely, at the beginning of the session to file a motion providing for the adoption of the rules. The argument is that because we have not changed the rules, they are, therefore, not subject to change through the procedure in which we are now engaged.

However, merely because the Senate may not have exercised—and I use the words "may not have exercised" its right, that is no reason to say that the right does not exist.

I call to the Senator's attention the language of article I, section 5, of the Constitution. The Founding Fathers debated this language for a considerable period of time. The language is that "each House may determine the rules of its procedure." The word "may" is very important. They may, if they so desire, or they may not. It is not a mandate, but it is permissive.

The point which the Senator from New Mexico is now making is that he desires at this time to have the Senate act.

Mr. ANDERSON. That is exactly correct. The Senate may do it. I believe the Senate should do it. Before we get through we shall be hearing that there is plenty of time to determine the question in an orderly fashion; that such action as is now proposed will get into the way of proposals relating to the freedom for Hungary, or some such thing as that. We always hear the story that there will be plenty of time for the question to be brought up in an orderly fashion. But there is no possibility of that happening. The Committee on Rules and Administration tried to incorporate in the rules a cloture provision in previous Congresses. The last proposal was passed over five consecutive times, even though we were trying all the time to get some action on it. Why was it said that it had to be passed over? Because some project dear to some Member of the Senate might be held up. Because we never have time late in the session to take up the calendar item that covers the change in the cloture rule. We get to the last days and the majority leader whether he is a Democrat or Republican, and no matter how conscientious he may be, comes sadly to the Members and says, "Oh, if we have this cloture change before the Senate, our southern friends will filibuster for 3 weeks. That means that the appropriation bills will not pass. That means that the great national proposals like the creation of Horse Shoe Bend National Military Park in Alabama or the Pea Ridge National Military Park in Arkansas would never get through the Senate and that we will not have a chance to have a vote on Hells Canyon Dam or the San Luis Dam in California.

We accumulate on the calendar enough of a backlog so that every Senator has a gift dangling on the Christmas tree and we are then told that the good fairies will take away the Christmas tree and that Santa Claus will not come down the chimney if we are bad boys and insist that a change in the cloture rule be brought before the Congress. There is one day, and only one day, that this matter can be considered in this Congress, and that is today. Any Senator who votes to table the motion, votes to end all possibility that the cloture rule of the Senate, unconstitutional though it may be, will be revised in the 85th Congress. I make that flat prediction without any fear that subsequent events may prove it to be untrue.

Then we hear the panic line that a rules proposal would get in the way of measures affecting the Suez situation and Hungary, and in the way of the fighters for freedom all over the world. We have been told not to get in the way of any of those things.

The House acted upon its rules promptly. It is ready to conduct business. The Middle East proposal which the President will announce before the Congress tomorrow can be taken up and considered by the House of Representatives. It is going to take some time, I believe, in the Foreign Relations Committee of the Senate. Anyone who is so naive as to believe that the proposal will be taken by that great body and rubber-stamped and reported in an hour or two is misguessing the situation. It is said that there is no committee to which it can be referred if we do not adopt these rules. All this propaganda advanced on the floor of the Senate today is only panic propaganda, because the proposal can be referred and will be referred, no matter what we do with the rules.

Mr. HUMPHREY. Mr. President, will the Senator from New Mexico yield further?

Mr. ANDERSON. I yield.

Mr. HUMPHREY. Mr. President, I wish to thank the Senator from New Mexico for bringing to our attention again some of the cries of anguish, fear, and trepidation that have been raised regarding what will happen if we revise the rules. It has been stated that there would be no appropriate committee to

which any message of the President or any statement of the President could be referred, like the statement which will come to us tomorrow on the crucial problems in the Middle East.

I have in my hand Public Law 601 of the 79th Congress, known as the Legislative Reorganization Act of 1946. That act supersedes the provisions which are found in the Senate Manual relating to Senate committees. The Senate committees are established now, not by rules of the Senate, but by statutory law. The Senator from New Mexico has pointed out that in the instance of Senate committees, they do not exist by mere sufferance of the rules of the Senate, but they exist by reason of the Reorganization Act.

I suggest, if it be agreeable to the Senator, that the portion of the Reorganization Act relating to Senate committees be included at this point in the RECORD.

Mr. ANDERSON. Mr. President, I ask unanimous consent that that may be done.

There being no objection, the portion of the Reorganization Act relating to Senate committees was ordered to be printed in the RECORD, as follows:

PART 1—STANDING RULES OF THE SENATE

STANDING COMMITTEES OF THE SENATE

SEC. 102. Rule 25 of the Standing Rules of the Senate is amended to read as follows:

"RULE 25

"Standing committees

"(1) The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise:

"(a) Committee on Agriculture and Forestry, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Agriculture generally.

"2. Inspection of livestock and meat products.

"3. Animal industry and diseases of animals.

"4. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

"5. Agricultural colleges and experiment stations.

"6. Forestry in general, and forest reserves other than those created from the public domain.

"7. Agricultural economics and research.

"8. Agricultural and industrial chemistry.

"9. Dairy industry.

"10. Entomology and plant quarantine.

"11. Human nutrition and home economics.

"12. Plant industry, soils, and agricultural engineering.

"13. Agricultural educational extension services.

"14. Extension of farm credit and farm security.

"15. Rural electrification.

"16. Agricultural production and marketing and stabilization of prices of agricultural products.

"17. Crop insurance and soil conservation.

"(b) Committee on Appropriations, to consist of 21 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Appropriation of the revenue for the support of the Government.

"(c) Committee on Armed Services, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Common defense generally.

"2. The War Department and the Military Establishment generally.

"3. The Navy Department and the Naval Establishment generally.

"4. Soldiers' and sailors' homes.

"5. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces.

"6. Selective Service.

"7. Size and composition of the Army and Navy.

"8. Forts, arsenals, military reservations, and navy yards.

"9. Ammunition depots.

"10. Maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone.

"11. Conservation, development, and use of naval petroleum and oil-shale reserves.

"12. Strategic and critical materials necessary for the common defense.

"(d) Committee on Banking and Currency, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Banking and currency generally.

"2. Financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule.

"3. Deposit insurance.

"4. Public and private housing.

"5. Federal Reserve System.

"6. Gold and silver, including the coinage thereof.

"7. Issuance of notes and redemption thereof.

"8. Valuation and revaluation of the dollar.

"9. Control of prices of commodities, rents, or services.

"(e) Committee on Civil Service, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. The Federal civil service generally.

"2. The status of officers and employees of the United States, including their compensation, classification, and retirement.

"3. The postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.

"4. Postal-savings banks.

"5. Census and the collection of statistics generally.

"6. The National Archives.

"(f) Committee on the District of Columbia, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—

"2. Public health and safety, sanitation, and quarantine regulations.

"3. Regulation of sale of intoxicating liquors.

"4. Adulteration of food and drugs.

"5. Taxes and tax sales.

"6. Insurance, executors, administrators, wills, and divorce.

"7. Municipal and juvenile courts.

"8. Incorporation and organization of societies.

"9. Municipal code and amendments to the criminal and corporation laws.

"(g) (1) Committee on Expenditures in the Executive Departments, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"(A) Budget and accounting measures, other than appropriations.

"(B) Reorganizations in the executive branch of the Government.

"(2) Such committee shall have the duty of—

"(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

"(B) studying the operation of Government activities at all levels with a view to determining its economy and efficiency;

"(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government;

"(D) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

"(h) Committee on Finance, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Revenue measures generally.

"2. The bonded debt of the United States.

"3. The deposit of public moneys.

"4. Customs, collection districts, and ports of entry and delivery.

"5. Reciprocal trade agreements.

"6. Transportation of dutiable goods.

"7. Revenue measures relating to the insular possessions.

"8. Tariffs and import quotas, and matters related thereto.

"9. National social security.

"10. Veterans' measures generally.

"11. Pensions of all the wars of the United States, general and special.

"12. Life insurance issued by the Government on account of service in the Armed Forces.

"13. Compensation of veterans.

"(i) Committee on Foreign Relations, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Relations of the United States with foreign nations generally.

"2. Treaties.

"3. Establishment of boundary lines between the United States and foreign nations.

"4. Protection of American citizens abroad and expatriation.

"5. Neutrality.

"6. International conferences and congresses.

"7. The American National Red Cross.

"8. Intervention abroad and declarations of war.

"9. Measures relating to the diplomatic service.

"10. Acquisition of land and buildings for embassies and legations in foreign countries.

"11. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

"12. United Nations Organization and international financial and monetary organizations.

"13. Foreign loans.

"(j) Committee on Interstate and Foreign Commerce, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Interstate and foreign commerce generally.

"2. Regulation of interstate railroads, buses, trucks, and pipelines.

"3. Communication by telephone, telegraph, radio, and television.

"4. Civil aeronautics.

"5. Merchant marine generally.

"6. Registering and licensing of vessels and small boats.

"7. Navigation and the laws relating thereto, including pilotage.

"8. Rules and international arrangements to prevent collisions at sea.

"9. Merchant marine officers and seamen.

"10. Measures relating to the regulation of common carriers by water and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

"11. Coast and Geodetic Survey.

"12. The Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.

"13. The United States Coast Guard and Merchant Marine Academies.

"14. Weather Bureau.

"15. Except as provided in paragraph (c), the Panama Canal and interoceanic canals generally.

"16. Inland waterways.

"17. Fisheries and wildlife, including research, restoration, refuges, and conservation.

"18. Bureau of Standards including standardization of weights and measures and the metric system.

"(k) Committee on the Judiciary, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Judicial proceedings, civil and criminal, generally.

"2. Constitutional amendments.

"3. Federal courts and judges.

"4. Local courts in the Territories and possessions.

"5. Revision and codification of the statutes of the United States.

"6. National penitentiaries.

"7. Protection of trade and commerce against unlawful restraints and monopolies.

"8. Holidays and celebrations.

"9. Bankruptcy, mutiny, espionage, and counterfeiting.

"10. State and Territorial boundary lines.

"11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.

"12. Civil liberties.

"13. Patents, copyrights, and trade-marks.

"14. Patent Office.

"15. Immigration and naturalization.

"16. Apportionment of Representatives.

"17. Measures relating to claims against the United States.

"18. Interstate compacts generally.

"(l) Committee on Labor and Public Welfare, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Measures relating to education, labor, or public welfare generally.

"2. Mediation and arbitration of labor disputes.

"3. Wages and hours of labor.

"4. Convict labor and the entry of goods made by convicts into interstate commerce.

"5. Regulation or prevention of importation of foreign laborers under contract.

"6. Child labor.

"7. Labor statistics.

"8. Labor standards.

"9. School-lunch program.

"10. Vocational rehabilitation.

"11. Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.

"12. United States Employees' Compensation Commission.

"13. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital; and St. Elizabeths Hospital.

"14. Public health and quarantine.

"15. Welfare of miners.

"16. Vocational rehabilitation and education of veterans.

"17. Veterans' hospitals, medical care and treatment of veterans.

"18. Soldiers' and sailors' civil relief.

"19. Readjustment of servicemen to civil life.

"(m) Committee on Public Lands, to consist of thirteen Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Public lands generally, including entry, easements, and grazing thereon.

"2. Mineral resources of the public lands.

"3. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

"4. Forest reserves and national parks created from the public domain.

"5. Military parks and battlefields, and national cemeteries.

"6. Preservation of prehistoric ruins and objects of interest on the public domain.

"7. Measures relating generally to Hawaii, Alaska, and the insular possessions of the United States, except those affecting their revenue and appropriations.

"8. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects.

"9. Interstate compacts relating to apportionment of waters for irrigation purposes.

"10. Mining interests generally.

"11. Mineral land laws and claims and entries thereunder.

"12. Geological survey.

"13. Mining schools and experimental stations.

"14. Petroleum conservation and conservation of the radium supply in the United States.

"15. Relations of the United States with the Indians and the Indian tribes.

"16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

"(n) The Committee on Public Works, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials and other matters relating to the following subjects:

"1. Flood control and improvement of rivers and harbors.

"2. Public works for the benefit of navigation, and bridges and dams (other than international bridges and dams).

"3. Water power.

"4. Oil and other pollution of navigable waters.

"5. Public buildings and occupied or improved grounds of the United States generally.

"6. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

"7. Measures relating to the Capitol Building and the Senate and House Office Buildings.

"8. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

"9. Public reservations and parks within the District of Columbia, including Rock Creek Park and the Zoological Park.

"10. Measures relating to the construction or maintenance of roads and post roads.

"(o) (1) Committee on Rules and Administration, to consist of 13 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"(A) Matters relating to the payment of money out of the contingent fund of the Senate or creating a charge upon the same; except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee.

"(B) Except as provided in paragraph (n) 8, matters relating to the Library of Congress and the Senate Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

"(C) Except as provided in paragraph (n) 8, matters relating to the Smithsonian Institution and the incorporation of similar institutions.

"(D) Matters relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally; Presidential succession.

"(E) Matters relating to parliamentary rules; floor and gallery rules; Senate Restaurant; administration of the Senate Office Building and of the Senate Wing of the Capitol; assignment of office space; and services to the Senate.

"(F) Matters relating to printing and correction of the CONGRESSIONAL RECORD.

"(2) Such committee shall also have the duty of examining all bills, amendments, and joint resolutions after passage by the Senate; and, in cooperation with the Committee on House Administration of the House of Representatives, of examining all bills and joint resolutions which shall have passed both Houses, to see that the same are correctly enrolled; and when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the Senate, to the President of the United States in person, and report the fact and date of such presentation to the Senate. Such committee shall also have the duty of assigning office space in the Senate Wing of the Capitol and in the Senate Office Building.

"(3) Each standing committee shall continue and have the power to act until their successors are appointed.

"(3) Each standing committee is authorized to fix the number of its members (but not less than one-third of its entire membership) who shall constitute a quorum thereof for the transaction of such business as may be considered by said committee, subject to the provisions of section 133 (d) of the Legislative Reorganization Act of 1946.

"(4) Each Senator shall serve on two standing committees and no more; except that Senators of the majority party who are members of the Committee on the District of Columbia or of the Committee on Expenditures in the Executive Departments may serve on three standing committees and no more."

Appropriations

SEC. 103. Rule 16 of the Standing Rules of the Senate is amended to read as follows:

"RULE 16

"Amendments to appropriation bills

"1. All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be

moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate submitted in accordance with law.

"2. The Committee on Appropriations shall not report an appropriation bill containing amendments proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate containing amendments proposing new or general legislation or any such restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.

"3. All amendments to general appropriation bills moved by direction of a standing or select committee of the Senate, proposing to increase an appropriation already contained in the bill, or to add new items of appropriation, shall, at least 1 day before they are considered, be referred to the Committee on Appropriations, and when actually proposed to the bill no amendment proposing to increase the amount stated in such amendment shall be received; in like manner, amendments proposing new items of appropriation to river and harbor bills, establishing post roads, or proposing new post roads, shall, before being considered, be referred to the Committee on Public Works.

"4. No amendment which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant to the subject matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; nor shall any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law be received if such restriction is to take effect or cease to be effective upon the happening of a contingency; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate; and any such amendment or restriction to a general appropriation bill may be laid on the table without prejudice to the bill.

"5. No amendment, the object of which is to provide for a private claim, shall be received to any general appropriation bill, unless it be to carry out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment.

"6. (a) Three members of the following-named committees, to be selected by their respective committees, shall be ex officio members of the Committee on Appropriations, to serve on said committee when the annual appropriation bill making appropriations for the purposes specified in the following table opposite the name of the committee is being considered by the Committee on Appropriations:

NAME OF COMMITTEE	PURPOSE OF APPROPRIATION
Committee on Agriculture and Forestry.	For the Department of Agriculture.
Committee on Civil Service.	For the Post Office Department.
Committee on Armed Services.	For the Department of War; for the Department of the Navy.
Committee on the District of Columbia.	For the District of Columbia.
Committee on Public Works.	For Rivers and Harbors.
Committee on Foreign Relations.	For the Diplomatic and Consular Service.

"(b) At least one member of each committee enumerated in subparagraph (a), to be selected by his or their respective committees, shall be a member of any conference committee appointed to confer with the House upon the annual appropriation bill making appropriations for the purposes specified in the foregoing table opposite the name of his or their respective committee.

"7. When a point of order is made against any restriction on the expenditure of funds appropriated in a general appropriation bill on the ground that the restriction violates this rule, the rule shall be construed strictly and, in case of doubt, in favor of the point of order."

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

SEC. 121. (a) Rule 10 of the Rules of the House of Representatives is amended to read as follows:

"RULE 10

"Standing committees

"(a) There shall be elected by the House, at the commencement of each Congress, the following standing committees:

"1. Committee on Agriculture, to consist of 27 Members.

"2. Committee on Appropriations, to consist of 43 Members.

"3. Committee on Armed Services, to consist of 33 Members.

"4. Committee on Banking and Currency, to consist of 27 Members.

"5. Committee on Post Office and Civil Service, to consist of 25 Members.

"6. Committee on the District of Columbia, to consist of 25 Members.

"7. Committee on Education and Labor, to consist of 25 Members.

"8. Committee on Expenditures in the Executive Departments, to consist of 25 Members.

"9. Committee on Foreign Affairs, to consist of 25 Members.

"10. Committee on House Administration, to consist of 25 Members.

"11. Committee on Interstate and Foreign Commerce, to consist of 27 Members.

"12. Committee on the Judiciary, to consist of 27 members.

"13. Committee on Merchant Marine and Fisheries, to consist of 25 members.

"14. Committee on Public Lands, to consist of 25 members.

"15. Committee on Public Works, to consist of 27 members.

"16. Committee on Rules, to consist of 12 members.

"17. Committee on Un-American Activities, to consist of nine members.

"18. Committee on Veterans' Affairs, to consist of 27 members.

"19. Committee on Ways and Means, to consist of 25 members.

"(b) (1) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time.

"(2) At the commencement of each Congress, the House shall elect as chairman of each standing committee one of the members thereof; in the temporary absence of the chairman, the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

"(3) All vacancies in standing committees in the House shall be filled by election by the House. Each Member shall be elected to serve on one standing committee and no more; except that Members who are elected to serve on the Committee on the District of Columbia or on the Committee on Un-American Activities may be elected to serve on two standing committees and no more, and Members of the majority party who are elected to serve on the Committee on Expenditures in the Executive Departments or on the Committee on House Administration may be elected to serve on two standing committees and no more."

(b) Rule 11 of the Rules of the House of Representatives is amended to read as follows:

"RULE 11

"Powers and duties of committees

"(1) All proposed legislation, messages, petitions, memorials, and other matters relating to the subjects listed under the standing committees named below shall be referred to such committees, respectively: *Provided*, That, unless otherwise provided herein, any matter within the jurisdiction of a standing committee prior to January 2, 1947, shall remain subject to the jurisdiction of that committee or of the consolidated committee succeeding generally to the jurisdiction of that committee.

"(a) Committee on Agriculture.

"1. Agriculture generally.

"2. Inspection of livestock and meat products.

"3. Animal industry and diseases of animals.

"4. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

"5. Agricultural colleges and experiment stations.

"6. Forestry in general, and forest reserves other than those created from the public domain.

"7. Agricultural economics and research.

"8. Agricultural and industrial chemistry.

"9. Dairy industry.

"10. Entomology and plant quarantine.

"11. Human nutrition and home economics.

"12. Plant industry, soils, and agricultural engineering.

"13. Agricultural educational extension services.

"14. Extension of farm credit and farm security.

"15. Rural electrification.

"16. Agricultural production and marketing and stabilization of prices of agricultural products.

"17. Crop insurance and soil conservation.

"(b) Committee on Appropriations.

"1. Appropriation of the revenue for the support of the Government.

"(c) Committee on Armed Services.

"1. Common defense generally.

"2. The War Department and the Military Establishment generally.

"3. The Navy Department and the Naval Establishment generally.

"4. Soldiers' and sailors' homes.

"5. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces.

"6. Selective service.

"7. Size and composition of the Army and Navy.

"8. Forts, arsenals, military reservations, and navy yards.

"9. Ammunition depots.

"10. Conservation, development, and use of naval petroleum and oil-shale reserves.

"11. Strategic and critical materials necessary for the common defense.

"12. Scientific research and development in support of the armed services.

"(d) Committee on Banking and Currency.

"1. Banking and currency generally.

"2. Financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule.

"3. Deposit insurance.

"4. Public and private housing.

"5. Federal Reserve System.

"6. Gold and silver, including the coinage thereof.

"7. Issuance of notes and redemption thereof.

"8. Valuation and revaluation of the dollar.

"9. Control of prices of commodities, rents, or services.

"(e) Committee on Post Office and Civil Service.

"1. The Federal civil service generally.

"2. The status of officers and employees of the United States, including their compensation, classification, and retirement.

"3. The postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.

"4. Postal-savings banks.

"5. Census and the collection of statistics generally.

"6. The National Archives.

"(f) Committee on the District of Columbia.

"1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—

"2. Public health and safety, sanitation, and quarantine regulations.

"3. Regulation of sale of intoxicating liquors.

"4. Adulteration of food and drugs.

"5. Taxes and tax sales.

"6. Insurance, executors, administrators, wills, and divorce.

"7. Municipal and juvenile courts.

"8. Incorporation and organization of societies.

"9. Municipal code and amendments to the criminal and corporation laws.

"(g) Committee on Education and Labor.

"1. Measures relating to education or labor generally.

"2. Mediation and arbitration of labor disputes.

"3. Wages and hours of labor.

"4. Convict labor and the entry of goods made by convicts into interstate commerce.

"5. Regulation or prevention of importation of foreign laborers under contract.

"6. Child labor.

"7. Labor statistics.

"8. Labor standards.

"9. School-lunch program.

"10. Vocational rehabilitation.

"11. United States Employees' Compensation Commission.

"12. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital; and Saint Elizabeths Hospital.

"13. Welfare of miners.

"(h) (1) Committee on Expenditures in the Executive Departments.

"(A) Budget and accounting measures, other than appropriations.

"(B) Reorganizations in the executive branch of the Government.

"(2) Such committee shall have the duty of—

"(A) Receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports.

"(B) Studying the operation of Government activities at all levels with a view to determining its economy and efficiency.

"(C) Evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government.

"(D) Studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

"(i) Committee on Foreign Affairs:

"1. Relations of the United States with foreign nations generally.

"2. Establishment of boundary lines between the United States and foreign nations.

"3. Protection of American citizens abroad and expatriation.

"4. Neutrality.

"5. International conferences and congresses.

"6. The American National Red Cross.

"7. Intervention abroad and declarations of war.

"8. Measures relating to the diplomatic service.

"9. Acquisition of land and buildings for embassies and legations in foreign countries.

"10. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

"11. United Nations Organization and international financial and monetary organizations.

"12. Foreign loans.

"(j) (1) Committee on House Administration:

"(A) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.

"(B) Expenditure of the contingent fund of the House.

"(C) The auditing and settling of all accounts which may be charged to the contingent fund.

"(D) Measures relating to accounts of the House generally.

"(E) Appropriations from the contingent fund.

"(F) Measures relating to services to the House, including the House restaurant and administration of the House Office Buildings and of the House wing of the Capitol.

"(G) Measures relating to the travel of Members of the House.

"(H) Measures relating to the assignment of office space for Members and committees.

"(I) Measures relating to the disposition of useless executive papers.

"(J) Except as provided in paragraph (o) 8, matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

"(K) Except as provided in paragraph (o) 8, matters relating to the Smithsonian Institution and the incorporation of similar institutions.

"(L) Matters relating to printing and correction of the CONGRESSIONAL RECORD.

"(M) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

"(2) Such committee shall also have the duty of—

"(A) Examining all bills, amendments, and joint resolutions after passage by the House; and in cooperation with the Senate Committee on Rules and Administration, of examining all bills and joint resolutions which shall have passed both Houses, to see that they are correctly enrolled; and when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the House, to the President of the United States in person, and report the fact and date of such presentation to the House.

"(B) Reporting to the Sergeant at Arms of the House the travel of Members of the House.

"(C) Arranging a suitable program for each day observed by the House of Representatives as a memorial day in memory Members of the Senate and House of Representatives who have died during the preceding period, and to arrange for the publication of the proceedings thereof.

"(k) Committee on Interstate and Foreign Commerce.

"1. Interstate and foreign commerce generally.

"2. Regulation of interstate and foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission.

"3. Regulation of interstate and foreign communications.

"4. Civil aeronautics.

"5. Weather Bureau.

"6. Interstate oil compacts; and petroleum and natural gas, except on the public lands.

"7. Securities and exchanges.

"8. Regulation of interstate transmission of power, except the installation of connections between Government waterpower projects.

"9. Railroad labor and railroad retirement and unemployment, except revenue measures relating thereto.

"10. Public health and quarantine.

"11. Inland waterways.

"12. Bureau of Standards, standardization of weights and measures, and the metric system.

"(l) Committee on the Judiciary.

"1. Judicial proceedings, civil and criminal, generally.

"2. Constitutional amendments.

"3. Federal courts and judges.

"4. Local courts in the Territories and possessions.

"5. Revision and codification of the statutes of the United States.

"6. National penitentiaries.

"7. Protection of trade and commerce against unlawful restraints and monopolies.

"8. Holidays and celebrations.

"9. Bankruptcy, mutiny, espionage, and counterfeiting.

"10. State and Territorial boundary lines.

"11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.

"12. Civil liberties.

"13. Patents, copyrights, and trademarks.

"14. Patent Office.

"15. Immigration and naturalization.

"16. Apportionment of Representatives.

"17. Measures relating to claims against the United States.

"18. Interstate compacts generally.

"19. Presidential succession.

"(m) Committee on Merchant Marine and Fisheries.

"1. Merchant marine generally.

"2. Registering and licensing of vessels and small boats.

"3. Navigation and the laws relating thereto, including pilotage.

"4. Rules and international arrangements to prevent collisions at sea.

"5. Merchant marine officers and seamen.

"6. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

"7. The Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.

"8. United States Coast Guard and Merchant Marine Academies.

"9. Coast and Geodetic Survey.

"10. The Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.

"11. Fisheries and wildlife, including research, restoration, refuges, and conservation.

"(n) Committee on Public Lands.

"1. Public lands generally, including entry, easements, and grazing thereon.

"2. Mineral resources of the public lands.

"3. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

"4. Forest reserves and national parks created from the public domain.

"5. Military parks and battlefields, and national cemeteries.

"6. Preservation of prehistoric ruins and objects of interest on the public domain.

"7. Measures relating generally to Hawaii, Alaska, and the insular possessions of the United States, except those affecting the revenue and appropriations.

"8. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.

"9. Interstate compacts relating to apportionment of waters for irrigation purposes.

"10. Mining interests generally.

"11. Mineral land laws and claims and entries thereunder.

"12. Geological survey.

"13. Mining schools and experimental stations.

"14. Petroleum conservation on the public lands and conservation of the radium supply in the United States.

"15. Relations of the United States with the Indians and the Indian tribes.

"16. Measures relating to the care, education, and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

"(o) Committee on Public Works.

"1. Flood control and improvement of rivers and harbors.

"2. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

"3. Water power.

"4. Oil and other pollution of navigable waters.

"5. Public buildings and occupied or improved grounds of the United States generally.

"6. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

"7. Measures relating to the Capitol Building and the Senate and House Office Buildings.

"8. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

"9. Public reservations and parks within the District of Columbia, including Rock Creek Park and the Zoological Park.

"10. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provisions for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

"(p) Committee on Rules.

"1. The rules, joint rules, and order of business of the House.

"2. Recesses and final adjournments of Congress.

"(q) (1) Committee on Un-American Activities.

"(A) Un-American activities.

"(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

"The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

"For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

"(r) Committee on Veterans' Affairs.

"1. Veterans' measures generally.

"2. Pensions of all the wars of the United States, general and special.

"3. Life insurance issued by the Government on account of service in the Armed Forces.

"4. Compensation, vocational rehabilitation, and education of veterans.

"5. Veterans' hospitals, medical care, and treatment of veterans.

"6. Soldiers' and sailors' civil relief.

"7. Readjustment of servicemen to civil life.

"(s) Committee on Ways and Means.

"1. Revenue measures generally.

"2. The bonded debt of the United States.

"3. The deposit of public moneys.

"4. Customs, collection districts, and ports of entry and delivery.

"5. Reciprocal trade agreements.

"6. Transportation of dutiable goods.

"7. Revenue measures relating to the insular possessions.

"8. National social security.

"(2) (a) The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules—on rules, joint rules, and order of business; the Committee on House Administration—on the right of a Member to his seat, enrolled bills, on all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House; the Committee on Ways and Means—on bills raising revenue; the Committee on Appropriations—on the general appropriation bills; the Committee on Public Works—on bills authorizing the improvement of rivers and harbors; the Committee on the Public Lands—on bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, bills for the reservation of the public lands for the benefit of actual and bona fide settlers, and bills for the admission of new States; the Committee on Veterans' Affairs—on general pension bills.

"(b) It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last 3 days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of rule 24 shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of rule 16.

"(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within 3 legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within 7 legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules shall make an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House any such adverse report, and it shall be in order to move the adoption by the House of said resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

"(d) The Committee on House Administration shall make final report to the House in all contested-election cases not later than 6 months from the first day of the first regular session of the Congress to which the contestee is elected except in a contest from the Territory of Alaska, in which case the time shall not exceed 9 months.

"(e) A standing committee of the House (other than the Committee on Appropriations) shall meet to consider any bill or resolution pending before it (A) on all regular meeting days selected by the committee; (B) upon the call of the chairman of the committee; (C) if the chairman of the committee, after 3 days' consideration, refuses or fails, upon the request of at least three members of the committee, to call a special meeting of the committee within 7 calendar days from the date of said request, then, upon the filing with the clerk of the committee of the written and signed request of a majority of the committee for a called special meeting of the committee, the committee shall meet on the day and hour specified in said written request. It shall be the duty of the clerk of the committee to notify all members of the committee in the usual way of such called special meeting.

"(f) The rules of the House are hereby made the rules of its standing committees so far as applicable, except that a motion to recess from day to day is hereby made a motion of high privilege in said committees."

DELEGATES AND RESIDENT COMMISSIONER

SEC. 122. Rule 12 of the Standing Rules of the House of Representatives is amended to read as follows:

"RULE 12

"Delegates and Resident Commissioner

"1. The Delegates from Hawaii and Alaska, and the Resident Commissioner to the United States from Puerto Rico, shall be elected to serve as additional members on the Committees on Agriculture, Armed Services, and Public Lands; and they shall possess in such committees the same powers and privileges as in the House, and may make any motion except to reconsider."

REFERENCE OF PRIVATE CLAIMS BILLS

SEC. 123. Paragraph 3 of rule XXI of the Standing Rules of the House of Representatives is amended to read as follows:

"3. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on Foreign Affairs and to the Committee on the Judiciary."

PART 3—PROVISIONS APPLICABLE TO BOTH HOUSES

PRIVATE BILLS BANNED

SEC. 131. No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Federal Tort Claims Act, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in either the Senate or the House of Representatives.

CONGRESSIONAL ADJOURNMENT

SEC. 132. Except in time of war or during a national emergency proclaimed by the President, the two Houses shall adjourn sine die not later than the last day (Sundays excepted) in the month of July in each year unless otherwise provided by the Congress.

COMMITTEE PROCEDURE

SEC. 133. (a) Each standing committee of the Senate and the House of Representatives (except the Committees on Appropriations) shall fix regular weekly, biweekly, or monthly meeting days for the transaction of business before the committee, and additional meetings may be called by the chairman as he may deem necessary.

(b) Each such committee shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a record vote is demanded.

(c) It shall be the duty of the chairman of each such committee to report or cause to be reported promptly to the Senate or House of Representatives, as the case may be, any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(d) No measure or recommendation shall be reported from any such committee unless a majority of the committee were actually present.

(e) Each such standing committee shall, so far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument. The staff of each committee shall prepare digests of such statements for the use of committee members.

(f) All hearings conducted by standing committees or their subcommittees shall be open to the public, except executive sessions for marking up bills or for voting or where the committee by a majority vote orders an executive session.

COMMITTEE POWERS

SEC. 134. (a) Each standing committee of the Senate, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures (not in excess of $10,000 for each committee during any Congress) as it deems advisable. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding 25 cents per hundred words. The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

(b) Every committee and subcommittee serving the Senate and House of Representatives shall report the name, profession, and total salary of each staff member employed by it, and shall make an accounting of funds appropriated to it and expended by it to the Secretary of the Senate and Clerk of the House of Representatives, as the case may be, at least once every 6 months, and such information shall be published periodically in the Congressional Directory when and as the same is issued and as Senate and House documents, respectively, every 3 months.

(c) No standing committee of the Senate or the House, except the Committee on Rules of the House, shall sit, without special leave, while the Senate or the House, as the case may be, is in session.

CONFERENCE RULES ON AMENDMENTS IN NATURE OF SUBSTITUTE

SEC. 135. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House. They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

(b) In any case in which the conferees violate subsection (a), the conference report shall be subject to a point of order.

LEGISLATIVE OVERSIGHT BY STANDING COMMITTEES

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

DECISIONS ON QUESTIONS OF COMMITTEE JURISDICTION

SEC. 137. In any case in which a controversy arises as to the jurisdiction of any standing committee of the Senate with respect to any proposed legislation, the question of jurisdiction shall be decided by the Presiding Officer of the Senate, without debate, in favor of that committee which has jurisdiction over the subject matter which predominates in such proposed legislation; but such decision shall be subject to an appeal.

LEGISLATIVE BUDGET

SEC. 138. (a) The Committee on Ways and Means and the Committee on Appropriations of the House of Representatives, and the Committee on Finance and the Committee on Appropriations of the Senate, or duly authorized subcommittees thereof, are authorized and directed to meet jointly at the beginning of each regular session of Congress and after study and consultation, giving due consideration to the budget recommendations of the President, report to their respective Houses a legislative budget for the ensuing fiscal year, including the estimated over-all Federal receipts and expenditures for such year. Such report shall contain a recommendation for the maximum amount to be appropriated for expenditure in such year which shall include such an amount to be reserved for deficiencies as may be deemed necessary by such committees. If the estimated receipts exceed the estimated expenditures, such report shall contain a recommendation for a reduction in the public debt. Such report shall be made by February 15.

(b) The report shall be accompanied by a concurrent resolution adopting such budget, and fixing the maximum amount to be appropriated for expenditure in such year. If the estimated expenditures exceed the estimated receipts, the concurrent resolution shall include a section substantially as follows: "That it is the sense of the Congress that the public debt shall be increased in an amount equal to the amount by which the estimated expenditures for the ensuing fiscal year exceed the estimated receipts, such amount being $."

HEARINGS AND REPORTS BY APPROPRIATIONS COMMITTEES

SEC. 139. (a) No general appropriation bill shall be considered in either House unless, prior to the consideration of such bill, printed committee hearings and reports on such bill have been available for at least three calendar days for the Members of the House in which such bill is to be considered.

(b) The Committees on Appropriations of the two Houses are authorized and directed, acting jointly, to develop a standard appropriation classification schedule which will clearly define in concise and uniform accounts the subtotals of appropriations asked for by agencies in the executive branch of the Government. That part of the printed hearings containing each such agency's request for appropriations shall be preceded by such a schedule.

(c) No general appropriation bill or amendment thereto shall be received or considered in either House if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced.

(d) The Appropriations Committees of both Houses are authorized and directed to make a study of (1) existing permanent appropriations with a view to limiting the number of permanent appropriations and to recommend to their respective Houses what permanent appropriations, if any, should be discontinued; and (2) the disposition of funds resulting from the sale of Government property or services by all departments and agencies in the executive branch of the Government with a view to recommending to their respective Houses a uniform system of control with respect to such funds.

RECORDS OF CONGRESS

SEC. 140. (a) The Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed, acting jointly, to obtain at the close of each Congress all of the noncurrent records of the Congress and of each committee thereof and transfer them to the National Archives for preservation, subject to the orders of the Senate or the House, respectively.

(b) The Clerk of the House of Representatives is authorized and directed to collect all of the noncurrent records of the House of Representatives from the 1st to the 76th Congress, inclusive, and transfer such records to the National Archives for preservation, subject to the orders of the Senate or the House respectively.

PRESERVATION OF COMMITTEE HEARINGS

SEC. 141. The Librarian of the Library of Congress is authorized and directed to have bound at the end of each session of Congress the printed hearings of testimony taken by each committee of the Congress at the preceding session.

EFFECTIVE DATE

SEC. 142. This title shall take effect on January 2, 1947; except that this section and sections 140 and 141 shall take effect on the date of enactment of this act.

Mr. HUMPHREY. Mr. President, I thank the Senator from New Mexico for his courtesy.

Mr. ANDERSON. I appreciate the contribution of the Senator from Minnesota, because when I heard the argument that if the President came before Congress to deliver a message on Saturday there would be absolutely no committee to which the message could be referred, I thought, "Is not that strange? Someone must have forgotten that Congress passed the Reorganization Act, and that act, which was passed by both Houses of Congress and was signed by the President, will be effective regardless of the operations of some of the rules some Senators worry about."

Mr. HUMPHREY. Mr. President, will the Senator further yield?

Mr. ANDERSON. I yield.

Mr. HUMPHREY. Would the Senator be interested to know that in Public Law 601 the following language appears, under title I, Changes in Rules of Senate and House:

SEC. 101. The following sections of this title are enacted by Congress:

(a) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and—

The section goes on to say:

(b) With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

I call the Senator's attention to the fact that in the Reorganization Act of 1946, which is the law—it is not merely a Senate rule, but is the law, by which this body is bound until such time as the law may be changed by both Houses of Congress—subsection (b) of section 101 of title I provides:

With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

I would note that at least the preponderance of the evidence in that particular situation would indicate that Congress in 1946 recognized what the Senator from New Mexico is pointing out so well and so succinctly today; namely, the constitutional right of either House to change its rules, at its own discretion, and at its own will.

Mr. ANDERSON. And one of the authors of that law is now a Member of the Senate.

Mr. President, I expect, as the discussion proceeds, that we shall hear a great deal about whether the Senate is or is not a continuing body. I respectfully suggest to those who participate in that discussion that it has nothing whatsoever to do with this debate. The Senate may or may not be a continuing body; but the Constitution permits each House to determine the rules of its own procedure. Whether it is a continuing or a noncontinuing body, the obligation to determine its rules rests upon the Senate.

The 1890 episode in the House of Representatives demonstrates that the carryover of rules results not from the binding effect of any past action of any past Congress or House thereof, but from majority acquiescence. Each House is responsible for determining its rules of proceedings for each Congress. I hope the Senate will not try to shirk or hide this responsibility by silent acquiescence. It is our duty to take responsibility for the rules which will govern our procedures, and not to cast that responsibility upon the dead hands of past Congresses.

It is said by many that the Senate differs radically from the House; that the Senate is a continuing body and the House is not. I do not propose to burden the Senate at this time with a prolonged legal argument as to the meaning and effect of the phrase "continuing body" in relation to the Senate. The phrase "continuing body" does not appear in the Constitution, and no doctrine that envisages the Senate as a continuing body can obscure the fact that the Constitution gave to the Senate the same continuing authority and responsibility in respect to the determination of its rules of procedure that it gave to the House.

It may be appropriate to regard the Senate as a continuing body for some purposes but not for others. It may, for example, be useful to regard the Senate as a continuing body for giving effect to action of the Senate in one Congress in aid of action which may be taken by the Senate in the next Congress. The case of *McGrain* v. *Daugherty* (273 U. S. 175) points that out. But it does not follow that it is useful or proper to give effect to action of the Senate in one Congress not in aid but in restraint of action by the Senate in the next Congress.

The doctrine of the Senate being a continuing body cannot be availed of to take from the Senate the continuing power and responsibility entrusted to it to determine its rules of proceedings. The Constitution did not contemplate that the Senate of one Congress should be indefinitely bound by the dead hands of the Senate of past Congresses. There will be raised many, many questions like that as we go along.

I do not desire to detain the Senate further, because there are many other Senators on both sides of the question who wish to be heard. I only hope the Senate will realize that what is now sought is not something to be shoved aside on the theory that the Suez situation will suffer, or that some freedom fighter in Hungary will suffer. After all, some freedom in the Senate of the United States is worth while. It must be preserved if the Senate is to remain the great bulwark of liberty upon earth.

Mr. JOHNSON of Texas. Mr. President, may I ask the Senator from New Mexico if any other Senator who wishes to address the Senate on his side of the question is available to speak at this time? I do not have a speaker on my side at this time. We are in the process of formulating such a list of speakers now.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the distinguished Senator from New York.

Mr. IVES. Mr. President, the Senate is today in a situation very much like that of 4 years ago, at the opening of the 83d Congress. I rise to state again my strong view that every legislative body in a free government should adopt rules periodically. In the case of the Senate, periodically would be, logically, every 2 years—at the beginning of each new Congress.

Much has been said and much will be said during this debate upon the question of whether or not the Senate is a continuing body. That question, to my mind, is not material. Let us accept the contention that the Senate is a continuing body. Does that justify the assumption that the rules continue? That assumption appears to be based on two facts: one that approximately 64 Senators are continuously in office; the other that the rules of the Senate always have been treated as continuing.

The fact that something always has been done in a certain way is a footless argument for continuing to do it that way if a majority of those concerned wish to do it differently. I hope that the Senate will not become enslaved to the fallacy that what has always been must always be.

If we are to adhere rigidly to the view that the rules of the Senate continue, why then should we observe the present practice with respect to such matters as proposed legislation and nominations? We accept the fact that bills before the Senate die with the expiration of a Congress and must be reintroduced if they are to be considered in a succeeding Congress. We require the President to resubmit nominations on which the Senate failed to act before the end of a Congress. I contend that, in logic, the same condition should obtain with respect to the rules.

It is true that approximately two-thirds of the authorized membership of the Senate are always in office. But what about the one-third or so who arrive in this chamber every second year as newly elected or reelected Members? Are they never to have an effective opportunity to pass upon the rules by which they will be bound as Senators? Certainly they do not have such an opportunity if the Senate's rules are continued from Congress to Congress without reappraisal or readoption, without any affirmative action whatever. The Constitution provides that the Senate "may determine the rules of its proceedings." The fact is that the Senate cannot determine the rules of its proceedings whenever a minority—and it can be a very tiny minority—is opposed to such a determination.

This situation makes the Senate almost unique among legislative bodies in the United States. Under section 3 of rule 22, it is impossible to limit debate on any motion to take up a proposal to change the rules. Yet, according to a compilation which has come to my hand, 45 of the 48 States forbid filibustering in the upper houses of their State legislatures.

The great majority of the States which do put a limitation on debate provide that it shall be done by a majority vote. In other words, these bodies can bring legislation to a vote when it is the desire of the majority to do so. This cannot be done in the United States Senate unless 64 Senators agree to do so. And it amounts to an unreasonable and, from a practical standpoint, unattainable requirement.

I have always believed—this is my personal belief—that every legislative body should conduct its business by action of a majority of its authorized membership, except in the rare instances where constitutional or statutory mandate otherwise directs. I have always bemoaned the fact that in certain instances, and because it does not function through the majority procedure to which I refer, the United States Senate sometimes is powerless to control its own action.

It is probably unfortunate that the present issue before the Senate has become entangled with civil rights. It is vitally important that this Nation assure to every one of its citizens the effective exercise of his civil rights. And it is true that the Congress is powerless to provide that assurance as long as the Senate is hobbled by rule 22 in its present form. But there have been, and will be, other issues upon which the United States Senate should act. The point which is squarely before us is whether the Senate shall have the power to act if a reasonable number of its Members—and by that I mean 49 or more—believe that action by the Senate is necessary. There can be no such action if the Senate is to be bound eternally to rules adopted in the past, often generations ago.

I recognize, of course, that there is a difference of opinion among those of us who feel so strongly that the rules of the Senate should be changed so that debate may be limited through the action of a more reasonable number of Senators than are now required for that purpose. Although I myself, as I have stated, favor a majority of the authorized membership—in other words, 49—I would be perfectly willing to agree to a different requirement, assuming that it enables us in general to reach the goal which we are seeking.

In closing, I quote a remark made recently by Professor Samuel Beer, chairman of the Department of Government at Harvard University:

> Thomas Jefferson warned that the filibuster would bring Congress into disrepute and serve to transfer public confidence to the executive. It is remarkable how the Senate has been able to survive disrepute, but this sort of thing cannot happen too often. The champion of the Congress should be wary of the filibuster.

Mr. President, I yield back any time I have left.

The PRESIDING OFFICER (Mr. STENNIS in the chair). The Senator from New York yields back 3 minutes.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its clerks, communicated to the Senate the intelligence of the death of Hon. Carl Hinshaw, late a Representative from the State of California, and transmitted the resolutions of the House thereon.

The message also communicated the intelligence of the death of Hon. T. Millet Hand, late a Representative from the State of New Jersey, and transmitted the resolutions of the House thereon.

The message further communicated the intelligence of the death of Hon. J. Percy Priest, late a Representative from the State of Tennessee, and transmitted the resolutions of the House thereon.

The message also communicated the intelligence of the death of Hon. Antonio M. Fernandez, late a Representative from the State of New Mexico, and transmitted the resolutions of the House thereon.

RULES OF THE SENATE

Mr. JENNER addressed the Chair.

The PRESIDING OFFICER. The Senate is operating on an allocation of time.

Mr. JOHNSON of Texas. Let me inquire how much time the Senator from Indiana desires to have.

Mr. JENNER. I think 15 minutes will be sufficient.

Mr. JOHNSON of Texas. Mr. President, I yield 15 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 15 minutes.

Mr. JENNER. Mr. President, I rise today to advocate freedom of speech. That may sound strange to newcomers in this body; but adoption of the proposals advanced by those who desire a majority-rule cloture procedure would, in fact, put an end to freedom of speech in the Senate.

Today I am in a unique position, because I favor civil-rights legislation, but I wish to have rule 22 amended in accordance with the amendment I submitted on January 7, 1953. That amendment would change the present rule 22 so as to require the affirmative votes of two-thirds of the Senators present and voting, and also to provide for 5 days' notice on the filing of a cloture petition. In other words, I think that rule 22 as it now exists should be modified; but, on the other hand, I do not think the modification should go to the extent of destroying freedom of speech in the Senate by letting a majority gag a minority.

Mr. President, I wish to give a little of the history regarding the previous question.

In 1816, the House of Representatives debated the issue of free debate. They adopted a strict cloture by a perversion of the meaning of the previous question.

Mr. Gaston, in speaking in favor of free debate, pointed out that the original purpose of the previous question was to postpone one subject in order to take up another. In other words, it was simply a demand that the House should first pronounce whether it was then expedient to decide the question under debate or to turn temporarily to other business.

The Continental Congress followed this procedure, and used the previous question properly.

However, through the years following the Continental Congress the meaning of the previous question changed.

This was the reason for the debate in 1816. Mr. Gaston pointed out at that time that the House, in attempting to change the historic and true meaning of the previous question, was abandoning true principles. It is interesting to note to which group of Members he referred. I quote:

> This sir, was in 1798, in the days which have been falsely called the days of terror; but which I feel a pride in showing were the days of correct principles. We had not then discovered how to construe away the rights of the people or their Representatives. This illustrious discovery was reserved for the genius of modern republicanism.

This view was further substantiated by the elder Senator Henry Cabot Lodge, who in 1893 said:

> There never has been in the Senate any rule which enabled the majority to close debate or compel a vote. The previous question, which existed in the earliest years, and was abandoned in 1806, was the previous question of England, and not that with which everyone is familiar today in our House of Representatives. It was not in practice a form of cloture, and it is therefore correct to say that the power of closing debate in the modern sense has never existed in the Senate.

It would be a sad day for America if the right of free debate in the Senate were abolished. Surely, the Founding Fathers, many of whom were active in Congress, never intended that the Senate should prohibit unlimited debate.

Through the years the Senate has debated the pros and cons of unlimited debate. It is curious to note that for over 125 years, or from 1789 until 1917, the Senate had no cloture rules at all. During that time the parade of great men to the Senate continued, and most of them were firm advocates of free debate. Since 1917 we have had a two-thirds requirement in one form or another.

Today I should like to see the rule amended so as to require the favorable votes of two-thirds of the Senators present and voting, instead of the favorable votes of two-thirds of a constitutional quorum.

I do not believe that our civil-rights legislation should be tied to the right of free debate. The principle of free debate is, in itself, one of the most important foundations of American liberty. Our civil-rights legislation should be introduced and passed. I think that ultimately it will be, and I believe it will be at this session.

As a supporter of civil-rights measures which have floundered and died in the Senate, I know full well that there have been abuses of the right of free debate. But, Mr. President, the end never justified the means. Therefore, the right of free debate should not be destroyed merely to bring about the passage of certain proposed legislation.

The Senate should be on guard against a strategy 1,000 years old. I refer to those who raise a great and perhaps valid

moral issue, on the one hand, and then relate it to the desired goal, on the other hand. Then the campaign is waged almost solely on the moral issue. The real goal is thus obscured. In the instant case the desired end and the real reason why some raise the civil-rights issue is to impose a majority rule on the Senate, not only for civil-rights legislation, but for all legislation to come.

I say that even if civil-rights legislation is enacted today, those opponents of free debate will continue to attack it until it is destroyed. To many people, civil rights is a convenient tool to be used to achieve a desired end.

The current rules of the Senate provide adequate remedies. Besides the well-known rule 22 Senators may:

Require speakers to stand and not sit or walk around.

Take away the floor for using unparliamentary language.

Rise to a point of order against quorum calls where no business has intervened since a rollcall disclosed the presence of a quorum.

Object to reading a paper, under rule 11.

Enforce rule 19.

Run the Senate 24 hours a day.

It is a well-known rule in every court that petitioners must exhaust all available remedies before filing an appeal. I believe the same principle applies here.

I like to think of Congress as trustees to preserve what the creators of the trust founded. The terms of this trust are to be found in the Constitution of the United States. The beneficiaries are the young people and unborn children of the future. Our duties as trustees are set forth in the Constitution.

Under its terms, the Senate was created to insure equality among the several States. The proposition which many of the original States demanded, and got—namely, equality of representation in the form of a United States Senate, is not even debatable. A Senator does not represent population or area, but, rather, a State.

Any limitation on debate impairs the equal representation of the States in the Senate. However, if we keep the present rules, each State will be adequately represented. But it is my firm belief that if the majority rule advocates prevail, the States would, in effect, be denied equal suffrage.

Article V of the Constitution provides that "no State without its consent, shall be deprived of its equal suffrage in the Senate." What right have we to determine to do precisely what the Constitution forbids? Where is Indiana's equal suffrage if a majority in the Senate decides that it has neither the time nor inclination to hear either of her Senators? This right to speak and be heard is the one means we have to protect and perpetuate this equality.

I now turn to another part of the Constitution. No citizen shall be deprived of life, liberty, or property, without due process of law. Furthermore, every citizen in the country is recognized as possessing the right, either by himself or peaceably assembled with others, to petition the Government for a redress of grievances.

Citizens make known these grievances and desires through their trustees, or Senators. Because of our right to speak on this floor, these petitions are publicized, and many times laws are passed redressing their grievances. I believe that to refuse to receive petitions and redress grievances is an act of tyranny prohibited by the Constitution. Free debate on the Senate floor insures every citizen the right of petition and rightful redress. I assert, Mr. President, that the American people have a constitutional right to be heard before their money is voted or their liberty restrained, and we are their legal trustees. I believe that the entire Congress cannot, by law, deprive them of their constitutional franchise, the right to petition for redress of grievances. The Senate is not competent to close the mouth through which the petitioners speak.

Mr. President, our Founding Fathers believed that free debate was so important that they granted immunity to Senators and Representatives from libel actions. The privilege of a Senator to declare the will, to explain the views, to make known the grievances, and to advance the interests of his constituents and State, is no less precious now. This right would be narrowed, unreasonably, and I believe destroyed if a majority rule were adopted.

The concept of majority rule is noble. The concept of free debate is no less noble.

The advocates of majority rule allege that free debate has many evils, primarily, that it slows legislation.

Mr. President, majority rule, instead of being sanctioned by the constitutional authority which the Senate possesses of making rules to govern its proceedings, is at variance with the very object for the attainment of which this power was delegated.

The only purpose of rules in any deliberative body is to protect the minority against the potential tyranny of the majority. That was why the Senate was delegated this great and valuable power. To me the intent is clear. A second reason is that this right enforces the separation of powers doctrine.

The PRESIDING OFFICER. The Senator has used the time allotted to him.

Mr. JENNER. May I have 5 more minutes?

Mr. JOHNSON of Texas. Mr. President, I wish to say that all the time we have on this side has been allotted, but I shall take some time from that allotted to another Senator. Would the Senator be willing to take 3 minutes?

Mr. JENNER. I have about a page and a half of my manuscript remaining.

Mr. JOHNSON of Texas. I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. JENNER. Mr. President, the inevitable question arises as to what safeguards a minority has to be heard under majority rule. Some advocates propose a 15-day waiting period between the filing of a cloture motion and the imposition of cloture. This is no assurance whatever. Who is to guarantee that Indiana will be heard within this 15-day period? Others propose a 1-hour period for each Senator. Can such important matters as foreign aid, the Taft-Hartley law, and education, be covered adequately in 1 hour? The advocates of majority rule assure us that a minority has a right to be heard, but the only safeguard so far advanced is a promise—nothing more. Mr. President, that can never be called a right which owes its existence to a favor.

One evil of majority rule which has not been emphasized enough is its susceptibility to "bossism."

The late Senator Pat McCarran said:

> There is no doubt in my mind that legislative independence disappears in exact proportion to the diminishing of deliberation. Cloture is the foundation of machine rule. Once that foundation is established, the mechanics of machine rule will become very simple. One or two or a handful of bosses then will be able easily to attain and exercise supremacy. They can use the party-caucus system, employing the principle of control through a majority of a majority, which is inevitably a minority of the whole membership. The "bosses" in such circumstances would have at their fingertips many different kinds of coercion. They would be in a position to take care of subservient Members primarily interested in local legislation, and to dispense patronage favors to those who prove faithful. Such a machine, if established, can be manipulated from the outside by whatever political or economic interests may be dominant in the administrative field. There is already considerable influence wielded by pressure groups. I cannot become a party to a move which will increase the power of lobbyists.

Majority control might be used in combinations such as those which are geographical, industrial, or financial, with one group of States silencing another.

The advocates of majority rule forget that the Senate has an informing function, as well as a legislating one. The House can pass bills so fast the people do not even know they are being considered.

I cite, for example, a bill passed by the House which proposed to put railway employees in the Army and put guns at their backs to make them work; but the Senate, under the rule of unlimited debate, stopped such a bill from becoming legislation.

If measures are passed rapidly, without due consideration, public opinion has no chance to make itself known. The prolonged debates on the natural-gas bill in the Senate were designed, in part, to educate the people.

We may have a duty to legislate, but we also have a duty to inform and deliberate.

In the past quarter century we have seen a phenomenal growth in the power of the executive branch. If this continues at such a fast pace, our system of checks and balances will be destroyed. One of the main bulwarks against this growing power is free debate in the Senate.

Free debate has deterred power-seeking Executives from seeking legislation which is too dictatorial. So long as there is free debate, men of courage and understanding will rise to defend against potential dictators.

It is contended that the Senate would be paralyzed in times of emergency. I do

not believe that if America were ever in danger, 64 Senators would not invoke cloture under our present rule. Furthermore, we have gone through many crises in the past one hundred and fifty-odd years, and the Government has never before been rendered helpless by freedom of debate.

The Senate today is one place where, no matter what else may exist, there is still a chance to be heard, an opportunity to speak, the duty to examine, and the obligation to protect. It is one of the few refuges of democracy. Minorities have an illustrious past, full of suffering, torture, smear, and even death. Jesus Christ was killed by a majority; Columbus was smeared; and Christians have been tortured. Had the United States Senate existed during those trying times, I am sure these people would have found an advocate. Nowhere else can any political, social, or religious group, finding itself under sustained attack, now receive a better refuge.

Mr. JOHNSON of Texas. Mr. President, I yield 20 minutes to the distinguished senior Senator from Georgia [Mr. RUSSELL].

Mr. RUSSELL. Mr. President, one who has read the press reports and listened to the radio and the television for the past several days might have been led to believe that the only question involved in the issue pending before the Senate is the question of stopping filibusters or passing certain legislation which has been labeled "civil rights bills." I must say, in all frankness, that there has been a great deal of sloppy and, indeed, biased reporting, which has seemed to be almost a conspiracy to create the impression throughout the country that nothing was involved in the question before the Senate other than rule 22 of this body, and legislation which, in many cases, has been euphemistically labeled "civil rights bills."

Frankness further compels the statement that, in my judgment, freedom of debate in the United States has never been more abused than has been the constitutional right of freedom of the press in presenting this issue to the American people. Very few articles have even mentioned, much less fully discussed, the great constitutional issue which is before this body, as to whether the Senate of the United States is a continuing body, with its rules continuing from year to year, subject only to change in the manner prescribed in such rules.

That issue far transcends the ones which have been brought forward and hammered upon as dealing merely with abuses of freedom of speech in the Senate, and with legislation of the type to which I have referred.

Such a course can only be calculated to embarrass many conscientious Senators in reaching a conclusion on this issue. Many of them are as much in favor of tightening the cloture rule as are the sponsors of this proposal. Many of them favor the so-called civil-rights legislation. In some of its aspects the campaign is almost a conspiracy of intimidation.

I shall not undertake to deal with all the erroneous statements which have been made. Two or three of them which are extremely wild are now being picked up and given credence by creditable sources. I shall refer to at least one.

I have before me an article written by a gentleman named Irving Brant. The article was published in the Washington Post and Times Herald of January 2, 1957. I quote one paragraph from the article:

> From 1789 to 1806, debate on a bill could be ended instantly by a majority of Senators present, through adoption of an undebatable motion calling for the previous question.

Even so eminent a scholar as Walter Lippmann picked up that statement and carried it in his column which appeared in the Washington Post this morning.

If Mr. Brant had been as zealous in his research, and in seeking and producing the facts as he was in being an advocate in this matter, he would have found that there was absolutely no relationship, except in name, to the previous-question rule which applied in the Senate in those days. That was the previous-question rule from the British Parliament, which applied in that body for many years. A motion for the previous question was in the nature of a motion to postpone consideration of a bill before the Senate. It was open to debate. It could be debated without let or hindrance of any kind. It was merely a method of disposing of a measure before the Senate without taking action on it at that time.

The headline of Mr. Brant's article conveys the information that he is writing a book on James Madison. Walter Lippmann says he is writing on James Monroe. If he is writing on James Monroe, I am sure Monroe is turning over in his grave. I think Monroe served in the Senate during that period. He would doubtless prefer a more accurate biographer. So it becomes apparent how completely erroneous that statement is.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. RUSSELL. I am sorry, but I cannot yield.

The statements to which I have referred are typical of much of the material which has been brought forward in the effort to influence public opinion in dealing with this question. My position in debate in the Senate has been stated on previous occasions. I believe that the fact that this is a forum of free expression is the one thing which distinguishes the Senate of the United States from every other parliamentary body that has ever assembled anywhere in the world. That is the reason why we are called a great deliberative body. I believe that when we gag the Senate of the United States we are not only diminishing the stature of every Member of this body, but we are impinging on the rights of the State he represents and the people he represents, by curtailing the powers, the rights, and the voices of States which should be sovereign.

I shall not deal at length with the constitutional question here involved. I will say that for 167 years the Senate has followed, without a single exception, the precedent that the Senate was a continuing body; and its whole philosophy of operation has been based upon that principle.

I shall not read at length from the Constitution. To me it is so clear that it seems almost incapable of being misunderstood, that when the Founding Fathers created the Senate they realized that they were creating a legislative body which was different from any other that was ever known. The representation was based upon States, the smallest having the same power as the largest. That issue caused more trouble in the Constitutional Convention than any other.

The Founding Fathers faced the problem of writing out the provision under which the Senate was created and handed down to those of us who sit here.

What did they say? I read from the original Constitution:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Listen to this language:

> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year.

Could they have written a clearer provision to indicate that 64 Senators should be carried over, so that the Senate would be a continuing body?

In addition, they provided that the presiding officer of the Senate should be the Vice President, selected not by the Senate, but by the people. Did they say that he should have a 2-year term? The Constitution provided that he should serve for a term of 4 years.

Those considerations strike down any implication to be found anywhere that there was any intention other than that the Senate of the United States should be a continuing body.

Year after year the Senate has proceeded as a continuing body. The Supreme Court, in its decisions, has referred to the Senate as a continuing body. It is only at this late date that we are now told that the rules of the Senate have no application, that the Senate is not a continuing body, and that any Senator can come forward and offer the proposal which was offered when this proposition had its genesis in the testimony of Mr. Walter Reuther before the Committee on Rules and Administration in 1949, when he was advocating this very policy.

We are now told that any Senator can come forward at the beginning of the session and say, "Here is a set of rules. The Senate should proceed to adopt these rules."

I hope Senators will believe me when I say that, if I were in favor of majority gag rule in the Senate, and if I favored the so-called civil-rights legislation, I could not, in view of the respect which I have for the Constitution, accept the proposal that the Senate is not a continuing body.

Senators say, "We have brought forward a proposal to adopt rules of procedure, and the Senate should pass upon it." It would be just as reasonable for me to say, on the first day of the session, "I want the Constitution amended. I present for submission to the States a proposal to amend the Constitution. The Senate has had no opportunity to act upon it heretofore, but here it is and the Senate should act upon it." I am opposed to any such changes without first having hearings on the subject and pursuing the customary procedure. I would oppose such an arbitrary procedure without regard to my own views on any proposed legislation.

Mr. President, I was much impressed by the fervid oratory of some Senators. I shall try to take the points up in some detail. I refer now to the argument with reference to section 3 of rule 22, relating to taking up a motion to change the rules of the Senate. One Senator said that he was outraged that that provision should be in the rules of the Senate.

Mr. President, that provision has been in effect since the first Senate assembled. It was merely incorporated into the written form under rule 22 when it was rewritten, because the Senate at that time, by majority vote, decided that a motion to proceed to the consideration of a measure should be subject to the cloture provision of the rules. That was decided in an orderly manner, as prescribed by the rules of the Senate.

The fact that a motion was not subject to the cloture rule had been on three occasions sustained by presiding officers or by a majority vote of the Senate on an appeal from an adverse ruling.

Previously, rule 22 did not apply to a motion to take up a measure. Then this much-maligned rule was adopted, and it was made applicable to a motion to proceed to the consideration of a measure, as well as to the reading of the Journal, and to other proceedings.

Before that time such procedures were open to unlimited debate, and that situation had prevailed in the Senate from 1789 until 1917, when the first cloture rule was adopted. Some very able Senators served in the Senate during that period and at the time that rule was adopted. They were not a group of weak men. They felt no sense of outrage over the rules.

The Senate can change its rules whenever it wishes to do so, provided it does it in the manner prescribed by the rules of the Senate.

No Senator has the right to come forward, under my concept of the Constitution, and say, "Here is a resolution which you must consider on the opening day of Congress, because this rule needs to be changed." A Senator could as well submit for immediate consideration a provision to change the Constitution.

It is said that it is manifestly impossible to change the rules of the Senate in any way under rule 22. Yet, we have made several changes under that rule since its revision in 1949. We have changed the rules of the Senate by seven different resolutions. Yet, we are told that it is impossible to change the rules of the Senate under the provisions of that rule; but that has been done.

Mr. President, when these matters are brought up, I am always concerned by the reference to inherent powers or implied powers. I am opposed to inherent or implied powers. I do not believe in such powers. I remember that a President of the United States not so long ago seized the steel mills of the United States under his so-called inherent powers. I am afraid of inherent powers. I believe in law.

If the time ever comes when the rights of the American people are destroyed, I do not believe it will be done in Congress by the affirmative action of the representatives of the people of the United States. It will be done by the application of inherent powers or implied powers.

We have rules which have served us well for 167 years. They are written out, and they are spelled out. Nevertheless, we are told that we must do something under so-called inherent powers. We are asked to substitute for laws something called inherent powers or inherent rights. We are asked to substitute such powers for the law of the land and for the rules of the Senate that have been prescribed by the Senate.

Mr. President, it is said that a rule adopted in one Congress cannot bind the next Congress. The same can be said of a law. But if it becomes advisable to change a law, it can be changed at any time under the rules prescribed. In like manner the Senate has a right to change its rules, but it must do it in the manner prescribed by the rules of the Senate.

Let us not in the Senate rely on any doctrine of inherent or implied powers. We are told that because the House of Representatives changes its rules every 2 years, we must do the same.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSON of Texas. I yield 10 additional minutes to the Senator from Georgia.

Mr. RUSSELL. Mr. President, it has been said that we should follow the action of the House and change our rules. The Senate was designed to operate in a manner different from that of the House. God forbid that we should have to beg to speak for 3 minutes. That happens in the House. I hope that rule shall never apply to the Senate of the United States, where Members are at least supposed to be ambassadors from their sovereign States. The Constitution provides for orderly procedure.

The Constitution requires a two-thirds vote to adopt a constitutional amendment. We would be just as well justified in taking a short cut with reference to that procedure as we would be in taking a short cut in the present instance. We had better avoid short cuts in the field of legislation. The people of the United States would do well to scrutinize short cuts. It matters not how salutary the purpose, when we start striking down the established order by taking a short cut because it has been made popular, or because it has been well publicized throughout the country, or because there are powerful groups back of it, or even because Mr. Walter Reuther says that is the way to proceed, I think we should exercise great care.

I am not saying that out of any disrespect for Mr. Walter Reuther. I have a very wholesome respect for him. If I were organizing a labor union, he would be the first man upon whom I would call for advice. If I were starting a campaign to intimidate Members of the Congress, I would go to him for advice. He is a very brilliant man and has many fine qualities, I am sure, but I do not think we should substitute the proposition which he put before the committee, and set aside precedents which have controlled this body for 167 years, which are found, indeed, in the clear wording of the Constitution of the United States itself, a document which we are all sworn to uphold and to defend, on the advice of anyone not directly charged with the responsibilities of government.

Mr. President, what will happen if the pending motion shall be agreed to? What rules will apply in the Senate as we go about the business of starting out with rule I and rewriting the rules of the Senate of the United States?

The present rules provide that no Senator may speak more than twice on the same subject. If these rules are stricken down, what is to prevent a Senator from speaking 22 or 42 times on the same subject if he chooses to do so?

The present rules have a cloture provision. If all these rules are discarded and wiped out by the pending motion, and we proceed to write new rules, we shall not have any cloture provision of any kind. What rules are we going to apply? Mr. Reuther suggested before the committee that we apply Robert's Rules of Order. I do not know why he picked out Robert's Rules of Order. There are other very distinguished writers in the field of parliamentary law and procedure.

There are many manuals for high school debating societies, Kiwanis Clubs, and so forth. It is significant that Robert was a retired Army officer, and his rules are a little bit sharper in striking down any right of the minority than those of other writers. There are other authors of parliamentary rules, as I have stated. But Mr. Reuther suggested Robert's Rules of Order. How can we apply them in the Senate of the United States if we strike down all the rules and start again from the beginning? We can do so only by our inherent power. The rules of the Senate may be a little lax in some respects, but I would advise that we bear with those we have rather than to fly to others we know not of. We shall be opening up a Pandora's box——

Mr. DOUGLAS. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I should be glad to yield if I had unlimited time.

Mr. DOUGLAS. May I have about thirty seconds?

Mr. RUSSELL. The Senator is not going to preclude me from answering. I am well aware of the astuteness of the Senator from Illinois. I should be glad to answer any question propounded and to debate any phase of the matter at

length, but under the limitations we have, which are a little binding, I cannot yield.

No, Mr. President, we have some rules, and we shall do well to follow the Constitution of the United States and follow the precedents of the Senate.

If this type of resolution is ever adopted, I am afraid we shall find that the chaos and confusion which have been referred to as having taken place in the past will be akin to that in a ladies' knitting society compared with what will take place when we are without any guide, rudder, or compass of any kind.

We are 96 men, representing great constituencies. Where is the inherent right from any source to put such strictures as are contemplated upon the Members of the Senate of the United States?

Mr. President, the issue involved in this proposal is, to me, much greater than any question of freedom of debate. It is much greater than any civil right in any single phase of legislation that can come before us, whether it be a farm bill, a tax bill, or a bill of any other type, because this question goes to the very constitutional integrity of the Senate as a great deliberative body.

Mr. President, Members of the Senate come and go. I see the distinguished President pro tempore of the Senate, the distinguished Senator from Arizona [Mr. HAYDEN], now in the Chamber. I heard him speak before the Committee on Rules and Administration, stressing the fact that the Senate should be a forum of free discussion. He said something at that time which appeals greatly to me. He said, "Of course, any of us wants to vote immediately whenever we think we have a majority in the Senate." That is true, Mr. President.

If I have a bill on which I wish to have a vote, and I know I have a majority for it, I sometimes become a little irked if I think we are debating too long. I am sure every other Senator has the same feeling.

After all, Mr. President, the Senate is the last forum on earth where man can discuss and deal with matters of vital importance without severe restrictions on debate. With all the weaknesses which we may have, as the complexion of the body changes, I think we have served the American people well under the rules of the Senate as they apply today.

It is said, Mr. President, that this proposed change is absolutely essential to get action on specific legislation. Whenever a substantial majority of the Senate is determined to take action, every man who has been a Member of the Senate for any considerable length of time knows the Senate can take action. Let us not, Mr. President, embark on a sea that we know not of, and open up a Pandora's box that will throw the Senate into unspeakable confusion.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. RUSSELL subsequently said: Mr. President, I ask unanimous consent to have printed in the body of the RECORD, following my remarks earlier today, a statement I made concerning the Senate rules before the Committee on Rules and Administration of the 82d Congress. The statement begins at page 250 and concludes on page 264.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. RICHARD B. RUSSELL, A UNITED STATES SENATOR FROM THE STATE OF GEORGIA

Senator RUSSELL. Mr. Chairman and gentlemen, I am glad to have had the opportunity to be here this morning and hear the discussion by the distinguished chairman of the Rules Committee. He has been in the Senate a long time, and has made a great contribution to legislation for many years. He is thoroughly familiar with the ebb and flow of political life in this country, which can readily make the majority of today the minority of tomorrow. He wisely advocates retaining the present rules.

Any proposition or proposal to change the rules of the Senate is of vital importance to all of the Members of the Senate. I am not here this morning to indulge in any lengthy discussion of the various proposals which are pending here before the committee.

I do wish to voice my opposition to any change in the rules that will in anywise further restrict freedom of debate in the Senate of the United States. I find particularly obnoxious any proposal that a bare majority can gag Senators, prevent them from speaking, prevent them from representing their States.

I am, perhaps, a bit old fashioned, but I still think that a Senator of the United States occupies a very different position from a representative in any other legislative body that is known to human history.

One of my reasons for coming here was to correct the record of an error that was made—of a statement, without fact or basis of fact, that was made in the course of these hearings.

I also wish to attempt to clear the atmosphere as to this section 3 of rule 22, which has been the subject of a great deal of discussion here in the committee.

I am very proud of the Senate of the United States. It is unique among all parliamentary bodies. Its counterpart cannot be found in any other legislative body, nor do I know of any in history that has occupied the very peculiar position in our scheme of government that is held by the Senate of the United States.

The Senate has a peculiar composition. It has unusual rules. It is a very unusual agency of government. All of those things grew out of compromise, as all legislation is the result of compromise—a compromise of one of the most violent controversies in the Constitutional Convention of 1787.

Indeed, the composition of the Senate was the rock that, for a while, threatened to wreck the Constitutional Convention of 1787. Small States were determined to have some protection.

There were those who had peculiar laws and customs in their individual States who were surrendering a great amount of their sovereignty to the Union of States, who were determined that those laws should be protected, and there were even in those days minority groups who were very jealous of any parliamentary body that might, on the spur of the moment, under the wave of prejudice or in a spirit of partisanship, effect immediate and drastic changes in the basic laws of this country.

The American people have been proud of the Senate. I think they are proud of the fact that it can be called the greatest deliberative body in the world. Of course, deliberation in this day and time does not appeal to some people. It never appeals to any Senator when he knows he has the votes to pass his measure; but nevertheless the rules and the composition of the Senate have admirably enabled the Senate to discharge its proper function in maintaining the very delicate system of checks and balances envisioned by the Founding Fathers when they created our dual system of government, with the legislative, the judicial, and the executive branches.

The rules of the Senate, of course, have grown out of the peculiar position which the Senator does occupy in our scheme of government—wise and far-seeing men in the Senate—sometimes when they were in the majority, sometimes when they belonged to the party in power, have used them to stop men who sought summary action. They have jealously guarded the power of the Senate in its opportunities to protect the freedoms of our people.

Through the more than 150 years in which this Nation has grown to a position of world dominance, from the very weak and struggling combination of 13 colonies, the Senate has at times appeared to be limp and halting in its movements, but it has never fundamentally failed the American people.

The Senate has had attack after attack made upon its peculiar rules. Almost every President of the United States, who had a majority and who was convinced that he was right in his position, has assailed the rules of the Senate. The party in power, generally speaking, is more often than not very restive under the rules of the Senate.

All those who wish to make quick and drastic changes in our Government violently condemn the rules of the Senate, but the Senate has served its purpose throughout the years.

Now, all Senators have had feelings of great frustration at times in debate in the Senate. As I stated a moment ago, the majority always thinks it is right, and is impatient to act, but there have been a great many times when the majority was wrong. There will be times in the future when the majority will be wrong. It may be on issues that are more vital to liberties of the American people than any that we have seen up until now, when the function of the Senate as a deliberative body will serve the welfare of the people of the United States.

Mr. Chairman, I would be the last to deny that there have been abuses of freedom of debate in the Senate of the United States. We all know that the constitutional guaranty of freedom of speech is also often abused. We value highly freedom of the press, which is also guaranteed by the Constitution. The freedom of the press is oftentimes abused.

I submit, Mr. Chairman, that the benefits that we derive from all of those freedoms greatly outweigh the detriment of the abuses that we suffer as the result, and no sound thinker would advocate changing or curtailing or modifying the freedom of speech or freedom of press, because they have been abused.

I have studied this question of the proposal to institute a more restrictive gag rule in the Senate. I once spent a couple of weeks in going back over the various occasions in the history of the Senate when these motions, these efforts, have been made to change the rules. I was interested to note two things: that almost always those who sought to change the rules to gag his adversary of the minority when he was in power became a great advocate of freedom of debate when he was translated from the majority to the minority. Further, almost invariably men who came to the Senate determined to change the rules of the Senate, if they stayed there long enough, came to defend the rules. I could give illustrations of that by the hour.

However, there is a clamor that we should have more speed in the legislative body. A democracy is, of itself, a cumbersome system of government. In our representative Government, we cannot act with tremendous speed. It was never designed to act with speed. If it is speed and speed alone that

you wish to have, why, of course, we should adopt the system of Hitler because we could get action and get it immediately. No one could debate any of his proposals. It was either "ja" or death—that was Mr. Hitler's cloture rule.

He had a very effective one. There is some complaint about the time that a Senator can speak. Some of the greatest speeches ever made in this body were not designed as what is commonly called a filibuster, but they would certainly be charged with being filibusters today.

Daniel Webster's great speeches often went anywhere from 4 to 8 hours in length. There are those today who say, "Well, that is too long; we will streamline the rules so no Senator can speak for longer than 1 hour."

Why not 5 minutes? Why not abolish all debate unless you are to have some rule that applies to debate in the Senate which will enable Senators to perform their duties?

Now, I do not wish to read into the record any large number of statements of eminent men of the past. One of those that appeals to me very much, because it was so concise and so thoughtful, was that made by Vice President Adlai Stevenson, who served under Grover Cleveland.

Mr. Stevenson had come up in the House of Representatives. He was an eminent Member of the House of Representatives, and he said—I shall not read it all—when he came to the Senate and when he first had to sit there in the chair and preside over the Senate, he thought that he had been deposited in the Cave of the Winds. He said that the lengthy speeches annoyed him and harassed him and were very distasteful to him. But when Mr. Stevenson stepped down out of the Vice Presidency he had changed his opinion as to the rules of the Senate.

I will read just a couple of short paragraphs from that statement because I think they are so touched with human wisdom:

"It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of perilous effort in legislative halls to conserve, to render stable and secure the rights and liberties which have been achieved by conflicts.

"By its rules the Senate wisely fixes the limits of its own powers. To those who clamor against the Senate and its methods of procedure, it may be truly said, 'They know not what they do.' In this Chamber alone are preserved without restraint two essentials of wise legislation and of good government; the right of amendment and of debate. Grave evils often result from hasty legislation, rarely from the delay which follows discussion and deliberation.

"It is my humble judgment the historic Senate, preserving the unrestricted right of amendment and of debate, maintaining intact the time-honored parliamentarian methods and means which unfailingly secure action after deliberation, possesses in our scheme of government a value which cannot be measured by words."

The Senate of the United States, without any limitation of any kind, character, or description on the freedom of speech of its Members after 1806, served this country under the rule of unlimited debate to 1917. It went through the War of 1812 without the slightest restriction upon the freedom of debate in the Senate.

The Nation survived the horrible fratricidal strife of the sixties—during that period of time there was no limitation of debate upon the Members of the Senate. In 1917, as Senator Hayden has pointed out, we had the so-called armed shipping bill. Out of this came the first rule to restrict debate.

Of course, it afterward developed that the President had the power to arm the ships without any legislation, so the debate was futile, and the rule was adopted for a reason that did not exist, because he already had the power to arm the ships.

I do not propose to discuss the 1917 rule. I did hear the chairman say that all of the Members of the Senate at that time thought that they were imposing a rule that would limit debate on anything that came before the Senate.

Senator BENTON. I asked that as a question of Senator HAYDEN.

Senator RUSSELL. Yes.

Senator BENTON. And the witnesses have indicated that that was their belief.

Senator RUSSELL. Yes.

Senator BENTON. I cannot look into the minds of those 76 men, but——

Senator RUSSELL. That may well be. Of course, no man here can tell what was in the minds of all of those men. Each Senator who survives who was there in 1917 would know his thought and purpose. But in looking into the history of that rule I was impressed by the fact that the original rule, as introduced, said that whenever any petition, etc., shall be filed to bring debate on any issue to a conclusion—when it was brought before the Senate, the word "issue" as it appeared in the first draft had been changed to "measure." So it always occurred to me that some Senator, at least, may have known what he was doing, because the word "issue" would certainly have embraced a great deal more than the word "measure."

Senator BENTON. That is a very interesting point; and, of course, it goes back to my question to Senator HAYDEN whether some of the 76 men may have been conscious at the time of their vote of the loopholes that later developed. I suppose there is a presumption that not many of them could have been in that position. This presumption must apply to the great majority.

Senator RUSSELL. I shall not presume or conclude with respect to what was in their minds, but I think if you will look into it you will find the original cloture resolution that was introduced contained the word "issue," but when it came out on the floor for adoption it contained the word "measure."

It is proposed here by some of these resolutions that we adopt what is the equivalent of the previous-question rule in the Senate by a mere majority vote. There is no question in my mind that such action would be a deathblow to the Senate and could be a deathblow to our institutions of government.

It would immediately subordinate your whole legislative process to the whim and fancy of the party in power without regard to the violence of the change that might be proposed.

The Democratic Party has been in power for a good many years, but we must remember that we were not always in power, and it is very unlikely that we will always be in power. The rule of freedom of debate in the Senate has always prevented any effort in this country to threaten the American way of life or the American tradition through violent changes. It has deterred power-seeking Executives from even requesting legislation that is too drastic in its effect.

It has restrained them from seeking corruptive powers at the hands of the legislative branch, because any Chief Executive must have known that as long as there was freedom of debate in the Senate and courageous men in the Senate he would not only be thwarted, but that he would be discredited if he sought unconscionable power.

If the majority had the power, such as you have in your House of Representatives, to come in with a rule that even prevents an amendment to a bill, that the debate shall be very limited on a bill, and permit a bare majority to jam through such a proposal, not only would the Senate lose its value as a bulwark of individual liberty in this country, but it would be subordinated completely to the will of the party in power, and for that matter would be subordinated to the House of Representatives.

Senator MONRONEY. Would you elaborate on that, that subordination to the House of Representatives? Is that because the House has the power of the purse to originate all tax bills and appropriations?

Senator RUSSELL. Yes; because it has constitutional powers to originate legislation; and, if you are going to base mandatory power on the rule of the bare majority, a majority of the House is larger than a majority of the Senate, and with the constitutional power they claim on appropriation bills—which I do not think they actually have, but there is no way to test it, because they will not take them up when you send them over there—but with the unquestioned power to originate revenue legislation, I think it would subordinate the Senate to the House of Representatives.

Senator MONRONEY. Plus the fact that the Speaker of the House is ahead of the President of the Senate in line of succession, too, now to the Presidency.

Senator RUSSELL. I think—well, not before the President of the Senate.

Senator MONRONEY. Of course.

Senator RUSSELL. The Vice President of the United States is next in line of succession. Of course, if the Vice President of the United States were to die during his term of office while the President was still alive, then it goes to the Speaker of the House, and I think that is very appropriate.

Senator MONRONEY. Yes.

Senator RUSSELL. Now, Mr. Chairman, there has been a great deal of discussion here about the rule change which took effect in 1949, I believe it was, February 1949.

Up until that time, whether it was the intention or whether it was not—and I on my own part approved of the rule as it stood—the rules of the Senate made it impossible to apply any cloture rule to debate on a motion, and, under the ruling of the Senate which gave the highest priority to the discussion of the Journal of the preceding day's discussion, no cloture could be applied to amendments to the Journal in cases where there had been an adjournment. Of course, in more recent days that was always avoided, when a highly controversial issue was being brought up, by moving to recess rather than to adjourn.

The Journal was only used, I think, on two occasions as a means of delaying a vote in the Senate on highly controversial legislation.

There was a very determined effort made in 1949——

Senator BENTON. Excuse me; without an adjournment, was the old rule effective in achieving cloture? Was there no other loophole except the Journal?

Senator RUSSELL. There was no limitation of debate upon a motion to proceed to the consideration of a bill.

Senator BENTON. So that you did not have to have the Journal?

Senator RUSSELL. It had been clearly held by two Presiding Officers, one of whom happened to belong to each of the major parties, that a petition for cloture or gag in the Senate did not apply to a motion to take up a bill but only to a measure when it had been made the unfinished business in the Senate.

Senator BENTON. So that there were two different ways in which a vote for cloture could be avoided?

Senator RUSSELL. That is right. But the one as to the Journal only applied where the Senate convened after an adjournment.

Senator BENTON. An adjournment?

Senator RUSSELL. And no majority leader who knew his way around would ever adjourn if he was going to bring up a bill that he knew was going to be debated at great length. However, a motion to amend the Journal did reckon rather prominently in one of the so-called filibusters of 1946.

Now, in 1949, when the resolution to change the rules was offered, there was a great division in the Senate. There were those, particularly those most responsive to the wishes of the President of the United States, who wished to change the rule and invoke cloture by a majority vote. This is really a previous-question rule for the Senate.

There were those who wished to apply cloture with two-thirds of those voting on all motions or issues which might arise in the course of parliamentary proceedings. There were those of us who were opposed to tampering with the rule, who believed in the time-honored tradition of the Senate as a body where Senators from sovereign States could express themselves as they saw fit upon any issue or measure that happened to come before the Senate.

The Senate was soon faced with a rather deplorable legislative situation. The different viewpoints were debated for some weeks.

During the course of that debate, as always happens, a number of informal conferences were held between Senators representing the conflicting viewpoints in an effort to arrive at some compromise which would enable the Senate to extricate itself from the position in which it found itself, break the deadlock, and get some changes in rules.

I do not recall all of those who sat in on those meetings. I know that the eminent majority leader, Mr. Lucas, of Illinois, at that time; and the minority leader, Mr. Wherry, of Nebraska; the majority whip, Senator Myers, of Pennsylvania; Senator SALTONSTALL, of Massachusetts; and I were present at practically all of the conferences, and Senator BYRD, of Virginia, attended most of them.

Though I represented those who insisted on the right of unlimited debate, we finally, in the interest of compromise, agreed to accept a rule that would require three-fourths of the Members of the Senate chosen and sworn to impose cloture upon a motion to proceed to the consideration of a bill or other legislative proposal not already covered by rule 22.

At one time we almost agreed on that at one of the conferences. Later, after each of the representatives had returned to their respective groups and discussed the matter with them, that agreement fell through. It was never put into effect.

Finally but reluctantly, those who believed in the traditional free debate in the Senate did agree to make a very substantial surrender of their position. We agreed to adopt a resolution which would make it possible to close debate and invoke gag rule on any proposition before the Senate with two-thirds of those chosen and sworn, with the exception of a motion to proceed to the consideration of a change in the rules.

I ran through some of the hearings which you have had here before this distinguished committee—I did not read them all—and I was somewhat amazed by all of the curiosity that was expressed with respect to section 3 of rule 22. Witness after witness implied that it was something new in the rules. I think some of them referred to it as unconstitutional, and it was called a sleeper; one said it was a mockery of the rules.

Section 3 of rule 22 only expresses in clear terms the rule of the Senate as it has been in effect since its creation. It was adopted just after a vote in the Senate which had sustained the rule that you could not apply cloture to any motion to proceed to the consideration of a bill—I have forgotten the exact vote—I think it was 46 to 41. Section 3 had been the unbroken precedent of the Senate, and the Senate had been operating under that rule since 1807, and I was, therefore, astonished at the great surprise expressed with respect to section 3 of rule 22.

Senator BENTON. It was the contrast, was it not, to the 1917 agreement which caused the surprise?

Senator RUSSELL. Not the precedent that had grown out of the 1917 rule because under the 1917 rule cloture did not apply to any motion to take up any bill or resolution of any kind, whereas this rule merely——

Senator BENTON. This has been clearly brought out.

Senator RUSSELL (continuing). Reserved the right of unlimited discussion that had been in existence since the foundation of the Senate on a motion to proceed to the consideration of a rule change, while surrendering that right with respect to all other motions, legislation, and nominations or any other business that could possibly come before the Senate for transaction. To find that section was not a very remarkable discovery.

Many great Senators had served under that rule, and the parliamentary situation in the Senate with respect to motions to change the rule is the same as in the beginning of the Senate.

I am not the slightest bit ashamed to say, and indeed I derive great pride in saying, that I insisted upon having this clarifying language incorporated in the rule before any vote was had upon the change of the rules in order to eliminate any possible doubt about the right of unlimited debate on a motion to change the rules of the Senate.

Now, there is one other matter I would like to take up.

Senator BENTON. Senator SALTONSTALL told us the matter of section 3 was not discussed very much at these meetings, that it came in at the very last, more or less at the last minute; and that is where the word "sleeper" was used in our discussion, that section 3 was kind of a—not exactly an afterthought, but kind of a last decision at the last moment of the last meeting—without much consideration or discussion by the various men whom you have mentioned who were doing the conferring.

Senator RUSSELL. Well, it may be that the pitiful crumb of the right of debate that we were able to retain was so insignificant at the time that it did not create any very great excitement. It has certainly grown to monumental proportions since then, according to your record of these hearings.

Senator BENTON. I must say there has been a lot of interest in section 3 on the part of the witnesses before the committee; no doubt about that.

Senator RUSSELL. I think I have in my files—indeed I am sure I have them somewhere—the original proposition that I took down to the Sunday morning conference in Senator Lucas' office in the middle of that debate, where I had drafted a proposition for a three-fourths cloture, and the language of section 3 of rule 22 was included in that proposal, and it was in every written draft of a revision of the rules that I saw during those entire discussions. I did insist upon that protection against too hasty a change in the rules by any power-drunk and too arrogant majority of the moment in the Senate.

Now, I notice that a distinguished Senator came here before this committee and made some reference to some kind of a deal that he said was made during the course of these negotiations which had some effect upon the changes in the rule.

I regret that any Senator would have been deceived by an article that I first saw about a year after the rule was changed in the column of an irresponsible columnist.

I have some familiarity with the negotiations that took place. I had been selected as the chairman of a group that were opposed to imposing any further gag rule whatever in the Senate. I was also selected as the floor leader in that fight, and I attended all those conferences.

I never heard the first thing about the alleged deal affecting some powerline, as charged by the columnist, until after it appeared in this newspaper column quite some time after the vote on the cloture change as well as on the other issue referred to.

As a matter of fact, I looked into it at the time the article appeared to see the basis for the charge that certain southern Senators had been kept from voting by the persuasions of those who were advocating the powerline amendment. There were three other similar amendments that were voted on in the same bill and it so happened that more southern Senators voted on that particular amendment than voted on the other two.

Senator BENTON. Senator RUSSELL, if you glance at the testimony you will see that Senator MONRONEY and I expressed skepticism with respect to that charge, if only because of the very wide margin of the vote.

Senator RUSSELL. I just merely wish to observe that that statement is entirely false and without foundation; it is of the whole cloth; that is all there is to it.

Now, Mr. Chairman, I do not wish to belabor this subject here. I am opposed to this change—any of these changes that are proposed in the rules——

Senator BENTON. How much difference in the rule do you think would there have been, in line with Senator HAYDEN's previous testimony, by the change to the two-thirds of those present and voting, as advocated by Senators Wherry and HAYDEN?

Senator RUSSELL. I do not think it is such a substantial difference, I did not think so at the time. I thought that it might, in 1 of 15 to 20 cloture petitions, save advocates of free debate in the Senate from the imposition of cloture, but I do not consider it an earth-shaking difference.

When we surrendered the unlimited debate on all motions, when we surrendered the right to debate the Journal, when we surrendered the right to debate without limit the other ancillary motions in the Senate, we did insist upon a change to two-thirds of those chosen and sworn rather than two-thirds of those voting.

My recollections are not as fresh as in 1949—there has been a great deal of water over the dam since that time—up until that time I think there had been 21 votes on cloture; since then there have been 2. Out of 23——

Senator BENTON. That is right; that has been brought out.

Senator RUSSELL. Out of 23 votes on cloture, I think it has been imposed 4 times.

Senator BENTON. I am sorry, it was 19 before 1949 and 2 since, for a total of 21.

Senator RUSSELL. Is that right? Nineteen and two?

Senator BENTON. Yes.

Senator RUSSELL. I was not sure.

Senator BENTON. Nineteen and two.

Senator RUSSELL. Cloture has been imposed 4 times. As I recall it, 3 times it got more than 64 votes, and the other time it got more than two-thirds, but it did not get two-thirds of those chosen and sworn.

Senator BENTON. Yes; that is right.

Senator RUSSELL. We have had two votes on cloture since the adoption of the new rule. If the rule had been adopted as it was originally proposed in the Hayden-Wherry resolution it would not have had the slightest effect upon those 2 votes. On one occasion there were 32 negative votes with the one Senator announced that he would vote in opposition, if present, so more than one-third of the whole Senate opposed cloture. On the other occasion, as I recall, there were either 33 or 34 who did vote in opposition, so the change in numbers required had no effect. Therefore, Mr. Chairman, I am at somewhat of a loss to understand why anyone would wish to change it from two-thirds of those chosen and sworn to two-thirds of those present and voting—why such person should be excited about it, because the rule has not failed as yet from their viewpoint. There has been no failure. I can understand how those who wish to transform the Senate into a body where debate can be limited to 5 minutes or even less, because if you ever start this movement, there is no telling where

you will wind up, I can understand why they would want to change the rule to majority gag of the Senate, but there is nothing that has occurred since the adoption of the rule that shows that even had it been adopted, as two-thirds of those voting, it would have affected the cloture votes that have been taken since 1949.

Mr. Chairman, we have seen a great many changes in this country. Back in 1925, I believe it was Vice President Dawes came into the Vice Presidency and he probably heard 3 or 4 long speeches, such as we have to listen to over there from day to day. He immediately became a great crusader to change the rules of the Senate.

He demanded that something be done to adopt a previous-question rule in the Senate. Well, if you look back even to the history of that period, you will find that there was a considerable discussion of it.

It is interesting to note that the principal organization in the Nation that came out and opposed it was the American Federation of Labor. They denounced Vice President Dawes for trying to gag the Senate as a threat to the rights of the people.

When you look at the composition of the Senate at that time you can understand why the American Federation of Labor felt that way about it. They did not know what kind of repressive legislation they might have gotten if the drive to gag the Senate by a mere majority vote had prevailed.

Senator BENTON. You think they thought the bankers were doing pretty well at that point in the twenties?

Senator RUSSELL. Well, they did not think that labor occupied quite as strong a position as it does today in our legislative scheme, so they were very much opposed to Vice President Dawes and to his suggestions.

Now, you had Mr. Walter Reuther here before this committee. I read his rather novel suggestion with a great deal of interest. He wants to just out of hand say, "Here are 49 men. We are going to just do whatever we wish to do right now with respect to these rules and legislation," without regard to anything that has ever transpired in this Senate and, as I think, without regard to the Constitution of the United States. Perhaps I should not have said that, because he said the Senate rules were not constitutional. I will say that I think that his suggestion is without doubt unconstitutional.

We will do well to bear in mind that the pendulum of politics in this country swings to and fro. Today Mr. Reuther, if he had 49 Senators who were subservient to the will of the CIO, would undoubtedly undertake to put through just such a change as he suggested here, and he would undoubtedly apply the most drastic limitations to debate whenever he had 49 votes favoring any bill which he thought was beneficial to labor.

But Mr. Reuther, despite his brilliance, might do well to look to human history. If free elections in this country are not abolished, it is wholly possible that due to some excesses, perhaps, by small minorities of labor, that you may elect a Senate where you would have 49 Senators who would be just as determined to strike down all of the laws for the benefit of labor that have been enacted in this country, particularly since 1933. Mr. Reuther then would be the first and the loudest to complain against any rule that would prevent any small group of courageous men who might be willing to express their opposition to any such action as that, from having the full right to do so in the Senate of the United States.

I noted with a great deal of interest, and I may say some surprise, that a large number of organizations representing those of the Jewish faith were here before the committee urging that freedom of debate in the Senate be further curtailed.

If there ever has been a people who have been subjected to terrible persecution down through the centuries, it is the Jews. The inhuman program of Hitler's in Germany, of course, could have been stopped if they had a parliamentary body of power and courage and freedom of speech, even though Hitler had controlled a majority of the membership.

Freedom of debate, as irksome as debate can be, as frustrating as it is to have to listen to long speeches is, in my opinion, essential to the salvation of this Nation. If you ever adopt a gag rule by a simple majority in the Senate of the United States, if you give a bare majority, drunk on power, the means to curtail criticism and prevent exposure of the real effect of the laws that they propose, if you ever deny full opportunity for the voice of reason and humanity to be heard in the Senate of the United States, we will have at last come to the end of this Republic.

An eminent Englishman, Lord Macaulay, came to this country in the 1850's and studied our institutions of government. He made a very significant statement in criticism of our form of government.

He said that "the Constitution of the United States is all sail and no anchor."

Senator BENTON. All sail and no what?

Senator RUSSELL. All sail and no anchor.

"When a society has entered on this downward progress either civilization or liberty must perish; either some Caesar or Napoleon would seize the reins of government with a strong hand or your Republic will be as fearfully plundered and laid waste by barbarians in the 20th century as the Roman Empire was in the fifth, with this difference: that the Huns and vandals who ravaged the Roman Empire came from without, but your Huns and vandals will have been engendered within your own country by your own institutions."

Lord Macaulay may have been a great student of government, but he overlooked the great anchor of individual liberty in this country, which is the Senate of the United States, and the rules under which it operates.

Mr. Chairman, these rules have enabled the Senate to function as a legislative body without any serious detriment to the welfare of the United States. They have enabled the Senate to discourage the temporary majority of the moment who seek drastic change for selfish reasons. Indeed, they are, so long as they are observed, a protection to the most fundamental rights of the American people.

Freedom of debate in the Senate, though it at times discourages changes, even though it has discouraged some that might be desirable—the good that flows from it far outweighs any ills that have ever been suffered under our rules, and in this day of change and passion, with the congregation of great numbers of people in small areas, it is the protection of all the rights and liberties that men have sacrificed for over thousands of years.

I am opposed, and shall oppose, any measure that will increase the likelihood of the application of gag rule in the Senate of the United States.

I thank you, sir, for the opportunity to be heard.

Senator BENTON. Thank you, Senator RUSSELL. I might say that much of your testimony is very eloquent indeed.

May I ask one question and then perhaps Senator MONRONEY and others? We have had several witnesses here whose feelings have run high and, of course, their feelings have been generated by the operation of rule 22 to prevent the passage of civil-rights legislation; and some witnesses, including three distinguished Senators, have said that, if the only way out of this dilemma is to precipitate the issue on the floor, and wear out the opposition through breaking down a long filibuster, then they favor this direct and prolonged attack upon it.

Do you want to comment on this? It is in the minds of many people. Do you think such a procedure possible, at this time of world crisis? It would, in my judgment, make a spectacle of the United States Senate throughout the world that would not be an edifying one. I hope it can be avoided.

Some representatives of interested groups have come to me and have suggested that, as acting chairman of this committee, thanks to Senator HAYDEN's asking me to take the role, that I call upon the President and demand that he call the Senate back into session the minute we adjourn, so as to start this process of attrition. Attrition seems about the best word to apply to it.

Senator RUSSELL, this desire for a showdown is undercurrent that has run through much of the testimony. Perhaps, as our final witness, with all your experience, you would like to comment on it.

Senator RUSSELL. Mr. Chairman, I could not comment with any certitude of correctness as to who would prevail in a struggle of that kind. I have seen similar contests waged on the floor of the Senate of the United States. They always are very, very distasteful to me. I dislike very much ever to be involved in that kind of struggle. But I have unavoidably been cast in that role. I think I was completely justified, and I have no apologies whatever to make for a single course that I have pursued in any of those contests. I really do not know who would prevail if the President called Congress back into extra session.

I do know that the contest which took place in 1949 when we finally did exact the present rule practically destroyed the legislative usefulness of that Congress for that session. The physical and nervous strain upon Members of the Senate was very great.

Of course, I know all about this as an argument for civil rights legislation. I had not mentioned it. I have no hesitancy though in saying that in my judgment it is dictated in large part by ignorance and in large part by desire for political advantage.

I have never thought that any condition obtains in any part of this country affecting the rights of any large number of our people that justifies all of the furore of this so-called civil rights movement. Civil rights is a very euphonious title. It is one that appeals to every American citizen. Every American is in favor of more and bigger and better civil rights, but it becomes a question as to whose civil rights, when you attempt to give doubtful civil rights to one group by various means, where that action infringes upon the civil rights of others. You must consider the effect of high-handed and drastic legislative action upon the sum total of the liberties of the American people.

It is natural for people to support their own convictions. Hitler in Germany may have been convinced that he was doing what was in the best interest of the German people. We think his acts were those of a monster.

I think that this agitation, in view of the very amicable relations between the races in this country—finer than they have ever been in any other part of the world where there was a comparable situation to that which we have in the United States—has damaged rather than bettered the cause of all civil rights.

We never had a time in this country under any system of government where the people at the bottom of the economic heap have had absolutely all their civil rights. It does not matter whether they are white or black or yellow, they have never had them.

In my own State, I know that there is a poor white man for every poor Negro in Georgia, and you are not going to help the situation by entering into the field of work relationships with a law designed to give special priorities to any one of the groups. The road to a perfect civilization is slow and

tortuous, it has ever been so, and we will have to view this thing from the standpoint of all the people and try to improve the conditions of all of them. If you ever start into this business of doing this for that group and that for that, why, you will only aggravate the injustices, the net aggregate of the injustices, of humanity.

Senator BENTON. But specifically on my question, out of your long experience, do you think the group that shares your views is sufficiently large so that it would be impossible to get the rule changed by the procedures of attrition that have been suggested to this committee?

Senator RUSSELL. Well, I should certainly hope so, Mr. Chairman, and would exert every effort within my power to see that it was not possible to do so.

Senator BENTON. I am sure that you would.

Senator RUSSELL. In my opinion, you cannot do it by calling an extra session of Congress; you will not do it in 2 months if you are talking about calling the Congress here in November to take it up.

Senator BENTON. I reluctantly agree on that.

Senator RUSSELL. It may be possible to change the rules by that means. I hope I am spared that kind of test, but if it must come, I shall meet it squarely.

Senator BENTON. Such a test, it is claimed, would be a great educational experience for the American people. Even the people in your State, it is suggested, would be affected by it to the point where if it could be kept up long enough there would be a greater hope to get the rule changed.

Senator RUSSELL. There is no question in my mind that the net damage done to the welfare of the United States would be many, many times greater than any good that could possibly be derived from such a trial by exhaustion.

Senator BENTON. There is no doubt that such a test would be at a great cost.

Senator RUSSELL. No doubt about that.

Senator BENTON. On the other hand, the feeling runs high on this subject, and the demand is widespread that the test be made.

Senator RUSSELL. Yes, sir; I am aware of that.

Senator BENTON. The proponents feel the reward would be great, so it is a question of balancing the risk and the cost against the hope of reward.

Senator RUSSELL. I think they would be terribly disappointed. Even if they prevailed, they would be terribly disappointed, and there is no doubt in my mind that the cost would be far greater than any benefit that might be derived. But then I do not control those matters, and I must face these issues as they come.

Senator MONRONEY. Much of Mr. Reuther's testimony before the committee was based on the fact that the Senate was not a continuing body and, therefore, that our rules automatically expired with each new session of the Congress. I took issue with him on that point.

You, being a greater student of our rules and traditions and all, I mean, it would reverse precedent since the beginning of the Senate, would it not?

Senator RUSSELL. Not only reverse precedent, it would destroy the very intention of the Founding Fathers to have a continuing body.

Senator MONRONEY. That is why they are elected for 6 years.

Senator RUSSELL. That was shown by the debates at the Constitutional Convention, that it was intended to be a continuing body.

I think Reuther or someone else said, some rule of the Senate was unconstitutional. I have forgotten what witness it was.

Senator MONRONEY. That was Mr. Reuther.

Senator RUSSELL. If there is any one thing that is clear under the Constitution, it is that any rule a majority of the Senate sees fit to adopt is beyond the purview of any court or Executive. Who is going to write the rules of the Senate? Is the Senate to write them or are you to delegate to the President or the Supreme Court or some new agency that power? The Constitution says that we write the rules; we are the judge, and we fix our rules. Any rule that is fixed, however fantastic it might be, is completely protected, in my judgment, under the Constitution; but I do not think that the rules that we have are in anywise fantastic. They are much more restrictive than I would like to have them.

Senator MONRONEY. His position was something I had not heard of, that the Senate itself by a majority vote could declare its own rules unconstitutional, and therefore they would be automatically repealed, and it would be wide open then for the adoption of new rules, as I understood the testimony.

Senator RUSSELL. Well, of course, if you had Members of the Senate who were utterly without conscience in such a responsibility, you could pass a constitutional amendment by a mere majority vote—if you finally got your rules in such shape that you could do it that way, by perversion of the Journal and other means. You might also do it by a trial of brute strength, such as the duello, as you had, I believe it was, in an early French Assembly, when one party would bring in the best swordsman they could find to challenge the most able man on the other side, and then liquidate him and get him out of the way.

Thank you, Mr. Chairman, if there are no further questions.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the able senior Senator from Michigan [Mr. POTTER].

The PRESIDING OFFICER (Mr. STENNIS in the chair). The Senate is operating under a unanimous-consent agreement. All the speakers are limited rather sharply in their time. The Chair feels compelled to protect them. If Senators feel it necessary to conduct private conversations, they should retire from the Chamber.

The Senator from Michigan may proceed.

Mr. POTTER. Mr. President, the Senator from Georgia [Mr. RUSSELL] has presented the issues of his side of the argument on the question most eloquently and ably. However, I think it should be realized that the question before the Senate is not a matter of free debate; it is not a question of what the rules shall be. The question is whether the Senate in this Congress or the Senate in any other Congress has the right to make its own rules. The question is not whether the Senate will change its rules. The motion now before the Senate could be agreed to, and the Senate could then adopt the same rules.

I say that a Member of the Senate today should have the same right to adopt rules as did those Senators of years past, who conceived the present rules. I, as one Senator, resent the fact that the dead hand of Calhoun or Clay or any other distinguished former Senator can dictate to me the rules under which I must operate. The other Members of this body, including the new Senators who were sworn in yesterday, have the constitutional right, whether they choose to exercise it or not, to have a voice in determining the rules of the Senate.

An argument has been presented here about free debate. We are not threatening the concept of free debate. I am certain that I speak for all of my colleagues in stating that every Senator should have ample opportunity to debate. But I emphatically do not believe that one Senator or a small group of Senators should have the right to debate endlessly, in the form of a talkathon, for the purpose of avoiding a vote.

If the Senate, in adopting its rules, should decide that this body has the right to allow a small minority to dominate the Senate by blocking a vote, and invalidating the will of the majority, and if all Senators have the opportunity to participate in the adoption of such a rule, then that would be the will of the Senate.

I repeat, therefore, that the question before the Senate is not one of free debate. The question is whether the Senate has the right to determine the rules under which it will operate. Today the Senate deals with issues and problems of which our forefathers never dreamed. We do not live in a static society; our civilization is moving and dynamic. Therefore, the rules of the Senate can be changed, and the new Members of the Senate have as much right to participate in determining those rules as the first Senators who were elected to this body.

Today this Nation occupies the role of world leader. Today this Nation is confronted with problems and situations, many of which require quick and decisive action. A rule which allows a small minority to thwart the will of the Senate, so that a vote may not be taken, destroys the very concept of democratic government.

The people of the State of Michigan who have communicated with me resent the fact that their Senators are prohibited by a talkathon from voting on any issues, major or minor. They cannot understand why a few Senators, not for the purpose of informing the country, not for the purpose of enlightenment, but for the purpose of keeping the Senate from voting, can prevent this entire body from exercising their right to vote on those issues.

I respectfully remind my Republican colleagues that many of them ran for election on, and the rest of us campaigned enthusiastically for, the program of President Eisenhower. A vital portion of that program is the proposed legislation dealing with civil rights. I say to my colleagues that they will never have an opportunity to vote on a civil-rights measure in the Senate unless rule 22 is changed.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. POTTER. Mr. President, will the Senator from New Mexico yield me 2 more minutes?

Mr. ANDERSON. I yield 1 additional minute to the Senator from Michigan.

Mr. POTTER. Mr. President, every Senator who has told his constituents "I want to be reelected so I can support and carry out the Eisenhower program," should in all conscience support the pending motion. That motion will enable the Senate of the United States to express in democratic fashion its will in

regard to proposed civil-rights legislation.

Mr. President, there are many other reasons for supporting the motion submitted by the Senator from New Mexico [Mr. ANDERSON]; but if for none other than that of making President Eisenhower's objectives on civil rights a reality, I strongly urge support of the pending motion.

Mr. JOHNSON of Texas. Mr. President, I yield 15 minutes to the distinguished Senator from Massachusetts [Mr. SALTONSTALL].

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

Mr. SALTONSTALL. I thank the majority leader.

Mr. President, the purpose of the motion submitted by the Senator from New Mexico [Mr. ANDERSON] is to have the Senate adopt rules at the opening of the first session of each new Congress. This, if carried out, will establish a new precedent. For more than 150 years the Senate has always continued its rules from session to session, because although a session may adjourn sine die, the Senate itself as a body continues. It does not die. There never is a new Senate; there is merely a change in one-third of its Members. There is always a Senate, just as there is always a Supreme Court.

The pending motion involves a very fundamental question. We must consider it as a problem which relates to the Senate itself under the Constitution in accordance with precedents built up over the years; and we must reach our decision on a basis which will act to continue our democratic form of government to the best advantage.

I want to decide the question on this basis, and not on the basis of any action the Senate may or may not take on the problem of civil rights. I am confident that my own record on the subject of civil rights, both as an official of the Commonwealth of Massachusetts and as a United States Senator, makes abundantly clear my own sentiments and sympathies on that vital issue. Before this session is completed, I hope to be able to vote on sound civil-rights legislation which properly should be enacted in areas in which the Federal Government is responsible. I trust that such measures may be passed by this Congress.

I have also long been interested in improving the rules of the Senate, especially rule 22, in ways which will be designed to permit reasonable limitation of debate after proper opportunity for full expression by all Members desiring to speak. I am personally very anxious to see rule 22 amended. In 1947 and in 1949, I filed resolutions to improve the cloture procedure, particularly with relation to a motion to take up a pending bill. Before the rule was changed in 1951, rule 22 was practically inoperative. In making cloture possible upon a motion to take up a measure, the rule was altered so as to make a constitutional two-thirds necessary to permit cloture, and not to permit cloture upon amendments to the rules themselves. I personally want to see rule 22 further amended so as to make it more simple to foreclose debate and yet not deprive the minority of all safeguards and rights.

It is my understanding that the proponents of the motion submitted by the Senator from New Mexico do not argue against the concept of the Senate as a continuing body. Hence the question is presented in a somewhat different form from the one in which it was presented in 1953. At that time there was considerable discussion as to whether the Senate was a continuing body simply because two-thirds of its membership continued. Now the question becomes one as to whether the Senate, itself continuing, continues its rules or whether new rules are to be adopted at the beginning of each new session.

Can a parliamentary body continue without any rules on which to proceed? Continuous existence implies potential continuous functioning. Are not continuing rules as essential to a continuing body as tracks to a moving locomotive? It seems to me clear that a distinction must be drawn between what is action and what is procedure. Rules are established to permit a parliamentary body to proceed to take action. Rules themselves do not constitute action. They are simply the tools by which a parliamentary body proceeds to take action. In the brief submitted by the distinguished Senator from Illinois [Mr. DOUGLAS] to the Vice President, this distinction, in my opinion, is not made clear. In the brief several instances are cited which appear to me to relate to actions taken by the Senate, rather than to its procedures. These are cited as examples to show that the Senate really starts afresh, and does not continue. I refer to the failure of the Senate to continue certain actions which formerly were carried on jointly with the House of Representatives, and to an action taken to discontinue a printer who was given a job by the Senate at a previous session. In one of these instances the Senate acted affirmatively to change an action it previously had taken in another session. In the other, the Senate refused to act, and thereby terminated a joint action with the House.

I mention these instances because they show a confusion, in my opinion, in the minds of the proponents of this motion as to the essential difference between rules set up to permit a parliamentary body to continue to act and actions taken by that body. Certainly one Senate cannot bind a future Senate by its actions, but that does not mean that the rules of the Senate do not continue until amended or rescinded.

The Founding Fathers in adopting the Constitution deliberately constituted the Senate in such a way that only one-third of its membership would be elected every 2 years. This was done purposely to permit the democratic processes in the Senate to be more consistent, more stable, and less liable to sudden changes, as opposed to the procedure in the House of Representatives, which was to be completely changed by new elections every 2 years. This principle has now been carried forward for some 160 years. It has worked well during that period of time.

The purpose of the continuing Senate under the Constitution is to make sure that our system of government shall not stop when a session of Congress closes. In the days before the 20th amendment to the Constitution, the Senate sat after the House recessed, to fulfill its duties of confirming Executive appointments. There is always a Senate, just as there is always a Supreme Court.

The action of legislative bodies ultimately is the result of the compromise of the views of its membership until a result is obtained. The faith of our fathers in the democratic processes has built this country to its present greatness. The pride of each one of us in being a Member of the United States Senate comes from the fact that over the years the Senate has, on the whole, acted wisely and well. If we are to provide that the Senate, while a continuing body, may adopt new rules at the opening of each session, we take away from it the continuity of its procedure as a legislative body, and we make it possible to have sudden changes in the rules which may completely alter the procedures under which the Senate acts.

Today the proponents argue that we should adopt a new set of rules because the present rule 22 permits a minority of Senators too much power in preventing the passage of sound civil-rights measures. The proponents also argue that the rules can never be changed by any future Senate action, because they say a minority can prevent, and intends to prevent, a change in the rules. To me, this shows a confusion between what the proponents believe the Senate should do in passing proposed legislation and what they believe regarding whether the Senate shall continue in the form established by the Founding Fathers of the Constitution, by continuing its rules of procedure.

Over the years, the Senate has amended its rules many times. Rule 22 was first established in 1917, with only three dissenting votes, after an agreement had been reached to establish the rule. It was amended in 1949, after a long filibuster, because a large majority of the Senators agreed that the rule was impractical when it did not apply to a motion to take up a measure. Now, again, there is an opportunity by observing the proper legislative procedures to amend rule 22. I want to help amend this rule, but I do not want to help amend the rule by altering the Senate procedures so as possibly in the future to give the Senate a different form, as a parliamentary body, from the form which was established in the Constitution, and which has endured since 1789.

If the precedent which the proponents wish to establish today is established—namely, that of adopting a complete set of new rules at the start of each new session, then the Senate may not be able to function for some days or weeks. Its rules, too, might well be constantly changing. A majority at the start of each session could establish its own set of rules. This certainly would end the continuity of the Senate, and might diminish its operating effectiveness.

Under the present rules, its committees do continue. I am personally on three investigating committees which

continue into the 85th session. If this motion prevails, these committees cease to exist, and will have to be revived. Treaties continue before the Senate, even though new hearings are started on them. So it is clear that the Senate itself continues; and, I repeat, if the Senate itself is a continuing parliamentary body, how can it operate unless it has rules of procedure which continue with it?

I, therefore, shall vote to lay the pending motion on the table. I do so with the hope that rule 22 may be amended to make it more workable, and I do so with the expectation that the Senate will act on civil-rights legislation at this session. But my vote to lay on the table will be cast with the conviction that it is in the best interests of the democratic procedures set up under the Constitution, procedures that have made it possible for our Government to continue in a stable manner and more consistently over the years, just as our forefathers intended.

The PRESIDING OFFICER. The Senator from New Mexico and the Senator from Texas.

Mr. DOUGLAS. Mr. President, for the Senator from New Mexico, I yield 10 minutes to the junior Senator from California.

The PRESIDING OFFICER. The junior Senator from California is recognized for 10 minutes.

Mr. KUCHEL. Mr. President, the simple, fundamental issue in this debate, to my mind, is whether the Senate of the United States approves filibusters. Shorn of all legalistic argument, that is what is being decided here today.

Yesterday a number of us, from both sides of the aisle, Democrats and Republicans, coauthored a motion, which reads:

> In accordance with article I, section 5, of the Constitution, which declares that "each House may determine the rules of its proceedings," I now move that this body take up for immediate consideration the adoption of rules for the Senate of the 85th Congress.

Mr. President, that proposed motion rests upon the American Constitution, which provides that each House of the Congress may adopt its rules. The House of Representatives has seen fit, over the years, to exercise the right given to it by the Constitution. The Senate of the United States, by acquiescence, by inaction, has continued in effect, tacitly, the rules of prior years.

Mr. President, the old rules of the United States Senate have permited filibustering, to which some of us earnestly and vigorously object. What is a filibuster? My definition would be that it is irrelevant speechmaking in the Senate, designed solely and simply to consume time, and thus to prevent a vote from being taken on pending legislation. To my mind a filibuster is an affront to the democratic processes and to the intelligence of the people of the United States.

It is difficult, if not impossible, to stop a filibuster in all instances; and, under the old rules, absolutely impossible to stop filibusters in some instances. I refer, Mr. President, to rule 22 of the rules of the Senate. That rule provides that a constitutional two-thirds of the Members of the Senate, or 64 Senators, are required to vote in favor of so-called cloture, after which, in accordance with the rule, if 64 Senators so vote, each Senator has an additional hour of debate.

That is a higher standard than is required of the United States Senate in sitting as a court of impeachment to find a constitutional officer guilty, and to eliminate him from his official responsibilities. The Constitution of the United States provides that, sitting as a court of impeachment, the Senate of the United States shall find a man guilty merely by two-thirds of those present. That is not 64 votes. That is not a constitutional two-thirds. That, by the Constitution itself, is two-thirds of those Senators present and voting.

I also observe, for the benefit of my colleagues, that a declaration of war, requires but a majority of those present and voting in each House of the Congress of the United States. Why should we have more stringent rules to bring issues to finality?

Mr. President, there is a joker in rule 22. It has been alluded to in this debate. The fact is that in section 3 of rule 22, it is specifically provided that any motion to change the rules of the Senate is not subject to cloture at all; and that means, of course, it is possible to filibuster to death, ad infinitum, any motion which might be made to change the rules.

Let me again recall the sturdy words of a distinguished American citizen, a great Republican of his day, the late Vice President, Charles G. Dawes, who said years ago:

> I will state the principal objections to the Senate rules as they stand:
>
> 1. Under these rules individuals or minorities can at times block the majority in its constitutional duty and right of legislation. They are therefore enabled to demand from the majority modifications in legislation as the price which the majority must pay in order to proceed to the fulfillment of its constitutional duty. The right of filibuster does not affect simply legislation defeated but, in much greater degree, legislation passed, continually weaving into our laws, which should be framed in the public interest alone, modifications dictated by personal and sectional interest as distinguished from the public interest.
>
> 2. The Senate is not and cannot be a properly deliberative body, giving due consideration to the passage of all laws, unless it allots its time for work according to the relative importance of its duties, as do all other great parliamentary bodies. It has, however, through the right of unlimited debate, surrendered to the whim and personal purposes of individuals and minorities its right to allot its own time. Only the establishment of majority cloture will enable the Senate to make itself a properly deliberative body. This is impossible when it must sit idly by and see time needed for deliberation frittered away in frivolous and irrelevant talk, indulged in by individuals and minorities for ulterior purposes.
>
> 3. The rules subject the people of the United States to a governmental power in the hands of individuals and minorities never intended by the Constitution and subversive of majority rule under constitutional limitation. In the words of Senator Pepper, of Pennsylvania:
>
> "The Senate, by sanctioning unlimited debate and by requiring a two-thirds vote to limit it, has in effect so amended the Constitution as to make it possible for a 33-percent minority to block legislation."
>
> 4. The present rules put into the hands of individuals and minorities at times a power greater than the veto power given by the Constitution to the President of the United States, and enabled them to compel the President to call an extra session of Congress in order to keep the machinery of Government itself in functioning activity. The reserved power of the States in the Constitution does not include the power of one of the States to elect a Senator who shall at times control a majority or even all the other States.
>
> 5. Multiplicity of laws is one of the admitted evils from which this country is suffering today. The present rules create multiplicity of laws.
>
> 6. The present rules are not only a departure from the principles of our constitutional Government but from the rules of conduct consistent therewith which governed the United States Senate for the first 17 years of its existence and which provided for majority cloture.

Mr. President, I devotedly believe in full and complete debate on every issue confronting the Senate and the American people. So, I feel assured, do all of us. But that is a far different thing from a situation where Senators speak for long hours, and sometimes for long days and long weeks, not to argue the merits or demerits of a public question, but solely and only to waste and consume time, and thus to frustrate and prevent a final decision by the Senate on an issue before it. How can any reasonable person uphold such tactics as that which occurred some years ago when the Senate ludicrously debated for 2 weeks a motion to amend the Chaplain's prayer?

In my first year in the United States Senate I saw a filibuster. I saw the Senate sit for 24 hours a day, never stopping, in an attempt to wear down physically the filibustering Senators, so that through sheer physical exhaustion, and nothing else, the filibuster might be broken and a vote be taken on a bill, incidentally, which had the enthusiastic support of a great majority of us.

I decline to accept the parliamentary theory that a physically and mentally exhausted Senate should be a prerequisite to a vote being taken on any matter. Furthermore, I hardly think that an exhausted Senate can intelligently pass bills.

It is argued that the Senate is a continuing body, and therefore a motion such as has been made cannot be in order under the old rules. Certainly under the terms of the Constitution our motion is in order. What more authority do we need?

I wish to refer to the distinguished late Vice President, Alben Barkley, who said, when he sat in the presiding officer's chair, and I read from page 10 of the proceedings of January 3, 1953:

> The organization of the Senate is an inherent right of the Senate, as it is of any sovereign body, and all that has taken place up to date has been under that inherent right.

Our motion is grounded upon the American Constitution, and it is upon that basis that I deny that this motion is out of order. Years ago I was a member of the California State Senate. That

senate is composed of 40 members. The California constitution provides that each 2 years half of them, or 20 members, shall be elected. The rules of the Senate of the State of California, in which I sat for a few years, provided then, as they provide now, that at the beginning of each session of the legislature the Senate shall adopt its rules of procedure.

Four years ago, when I was a new Member of the Senate, the same question was before us. I took the position then that I take today, and I believe sincerely that I do so completely in the public interest. Two of us who cast our vote then, in that fashion, here on the Republican side, are here today, the senior Senator from New York [Mr. IVES] and myself.

We will not be so lonely today. I am proud of the greatly increased support both sides of the aisle are showing for their cause now.

I am proud to say that I cast my vote according to my own conscience. No one intimidates me. No one bullies me into taking positions on public questions. I devoutly believe that the motion which some of us have made ought to be adopted, making the pending business the consideration of adoption of rules of the Senate of the 85th Congress.

Meanwhile, the distinguished majority leader [Mr. JOHNSON of Texas] has made a motion to lay our recommendation on the table. I vigorously object to that motion, and I hope that a majority of my brethern on this side of the aisle and the other side of the aisle will join in defeating the motion to lay on the table.

Mr. President, I ask unanimous consent to conclude my comments by placing in the RECORD at this point several paragraphs by a distinguished Republican Senator, the late Henry Cabot Lodge, who spoke up vigorously against the filibuster.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> Of the two rights (of debating and of voting) that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure; but, if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.
>
> As it is, there must be a change, for the delays which now take place are discrediting the Senate, and this is greatly to be deplored. The Senate was perhaps the greatest single achievement of the makers of the Constitution, and anything which lowers it in the eyes of the people is a most serious matter. * * * A body which cannot govern itself will not long hold the respect of the people who have chosen it to govern the country.

If the position we take in the debate is upheld by a majority of Senators, we can, I feel assured, look forward to full and complete debate on every issue, but without the evil of filibustering.

DEFEAT OF SENATOR WELKER OF IDAHO

Mr. McCARTHY. Mr. President, will the Senator from Texas yield 3 minutes to me?

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

Mr. McCARTHY. I thank the Senator from Texas.

I intend to speak very briefly on a subject which we are not discussing today. I should like to express my regret at the loss of a great Senator and a great statesman. He has been replaced by a young man who, I assume though I know nothing about him, has plenty of ability or he would not be here. What I say is not in criticism of the successor of the great Senator Welker.

We have lost a man who had the rare combination of good commonsense and guts, a combination we seldom find in Washington. We find plenty of brains and plenty of guts, but we so very seldom find them combined. That combination was represented in Senator Welker.

Why did we lose him? I think the answer is to be found in a most unusual occurrence during the last election campaign. We have often seen Presidents try to purge Members of the Senate. President Franklin Roosevelt gave us an example of that. Roosevelt, however, attempted his purges in the primaries, before a general election. When he was unsuccessful in the primaries, he did not try to purge them in the general election in favor of Republicans.

This year, I believe for the first time in the history of the country, we saw the President trying to purge a member of his own party after the primary. As the President knows, the Senate was organized by the Democrats yesterday. They took over the chairmanships of all the committees, and took over control of all the machinery of the Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCARTHY. Mr. President, will the Senator from Texas yield 1 additional minute to me

Mr. JOHNSON of Texas. I yield an additional minute to the Senator from Wisconsin.

Mr. McCARTHY. When we look to see who is at fault for allowing the Democrats to gain control of the Senate during a Republican administration, we see that the key struggle was in Idaho, between former Senator Welker and Mr. CHURCH. Had Mr. Welker been elected, the Republicans would control all the committees, and all the machinery of the Senate.

In a planted article on October 26, very carefully timed after the Republican primary election, Mr. Paul Hoffman—a real throwback on the human race if ever there was one, who came in under the Democrat administration, and who was converted to be an Eisenhower Republican, referred to Senator Welker as—

> a man of dangerous thinking and reckless conduct.

Hoffman stated that Senator Welker had no place in the Republican Party. This would not mean much if it were only Mr. Hoffman saying it, but there was a carefully planned news conference immediately afterwards, at which President Eisenhower placed his stamp of approval on this article that attempted to read out of the Republican Party a man who was fighting for his political life as a candidate of that party.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCARTHY. May I have 1 additional minute?

Mr. JOHNSON of Texas. I yield to the Senator 1 additional minute.

Mr. McCARTHY. This Hoffman article would be harmless except that it had the approval of President Eisenhower at a time when Senator Welker was fighting for his political life. The outcome of that decision determined the control of the Senate.

The article by Hoffman was circulated by the National Committee for an Effective Congress, a completely left-wing group. Hoffman contributed to it. Archibald MacLeish, of unlamented fame, and Elmer Davis, formerly of OWI, raised money in New York, as did a group in the Waldorf Towers, all with the blessing of the White House palace guard, and sent it to Idaho, to defeat Senator Welker. So the control of the Senate today, by the Democrats, is the direct responsibility of a so-called Republican President. Eisenhower did not do it inadvertently. He did it deliberately. He knew what he was doing.

It might be well, Mr. President, to ask just why the White House palace guard considered Senator Welker "a man of dangerous thinking and reckless conduct," to quote the Hoffman article. Why did the White House want to get rid of him? Certainly not because of his position on domestic matters; Senator Welker's views on domestic legislation generally coincided with those of the administration. In several other areas, however, Senator Welker did indeed take issue with the administration line. He was, for example, a strong supporter of the Bricker amendment. Welker, along with a majority of the Members of this body, wanted to put a constitutional limit on the treatymaking powers of the executive branch. This, evidently, represented dangerous thinking and reckless conduct in the eyes of the White House palace guard. Senator Welker also had the temerity to oppose vast outlays in economic aid to neutralist and pro-Communist nations. Another example, in the view of the White House palace guard of dangerous thinking and reckless conduct. Senator Welker was also a vigorous opponent of the Status of Forces Treaty, which, as the Senators know, may subject American uniformed men to cruel and unusual punishment for alleged crimes committed in foreign lands. I would remind the Senators that this treaty has particular relevance today when the President is asking for authority to use American troops in the Middle East area, a policy that may result in the occupation of some of those areas by American men. In some Near Eastern countries, the theft of an orange from an ox-cart may be punished by cutting off the thief's arm. Senator Welker's efforts to protect American men in such circumstances against the possibility of cruel and unusual punishment represents, according to the White House palace guard, dangerous thinking and reckless conduct.

Finally, let us remember that Senator Welker was an outspoken and hard-hitting fighter in the campaign to root Communists out of Government. For that, too, he is considered a man of dangerous thinking and reckless conduct. For that, too, he was purged.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KNOWLAND. Mr. President, will the Senator from Texas yield to me 1 minute?

Mr. JOHNSON of Texas. I yield to the Senator from California as much time as he may desire.

Mr. KNOWLAND. Mr. President, I believe that in fairness a statement of the facts of the situation should be made. Later I shall have material to place in the RECORD, but I now make the statement that during the course of the recent campaign I spoke in the State of Idaho on behalf of the reelection of the Republican nominee, Mr. Welker. While there I had given to me by one of the supporters of Senator Welker, one of his local managers, a letter that had been written by the President of the United States on behalf of Senator Welker, which letter I personally read to the group at the meeting I was then attending. I think it is necessary, on behalf of the President of the United States, to clarify the record, and to state that he did write a letter in support of the reelection of Senator Welker.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. McCARTHY. I hope the Senator is aware of the fact that the statements which I have made have not been idly made. The President, in a news conference—and this is all a matter of record—placed his stamp of approval on the article by Hoffman, which attempted to read Senator Welker out of the Republican Party. Moreover, Eisenhower-for-President groups in Idaho worked against Senator Welker. They got the word directly and indirectly from the mouth of the President, that Welker did not belong in the new Republican Party. The White House palace guard encouraged the raising of money in New York, to be sent into Idaho to defeat Welker and elect a Democrat.

President Eisenhower may have written some milk-and-water letter to try to absolve himself, but he sent the direct word down the line that Herman Welker was not a good Republican.

As I have said, Senator Welker supported Eisenhower in most of his domestic objectives. He opposed him in some of the harebrained things, such as the President's opposition to the Bricker amendment. Welker opposed the Status of Forces Treaty. He differed with him honestly and sincerely on the question of how much foreign aid should be granted, and where the money should be spent. Because of that he was termed a man of "dangerous thinking and reckless conduct," characterization that got the approval of Eisenhower, after the question was raised by Pete Brant, a reporter for the St. Louis leftwing Post-Dispatch.

Mr. KNOWLAND. Mr. President, under the limitation of debate in effect today, we shall not have an opportunity to discuss that subject. First of all, however, I wish to say that I did go to the State of Idaho in behalf of Senator Welker, who was the Republican nominee in that State. I followed a similar course in the case of other Senators; I went into their States and spoke in favor of their candidacy as strongly as I could.

At the time I spoke in behalf of Senator Welker I did read a letter written by the President of the United States. I ask unanimous consent to have the letter printed in the RECORD as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 24, 1956.

The Honorable HERMAN WELKER,
United States Senate,
Washington, D. C.

DEAR HERMAN: I know that you are vigorously engaged in a campaign for reelection and that your record in the Senate over the past few years is bound to be an issue.

Of course, you and I have differed on certain issues in the past 3½ years, and I have been informed that these differences are being exploited in this campaign. Unfortunately, little recognition has been given to the many times you have wholeheartedly supported the administration in advancing key parts of its program. This distortion of your record is a disservice to the people of Idaho, and the purpose of this letter is to set the record straight.

I hope that your service to our country is continued in the United States Senate.

With kind regard,

Sincerely,

DWIGHT D. EISENHOWER.

Mr. KNOWLAND. Mr. President, I do not approve of the article which was written by Mr. Hoffman. I have expressed myself in that regard both publicly and privately. I do not believe that article represents the views of the President of the United States.

Nevertheless, at a later time, perhaps, we can go into a more detailed discussion of the subject. In the meantime, I did not want any unfairness to be implied to the President of the United States.

Mr. JOHNSON of Texas. Mr. President, I do not wish to become involved in any differences across the aisle. However, I do wish to commend publicly the citizens of Idaho for sending to the Senate a very able young man. I heard him speak before the Women's National Press Club last evening. I know of no Member who has entered the Senate since I have been here who has greater promise than he has. I believe that the people of the State of Idaho will be very proud of the kind of representation he will give them.

Mr. McCARTHY. Mr. President, will the Senator from Texas yield 10 seconds to me?

Mr. JOHNSON of Texas. I am glad to yield 10 seconds to the Senator from Wisconsin.

Mr. McCARTHY. Mr. President, I may say that what I have said is not intended as any reflection on Mr. CHURCH. I do not know him. I assume that very likely he is a fine young man, or he would not have been elected by the people of Idaho. I was very happy that he defeated Taylor in the primaries.

Mr. ANDERSON. Mr. President, I yield 5 minutes to the junior Senator from Oregon.

Mr. NEUBERGER. Mr. President, I shall be very brief today.

The issue actually before us—whether or not the Senate is to begin this new session by adopting its rules—has been so clarified by many Senators of greater experience than mine in these matters that there is little which I would presume to add to the discussion.

I may merely say, however, that if the obscurity of elaborate legal, historical, and theoretical arguments is cleared away, commonsense shows the absurdity of the contention that the Senate is unable to adopt new rules at the beginning of each session.

The Constitution commands the Senate to adopt its rules, but on the so-called continuing body theory, no Senator alive today, or indeed since the organization of the first Senate, need ever have had any voice in the adoption of these rules. Imagine, Mr. President, that in a national calamity, the roof of this Chamber should cave in on the entire assembled membership of the United States Senate today. The Governors of the 48 States each would have to send to Washington two brandnew Senators to fill our unexpired terms. Yet, under the theory of those who oppose the authority of the Senate to adopt new rules under the Constitution, our 96 successors would be unable to adopt new rules. They would be bound by the rules of prior Congresses, including rule 22 which is designed to make it impossible to change the rules as long as an opponent of change is able to stand and to speak.

While such a catastrophe is, of course, inconceivable, Mr. President, it does illustrate why we who are assembled here today—who have all been elected since the adoption of the present rule 22—must surely have the authority to proceed to adopt our rules to govern our deliberations in the 85th Congress.

Nevertheless, it is possible that a majority of us may vote today not to proceed with this authority. In that case, I believe an amendment to rule 22 should be subsequently introduced and taken up, as early as possible, under the regular procedures. I am prepared to sponsor such an amendment, along with any other Senators who may wish to join in pressing for such an amendment.

Of course, a change in rule 22 then would have to be debated under rule 22, which has been carefully designed to permit unlimited and endless debate. Undoubtedly, opponents of the rule change would resort to the unlimited and endless debate permitted by rule 22. Nothing, in my opinion, could more emphatically be calculated to arouse American public opinion against rule 22 than to have rule 22 put into effect for 3 or 4 weeks in the United States Senate. This would be particularly true if the provisions of rule 22 were invoked to defend the continued and indefinite existence, far into the future, of rule 22 itself.

In other words, endless debate might be used to protect the privilege of endless debate. I doubt if America would rejoice in this spectacle, yet just such a

spectacle may be needed to alert America to precisely what rule 22 actually means.

Mr. President, let me ask a series of questions which, I hope, will place in proper perspective the elaborate claims and arguments which are made to support the idea, unique to the United States Senate, that nothing less than an unachievable two-thirds of the total membership of the Senate should be able to reach the decision that a subject has been adequately debated, and that the time thus has come to vote.

Are there not many decisions made in our democratic processes which are as important as the decision to stop talking in the Senate? If rule 22 is wise and right, why not extend its scope beyond the mere confines of the Senate Chamber?

Why not require a two-thirds majority before a citizen can be elected President or Vice President—yes, or even Senator, to come here and enjoy the perennial debating opportunities provided by rule 22?

If it is the course of wisdom to require a two-thirds vote of all Senators before debate can be shut off, why not make a two-thirds majority the requirement in all fundamental decisions reached in this great country? Thus, we would have to keep on holding elections until one candidate received two-thirds of the total number of possible voters—including those who do not vote—or the office would remain permanently vacant. This makes just as much sense as rule 22. Why require two-thirds merely to bring to a close debate in the Senate, but only a simple majority for election to the highest elective office on earth, the American Presidency

What about applying to these other spheres the whole idea of unlimited debate and endless discussion?

We now hold elections on fixed dates, such as November 6, 1956, or some other prescribed occasion. But what if one of the candidates felt on that day—Heaven forbid—that he had not said all there was to say? Suppose he had a few more speeches in his system? Why not postpone the election indefinitely, ad infinitum, until the very last word had been spoken exhaustively on all possible subjects?

Would this not be merely extending rule 22 to the realm of decisions outside the Senate Chamber?

If rule 22 should govern the United States Senate, why stop there?

It seems to me, Mr. President, that the mere presentation of these questions may serve to highlight the actual absurdity of a rule which is designed specifically to allow unlimited debate in the Senate, and through this privilege to prevent any rollcall or voice vote on an issue opposed by a minority of Senators.

Today, that issue is civil rights—the question of Federal laws protecting the persons and privileges of all Americans regardless of race, creed, religion, color, or national origin.

Tomorrow it may be some other issue of preeminent importance. But, whatever the issue, the present terms of rule 22 assure that it is possible for a minority of Senators to prevent the United States Senate from reaching a vote on a matter opposed by those Senators.

For example, by a mere majority the Senate can pass a declaration of war, throwing this peace-loving Nation into mortal conflict and thus dooming thousands and perhaps millions of young Americans to death on the field of battle. Yet, rule 22 requires a two-thirds vote of all Senators to shut off debate. Rule 22 places a decision to end debate on a special pedestal elevated even above a decision between peace and war.

Rule 22 symbolizes to all the world that the United States Senate has to date been unable to pass civil-rights legislation safeguarding its colored citizens—and this in a world where there are far more men, women, and children of colored skin than of white skin. And, let me add, that this verdict as to the color of people's skins was made by an Authority far higher than a two-thirds vote of the United States Senate.

Eventually, rule 22 will go. Will it be now or in later years, when a more enlightened opinion has ultimately been brought to bear upon this crucial matter? I thank the Senator from New Mexico for yielding to me time for these remarks.

Mr. ANDERSON. Mr. President, I yield 5 minutes to the Senator from Vermont [Mr. FLANDERS].

Mr. FLANDERS. Mr. President, I am not in favor of making cloture easy. I am not in favor of making it practically impossible. There are good reasons for not making it too easy. This is not only the greatest deliberative body on earth, but it is also a runner-up for the title of the most deliberative body on earth.

The value of deferred voting has been shown more than once in the years just past. To my mind, the most typical and probably the most important case for deferring a vote occurred when President Roosevelt was endeavoring to pack the Supreme Court. Had it not been for the fact that voting was delayed day after day and week after week, the country would not have been aroused to the evils of the proposal to pack the Supreme Court.

There are, then, at least two reasons for not making it too easy to close debate. One of them is the obvious day-to-day one, that on any important and difficult question there should be an opportunity for all sides and all aspects of proposed legislation to be brought to the attention of Senators, so that they may, each and all, be fully informed on the questions on which they vote.

The second reason is the one which was evidenced in the case of the endeavor to pack the Supreme Court. In other words, when political pressures are great or currents are prevailing which are tending to throw legislation on to the wrong track, there must be time provided for the people of the country to understand the issues at stake and to discuss them with those who represent them in the Congress.

Therefore, it must not be too easy to end debate. I may say that to my mind the constitutional two-thirds requirement makes it unduly difficult. I am in favor of making a change in the rules which will not make it so nearly impossible to vote in any case, on any measure, and on any proposal which does not ordinarily by necessity require a two-thirds vote.

My mind is not at present made up as to just what the amelioration should be. I am very sure there should be one. When the time comes—and the time will come—for the possibility of changing the rule, I shall be among those who will seek to ameliorate the difficulties of cloture.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from Michigan.

Mr. McNAMARA. Mr. President, the 1956 Democratic platform contained this pledge:

> We urge that action be taken at the beginning of the 85th Congress, to improve congressional procedures, so that majority rule prevails, and decisions can be made after reasonable debate, without being blocked by a minority in either House.

I supported that pledge, as I supported the rest of the platform, and the candidates nominated at that convention, and in Michigan for congressional office. I campaigned on that platform and that pledge. I did so in all sincerity, and without reservation.

I know of others, who stated that they had reservations regarding that platform, and I respected them for saying so while the campaign was on.

I am for the pending motion in principle, and because of my experience and observation, in the brief time since I became a Member of this body.

I have seen the filibuster in operation in this body, not as a knockdown, drag-out device for blocking a majority, and for preventing a vote and decision by majority rule, but as a subtle weapon, the mere threat of which brings the majority of the Senate to heel, to defeat and surrender to a determined minority.

This is what happened, Mr. President, in the closing week of the 84th Congress. Then the threat of filibuster, the threat of blocking final votes on the social security bill, on the foreign aid bill, on any and all items of legislation until adjournment, was sufficient to defeat the stripped-down civil rights bill.

This measure, endorsed by President Eisenhower after 3 years of hesitation, had been passed by a bipartisan 2 to 1 majority in the House.

It was condemned to death in the pigeonholes of the Senate Judiciary Committee. There it died with the death of the 84th Congress.

That, Mr. President, is how King Filibuster operates. A wave of his scepter and bills die.

A wave of his scepter and a bill is whittled down, reduced in scope and force, or a bill is changed in intent and distorted, if not reversed in its purpose and effect.

We hear much of the alleged dangers of a ruthless majority.

Mr. President, it seems to me that a ruthless minority, and I have seen such ruthless minorities in action in this Chamber—are worse, are more dangerous, than the so-called ruthless majority about whose behavior the defenders of minority rule are so concerned.

We are told that the filibuster protects the rights of the minority. What minority, Mr. President?

The Negro minority, which, in much of our Nation, is still denied first-class citizenship in terms of the right to vote, in terms of the security of the person, in terms of fair employment opportunity, and of equal access to public accommodation and travel?

Or is the consideration devoted to the protection of an entrenched and powerful minority, determined to continue to deny full first-class citizenship to all Americans, regardless of race, religion, color, national origin, or ancestry?

It is this entrenched minority that is determined to continue rule 22, because it knows that the continuing reign of King Filibuster is necessary for the continuance of discrimination in American life.

How long has it been since any other minority was protected by the filibuster or the threat of filibuster?

I know that those who have long worked for the establishment of majority rule in the United States Senate are sometimes warned and taunted by those who depend upon the veto power of the filibuster as their most powerful lever for controlling and directing legislation. They are told: Beware. The time may come when you will need and want to use the filibuster to defeat a majority bent upon harming you or upon crippling your organizations.

The answer to this fright technique is simple:

You either believe in democracy, in majority rule, or you do not.

You either have confidence in the people, or you do not.

You either have confidence in our Constitution and our tripartite form of government, or you do not.

We who support this motion have confidence in majority rule, in the people, in the workability of the safeguards provided in the Constitution, in its wonderful mechanism of checks and balances.

We are not afraid of majority rule, because we are not afraid of the people. We are not afraid of their decisions.

We know that the Constitution contains sufficient built-in safeguards against the results of hysterical waves of emotion, thought, and action.

The Presidential power of veto and the power of judicial review provide brakes and corrective action sufficient to avert disaster.

This has recently been proved again in court decisions protecting individual Americans against invasion of their constitutional rights.

But beyond these safeguards, the people and the Nation have the final safeguard: the next election. The members of any majority must live with the record of what they have said and how they have voted on issues.

This final appeal to the people in elections every 2 years is the ultimate safeguard.

Of course we who believe in majority rule also believe in full debate. We have, many of us, engaged in thorough and prolonged debate, but not for the purpose of preventing a vote.

We have engaged in such debate for the purpose of winning a majority vote, of getting the facts and the arguments spread out before the American people so that we can win either on the rollcall taken in this Chamber, or if we lose on that rollcall, by appeal to the people in succeeding congressional elections.

So, Mr. President, we say to those who seek to frighten us by warning that we may one day wish we still had the weapon of the filibuster: We want, we demand, we shall ever continue to work for, the establishment of majority rule in the Senate of the United States.

We are for majority rule rain or shine, whether we win or lose. We will take our chances, because we believe we have everything to win by majority rule and everything to lose by an acquiescence in the continuance of minority rule.

Mr. President, we hear much about the greatest deliberative body in the world, the unique virtues of unlimited debate, and the dangers to the Republic, to our form of government, to the welfare and security of the individual citizen, which are alleged to be in this proposal.

May I say that outside this Chamber, in Michigan, and, I suppose, in other States where men and women talk simply and to the point, much of this talk is considered nonsense?

Four years ago, writing from the 1952 Democratic convention, Arthur Krock described the Senate as the graveyard of campaign pledges to enact civil rights legislation. In the most accurate and eloquent phrase yet applied to rule 22, he declared it was the gravedigger in that graveyard.

On Sunday, December 30, 1956, writing in the New York Times, after describing section 3 of rule 22 as providing for unlimited debate on "a mere motion to take up a change in any Senate rule," Mr. Krock restated his 1952 description.

In one sentence he cut through the fog of words to the heart of this fight, namely, whether the road shall be opened to action on civil rights legislation, or kept closed by renewed acquiescence in the veto power of the filibuster. This is what Mr. Krock said:

> Thus rule 22 has been the graveyard of all efforts to bring up for passage certain items of civil rights legislation; hence it is the real target of the forthcoming parliamentary struggle in the Senate.

And at the end of his article, after meticulously setting down both sides of the argument on rule 22, and the procedural possibilities in the consideration of the Anderson motion, Mr. Krock quoted the argument of the Senator from Illinois [Mr. DOUGLAS] that new Senators cannot be deprived of their constitutional right "to participate in the making of the rules under which they must operate."

He then ended with a sentence which again cut through the fog to get at our opponents' real purpose, namely, the blocking of civil rights legislation, not by rollcall votes, but by preventing rollcall votes. He said:

> This argument (as stated by Senator DOUGLAS) falls on deaf ears of the Southern Senators, and some others who believe some of the civil rights proposals violate the constitutional system, because they know that the passage of these proposals is its real objective.

Mr. President, I am one of 45 Senators who, if the Anderson motion were to be defeated by the device of tabling, would be deprived of their constitutional rights under article 1, section 5, to participate in action by this House to "determine the rules of its proceedings."

We 45 Senators represent 36 States, with a combined total population of 138,936,000. Omitting consideration of the nonvoting residents of the District of Columbia, this amounts to 83.1 percent of the American people.

By depriving us of this constitutional right our constituents are deprived of the protection given them by the provision of the Constitution to which I have just referred.

Their hope of substance in legislation to meet their needs would be blighted by renewed acquiescence in the antidemocratic, unconstitutional provisions of the rule adopted March 17, 1949.

Mr. President, I find it interesting, if not ironic, that the filibuster issue and civil-rights legislation are always wrapped up as one package.

The filibuster issue does not stand alone in the minds of those who wish to continue this undemocratic process.

It does not stand isolated as a question of principle to be debated solely on its merits.

Some of those who oppose this move to defeat the filibuster apparently can ease their consciences by pretending that weighty matters of Senate procedure are involved.

But the real essence of the opposition is the desire to defeat civil-rights legislation.

Mr. President, more than 7 million people live in my State of Michigan. To my mind, they are all members of one race—the human race. The people of my State, indeed of every State, are entitled to the rights and privileges of first-class citizenship.

If democracy can be blocked in the United States Senate, it can be blocked throughout our Nation.

Mr. JOHNSON of Texas. Mr. President, I yield 10 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, reference has been made to the fact that the Senate rules are different from other rules. They have been compared with Robert's Rules of Order, the rules of the House of Representatives, and the rules of other groups; but I wish to emphasize that the Senate rules are different, and that that is one of the main things which makes the Senate different from other bodies. It is one of the main reasons which makes the Senate an institution within itself.

The question is, Shall the Senate adopt new rules in alternate years? Shall the Senate adopt new rules at the beginning of each new Congress? The motion is that the Senate proceed to the adoption of rules for the 85th Congress. If the motion shall prevail, then in one sweep we shall have wiped out the accumulated precedents and rules of procedure which have been founded in wisdom and experience and which have accumulated for more than 160 years. I say that the vote on this motion will be the most far-reaching

and most important vote which will be taken during the entire session.

Mr. President, it is most unfortunate that an attempt is made again to cast doubt on the continuity of the Senate. No more serious issue could be brought before this body today, and no graver change in our form of government could be wrought than by an affirmative vote on the motion to adopt new rules.

I had hoped that the decisive and overwhelming vote of 70 to 21 on January 7, 1953, on this very issue would lay aside forever the advocacy of this new theory of the nature of the Senate. I believe that its reemergence is a great disservice to the Senate, to the 48 States represented here, to the Government of the United States, and to the American people.

One of the truly great aspects of our form of government is its inherent stability. I believe there is a universal desire in America to retain that characteristic in Government. Surely the United States Senate, continuous and continuing since 1789 is the essence of stability. This continuity, grounded in the Constitution itself, and established by the minds which conceived that great charter, has resulted in the Senate's becoming the force in Government most effectively removed from the shifting sands of political expediency.

To destroy this long and useful life, to cast aside the status of continuity by voting for such a startling change, would be disastrous. Let there be no misunderstanding as to what is at stake here today: It is the character and prestige of the United States Senate.

The Senate's character is unique because it is the only place in the National Government where the States are represented as States.

Here I wish to make a particular appeal to the Members of the Senate who have been honored heretofore by being the governors of their States.

The rights of the States preserved by the 9th and 10th amendments to the Constitution find their protector in the Senate, and particularly in its standing rules.

The continuity of the Senate and its rules, which has contributed so much to the prestige of the Senate, also adds to the prestige of the individual States. We cannot permit this most fundamental aspect of the Federal-State union to be swept away by a single simple majority vote, and thereafter, by mere numbers, to see the rights of the States fall successively in ill-considered but politically astute legislation.

It is the Senate as an institution with which we are dealing today. It is the Senate as an institution that is at stake today in the vote which will be taken on the pending motion.

If we sweep the Senate rules aside—and that is what will happen if the motion of the Senator from New Mexico shall prevail—we shall sweep away the distinctive characteristic of this body.

In the vast field of the Federal Government, the only persons who represent the States are the Senators elected by the people of the respective States. The President does not represent the States—and he should not. The Supreme Court of the United States and the other Federal courts do not represent the States. The Members of the House of Representatives by special design are the direct representatives of the people within their districts. I repeat, Mr. President, that only the Senators represent the States. That representation is founded essentially on the great compromise feature of the Constitution itself, which is bottomed on the idea of creating a special institution, an institution in which the States are represented.

Time, custom, and precedent, clustered around and centered in the Senate rules, have built a foundation upon which rests the last remaining vestige of power and representation which the States have in the Federal Government.

Clause 2, section 3, article I, of the Constitution as originally written, provides:

> Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year.

That is the clause upon which the continuity of the Senate is so well founded. It is the part of the Constitution which provides for one-third of the Senators being chosen every second year.

Thus the institution was created; the basic formula provided for continuity; and this concept of continuity has been followed from the first session of the Senate until this very day.

Mr. President, how can any Member of this great body who has heretofore served as the chief executive and first citizen of his State cast a vote today which will change the entire nature of the Senate as an institution, and thus go the last mile in virtually wiping out his State's identity in all matters to come before this body?

We must face the fact that if the Anderson motion shall be agreed to, it will mean that we soon shall have the previous question in the Senate. That is what it will amount to. Let us face the situation now. I am reminded of Aesop's fable concerning the man who wanted to have roast pig. He burned down the house in order to get his roast pork. The Senate will be burning its house today in order to secure the passage of a small civil-rights bill. What we shall be getting will be the previous question, and it will apply to every measure and motion that comes to the floor. Thus the Senate, as the institution has existed for 160 years, will have been destroyed.

So, without referring to them personally, I ask Senators who formerly have been governors of their States and who have been elected to the Senate from their States at large to represent the States: How can they cast such at vote?

There is still a place in the American Government for deliberation; there is still a place in the legislative processes of the Government for a reconciliation of differences on vital issues. There is still a place in the American future for a continuing legislative body. There is a place and a need for the United States Senate as we now know it.

The proponents of the motion argue that what is sought is merely a change in the rule which will permit debate to be brought to an end, but I urge them to consider the consequences of such a precedent in future deliberations on other issues where they might have need to rely on the stability of this continuing body.

The standing rules provide a method of effecting the change here sought. The present rules constitute the law and the spirit by which such changes should be made.

There is nothing immutable about rule 22, modified to its present form in 1949, when it was amended to extend the types of Senate business to which cloture might be applied. It is possible that it may be amended again, in the manner prescribed by the standing rules, or I would not favor a further extension of the power to silence debate.

I, for one, feel that the Senate cannot continue as an institution under more liberalized rules for debate and for the consideration of other matters when Senators are counted by noses or merely by numbers, not as representatives of the States, to determine upon what issues they can agree as the representatives of the States. There has been much wholesome law passed under the present system, and very, very few wholesome measures have been rejected.

The present rules are strict in some ways, but they provide the very basis for the great compromises which have led to sound legislation, not only in the last decade, but over the many decades of the past. It requires no prophet to say that these rules will prove to be the bulwark and foundation upon which many sound compromises on many subjects can be bottomed in the future.

But once we shall have opened the floodgates and shall have adopted the previous question as one of our basic rules—and it will be the predominant rule—then we shall have destroyed the very character and foundation of this great body.

I, for one, do not think that debate should be terminated at the whim of a transitory majority. To inject a gag rule into the Senate rules is to insure that the voices of dissent on all major issues will soon be silenced forever. A bare majority rule, untempered by mature deliberations, will inevitably follow and legislating could become a mere mechanical principle in the formulation of laws. I do not think that any of the 169 million American people would sanction such a deterioration of our legislative branch. I do not believe that the States represented here should, by gag rule, suffer the indignity of being unable to present their points of view and thus gather such support as their positions merit.

However, if the wisdom of standing rule 22 must be tested, then let us follow the procedure prescribed by the standing rules, and not accomplish the dubious goal here sought by diminishing the stature of the Senate.

Mr. President, if I have time remaining, I shall be glad to yield it back as there is not sufficient time to discuss my additional points.

The VICE PRESIDENT. The Senator from Mississippi has 1 minute remaining.

Mr. STENNIS. I yield back my remaining time.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from Minnesota [Mr. HUMPHREY].

Mr. HUMPHREY. Mr. President, in 1953, when Senators debated the issue of the right of the United States Senate to establish its own rules of procedure and conduct, I said, among other things:

> This is a historic debate. I am honored to join with 19 of my colleagues in the Senate, both Democrats and Republicans, in urging that the Senate immediately proceed to the adoption of rules for its operation during the 83d Congress.

There have been some changes since then. This is the 85th Congress. We still have the same rules that governed our procedures in the 83d Congress—indeed, in the 82d and the 81st Congresses. But there is a singular difference. Instead of cosponsoring a motion with 19 of my colleagues, I believe I am accurate when I say the motion presented by the Senator from New Mexico [Mr. ANDERSON] is cosponsored by by more than 30 Senators. That, on its face, reveals an increasing interest on the part of the membership of the United States Senate in the rules of procedure which govern its deliberations.

Mr. President, in the discussion of any matter, particularly any legislative matter, we are concerned with two items. The first is the substance of the matter. Obviously, substance or substantive law is of the utmost importance. The second is the procedure relating to the adoption or rejection of any substantive matter. I call the attention of my colleagues to the many dissertations we have had on this particular matter of procedure by one of the most able attorneys in this body, formerly the dean of the School of Law of the University of Oregon, the senior Senator from the State of Oregon [Mr. MORSE]. The Senator from Oregon has repeatedly admonished his colleagues in the Senate that one's substantive rights may very well be prejudiced by one's procedural rights. Particularly is this true in a court of law.

The junior Senator from Minnesota adds that the substance of legislative matter may very well be prejudiced by the procedure which allows a legislative body to discuss or prevents it from discussing substantive matter. What we are dealing with here is a situation in which we are told it is impossible for the United States Senate to modify the rules of its own procedure because of an action on the part of the Senate of the 81st Congress, in 1949.

Mr. President, I have no intention of arguing the question or the issue as to whether the Senate is a continuing body. I consider that question to be one of interest. I may say it is one which has received the careful attention of scholars, historians, and those who are profound students of the parliamentary procedures of the Congress of the United States. I shall allude to the continuing body theory, but I state now that it is not a controlling factor in this debate.

I should like to point, first, to the constitutional requirements relating to the rules of the Senate; and, second, to the rules of the Senate under those constitutional requirements.

Mr. President, the Supreme Court of the United States has held that neither House may "by its rules ignore constitutional restraints or violate fundamental rights, and there must be a reasonable relation between the mode or the method of proceeding established by the rule and the result which is sought to be attained."

That citation is from the case of *United States* v. *Ballim* (1892, 144 U. S. 1).

How does that particular citation apply to the subject matter before us, namely, the motion of the Senator from New Mexico [Mr. ANDERSON]. This morning, the Senator from New Mexico, neatly narrowed this debate to its fundamental issue, namely, the relationship of the rules of the United States Senate to the obligations or the privileges of the Senate under article 1, section 5, of the Constitution of the United States. By its very nature the Senate of the United States is, as a creature of the Constitution, bound by the procedures or by the articles and sections and subsections of that Constitution.

Article I, section 5, of the Constitution prescribes that the Senate shall engage in transacting legislative business. Let me read the pertinent quotation from article I, section 5:

> Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business.

And, Mr. President, I would have my colleagues note that the mandate of the Constitution is "to do business."

I would also have my colleagues note that a majority is adequate, under the Constitution, to do business—to do the business, let me say, of Government which affects the rights of every man, woman, and child in this Nation. A majority, mind you, Mr. President, can declare war. In only a few instances in the Constitution is there a provision that the affirmative votes of two-thirds of the Members of the Senate are required in order for the Senate to take action. What I emphasize is that the duty of the Senate is to do business within the confines of the Constitution.

Furthermore, Mr. President, I call to the attention of the Senate—as the Senator from New Mexico [Mr. ANDERSON] did this morning—the fact that article I, section 5, provides that:

> Each House may determine the rules of its proceedings.

Today we are attempting to exercise that privilege, which is accorded each House of the Congress, namely, the privilege of exercising the right, given to it by the Constitution, to determine the rules of its proceedings.

Again I wish to emphasize that the fact the Senate may not have exercised that right in the past, in no way denies it the right to exercise that right in the present. The fact that there was acquiescence in or tacit compliance with the rules of yesterday is not to be interpreted as a denial of the right of the Senate, to establish new rules today.

I should like to call to the attention of my colleagues the pertinent comments of our former colleague, Senator Lehman, of New York, who in 1953 discussed this subject matter at some length in the Senate. Senator Lehman pointed out, as appears in the CONGRESSIONAL RECORD, volume 99, part 1, page 215, that from 1789 to 1869 there were joint rules for the House of Representatives and the Senate, and those rules remained in force Congress after Congress because of the acquiescence of the two Houses. Then he said:

> However, after those joint rules had been in force for 80 years, the Senate of the United States decided to adopt, for its part, new joint rules, with certain changes included in them. The Senate did precisely that.

Mr. President, the situation today is virtually an analagous one. The joint rules to which I have referred existed for 80 years, but that circumstance did not prevent the Senate from acting to adopt new rules whenever it decided it wished to do so. The Senate did so in 1917, under the cloture rule, unler the leadership of the great Senator Walsh, one of the truly great men to serve in this body. The Senate acted in similar fashion in 1949. Whether we like rule 22 or not—and some of us are in disagreement with that rule—the fact is that the Senate did adopt that new rule in 1949.

That is the rule which I say is, in fact, an unconstitutional rule because it denies the will of the Constitution as set forth in article I, section 5. Let me say that section 3 of rule 22 provides that the rule of an absolute two-thirds of the total membership shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the standing rules of the Senate. So in 1949 the Senate adopted a rule providing, in effect, that the rules which would govern the Senate of the United States could no longer be changed if a single Member was obstinately opposed. That is a denial of the privilege and the constitutional right guaranteed to this body by article I, section 5, of the Constitution of the United States.

The VICE PRESIDENT. Does the Senator from New Mexico yield additional time to the Senator from Minnesota? His time has expired.

Mr. HUMPHREY. I should like to have an additional 5 minutes.

Mr. ANDERSON. I yield an additional 5 minutes to the Senator from Minnesota.

The VICE PRESIDENT. The Senator from Minnesota is recognized for an additional 5 minutes.

Mr. HUMPHREY. Mr. President, there has been considerable discussion in this Chamber to the effect that the whole purpose of this rules fight is to

secure the enactment of civil-rights legislation. I have always tried to be candid and frank with my friends in this body. We have our moments of disagreement. There are obviously times when, because of our particular backgrounds, experiences, aptitudes, convictions, the areas in which we live, and developments in those areas, we disagree, and sometimes disagree rather heatedly and with a deep sense of conviction. I am not one who wants to deny a single Member of the Senate the complete right to express disagreement and to do everything he can to carry his argument to a successful conclusion.

What I wish to make clear, and I want it perfectly well understood, is that, regardless of the outcome of this particular debate and the motion of the Senator from New Mexico, it is the intention of the Senator from Minnesota to offer, as soon as the rules of the Senate so permit, civil-rights measures for action by the Senate of the United States.

I desire to make it crystal clear that I expect those measures to be acted upon by committees and debated on the floor. I am equally frank to say I am prepared to debate them for as long as may be required to bring them to a successful conclusion. I know that discussion will be heated. I trust that will not be bitter. I myself shall not indulge in bitterness.

The present debate is a part of the total fight for civil-rights legislation, but I want to be honest about it. The main civil right we are talking about today is not a civil right for someone outside of this Chamber, but a civil right for every Member of the Senate, the right of each Senator who, for the first time, occupies a seat in the Chamber to have something to say about the rules of the Senate.

I heard this afternoon an address by one of the most able and respected Members of this body. I heard him state correctly that the rules of the Senate should provide for representatives of States to state their opinions. How right he is. But I want to ask the Senator from Mississippi, how he would feel, or how any other Senator would feel, if that right under the rules had been denied him, and he had been stopped by such a rule from promoting the principles in which he and a majority of his colleagues believe.

The right we are really talking about today is the civil right of every Member of the Senate to have something to say about the rules procedure under which we are living and conducting our business.

The VICE PRESIDENT. The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. I wish to make a parliamentary inquiry of the presiding officer.

Mr. President, I shall withhold my request for a moment, in light of a suggestion from the Senator from New Mexico; and, if I may, at this time I ask unanimous consent that a study prepared by the Legislative Reference Service of the Library of Congress, relating to limitation of debate in the United States Senate, be printed at this point in my remarks.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

LIMITATION OF DEBATE IN THE UNITED STATES SENATE

(By George B. Galloway, senior specialist in American Government, December 1956)

PREFACE

This report is in effect a revision of an earlier Public Affairs Bulletin prepared in response to the request of several Senators for an historical study of filibustering in the United States Senate and of efforts to control it. It contains the following material:

1. Present Senate rules relating to debate.
2. A chronological history of efforts to limit debate in the Senate, 1789–1956.
3. A list of outstanding Senate filibusters, 1841–1955.
4. Legislation delayed or defeated by filibusters—a list of 36 bills between 1865 and 1950 which were delayed or defeated by obstruction in the Senate.
5. Senate votes on invoking the cloture role—a record of the 22 votes on cloture petitions in the Senate since 1917.
6. A summary of the arguments for filibustering.
7. A summary of the arguments against filibustering.
8. A list of remedies for obstructive tactics in the Senate which have been proposed by Senators in the past.
9. Limitation of debate in the House of Representatives.

The text of the present standing rules of the Senate relating to debate is taken from the current edition of the Senate Manual.

The chronological history of efforts to limit debate in the Senate since 1789 is based, for the most part, up the Senate Journal, the CONGRESSIONAL RECORD, and the article on "Legislative History of Cloture Rules in the Senate" from the Congressional Digest for November 1926. This history sketches the principal developments in the Senate on this question during the intervening period.

The list of outstanding filibusters mentions more than 40 famous examples of this device during the past century.

The list of bills delayed or defeated by filibusters in the past, while incomplete, includes the major legislation in this category. There have been at least 36 such bills of varying degrees of importance. In addition, many appropriate bills have either been lost in the last-minute jam caused by filibusters or were talked to death because they failed to include items desired by particular Senators or because their grants were considered excessive. A list of 82 such appropriation bills that failed of passage between 1876 and 1916 appears in the CONGRESSIONAL RECORD for June 28, 1916, on pages 10152–10153.

Analysis of the 22 cloture votes since 1917, when a cloture rule was first adopted, indicates that 4 petitions received the required two-thirds majority; 9 obtained a majority of the entire membership of the Senate; 15 obtained a majority of those present and voting; 6 obtained only a minority of those present and voting; and 1 resulted in a tie vote. The cloture rule of 1917 was drafted by a conference committee of 5 Democrats and 5 Republicans named by their respective party organizations. This committee stated that its purpose was to formulate a rule what would "terminate successful filibustering."

If the purpose of the cloture rule is to terminate successful filibustering, experience shows that it has failed to achieve its purpose in 18 out of 22 times. Experience also shows that a majority (of the entire membership) cloture rule would have failed of such a purpose 13 out of 22 times. Experience further shows that a simple majority cloture rule would have failed to stop successful filibusters in one-third of the cases in which cloture has been invoked since 1917.

The summary of the arguments for and against filibustering indicates that there is much to be said on both sides.

Review of proposed remedies for obstruction in the Senate reveals the repetition of the same basic suggestions for more than a century. They boil down to four: Majority cloture, the previous question, a rule of relevancy, and more effective enforcement of existing rules.

The principal sources of information on the limitation of debate in the Senate, used in this report, are:

Bendiner, Robert, Battle of Filibustering: New Round Opens. New York Times magazine, September 14, 1952.

Burdette, Franklin, Filibustering in the Senate (1940), 252 pages.

Douglas, Paul H., The Fight Against the Filibuster. New Republic, January 12, 1953, pages 6–8.

Furber, George P., Precedents Relating to the Privileges of the Senate of the United States (1893), Senate Miscellaneous Document No. 68, 52d Congress, 2d session, Limitation of Debate, pages 217–230.

Gilfry, Henry H., Senate Precedents, 1789–1909, pages 334–342.

Harris, Senator Isham Green, speech in Senate reviewing movement to limit Senate debate, 1806–1891. CONGRESSIONAL RECORD, 51st Congress, 2d session, January 22, 1891, pages 1669–1671.

Haynes, George H., The Senate of the United States (1938), volume 1, chapter VIII, Debate in the Senate.

Maslow, Will, FEPC—A Case History in Parliamentary Maneuver. University of Chicago Law Review, June 1946, pages 407–445.

Maslow, Will, Limitation of Debate in State Legislatures. (In extension of remarks of William Benton, of Connecticut.) CONSIONAL RECORD, volume 98, part 10, pages A3491–3492.

Rogers, Lindsay, The American Senate (1926), chapter V.

Willoughby, W. F., Principles of Legislative Organization and Administration (1934), pages 486–500.

Congressional Digest, November 1926–February 1953.

CONGRESSIONAL RECORD, passim.

Control of Obstruction in Congress, Editorial Research Reports, April 4, 1935.

Majority Cloture for the Senate, Editorial Research Reports, March 19, 1947.

Senate Committee on Rules and Administration. Hearings and/or reports on limitation of debate in the Senate; 80th, 81st, 82d, and 83d Congresses.

Senate Journal, passim.

Senate Rules and the Senate as a Continuing Body. Senate Document No. 4, 83d Congress, 1st session.

This report has been prepared by George B. Galloway. Copies are available to Senators upon request.

ERNEST S. GRIFFITH,
Director, Legislative Reference Service.

PRESENT SENATE RULES RELATING TO DEBATE

Rule 7. Morning business

3. Until the morning business shall have been concluded, and so announced from the Chair, or until the hour of 1 o'clock has arrived, no motion to proceed to the consideration of any bill, resolution, report of a committee, or other subject upon the calendar shall be entertained by the Presiding Officer, unless by unanimous consent; and if such consent be given, the motion shall not be subject to amendment, and shall be decided without debate upon the merits of the subject proposed to be taken up:[1] *Provided, however,* That on Mondays the calendar shall be called under rule 8, and during the morning hour no motion shall be entertained to proceed to the consideration of any bill,

[1] As amended; S. Jour. 548, 59–1, May 31, 1906.

resolution, report of a committee, or other subject upon the calendar, except the motion to continue the consideration of a bill, resolution, report of a committee, or other subject against objection as provided in rule 8. (Jefferson's Manual, sec. XIV.)

5. Every petition or memorial[2] shall be signed by the petitioner or memorialist and have endorsed thereon a brief statement of its contents, and shall be presented and referred without debate. But no petition or memorial[3] or other paper signed by citizens or subjects of a foreign power shall be received, unless the same be transmitted to the Senate by the President. (Jefferson's Manual, sec. XIX.)

7. The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose.[4] Any motion so made shall be determined without debate. (Jefferson's Manual, sec. XIV.)

Rule 8. Order of business

At the conclusion of the morning business for each day, unless upon motion the Senate shall at any time otherwise order, the Senate will proceed to the consideration of the Calendar of Bills and Resolutions, and continue such consideration until 2 o'clock;[5] and bills and resolutions that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for 5 minutes only upon any question and the objection may be interposed at any stage of the proceedings, but upon motion the Senate may continue such consideration; and this order shall commence immediately after the call for "concurrent and other resolutions," and shall take precedence of the unfinished business and other special orders. But if the Senate shall proceed with the consideration of any matter notwithstanding an objection, the foregoing provisions touching debate shall not apply. (Jefferson's Manual, sec. XIV.)

All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.[6] (Jefferson's Manual, sec. XIV.)

Rule 9. Order of business

Immediately after the consideration of cases not objected to upon the calendar is completed, and not later than 2 o'clock if there shall be no special orders for that time, the Calendar of General Orders shall be taken up and proceeded with in its order, beginning with the first subject on the calendar next after the last subject disposed of in proceeding with the calendar; and in such case the following motions shall be in order at any time as privileged motions, save as against a motion to adjourn, or to proceed to the consideration of executive business, or questions of privilege, to wit:

1. A motion to proceed to the consideration of an appropriation or revenue bill.

2. A motion to proceed to the consideration of any other bill on the calendar, which motion shall not be open to amendment.

3. A motion to pass over the pending subject, which if carried shall have the effect to leave such subject without prejudice in its place on the calendar.

4. A motion to place such subject at the foot of the calendar.

Each of the foregoing motions shall be decided without debate and shall have precedence in the order above named, and may be submitted as in the nature and with all the rights of questions of order. (Jefferson's Manual, secs. XIV, XXXIII.)

Rule 10. Special orders

2. When two or more special orders have been made for the same time, they shall have precedence according to the order in which they were severally assigned, and that order shall only be changed by direction of the Senate.

And all motions to change such order, or to proceed to the consideration of other business, shall be decided without debate.[7] (Jefferson's Manual, secs. XVIII, XXXIII.)

Rule 11. Objection to reading a paper

When the reading of a paper is called for, and objected to, it shall be determined by a vote of the Senate, without debate. (Jefferson's Manual, sec. XXXII.)

Rule 19. Debate

1. When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him. No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer; and no Senator shall speak more than twice upon any one question in debate on the same day without leave of the Senate, which shall be determined without debate. (Jefferson's Manual, secs. XVII, XXXIX.)

2. No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.[8] (Jefferson's Manual, sec. XVII.)

3. No Senator in debate shall refer offensively to any State of the Union.[9]

4. If any Senator, in speaking or otherwise, transgress the rules of the Senate, the Presiding Officer shall, or any Senator may, call him to order; and when a Senator shall be called to order he shall sit down, and not proceed without leave of the Senate, which, if granted, shall be upon motion that he be allowed to proceed in order, which motion shall be determined without debate. (Jefferson's Manual, sec. XVII.)

5. If a Senator be called to order for words spoken in debate, upon the demand of the Senator or of any other Senator, the exceptionable words shall be taken down in writing, and read at the table for the information of the Senate. (Jefferson's Manual, sec. XVII.)

Rule 20. Questions of order

1. A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the Presiding Officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the Presiding Officer. (Jefferson's Manual, sec. XXXIII.)

Rule 22. Cloture

2. Notwithstanding the provisions of rule 3 or rule 6 or any other rule of the Senate,[10] except subsection 3 of rule 22, at any time a motion signed by 16 Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"Is it the sense of the Senate that the debate shall be brought to a close?"

And if that question shall be decided in the affirmative by two-thirds of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

Thereafter no Senator shall be entitled to speak in all more than 1 hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

3. The provisions of the last paragraph of rule 8 (prohibiting debate on motions made before 2 o'clock) and of subsection 2 of this rule shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the standing rules of the Senate.

Rule 27. Reports of conference committees

1. The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate. (Jefferson's Manual, sec. XLVI.)

CHRONOLOGICAL HISTORY OF EFFORTS TO LIMIT DEBATE IN THE SENATE

In 1604, the practice of limiting debate in some form was introduced in the British Parliament by Sir Henry Vane. It became known in parliamentary procedure as the "previous question" and is described in section 34 of Jefferson's Manual of Parliamentary Practice, as follows:

"When any question is before the house, any member may move a previous question, whether that question (called the main question) shall not be put. If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter."

In 1778, the Journals of the Continental Congress also show that the "previous question" was used. Section 10 of the Rules of the Continental Congress reading: "When a

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[2] As amended; S. Jour. 427, 428, 50–1, Mar. 6, 1888.

[3] On motion by Mr. Manderson: *"Ordered,* That when petitions and memorials are ordered printed in the CONGRESSIONAL RECORD the order shall be deemed to apply to the body of the petition only, and the names attached to said petition or memorial shall not be printed unless specially ordered by the Senate." (S. Jour 280, 49–2, Feb. 7, 1887.)

[4] As amended; S. Jour. 431, 48–1, Mar. 17, 1884.

[5] Mr. Hoar submitted the following resolution; which was considered by unanimous consent and agreed to: "*Resolved,* That after today, unless otherwise ordered, the morning hour shall terminate at the expiration of 2 hours after the meeting of the Senate." (S. Jour. 1266, 50–1, Aug. 10, 1888.)

[6] As amended; S. Jour. 442, 48–1, Mar. 19, 1884.

[7] As amended; S. Jour. 442, 48–1, Mar. 19, 1884.

[8] As amended; S. Jour. 301, 57–1, Apr. 8, 1902.

[9] As amended; S. Jour. 71, 63–2, Jan. 14, 1914.

[10] As amended; S. Jour. 173, 81–1, Mar. 17, 1949.

question is before the House no motion shall be received unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit it." In the British Parliament and the Continental Congress the "previous question" was used to avoid discussion of a delicate subject or one which might have injurious consequences.

1789: The first Senate adopted 19 rules of which the following relate to debate in, and taking the time of, the Senate:

"2. No Member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the Journals or public papers are reading, or when any Member is speaking in any debate.

"3. Every Member, when he speaks, shall address the Chair, standing in his place, and when he has finished shall sit down.

"4. No Member shall speak more than twice in any one debate on the same day, without leave of the Senate.

"6. No motion shall be debated until the same shall be seconded.

"8. When a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit, or to adjourn.

"9. The previous question being moved and seconded, the question from the Chair shall be: 'Shall the main question be now put?' And if the nays prevail, the main question shall not then be put.

"11. Where the yeas and nays shall be called for by one-fifth of the Members present, each Member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question."

1806: When the rules were modified in 1806, reference to the previous question was omitted. It had been moved only four times and used only three times during the 17 years from 1789 to 1806. Its omission from the written rules left its status in general parliamentary law unchanged.

1807: In the following year, 1807, debate on an amendment at the third reading of a bill was also forbidden, and from this time until 1846 there were no further limitations on debate in the Senate.

1841: On July 12, 1841, Henry Clay brought forth a proposal for the introduction of the "previous question," which he stated was necessary by the abuse which the minority had made of the privilege of unlimited debate. In opposing Clay's motion, Senator Calhoun said, "There never had been a body in this or any other country in which, for such a length of time, so much dignity and decorum of debate had been maintained." Clay's proposition met with very considerable opposition and was abandoned. Clay also proposed adoption of the "hour rule" for the same purpose, but his proposal was not accepted.

1846: A species of cloture is the unanimous-consent agreement. This is a device for limiting debate and expediting the passage of legislation which dates back to 1846 when it was used to fix a day for a vote on the Oregon bill. Such agreements are frequently used to fix an hour at which the Senate will vote, without further debate, on a pending proposal.

1850: On July 27, 1850, Senator Douglas submitted a resolution permitting the use of the previous question. The resolution was debated and laid on the table after considerable opposition had been expressed.

1862: As the business to be transacted by the Senate increased, proposals to limit debate were introduced frequently in the following Congresses, but none were adopted until the Civil War. On January 21, 1862, Senator Wade introduced a resolution stating that "in consideration in secret session of subjects relating to the rebellion, debate should be confined to the subject matter and limited to 5 minutes, except that 5 minutes be allowed any Member to explain or oppose a pertinent amendment." On January 29, 1862, the resolution was debated and adopted.

1868: In 1868 a rule was adopted providing that: "Motions to take up or to proceed to the consideration of any question shall be determined without debate, upon the merits of the question proposed to be considered." The object of this rule, according to Senator Edmunds, was to prevent a practice which had grown up in the Senate, "when a question was pending, and a Senator wished to deliver a speech on some other question, to move to postpone the pending order to deliver their speech on the other question." According to Mr. Turnbull the object of the rules was to prevent the consumption of time in debate over business to be taken up. The rule was interpreted as preventing debate on the merits of a question when a proposal to postpone it was made.

1869: A resolution pertaining to the adoption of the "previous question" was introduced in 1869, and three other resolutions limiting debate in some form were introduced in the first half of 1870.

1870: Senate, on appeal, sustained decision of Chair that a Senator may read in debate a paper that is irrelevant to the subject matter under consideration (July 14, 1870).

On December 6, 1870, in the third session of the Forty-first Congress, Senator Anthony, of Rhode Island, introduced the following resolution: "On Monday next, at 1 o'clock, the Senate will proceed to the consideration of the calendar and bills that are not objected to shall be taken up in their order; and each Senator shall be entitled to speak once and for 5 minutes, only, on each question; and this order shall be enforced daily at 1 o'clock until the end of the calendar is reached, unless upon motion, the Senate should at any time otherwise order." On the following day, December 7, 1870, the resolution was adopted. This so-called Anthony rule for the expedition of business was the most important limitation of debate yet adopted by the Senate. The rule was interpreted as placing no restraints upon the minority, however, inasmuch as a single objection could prevent its application to the subject under consideration.

1871: On February 22, 1871, another important motion was adopted which had been introduced by Senator Pomeroy and which allowed amendments to appropriation bills to be laid on the table without prejudice to the bill.

1872: Since a precedent established in 1872 the practice has been that a Senator cannot be taken from the floor for irrelevancy in debate.

1872: On April 19, 1872, a resolution was introduced, "that during the remainder of the session it should be in order, in the consideration of appropriation bills, to move to confine debate by any Senator, on the pending motion, to 5 minutes." On April 29, 1872, this resolution was finally adopted, 33 yeas to 13 nays. The necessity for some limitation of debate to expedite action on these annual supply measures caused the adoption of similar resolutions at most of the succeeding sessions of Congress.

1873: In March 1873, Senator Wright submitted a resolution reading in part that debate shall be confined to and be relevant to the subject matter before the Senate—etc., and that the previous question may be demanded by a majority vote or in some modified form. On a vote in the Senate to consider this resolution the nays were 30 and the yeas 25.

1879: Chair counted a quorum to determine whether enough Senators were present to do business.

1880: From 1873 to 1880 nine other resolutions were introduced confining and limiting debate in some form. On February 3, 1880, in the 2d session of the 46th Congress, the famous Anthony rule which was first adopted on December 7, 1870, was made a standing rule of the Senate as rule 8. In explaining the rule, Senator Anthony said "That rule applies only to the unobjected cases on the calendar, so as to relieve the calendar from the unobjected cases. There are a great many bills that no Senator objects to, but they are kept back in their order by disputed cases. If we once relieve the calendar of unobjected cases, we can go through with it in order without any limitation of debate. That is the purpose of the proposed rule. It has been applied in several sessions and has been found to work well with the general approbation of the Senate."

1881: On February 16, 1881, a resolution to amend the Anthony rule was introduced. This proposed to require the objection of at least five Senators to pass over a bill on the calendar. The resolution was objected to as a form of previous question, and defeated. Senator Edmunds in opposing the resolution said, "I would rather not a single bill shall pass between now and the 4th day of March than to introduce into this body, which is the only one where there is free debate and the only one which can under its rules discuss fully. I think it is of greater importance to the public interest in the long run and in the short run that every bill on your calendar should fail than that any Senator should be cut off from the right of expressing his opinion * * * upon every measure that is to be voted upon here."

1881: Senate agreed for remainder of session to limit debate to 15 minutes on a motion to consider a bill or resolution, no Senator to speak more than once or for longer than 5 minutes (February 12, 1881).

1882: On February 27, 1882, the Anthony rule was amended by the Senate, so that if the majority decided to take up a bill on the calendar after objection was made, that then the ordinary rules of debate without limitation would apply. The Anthony rule could only work when there was no objection whatever to any bill under consideration. When the regular morning hour was not found sufficient for the consideration of all unobjected cases on the calendar, special times were often set aside for the consideration of the calendar under the Anthony rule.

On March 15, 1882, a rule was considered whereby "a vote to lay on the table a proposed amendment shall not carry with it the pending measure." In reference to this rule Senator Hoar (Massachusetts, Republican), said: "Under the present rule it is in the power of a single Member of the Senate to compel practically the Senate to discuss any question whether it wants to or not and whether it be germane to the pending measure or not. * * * This proposed amendment to the rules simply permits, after the mover of the amendment, who of course has the privilege, in the first place, has made his speech, a majority of the Senate if it sees fit to dissever that amendment from the pending measure and to require it to be brought up separately at some other time or not at all." This proposed rule is now rule 17, of the present standing rules of the Senate.

1883: On December 10, 1883, Senator Frye, of Maine, chairman of the Committee on Rules, reported a general revision of the Senate rules. This revision included a provision for the "previous question." Amendments in the Senate struck this provision out.

1884: On January 11, 1884, the present Senate rules were revised and adopted.

On March 19, 1884, two resolutions introduced by Senator Harris were considered and agreed to by the Senate as follows:

1. "That the eighth rule of the Senate be amended by adding thereto: All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate."

2. "That the 10th rule of the Senate be amended by adding thereto: And all motions to change such order or to proceed to the consideration of other business shall be decided without debate."

From this time until 1890 there were 15 different resolutions introduced to amend the Senate rules as to limitations of debate, all of which failed of adoption.

Senate agreed (March 17) to amend rule 7 by adding thereto the following words: "The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate."

1886: Senate agreed to strike out the words "without debate," from that part of rule 13 which provided that "every motion to reconsider shall be decided by a majority vote" (June 21, 1886).

1890: Hoar, Blair, Edmunds, and Quay submitted various resolutions for limiting debate in various ways (August 1890).

On December 29, 1890, Senator Aldrich introduced a cloture resolution in connection with Lodge's "force bill," which was being filibustered against. The resolution read, in part, as follows: "When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made." There were five test votes on the cloture proposal which "commanded various majorities, but in the end it could not be carried in the Senate because of a filibuster against it which merged into a filibuster on the force bill."

1893: Platt, Hoar, Hill, and Gallinger introduced resolutions for cloture by majority action during a filibuster against repeal of the silver purchase law, which evoked extended discussion.

Sherman (Ohio) urged a study of Senate rules with a view to their revision and the careful limitation of debate.

1897: Chair ruled on March 3, 1897, that quorum calls could not be ordered unless business had intervened.

1902: Senate agreed (April 8) to amend rule 19 by inserting at the beginning of clause 2 thereof the following:

"No Senator in debate shall directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

"No Senator in debate shall refer offensively to any State of the Union."

1908: Three important interpretations of the rules were adopted in the course of the filibuster against the Aldrich-Vreeland currency bill: (1) The Chair might count a quorum, if one were physically present, even on a vote, whether or not Senators answered to their names; (2) mere debate would not be considered business, and therefore more than debate must take place between quorum calls; (3) Senators could by enforcement of the rules be restrained from speaking on the same subject more than twice in the same day.

1911: April 6, 1911, Senator Root, of New York, submitted a resolution requesting the Committee on Rules to suggest an amendment to the Senate Rules whereby the Senate could obtain more effective control over its procedure. No action was taken on the resolution.

1914: Smith (Georgia) proposed a rule of relevancy.

Senate decreed September 17 that Senators could not yield for any purpose, even for a question, without unanimous consent, but reversed itself on this ruling the next day, September 18.

1915: February 8, 1915, Senator Reed, of Missouri, introduced a resolution to amend rule 22 whereby debate on the ship purchase bill "S. 6845 shall cease, and the Senate shall proceed to vote thereon * * *." The resolution did not pass in this session.

1916: From December 1915 to September 8, 1916, the first or "long" session of the 64th Congress, there were five resolutions introduced to amend rule 22. The resolutions acted upon were Senate Resolution 131 and Senate Resolution 149. On May 16, 1916, the Committee on Rules reported out favorably Senate Resolution 195 as a substitute for Senate Resolution 131 and Senate Resolution 149, which had been referred to it, and submitted a report (No. 447). The resolution was debated, but did not come to a vote.

1916 and 1920: Democratic national platforms for both years included a statement that: "We favor such alteration of the rules of procedure of the Senate of the United States as will permit the prompt transaction of the Nation's legislative business."

1917: March 4, 1917, President Wilson made a speech in which he referred to the armed ship bill, defeated by filibustering. The President said in part, "The Senate has no rules by which debate can be limited or brought to an end, no rules by which debating motions of any kind can be prevented. * * * The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. * * * The only remedy is that the rules of the Senate shall be altered that it can act."

On March 5, 1917, the Senate was called in extraordinary session by the President because of the failure of the armed ship bill in the 64th Congress.

On March 7, 1917, Senator Walsh, of Montana, introduced a cloture resolution (S. Res. 5) authorizing a committee to draft a substitute for rule 22, limiting debate. Senator Martin also introduced a resolution amending rule 22 similar to S. 195, favorably reported by the Committee on Rules in the 64th Congress. The Martin resolution was debated at length and adopted March 8, 1917, 76 yeas, 3 nays, as the current amendment to rule 22.

1918: On May 4, 1918, Senator Underwood introduced a resolution (S. Res. 235) further amending rule 22, reestablishing the use of the "previous question" and limiting debate during the war period.

On May 31, 1918, the Committee on Rules favorably reported out (S. Res. 235) with a report (No. 472).

June 3, 1918, the Senate debated the resolution and Senator Borah offered an amendment.

June 11, 1918, the Senate further debated the resolution and a unanimous consent agreement was reached to vote on the measure.

June 12, 1918, the resolution was further amended, by Senator Cummins.

June 13, 1918, the Senate rejected the resolution, nays, 41; and yeas, 34.

1921: From March 4, 1921, to March 4, 1923, during the 67th Congress, five resolutions were introduced to limit debate in some form. These were referred to the Committee on Rules.

1922: On November 29, 1922, upon the occasion of the famous filibuster against the Dyer antilynching bill, a point of order was raised by the Republican floor leader against the methods of delay employed by the obstructionists which, had the Chair sustained it, would have established a significant precedent in the Senate as it did in the House. The incident occurred as follows:

Immediately upon the convening of the Senate, the leader of the filibuster made a motion to adjourn. Mr. Curtis made the point of order that under rule 3 no motion was in order until the Journal had been read. He also made the additional point of order that the motion to adjourn was dilatory. To sustain his point, Mr. Curtis said: "I know we have no rule of the Senate with reference to dilatory motions. We are a legislative body, and we are here to do business and not to retard business. It is a well-stated principle that in any legislative body where the rules do not cover questions that may arise general parliamentary rules must apply.

"The same question was raised in the House of Representatives when they had no rule on the question of dilatory motions. It was submitted to the Speaker of the House, Mr. Reed. Mr. Speaker Reed held that, notwithstanding there was no rule of the House upon the question, general parliamentary law applied, and he sustained the point of order."

The Vice President sustained Mr. Curtis' first point of order in regard to rule 3 but did not rule on the point that the motion was dilatory.

Senate Republicans voted 32 to 1 in party conference on May 25 for majority cloture on revenue and appropriation bills.

1925: On March 4, 1925, the Vice President, Charles G. Dawes, delivered his inaugural address to the Senate, in which he recommended that debate be further limited in the Senate.

On March 5, 1925, Senator Underwood introduced the following cloture resolution (S. Res. 3) embodying the Vice President's recommendation on further limitation of debate, which was referred to the Committee on Rules:

"*Resolved,* That the rules of the Senate be amended by adding thereto, in lieu of the rule adopted by the Senate for the limitation of debate on March 8, 1917, the following:

"1. There shall be a motion for the previous question which, being ordered by a majority of Senators voting, if a quorum be present, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after previous question shall have been ordered on its passage, for the presiding officer to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

"2. All motions for the previous question shall, before being submitted to the Senate, be seconded by a majority by tellers if demanded.

"3. When a motion for the previous question has been seconded, it shall be in order, before final vote is taken thereon for each Senator to debate the proposition to be voted for 1 hour."

Other resolutions introduced in the first session of the 69th Congress limiting debate were Senate Resolution 26; Senate Resolution 225; Senate Resolution 217; Senate Resolution 59; Senate Resolution 77; Senate Resolution 76; which were also referred to the Committee on Rules.

1925. Robinson (Arkansas) said: "No change in the written rules of the Senate is necessary to prevent irrelevant debate. Parliamentary procedure everywhere contemplates that a speaker shall limit his remarks to the subject under consideration. The difficulty grows out of the failure of the presiding officer of the Senate to enforce this rule."

Jones (Washington) proposed a threefold plan of reform: (1) extend the existing rule which forbids amendments not germane to appropriation bills to general legislation; (2) compel Senators to confine their remarks to the subject under consideration unless permitted by unanimous consent to

do otherwise; (3) limit debate on measures other than revenue or appropriation bills after they have been under consideration 10 days and it has been impossible to reach a unanimous consent agreement for their disposal.

Fess and Jones introduced resolutions for a rule of relevancy.

1926: Underwood (Alabama) offered a resolution to limit debate by majority vote on appropriation and revenue bills.

1933: Adoption of 20th amendment (February 6, 1933), by doing away with short sessions, would eliminate filibusters, so Norris believed. But subsequent events demonstrated that filibustering minorities are still able to delay urgent legislation. The final sessions of the 73d and 74th Congresses, the first two to function under the amendment, ended in filibusters.

1935: Chair ruled that a quorum call is the transaction of business and that Senators who yield for that purpose lose the floor. Under this ruling, a speaker yielding twice for quorum calls, if they are in order, while the same question is before the Senate is unable to regain the floor on that question during the same legislative day.

1939: Reorganization Act of 1939 (Public Law 19, 76th Cong., 1st sess.) limited debate to 10 hours, to be divided equally between those for and against, upon a resolution to disapprove a presidential reorganization proposal.

1945: The Reorganization Act of 1945 (Public Law 263, 79th Cong., 1st sess.) contained the same "antifilibuster rule" as the Reorganization Act of 1939. This rule reads: "Debate on the resolution shall be limited to not to exceed 10 hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to."

1946: Republican steering committee delegated Senator SALTONSTALL to prepare an amendment to rule 22, "so that the various dilatory methods of preventing its application can be eliminated." (May 21, 1946.)

KNOWLAND proposed (S. Res. 312) new standing rule prohibiting the receipt or consideration of any amendment to any bill or resolution which is not germane or relevant to the subject matter thereof. Referred to Rules Committee (July 25, 1946).

Moses urged thorough study of the rules of the Senate "to the end of completely revising them." He also submitted a resolution (S. Res. 314) directing the Parliamentarian of the Senate to "prepare a complete and annotated digest" of its precedents (July 25, 1946). Referred to Rules Committee. (The Parliamentarian is compiling the precedents of the Senate under authority of a similar resolution passed several years ago.)

1947: Saltonstall, Knowland, Morse, and Pepper introduced resolutions to amend rule 22 so as to make cloture apply to any measure or motion or other matter pending before the Senate by a majority vote of those voting or by a majority vote of the entire membership of the Senate. Rules Committee on April 3, 1947, reported a resolution (S. Res. 25) amending rule 22 by making cloture apply to "any measure, motion, or other matter pending before the Senate or the unfinished business," but making no change in the current voting requirements of rule 22 or in the limitation of debate after cloture is invoked.

Pepper (Florida) revived suggestion that Senate adopt a new rule making irrelevant debate out of order. He also proposed to limit debate on a motion to make any subject the unfinished business of the Senate, to make such a motion privileged, and have it decided by majority vote.

HOLLAND (Florida) suggested that majority cloture be adopted only for the closing day or days of a session and that two-thirds cloture be required at other times.

1948: In July, Tobey introduced a resolution (S. Res. 270) "that during the present special session of the Congress, in the interests of efficiency and conservation of time, no Senator shall speak more than once on any subject and no more than 30 minutes thereon." No action.

Vandenberg, President pro tempore, in sustaining point of order against petition to close debate on motion to consider the anti-poll-tax bill, expressed his belief that "in the final analysis, the Senate has no effective cloture rule at all * * * a small but determined minority can always prevent cloture, under the existing rules * * * a very few Senators have it in their power to prevent Senate action on anything * * * the existing Senate rules regarding cloture do not provide conclusive cloture. They still leave the Senate, rightly or wrongly, at the mercy of unlimited debate ad infinitum" (August 2, 1948).

Republican conference appointed committee of 10 Senators to consider and recommend revision of existing cloture rule (August 1948). Members of this committee were: Brooks (chairman), Wherry, Hickenlooper, Knowland, Lodge, Jenner, Bricker, Ives, Ferguson, Staltonstall.

1949: During the 81st Congress 8 resolutions were introduced to amend the cloture rule: 5 in the 1st session and 3 in the 2d session. Nineteen Senators joined in sponsoring these resolutions: Myers, Morse, Saltonstall, Knowland, Ferguson, Ives, Hayden, Wherry, Pepper, Humphrey, Lehman, Murray, Thomas of Utah, Magnuson, McMahon, Kilgore, Neely, Douglas, Benton. The resolutions were: S. Res. 11, 12, 13, 15, 19, 283, 322, 336. All were referred to the Committee on Rules and Administration which held public hearings on the first 5 resolutions on January 24, 25, 26, 28, 31, and February 1, 1949. After a move to discharge the committee, it reported (Rept. No. 69) without amendment the Hayden-Wherry resolution (S. Res. 15) on February 17. A motion to take up Senate Resolution 15 was considered in the Senate at intervals from February 28 to March 17, 1949, when it was amended and agreed to. On March 10 a motion was presented to close debate on the motion to consider Senate Resolution 15. Mr. RUSSELL made a point of order against the cloture motion which was overruled by the Chair. On appeal from the decision of the Chair, the decision of the Chair was not sustained on March 11 by a vote of 41 to 46.

1950: During the second session of the 81st Congress 3 resolutions were introduced to liberalize the cloture rule adopted in 1949. They were Senate Resolution 283, by Mr. SALTONSTALL, on May 22, 1950; Senate Resolution 322, by Mr. MORSE and Mr. HUMPHREY, on August 2, 1950; and Senate Resolution 336, by Mr. Lehman and 9 others, on August 24, 1950. All these resolutions were referred to the Committee on Rules and Administration, which took no action upon them.

On May 5, 1950, Senator Lucas moved to proceed to the consideration of the FEPC bill (S. 1728). On May 19 a motion to close debate on the motion to take up the FEPC bill was defeated by a vote of 52 yeas to 32 nays. Under the 1949 cloture rule it would have required the votes of 64 Senators—two-thirds of those duly elected and sworn—to close debate. This was the first test of the cloture rule as amended in 1949. Republicans voted 33 for cloture, 6 against. Democrats voted 19 for cloture, 26 against. Twelve Senators were absent, of whom 9 were Democrats and 3 were Republicans. One of the absentees—Senator Withers, Democrat, of Kentucky—was formally announced as opposing application of cloture. (For discussion of the failure of the new cloture rule on its first try, see CONGRESSIONAL RECORD, vol. 96, pt. 6, pp. 7300–7307).

On July 12, 1950, a second attempt to invoke cloture on the motion to permit consideration of the FEPC bill (S. 1728) was defeated by a vote of 55 to 33, 9 votes short of the required number. (For further discussion of the pros and cons of the 1949 cloture rule, see CONGRESSIONAL RECORD, vol. 96, p. 8, pp. 9976–9985.)

1951–52: During the 82d Congress four resolutions to amend the Senate cloture rule were introduced:

Senate Resolution 41, by Mr. MORSE and Mr. HUMPHREY, providing for simple majority cloture;

Senate Resolution 52, by Mr. IVES and Mr. Lodge, providing for constitutional majority (49) cloture;

Senate Resolution 105, by Mr. Lehman and 10 others, providing for simple two-thirds cloture after a waiting period of 48 hours or, alternatively, for simple majority cloture after 15 days of debate; and

Senate Resolution 203, by Mr. Wherry, providing for cloture by two-thirds of those present and voting.

Cloture rule and resolutions compared

Author	Resolution	Voting requirement	Effectiveness in closing debate
	Rule 22	64 votes	3 out of 21 times.[1]
Ives-Lodge	S. Res. 52	49 votes	9 out of 21 times.[2]
Wherry	S. Res. 203	Two-thirds voting	4 out of 21 times.[2]
Morse-Lehman et al	S. Res. 41 and 105	Majority voting	14 out of 21 times.[2]

[1] Since 1917.
[2] Potential effectiveness, had this been the rule since 1917.

These resolutions were referred to the Committee on Rules and Administration which held hearings on them on October 2, 3, 9, and 23, 1951. On March 6, 1952, the committee reported favorably on Senate Resolution 203, with an amendment lengthening the time limit between the filing of a cloture motion and the vote thereon from 1 to 5 intervening calendar days (S. Rept. No. 1256, 82d Cong., 2d sess.).

Senate Resolution 203, if adopted, would restore the voting requirement for cloture which was in effect from 1917 to 1949, i. e., two-thirds of those Senators present and voting instead of two-thirds of those duly chosen and sworn. Senate Resolution 203 leaves subsection 3 of the present rule 22 unaltered, which means that debate would remain unlimited on proposals to change any of the standing rules of the Senate.

Dissenting views were filed by Mr. Lodge who felt that Senate Resolution 203 "will make no practical difference insofar as the prevention of future filibusters is concerned"; by Mr. Hendrickson who urged adoption of a simple majority cloture rule; and by Mr. Benton who favored Senate Resolution 105. No further action was taken on the subject during 1952.

1953–54: During the 83d Congress four resolutions to amend the Senate cloture rule were introduced:

Senate Resolution 20, by Mr. JENNER, providing for cloture by two-thirds of those present and voting;

Senate Resolution 31, by Mr. IVES, providing for cloture by a majority of the Senate's authorized membership; a 12-day interval (exclusive of Sundays and legal holidays) between the filing of a cloture petition and the vote thereon; and deleting subsection 3

of rule 22 and all reference to it in subsection 2;

Senate Resolution 63, by Mr. Lehman and seven others, repealing subsection 3 of rule 22 and providing two methods of cloture: By two-thirds of those voting after 1 intervening day following filing of the petition, or, if this failed, by a majority of those voting following an interval of 14 days; and

Senate Resolution 291, by Mr. MORSE, providing for cloture by a majority of those voting and repealing subsection 3 of rule 22.

These resolutions were referred to the Committee on Rules and Administration which, after consideration, favorably reported Senate Resolution 20 to the Senate with an amendment (S. Rept. 268). The resolution was placed on the calendar, but no further action was taken. Senate Resolution 291 was ordered to lie on the table July 22, 1954. Individual views were filed by Mr. GREEN and Mr. HENNINGS (S. Rept. 268). Floor consideration of Senate Resolution 20 was objected to on 4 calendar calls during the first session and on 6 calendar calls during the second session of the 83d Congress.

The major event of the 83d Congress as regards efforts to limit debate in the Senate was the Anderson motion. At the opening of the 83d Congress advocates of majority rule in the Senate challenged the conception of the Senate as a continuing body. They based their strategy on the contention of Senator Walsh in 1917 that each new Congress brings with it a new Senate, entitled to consider and adopt its own rules. They proposed to move for consideration of new rules on the first day of the session and, upon the adoption of this motion, to propose that all of the old rules be adopted with the exception of rule 22. Rule 22 was to be changed to allow a majority of all Senators (49) to limit debate after 14 days of discussion.

Accordingly, on January 3, 1953, Senator ANDERSON, on behalf of himself and 18 other Senators, moved that the Senate immediately consider the adoption of rules for the Senate of the 83d Congress. Senator Taft then moved that the Anderson motion be tabled. In the ensuing debate the Anderson motion was supported by Senators Douglas, Humphrey, Lehman, Ives, Hendrickson, Neely, Morse, and Murray.

Senator DOUGLAS told the Senate that the Anderson proposal was the only method with any hope of success. The 1949 rule, he said, "ties our hands once the Senate is fully organized * * *. For under it any later proposal to alter the rules can be filibustered and never permitted to come to a vote. * * * Therefore, if it be permanently decided that the rules of the preceding Senate apply automatically as the new Senate organizes, we may as well say farewell to any chance either for civil-rights legislation or needed changes in Senate procedure." (CONGRESSIONAL RECORD, vol. 99, pt. 1, p. 203.)

Opponents of the Anderson motion centered principally on the argument that the Senate is a continuing body, bound by the rules of earlier Senates. They said that this thesis was proved because:

1. Only one-third of the Senate is elected every 2 years.

2. The Constitution did not provide for the adoption of new rules every 2 years.

3. If the Senate had had the power to adopt new rules, it had lost that power through disuse.

4. The Supreme Court, they said, had decided that the Senate was a continuing body.

Debate against the rules change was led by Senator Taft who announced that the Republican Policy Committee had voted to oppose it in caucus; and by Senators Russell, Saltonstall, Stennis, Ferguson, Smith of New Jersey, Butler, of Maryland, Maybank, and Knowland.

The Anderson motion was finally tabled by a vote of 21 to 70, taken on January 7, 1953. Taft was opposed by 15 Democrats, 5 Republicans, and 1 Independent. He was supported by 41 Republicans and 29 Democrats. One additional Democrat was paired against the Taft motion; and one additional Republican was paired for it.

1955–56: During the 84th Congress only 1 resolution to amend the cloture rule was presented to the Senate. This was Senate Resolution 108, by Mr. Lehman, on June 14, 1955. On that day it was referred to the Committee on Rules and Administration, and on June 29 to the Subcommittee on Rules. No further action was taken on the Lehman resolution. Senate Resolution 108 provided, (a) for cloture by a two-thirds vote of those voting "on the following calendar day but one" after the presentation of a petition to close debate; and (b) for cloture by a majority of those voting "on the 14th calendar day thereafter."

OUTSTANDING SENATE FILIBUSTERS FROM 1841 TO 1955

1841: A bill to remove the Senate printers was filibustered against for 10 days.

A bill relating to the bank of the United States was filibustered for several weeks and caused Clay to introduce his cloture resolution.

1846: The Oregon bill was filibustered for 2 months.

1863: A bill to suspend the writ of habeas corpus was filibustered.

1876: An Army appropriation bill was filibustered against for 12 days, forcing the abandonment of a rider which would have suspended existing election laws.

1880: A measure to reorganize the Senate was filibustered from March 24 to May 16 by an evenly divided Senate, until 2 Senators resigned, giving the Democrats a majority.

1890: The Blair education bill was filibustered.

The force bill, providing for Federal supervision of elections, was successfully filibustered for 29 days. This resulted in the cloture resolution introduced by Senator Aldrich which was also filibustered and the resolution failed.

1893: An unsuccessful filibuster lasting 42 days was organized against a bill for the repeal of the Silver Purchase Act.

1901: Senator Carter successfuly filibustered a river and harbor bill because it failed to include certain additional appropriations.

1902: There was a successful filibuster against the tri-State bill proposing to admit Oklahoma, Arizona, and New Mexico to statehood, because the measure did not include all of Indian territory according to the original boundaries.

1903. Senator Tillman, of South Carolina, filibustered against a deficiency appropriation bill because it failed to include an item paying his State a war claim. The item was finally replaced in the bill.

1907: Senator Stone filibustered against a ship subsidy bill.

1908: Senator La Follette led a filibuster lasting 28 days against the Vreeland-Aldrich emergency currency law. The filibuster finally failed.

1911: Senator Owen filibustered a bill proposing to admit New Mexico and Arizona to statehood. The House had accepted New Mexico, but refused Arizona because of her proposed constitution. Senator Owen filibustered against the admission of New Mexico until Arizona was replaced in the measure.

The Canadian reciprocity bill passed the House and failed through a filibuster in the Senate. It passed Congress in an extraordinary session, but Canada refused to accept the proposition.

1913: A filibuster was made against the omnibus public building bill by Senator Stone, of Missouri, until certain appropriations for his State were included.

1914: Senator Burton, of Ohio, filibustered against a river and harbor bill for 12 hours.

Senator Gronna filibustered against acceptance of a conference report on an Indian appropriation bill.

In this year also, the following bills were debated at great length, but finally passed: Panama Canal tolls bill, 30 days; Federal Trade Commission bill, 30 days; Clayton amendments to the Sherman Act, 21 days; conference report on the Clayton bill, 9 days.

1915: A filibuster was organized against President Wilson's ship-purchase bill by which German ships in American ports would have been purchased. The filibuster was successful and as a result three important appropriation bills failed.

1917: The armed ship bill of President Wilson was successfully filibustered, and caused the defeat of many administration measures. This caused the adoption of the Martin resolution embodying the President's recommendation for a change in the Senate rules, on limitation of debate.

1919: A filibuster was successful against an oil and mineral leasing bill, causing the failure of several important appropriation bills and necessitating an extraordinary session of Congress.

1921: The emergency tariff bill was filibustered against in January 1921, which led Senator Penrose to present a cloture petition. The cloture petition failed, but the tariff bill finally passed.

1922: The Dyer antilynching bill was successfully filibustered against by a group of southern Senators.

1923: President Harding's ship-subsidy bill was defeated by a filibuster.

1925: Senator Copeland (New York) talked at length against ratification of the Isle of Pines Treaty with Cuba, but the treaty was finally ratified.

1926: A 10-day filibuster against the World Court protocol was ended by a cloture vote of 68 to 26, the second time cloture was adopted by the Senate.

A bill for migratory-bird refuges was talked to death by States rights advocates in the spring of 1926, a motion for cloture failing by a vote of 46 to 33.

1927: Cloture again failed of adoption in 1927 when it was rejected by 32 yeas against 59 nays as a device to end obstruction against the Swing-Johnson bill for development of the lower Colorado River Basin.

One of the fiercest filibusters in recent decades succeeded in March 1927, in preventing an extension of the life of a special campaign investigating committee headed by James A. Reed, of Missouri. The committee's exposé of corruption in the 1926 senatorial election victories of Frank L. Smith in Illinois and of William S. Vare in Pennsylvania had aroused the ire of a few Senators who refused to permit the continuance of the investigation despite the wishes of a clear majority of the Senate.

1933: Early in 1933 a 2-week filibuster was staged against the Glass branch-banking bill in which Huey Long first participated as a leading figure. "Senators found him impervious to sarcasm and no man could silence him." Cloture was defeated by the margin of a single vote. Finally, the filibuster was abandoned and the bill passed.

1935: The most celebrated of the Long filibusters was staged on June 12–13, 1935. Senator Long spoke for 15½ hours, a feat of physical endurance never before excelled in the Senate, in favor of the Gore amendment to the proposed extension of the National Industrial Recovery Act. But the amendment was finally tabled.

1938: A 29-day "feather duster" filibuster in January-February 1938 defeated passage of a Federal antilynching bill, although an overwhelming majority of the Senate clearly favored the bill.

1939: An extended filibuster against adoption of a monetary bill, extending presidential authority to alter the value of the dollar, continued from June 20 to July 5, 1939, but finally failed by a narrow margin.

1942, 1944, 1946, 1948: Four organized filibusters upon the perennial question of Federal anti-poll-tax legislation were successful in these years. An attempt to pass fair-employment practice legislation in 1946 was also killed by a filibuster. The Senate cloture rule proved ineffective in these cases as a device for breaking filibusters.

1949: A motion to take up a resolution (S. Res. 15) to amend the cloture rule was debated at intervals in the Senate from February 28 to March 17 when it was amended and agreed to.

1950: A motion to take up the FEPC bill (S. 1728) was debated in the Senate, May 8–19, 1950, a total of 9 days. Ten Senators spoke in favor of the motion to take up (really in support of the bill) and 8 Senators spoke against the motion. According to a rough calculation, the proponents of the motion and bill used 35 percent, and the opponents used 65 percent, of the space in the CONGRESSIONAL RECORD devoted to the subject. During the 9-day period 3,414 inches of the RECORD were consumed with discussion of FEPC and 2,835 inches with other matters.

Mr. MALONE filibustered for 11 hours against the conference report on the slot machine bill (S. 3357) in December 1950.

1953: A prolonged debate took place on the so-called tidelands offshore oil bill. It began April 1 and ended May 5. The tidelands debate lasted for 35 days, one of the longest on record. During this debate Senator MORSE established a new record for the longest single speech. On April 24–25 he spoke for 22 hours and 26 minutes.

1954: An extended debate occurred in July 1954, on a bill to amend the Atomic Energy Act of 1946 (S. 3690). The debate lasted 13 days. On July 26 Senator KNOWLAND sought to invoke cloture on S. 3690, but his motion failed by a vote of 44 yeas to 42 nays.

LEGISLATION DELAYED OR DEFEATED BY FILIBUSTER, BY YEARS [11]

Reconstruction of Louisiana, 1865.
Repeal of election laws, 1879.
Force bill (Federal elections), 1890–91.
River and harbor bills (3), 1901, 1903, 1914.
Tri-State bill, 1903.
Colombian Treaty (Panama Canal), 1903.
Ship subsidy bills (2), 1907, 1922–23.
Canadian reciprocity bill, 1911.
Arizona-New Mexico statehood, 1911.
Ship purchase bill, 1915.
Armed ship resolution, 1917.
Oil and mineral leasing bill and several appropriation bills, 1919.
Antilynch bills (3), 1922, 1935, 1937–38.
Migratory-bird bill, 1926.
Campaign-investigation resolution, 1927.
Colorado River bills (Boulder Dam project) (2), 1927, 1928.
Emergency officers' retirement bill, 1927.
Washington public-buildings bill, 1927.
National-origins provisions in immigration laws, resolution to postpone, 1929.
Oil industry investigation, 1931.
Supplemental deficiency bill, 1935.
Work-relief bill ("prevailing wage" amendment), 1935.
Flood-control bill, 1935.
Coal-conservation bill, 1936.
Anti-poll-tax bills (4), 1942, 1944, 1946, 1948.
Fair-employment practices bills (2), 1946, 1950.
Numerous appropriation bills. For a partial list of 82 such bills that failed from 1876 to 1916, see CONGRESSIONAL RECORD, June 28, 1916, pages 10152–10153.

[11] Thirty-six bills appear in this incomplete list, not including the many appropriation bills that have either been lost in the jam that resulted from filibusters or were talked to death because they failed to include items that particular Senators desired for the benefit of their States or because grants they made were considered excessive. Several successful filibusters have sought and achieved the enactment of legislation favored by the filibusters. Filibusters have succeeded not only in preventing the passage of legislation, but also in preventing the organization of the Senate, the election of its officers, and the confirmation of Presidential appointees. They have also succeeded in modifying the terms of legislation; in delaying adjournment of Congress; in forcing special sessions, the adoption of conference reports, of neutrality legislation, and of a ship subsidy; in postponing consideration of legislation, and in raising the price of silver. Legislation has also often been defeated or modified by the mere threat of a filibuster. All the bills listed above, however, except the force bill, the armed ship resolution, and the so-called civil rights bills, were eventually enacted, in some form.

Of the 36 measures listed above, all but 11 eventually became law, in some cases after compromises had been made in their provisions following the failure of cloture. The table below, prepared at the direction of Senator HAYDEN, shows the later action on 35 filibustered bills.

The 36th measure (the second FEPC bill) was filibustered in 1950, subsequent to the table that follows.

Later action on 35 filibustered bills

Bills	Filibustered	Passed	Not passed (10)	Bills	Filibustered	Passed	Not passed (10)
Reconstruction of Louisiana	1865	1868		Colorado River bills (2)	1927, 1928	1928 [1]	
Election laws	1879	1909 (repealed)		Emergency officers' retirement bill	1927	1928	
Force bill	1890–91		X	Washington public buildings bill	1927	1928	
River and harbor bills (3)	1901, 1903, 1914	At intervals		Resolution to postpone national-origins provision of immigration laws.	1929	1929	
Tristate bill	1903	1907, 1912		Oil-industry investigation	1931	1935	
Colombian Treaty	1903	1903 [1]		Supplemental deficiency bill	1935	1936	
Ship-subsidy bills (2)	1907, 1922–23	1936		Prevailing-wage amendment to work-relief bill.	1935	1936	
Canadian reciprocity bill	1911	1911 [1]		Flood-control bill	1935	1936	
Arizona-New Mexico statehood	1911	1912 (admitted)		Coal-conservation bill	1936	1937	
Ship-purchase bill	1915	1916		Anti-poll-tax bills (4)	1942, 1944, 1946, 1948.		X
Armed-ship bill	1917		X	FEPC bill	1946		X
Mineral lands leasing bill	1919	1920					
Antilynch bills (3)	1922, 1935, 1937		X				
Migratory bird conservation bill	1926	1929					
Campaign investigation resolution	1927	1927 [1]					

[1] In special or subsequent sessions.

NOTE.—Numerous appropriation bills, at intervals, passed in special or later sessions.

Source: Limitation on Debate in the Senate. Hearings before the Committee on Rules and Administration, U. S. Senate, 81st Cong., 1st sess. On resolutions relative to amending Senate rule XXII relating to cloture. January and February 1949, p. 42.

Senate votes on invoking cloture rule [1]

Congress and session	Date	Subject	Senator offering motion	Yeas	Nays	CONGRESSIONAL RECORD		Cloture
						Volume	Page	
66th, 1st	Nov. 15, 1919	Treaty of Versailles	Lodge	78	16	58	8555–8556	Yes.
66th, 3d	Feb. 2, 1921	Emergency tariff	Penrose	36	35	60	2432	No.
67th, 2d	July 7, 1922	Fordney-McCumber tariff	McCumber	45	35	62	10040	No.
69th, 1st	Jan. 25, 1926	World Court	Lenroot	68	26	67	2678–2679	Yes.
	June 1, 1926	Migratory-bird refuges	Norbeck	46	33	67	10392	No.
69th, 2d	Feb. 15, 1927	Branch banking	Pepper	65	18	68	3824	Yes.
	Feb. 26, 1927	Retirement of disabled emergency officers of the World War	Tyson	51	26	68	4901	No.
	do	Colorado River development	Johnson	32	59	68	4900	No.
	Feb. 28, 1927	Public buildings in the District of Columbia	Lenroot	52	31	68	4985	No.
	do	Creation of Bureau of Customs and Bureau of Prohibition	Jones of Washington.	55	27	68	4986	Yes.
72d, 2d	Jan. 19, 1933	Banking Act	Robinson	58	30	76	2077	No.
75th, 3d	Jan. 27, 1938	Antilynching	Neely	37	51	83	1166	No.
	Feb. 16, 1938	do	Wagner	42	46	83	2007	No.
77th, 2d	Nov. 23, 1942	Antipoll tax	Barkley	37	41	88	9065	No.
78th, 2d	May 15, 1944	do	do	36	44	90	2550–2551	No.
79th, 2d	Feb. 9, 1946	FEPC	do	48	36	92	1219	No.
	May 7, 1946	British loan	Ball	41	41	92	4539	No.
	May 25, 1946	Labor disputes	Knowland	3	77	92	5714	No.
	July 31, 1946	Antipoll tax	Barkley	39	33	92	10512	No.
81st, 2d	May 19, 1950	FEPC	Lucas	52	32	96	7300	No.
	July 12, 1950	do	do	55	33	96	9982	No.
83d, 2d	July 26, 1954	Atomic Energy Act	Knowland	44	42	100	11942	No.

[1] Many cloture petitions have also been withdrawn or held out of order since 1917.

ARGUMENTS FOR FILIBUSTERING

1. Minorities have rights which no majority should override. Government is constituted to protect minorities against majorities. Obstruction is justifiable as a means of preventing a majority from trampling upon minority rights until a broad political consensus has developed.

2. A Senate majority does not necessarily represent a consensus of the people or even of the States. Frequently popular opinion upon a question has not been formulated or, if it has been, it is often not effectively expressed. Prolonged debate may prevent hasty majority action which would be out of harmony with genuine popular consensus.

3. It is the special duty of the Senate, sitting in an appellate capacity, carefully to inspect proposed legislation, a duty not readily performed without freedom of debate. In our system of government, where legislation can be gaveled through the House of Representatives at breakneck speed with only scanty debate under special rules framed by a partisan committee, it is essential that one place be left for thoroughgoing debate.

4. Filibusters really do not prevent needed legislation, because every important measure defeated by filibuster has been enacted later, except the civil-rights bills. No really meritorious measure has been permanently defeated and some vicious proposals have been killed. The filibuster has killed more bad bills than good ones.

5. It is the unique function of the Senate to act as a check upon the Executive, a responsibility it could not perform without full freedom of debate. Unrestricted debate in the Senate is the only check upon Presidential and party autocracy. It is justified by the nature of our governmental system of separated powers.

6. The constitutional requirement for recording the yeas and nays is a protection of dilatory tactics. The provision of the Constitution which requires the yeas and nays to be recorded in the journal at the desire of one-fifth of the Members present is an intentional safeguard allowing the minority to delay proceedings.

7. Majority cloture in the Senate would destroy its deliberative function and make it a mere annex of the House of Representatives.

8. Simple majority cloture would have brought many a decision which would have accorded ill with the sober second thought of the American people.

9. The Senate, without majority cloture, actually passes a larger percentage of bills introduced in that body than does the House of Representatives, with cloture.

10. To enforce cloture by vote of a chance majority in the Senate might bring greater loss than gain.

11. Filibusters are justifiable whenever a great, vital, fundamental, constitutional question is presented and a majority is trying to override the organic law of the United States. Under such circumstances, Senators as ambassadors of the States in Congress have a duty to protect the rights of the States.

ARGUMENTS AGAINST FILIBUSTERING

1. Under the practice of filibustering, the basic American principle of majority rule is set at naught. Not only is the majority thwarted in its purpose to enact public measures, it is also coerced into acceptance of measures for which it has no desire or approval.

2. The Senate should legislate efficiently, with responsibility only to the people. If the Senate is to be efficient, time should not be wasted in unnecessary delay merely for the sake of obstruction. Filibusters sometimes make special sessions of Congress imperative, with resulting unnecessary expense to the people and business uncertainty in the country. They also destroy responsibility of the majority party to the people.

3. Experience abroad and in the State legislatures indicates that debate can be limited without undemocratic results.

4. The constitutional provision that "the yeas and nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal" requires an immediate vote when the yeas and nays have been properly demanded.

5. Filibustering gives one Senator or a little group of Senators a veto power. It enables a handful of men in the Senate to prevent the passage of legislation desired by the overwhelming majority of the Members of Congress and the country. It permits one Senator to hold up needed appropriations until he extorts the favor that he demands for his State.

6. Filibusters have delayed for decades the enactment of social legislation passed by the House of Representatives and desired by a majority of the American people. Many people are losing faith in American democracy because of its repeated and prolonged failures to perform its implicit promises. Responsibility for these failures lies in large part at the door of Senate filibusters.

7. They arouse popular resentment and bring the Senate into disrepute at home and abroad.

8. Filibusters cost the taxpayers thousands of dollars, consuming days and weeks of valuable time and many pages of the CONGRESSIONAL RECORD at $80 a page.

9. They impose upon the Senate an indignity which would not be tolerated in any other legislative chamber in the world.

10. The present cloture rule (rule 22) is so cumbersome as to be unworkable. It has been successfully invoked only 4 out of 22 times in 39 years, the last time being in 1927.

11. Free speech would not be abolished in the Senate by majority cloture because, under the proposed amendment, adequate opportunity to deliberate upon a measure would be afforded during the prepetition stage plus the 2-day interval between the presentation of the cloture petition and the vote upon it, plus the 96 potential hours of debate allowed after cloture has been invoked.

12. Scores of appropriation bills and much meritorious legislation have been defeated or delayed by filibusters in the past.

13. Filibusters are undemocratic in that they permit one-third of the Senators present, plus one, to obstruct the majority. This group of Senators may be from only one section of the country, they may be from only one political party, and none of them may have been recently elected. It is a dubious argument to defend the filibuster on the ground that it protects the minority when actually its principal use, actual or potential, is to deny fundamental democratic rights to certain minorities. Most of the really undemocratic conditions in our country today exist because of the threat or use of the filibuster.

14. An effective antifilibuster rule ought to exist because (a) it is the imperative duty of a legislature not merely to debate but to legislate and, therefore, to tolerate no course of action by any of its members which will absolutely prevent legislation; (b) the majority is and must be held responsible for the conduct of affairs and is, therefore, entitled to use all means proper and necessary for the conduct of affairs; and (c) the vast and steadily increasing volume of business thrust on Congress renders it essential that not one moment of time be consumed uselessly.

REMEDIES FOR OBSTRUCTION IN THE SENATE [12]

1. Amend rule 22 to provide for cloture by majority vote of the total membership of the Senate, or by a majority of those present, applicable to any motion, measure, or other matter pending, after unlimited debate for a specified minimum number of days.

2. Adopt a rule providing for use of the motion for the previous question (as the House does) by which all further debate upon a matter may be terminated by a majority vote of the Chamber.

3. Adopt a rule that debate and amendments must be germane to the subject under consideration.

4. Limit duration of debate on bills by special orders as the House does.

5. Enforce the existing rules of the Senate by—

(a) Requiring the speaker to stand and not to sit or walk about.

(b) Taking a Senator "off his feet" for using unparliamentary language.

(c) Making a point of order against frequent quorum calls that no business has intervened since a rollcall disclosed the presence of a quorum.

(d) The Chair making drastic rulings against dilatory motions, on points of order raised from the floor.

(e) Objecting to reading a paper (rule 11).

6. Enforce rule 19 that "no Senator shall speak more than twice upon any one question in debate on the same day without leave of the Senate, which shall be determined without debate."

7. Enforce the provision of Jefferson's Manual that "No one is to speak impertinently or beside the question, superfluously, or tediously."

8. Let the Chair reverse the precedent, established in 1872, that a Senator cannot be called to order for irrelevancy in debate.

9. Let the Chair make a wise use of the power of recognition as between simultaneous claimants (rule 19, clause 1).

10. Let there be objection to yielding the floor, even though the Senator who has the floor consents to an interruption.

11. Resort to prolonged or continuous sessions.

LIMITATION OF DEBATE IN THE HOUSE OF REPRESENTATIVES

1. Debate in the House of Representatives is prohibited on a large number of parliamentary motions. Cannon lists 30 questions and motions which are not debatable at pages 143–144 of his Procedure in the House of Representatives, fourth edition.

2. General limitations:

(a) Since 1789 no Member has been allowed to speak more than once to the same question without leave of the House unless he be the mover, proposer, or introducer of the matter pending (rule 14, clause 6).

(b) Since 1841 no Member has been allowed to occupy more than 1 hour in debate on any question in the House or in Committee of the Whole (rule 14, clause 2).

(c) Since 1789 it has been possible to shut off debate and bring the matter under consideration to an immediate vote by the motion for the previous question (rule 17).

(d) Since 1789 Members engaging in debate have been required to confine themselves to the question under consideration, except during general debate in the Committee of the Whole on the State of the Union (rule 14, clause 1).

(e) Since 1789 no Member has been permitted to take the floor or engage in debate until he has been recognized by the Chair (rule 14, clause 2).

(f) Since 1883 time for general debate in Committee of the Whole has been limited by special orders reported by the Committee on Rules and adopted by the House (rule 23, clause 5).

(g) Since 1847 and 1850 debate upon amendments to a pending bill has been limited by the 5-minute rule (rule 23, clause 5).

[12] As proposed by United States Senators from time to time through the years.

(h) Since 1830 debate has been limited to 40 minutes under suspension of the rules (rule 27).

The VICE PRESIDENT. Does the Senator from Texas desire to yield time to any Senator?

Mr. JOHNSON of Texas. Mr. President, I do not have a speaker available at the present time. If the Senator from New Mexico has time to yield to a Senator who will speak on his side of the question for about 10 minutes, I shall then have a speaker.

Mr. ANDERSON. I merely wish to point out that we have used something over 100 minutes, and the Senator from Texas has used about 70 minutes.

Mr. JOHNSON of Texas. The Senator from New Mexico has been very kind. I have reminded him several times of that. I took time for lunch. While I was absent three of my speakers disappeared. I apologize. I shall get them back to the Chamber as soon as I can.

In the meantime, Mr. President, I ask unanimous consent that the time the Senate is now using not be taken from the time allotted to either side.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois [Mr. DIRKSEN].

Mr. DIRKSEN. Mr. President, I wish to concur in one observation made by the distinguished Senator from Georgia [Mr. RUSSELL]. I apprehend, from the mail and from the telegrams I and other Senators have received, that there are a great many people who actually believe the Senate is going to vote on a modification of rule 22 today, when, in fact, the motion which is pending before the Senate is entirely different in character, and is certainly all inclusive, and would involve every one of the 40 standing rules of the Senate. That point must be made abundantly clear, for even if the motion to table should not prevail today, it would still be necessary for the Senate to deal with the question of rule 22 at some later time.

I am of the opinion that we have sort of gotten the cart before the horse. It is a fair assumption that the whole civil-rights issue has preceded the rules controversy. I have manifested an abiding interest in civil-rights legislation. In San Francisco last year I served as chairman of the subcommittee on civil rights at the Republican National Convention. Frankly, I am quite proud, modestly so, of the kind of platform we wrote on civil-rights legislation. In the last session of the 84th Congress I sponsored, jointly with other Senators, four bills which were pending before the Judiciary Committee when the Congress concluded its labors. The subject matter of some of those bills was engrossed in a single package which was passed by the House of Representatives.

If it is fair to assume that this whole controversy comes before the Senate because of a growing interest in the civil-rights issue, then perhaps for a moment we ought to go back to the beginnings. Bills can be introduced and properly referred under the rule to the Judiciary Committee of the Senate, but the first problem is to get bills out of the committee. I think I authorized the motion under which the Judiciary Committee in its entirety would take testimony, and my record indicates that there were at least 8 hearings before the full committee on the question of civil rights, and that 17 bills were pending before the committee at the time. No action was taken, and when the Senate concluded its functions on the 27th of July it was on that day that a discharge resolution was filed by three distinguished Members of the Senate. That resolution languished on the calendar and no action was taken on it.

If we are going to deal with the question of civil rights, let us go back to beginnings. Let us go back to the committee. I have been introducing bills of this nature for more than 18 years. It probably was 18 years ago when I introduced in the House of Representatives my first bill on poll taxes, antilynching, and fair labor employment practices. Actually eight of those measures reached the Senate. The cloture rule was invoked at that time—several times on antilynch bills, several times on poll-tax bills, and several times on fair employment practice bills—but in no case was cloture actually put into effect by a vote of the Senate.

So we are back where we started. If we wish to do something constructive, why not modify the discharge rule? In the other House I served under a discharge rule which, in its inception, required signatures of two-thirds of all the Members of the House. Any Member who ever served in the House knows that any Member is free to file a discharge petition and lay it on the Clerk's desk. Members are then free to walk up to the Clerk's desk and sign it.

Later, I think in the 73d Congress—that rule was modified to require only a majority of signatures of Members of the House of Representatives. We could modify the discharge rule in the Senate so that it would be possible, after the lapse of 30 days, to bring a bill to the floor of the Senate and then determine what to do, and see whether or not, in order to prevent action, there would be a filibuster that could not be broken.

I think in all fairness it must be said that any filibuster on a question involving civil-rights legislation in this body can be broken. If we consider only the 8 or 9 States referred to as the Deep South, that means that if both Senators from each of the 9 States were religiously to set themselves against such measures as earnest crusaders, 18 Members of this body would be engaged in that effort. If other Members of the Senate were interested in civil-rights legislation, they could break that kind of filibuster. But I think the first problem is with respect to the discharge rule, to bring a bill to the attention of the Senate, and then determine where to go from there. That is why I say today that we have the cart before the horse.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, will the Senator from Texas yield me 5 additional minutes?

Mr. JOHNSON of Texas. I yield 5 additional minutes to the Senator from Illinois.

Mr. DIRKSEN. I believe, therefore, that when a proposal comes before us to open up the entire package of rules, we may think we are choosing our battleground, but someone else will be fighting on it before we are through.

I see my distinguished friend from Georgia [Mr. RUSSELL] nodding by way of assent. Once we open up the question, only to get at rule 22, there will be 40 standing rules of the Senate to engross the attention of Members of this body. I fancy that every Member is interested in different rules in the rule book. This procedure could then become a Donnybrook Fair, which might last 2 or 3 months before we got around to constructive legislation, and the consideration of the President's program.

It is not telling tales out of school, I think, when I say to my distinguished friend from New York [Mr. IVES] that I believe his primary interest is in rule 22. He nods assent. I am interested in rule 22. I wish we could modify it, and I am prepared to go along with some reasonable and decent modification of rule 22, but I am certainly disinclined to open up the all-embrasive controversy involving the 40 standing rules of the Senate.

This question arose in San Francisco. I served as chairman of the civil-rights subcommittee of the Republican Platform Committee. A great many persons came before the subcommittee to testify. They wanted to inject rule 22 into the platform. I said that if I had anything to do with it, under no circumstances would the party pass upon that question, because that is a matter of a procedural character, which lies wholly within the domain of the United States Senate. There is therefore no single allusion, directly or by implication, to rule 22 as a political matter. We tried to keep it on an affirmative, constructive basis.

So, speaking for myself as a Member of this body, I am prepared, by the normal and customary procedure, to go along with some reasonable modification of rule 22, without inviting and provoking the entire controversy which must necessarily ensue if we open up the whole package.

I am only too glad to serve under majority rule. I did so for 16 years. I did not find it very difficult. I am prepared, within limits, to do so again. I am delighted by the fact that the discussion today has been on a high level. I think I have been present in the Chamber most of the time. I listened with interest to the distinguished Senator from Georgia [Mr. RUSSELL], the Senator from Indiana [Mr. JENNER], and other Senators. However, I do not believe it can be denied that we are opening up a tremendous area of controversy for the one and only purpose of getting at rule 22.

I hope my memory served me correctly when I responded to a telegram which reached my office this morning. It was signed by the leader of a group in Chi-

cago. It said, in brief, "We trust that you will go along with the commitment you made with respect to the resolution which is before the Senate."

I have no recollection of any such commitment. I have a very definite recollection that I made the specific commitment that I would go along with some kind of reasonable modification of rule 22; and if our friends on this side of the aisle or on the other side are disposed to bring forward such a proposal, it certainly will receive careful consideration on the part of the junior Senator from Illinois.

However, I say very frankly that today I propose to vote for the motion to table, if for no other reason than that I do not want to see the United States Senate engrossed in a rulemaking controversy, with all the acrimony which invariably goes with it, while the program of the President of the United States, in a rather anxious hour, when there are so many fevers on the horizon of the world, waits until the Senate gets through with its procedural discussion.

For this reason, and because of the practical considerations involved, I shall vote for the motion to table.

I may say to the Senate that I have been circulating on our side this afternoon a package bill, which has in it the four proposals to which we alluded in the platform, and which have commanded the interest of the President of the United States. I trust that all Republican Senators may find it proper to join with us, so that this bill may be introduced on the first day when bills are to be received. I hope that it will receive speedy action in the House of Representatives, and that we can find some way to bring that measure out of the Judiciary Committee of the Senate.

There is only one further thing to which I wish to allude. In the Committee on the Judiciary we have a sort of gentlemen's agreement. If a Member wishes to hear a certain witness, we try not to be arbitrary or capricious. It might be said that the real filibuster comes in committee, rather than on the floor of the Senate. But who am I to say to a colleague on my side of the table or on the other side of the table, "We ought to get down to business and vote to report this measure," when he feels that there is a witness who could offer something constructive in connection with the proposal?

The first problem is to get the measure out of committee, to the floor of the Senate. When it reaches that point, I think we can find ways and means of effectively dealing with the issue.

Mr. JOHNSON of Texas. I yield 7 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I have only a few remarks to make on the subject of the Senate being a continuing body. My purpose in making these remarks is to express my deep concern against the argument that the Senate is not a continuing body.

My concern is increased because I regard this attack on the continuing nature of the Senate as being an attack on constitutional government itself.

While the rules of the Senate do not in themselves comprise constitutional provisions, I am of the opinion that it should be recognized and accepted that the rules are established on a constitutional provision. This provision declares that "each House may determine the rules of its proceedings."

If we accept the authorization and power of rulemaking from the Constitution, which was adopted in 1789, then we should also recognize and accept the other provisions of the Constitution.

After providing a name for the two legislative bodies of the Congress in article I, section 1, of the Constitution, its framers thereafter referred to the Senate as a definite body being permanently established. No reference was made in the Constitution to "the Senates," which would have indicated a conception of a series of bodies rather than a permanent one.

Nowhere in the Constitution is there an indication that our wise and learned forefathers expected there would be any gaps in the continuation of the Senate. Had they intended to establish the Senate as a noncontinuing or impermanent body. I believe they would have so specified.

The evidence is on the other side. In the preamble to the Constitution, the framers who drafted the Constitution, and the States and people who approved its adoption, stated their intention that the Constitution itself and the institutions established by it would be continuing.

They did not say they were ordaining and establishing the Constitution only for themselves. They used the language "to ourselves and our posterity."

To me, nothing could be clearer that the purpose and, in fact, the action of adoption of the Constitution, created a continuing Constitution and continuing bodies of government under the Constitution.

If we argue for or accept the proposition that the Senate is not a continuing body, it might also be argued that the Constitution itself should be revived and reapproved at regular intervals.

I do not believe any Member of the Senate would make such an argument as to the Constitution; therefore, I cannot see how logic leads anyone to the belief that the Senate is not a continuing body.

In my opinion, the people of this country should look upon efforts to declare the Senate a noncontinuing body as an effort in effect to amend the Constitution itself by a method not established in the Constitution.

I hope the people of this Nation still believe, as I believe, that the Government of the United States is a government of laws and not of men. I regret to say that there have been a number of recent instances in another branch of the Government which would indicate there are some who fail to follow this fundamental concept. But our concern now is with the specific matter under debate.

If it is logical to argue that the Senate does not exist as a continuing body, is it not just as logical then to argue that laws enacted during any given period become invalid upon the discontinuation of the Senate which approved them?

If the legislative body which creates a law is not itself continuing, how then can the law continue?

Of course, any argument that laws duly enacted are not continuing is ridiculous. I think it is just as ridiculous to argue that the Senate which was created by the basic and permanent Constitution of our Nation is not continuing.

The Constitution has been amended 22 times since 1789. No one would argue that these amendments have destroyed the Constitution. Then can it be said that a changing membership affects the continuation of the Senate?

Just as the Constitution provides the basis for a government of laws and not of men, so do the rules of the Senate provide an orderly plan of operation.

Legal provisions have been made in both instances for amendments. When amendments are necessary the duly established provisions should be followed whether it is to amend the Constitution or to change the rules of the Senate.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from Tennessee [Mr. KEFAUVER].

Mr. KEFAUVER. Mr. President, I have before me a copy of the Democratic platform of 1956. The plank entitled "Improving Congressional Procedures" reads as follows:

> In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 85th Congress to improve congressional procedures so that majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either House.

That statement is clear and unequivocal, and I feel that the effort being made here today is required by the clear and plain words of that provision of the platform. That plank was adopted without dissent at the convention in Chicago, as I remember. That kind of action is certainly persuasive with me.

After the adoption of the platform, I became the Democratic candidate for Vice President, and I accepted the nomination. I would certainly feel that it was my duty, if I had not been willing to live up to that plank, to make my position known before I became the candidate, and certainly before I accepted the nomination.

Later, as the vice presidential candidate, I campaigned throughout the country on that platform. Even though we were not successful, I think I have a duty to try to bring about the enactment of the pledges we made. I believe the people have a right to expect such action from those who run for office on a party platform.

I have joined with the Senator from New Mexico [Mr. ANDERSON] and our other colleagues in proposing a change in rule 22 at this time because I believe their action to be in conformity with this plank of the platform that I have read; and I think this will be our only opportunity at this session to carry out that pledge.

Furthermore, I believe it to be in the national interest that we have a change in this rule.

Senators remember that in 1949 there was a proposal to amend rule 22. That was the year when I first became a Member of the Senate. The objection was raised that the rule as it was then effective did not apply to a motion to bring up a measure, and that the motion to change the rules was therefore subject to unlimited debate. The late, beloved Vice President Barkley held that the then prevailing rule, which provided for cloture by a vote of two-thirds of the Senators present and voting, did apply to such a motion. I voted to sustain Mr. Barkley's ruling, but the Senate overruled him.

When the Senate overruled Vice President Barkley, it meant there was no limitation at all on a motion to bring up a measure, and I then voted for the 1949 amendment, believing it to be preferable to the situation in which we found ourselves. In so voting, however, I certainly did not intend to bind forever the hands of future Senators. I think every Senator has a right to have his say about the rules under which he operates.

After carefully studying the history and precedents, I decided to join with the Senator from New Mexico [Mr. ANDERSON] and our other colleagues in moving the adoption of new rules, providing a change in rule 22. My study has led me to believe that this is the proper time to make such a motion, and that each new Senate should, under the Constitution and precedents, have the right to decide the rules under which it operates.

Any legislative body should, in the final analysis, be able to bring a measure to a conclusion and a vote. I believe in freedom of debate, but it is not freedom when a handful of men can deny the overwhelming majority the right to even secure a final vote on a measure.

Frequently filibusters are thought of in connection with civil-rights legislation, but the veto exercised by filibusters is by no means exclusive to the civil-rights field. Important foreign policy and defense measures, such as the League of Nations Charter and President Wilson's ship-arming bill, can and have fallen victim of the filibuster. I am sure that Senators are familiar with the study prepared by the Legislative Reference Service listing the outstanding Senate filibusters from 1841 to 1955. This study shows that by far the greater number of filibusters concerned things other than civil rights—including appropriation bills, rivers and harbors bills, the admission of various States, including Oklahoma, Arizona, and New Mexico. In 1880, in an evenly divided Senate not unlike the one we have today, a measure to reorganize the Senate was filibustered from March 24 to May 16, until two Senators resigned, giving the Democrats a majority.

Mr. President, I doubt that there is any member of a legislative body who does not at some time think a measure about to be enacted is bad and not in the public interest. But the democratic way to fight that measure is to do so in debate, by the use of parliamentary procedure, by logic—and then to accept the decision. Any other way leads to paralysis of the legislative body.

Paralysis of the National legislative branch might someday occur at a critical period in history and we would be powerless to act. I therefore urge my colleagues to support the Anderson motion.

Many of us supporting the Anderson motion have different ideas as to which rule should replace rule 22. After adopting Mr. ANDERSON's motion to take up consideration of rules, we should be able to agree upon a rule that would assure free debate, sufficient protection of the view of the minority, and would, at the same time, be a more workable and fairer rule than the one we have at the present time. Even a simple rule of two-thirds of those present and voting would be more just than the present rule 22, and it is difficult to understand how any Senator can ask for more protection than this.

Mr. ANDERSON. Mr. President, I yield to the Senator from Minnesota [Mr. HUMPHREY] for a parliamentary inquiry.

Mr. HUMPHREY. Mr. President, I had intended to inquire of the Chair relating to a matter or two, and I rise now for that purpose.

Prior to propounding my parliamentary inquiry, I should like to say that I note in the RECORD at page 11 a motion of the Senator from Texas [Mr. JOHNSON] to lay on the table the Anderson motion.

I also note that a unanimous-consent agreement was arrived at which would permit us to have an orderly discussion of this crucial matter of Senate rules today. Therefore, Mr. President, my parliamentary inquiry is this:

In light of these developments and in light of what transpired yesterday, and thus far today, under what rule is the Senate presently proceeding?

I should like to have the Chair's view on that question.

The VICE PRESIDENT. The Senator from Minnesota is aware that the answer to that question is that the Senate is proceeding under the unanimous-consent agreement. The Chair is cognizant of the fact that the Senator from Minnesota and other Senators will propound parliamentary inquiries relating to this subject, and, consequently, it would perhaps be helpful if the Chair indicated by a general statement the Chair's opinion in regard to the parliamentary situation in which the Senate will find itself after the vote which will be taken on the motion to lay on the table.

The Chair emphasizes this because, strictly speaking, a parliamentary inquiry is for the purpose of guiding the Senate in its deliberations so that the Senate will know the effect of votes or other actions which are taken on specific matters. Therefore, the statement which the Chair now makes relates specifically to the question of what the parliamentary situation will be as the Senate votes on the matter currently being discussed. That question, and others which have been discussed in the debate today, in effect, go back to the basic question, Do the rules of the Senate continue from one Congress to another?

Although there is a great volume of written comment and opinion to the effect that the Senate is a continuing body with continuing rules, as well as some opinion to the contrary, the Presiding Officer of the Senate has never ruled directly on this question. Since there are no binding precedents, we must first turn to the Constitution for guidance.

The constitutional provision under which only one-third of the Senate membership is changed by election in each Congress can only be construed to indicate the intent of the framers that the Senate should be a continuing parliamentary body for at least some purposes. By practice for 167 years the rules of the Senate have been continued from one Congress to another.

The Constitution also provides that "each House may determine the rules of its proceedings." This constitutional right is lodged in the membership of the Senate and it may be exercised by a majority of the Senate at any time. When the membership of the Senate changes, as it does upon the election of each Congress, it is the Chair's opinion that there can be no question that the majority of the new existing membership of the Senate, under the Constitution, have the power to determine the rules under which the Senate will proceed.

The question, therefore, is, "How can these two constitutional mandates be reconciled?"

It is the opinion of the Chair that while the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress.

Any provision of Senate rules adopted in a previous Congress which has the expressed or practical effect of denying the majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional. It is also the opinion of the Chair that section 3 of rule 22 in practice has such an effect.

The Chair emphasizes that this is only his own opinion, because under Senate precedents, a question of constitutionality can only be decided by the Senate itself, and not by the Chair.

At the beginning of a session in a newly elected Congress, the Senate can indicate its will in regard to its rules in one of three ways:

First. It can proceed to conduct its business under the Senate rules which were in effect in the previous Congress and thereby indicate by acquiescence that those rules continue in effect. This has been the practice in the past.

Second. It can vote negatively when a motion is made to adopt new rules and

by such action indicate approval of the previous rules.

Third. It can vote affirmatively to proceed with the adoption of new rules.

Turning to the parliamentary situation in which the Senate now finds itself, if the motion to table should prevail, a majority of the Senate by such action would have indicated its approval of the previous rules of the Senate, and those rules would be binding on the Senate for the remainder of this Congress unless subsequently changed under those rules.

If, on the other hand, the motion to lay on the table shall fail, the Senate can proceed with the adoption of rules under whatever procedures the majority of the Senate approves.

In summary, until the Senate at the initiation of a new Congress expresses its will otherwise, the rules in effect in the previous Congress in the opinion of the Chair remain in effect, with the exception that the Senate should not be bound by any provision in those previous rules which denies the membership of the Senate the power to exercise its constitutional right to make its own rules.

Mr. ANDERSON. Mr. President, I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I wish to express my appreciation to the Presiding Officer for his opinion.

I had other parliamentary inquiries which I was prepared to state, but I find it unnecessary to state them. They have been comprehensively covered in the final remarks of the Vice President as to the apparent acquiescence in a readoption of the Senate rules by a successful motion to table. The Vice President has made the point perfectly clear.

I think we now, at last, have the issue before us clearly defined. We now have an opinion from the Vice President concerning the question whether or not the Members of the Senate—those who are new to this Chamber as a result of the most recent election, and those who have served in other years—may, if they wish, exercise their constitutional right to determine the rules of the Senate, the rules of procedure which shall govern our proceedings in this Chamber. I think that is the issue. Once that issue has been decided by a defeat of the motion to table, then we shall come to the issue of the rule itself, and the substance of the new rules.

I wish to make my position quite clear to my colleagues. I think every Member of the Senate knows that I believe in extended debate. I believe in the rights of minorities. I want it to be clear that I am not one of those who believe we should try to cut off debate summarily. I believe in walking the extra mile in terms of procedural protections necessary for the freedom of discussion, freedom of debate, and freedom of inquiry.

We have had reassurance in the Vice President's opinion.

Mr. JOHNSON of Texas. Mr. President, I yield 2 minutes to the Senator from North Dakota.

Mr. LANGER. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the remarks I made on the floor of the Senate on March 11, 1945, concerning the rules of the Senate and the entire matter of cloture.

I have not changed my views as I expressed them at that time. I followed the distinguished Senator from Wisconsin, Robert M. La Follette, when he stated at that time that the only remedy the minority had in matters of this kind was unlimited debate. I agree with that principle, and I shall vote not to change the rules.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. LANGER. Mr. President, very briefly I want to state my position on this motion. In the 80th Congress I led the fight to have the Republican Party carry out its pledges. The Republican Party at that time did not do so. On June 7, 1948, I brought to the attention of the Senate that in the Republican platform of 1944 the Republicans had placed the following planks. First:

"We pledge the establishment by Federal legislation of a permanent Fair Employment Practice Commission."

Second:

"ANTIPOLL TAX

"The payment of any poll tax should not be a condition of voting in Federal elections and we favor immediate submission of a constitutional amendment for its abolition."

Third:

"ANTILYNCHING

"We favor legislation against lynching and pledge our sincere efforts in behalf of its early enactment."

And, Mr. President, fourth:

"INDIANS

"We pledge an immediate, just, and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation. We will take politics out of the administration of Indian affairs."

Mr. President, day after day I stood upon this floor, when the Republicans had a majority, begging them to carry out the solemn promises, the definite pledges they had made to the people of the United States, and it is significant to note that I got exactly 7 votes on 3 of the measures, and that only 1 of them was passed.

Mr. President, if I were assured that after this appeal had been decided my colleagues on the other side would make a sincere effort to carry out the wishes of President Truman, I would not take the few minutes I am taking. I have a definite idea as to their intentions. I wish to make perfectly clear the reason why I shall vote to overrule the decision of the Vice President yesterday afternoon.

In the first place, North Dakota holds a rather peculiar distinction. At the time rule 22 was adopted that grand and popular Viking, the late Senator Gronna, of North Dakota, was 1 of 3 Senators to vote against it. Also at that time there was in the Senate a man who was beloved all over the country, and particularly by the people of North Dakota. I refer to the late Senator Robert La Follette, Sr., one of the fighting champions—and one of the greatest—in behalf of the common people. Mr. La Follette was elected to the Senate in 1905. Because he had a lieutenant governor who disagreed with him politically he waited until 1906 before he came to the Senate. In 1917, 11 long years after Mr. La Follette first became a Member of this body, the question of cloture came up.

Mr. President, I believe that no other question which has arisen in the Senate during the 8 years I have been a Member has resulted in my receiving more telegrams and more telephone calls than I have received in this case, after announcing a few days ago that I would vote not to sustain the anticipated ruling of the Vice President.

In order that my position may be very clear, I wish to say that I fully agree with the late Robert La Follette, Sr. On March 8, 1917, in speaking of rule 22, just before the vote took place, Mr. La Follette said:

"With a rule such as is here proposed in force at that time, with an iron hand laid upon this body from outside, with a Congress that in 3 years has reduced itself to little more than a rubber stamp, let me ask you, Mr. President, if you do not think a rule of this sort would be bound to be pretty effective cloture? Especially is that true as some of the proposed legislation was of a character that appealed to certain Senators upon this side of the Chamber who, coming from States where the manufacture of munitions is a mighty important industry, are impressed with legislation that benefits the interests they represent?"

Mr. La Follette continued—and I invite this to the attention of every man who pretends to be a progressive. Everyone who has studied history knows that Rome, after 450 fine years, fell when Julius Caesar made himself a dictator and when he subjugated the Roman Senate to his will. The English Parliament was strong for many hundred years, until Gladstone succeeded in abolishing the right of free discussion, at the time when the matter of freedom for Ireland came up for debate in Parliament.

I read at this time what Senator La Follette said when a proposal for cloture was before the Senate 32 years ago:

"Mr. President, believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule upon this body, that moment you will have dealt a blow to liberty, you will have broken down one of the greatest weapons against wrong and oppression that the Members of this body possess. This Senate is the only place in our system where, no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is opportunity to speak at length, and where, if need be, under the Constitution of our country and the rules as they stand today, the constitutional right is reposed in a Member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be in violation of the Constitution which Senators have sworn to support. When you take that power away from the Members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here."

I have not time to quote all of Mr. La Follette's speech. He gave one or two quotations. Here is one from a former Senator from Indiana, Senator Turpie, who, some 50 years previously, had made a statement in regard to limitation of debate. This is what Senator Turpie said:

"I heard this body characterized the other day as a voting body. I disclaim that epithet very distinctly. I have heard it described elsewhere as a debating body. I disclaim that with equal disfavor. This body is best determined by its principal characteristic. The universal law and genius of language have given a name to this body derived from its principal attribute. It is a deliberative body—the greatest deliberative body in the world."

That was the first time, so far as I have been able to ascertain, that that description of the United States Senate was given. He continued:

"Now, voting is an incident to deliberation, and debate is an incident to deliberation; but when a body is chiefly characterized as deliberative there is much deliberation apart

from discussion and debate, and wholly apart from what is called the business of voting.

"The essence and the spirit of a body like ours, now over a century old, may be best gathered from its rules of action, the body of law governing it always very small, now very brief. Of the 21 rules properly affecting parliamentary procedure in this body 11 relate to the subject to deliberation. More than one-half relate exclusively to that subject and have nothing to do with debate or voting. I suppose that the form of law under which the will of the majority must control this body embraces at least the rules which govern us. Here is rule 22, one which touches us every day. I think it is the most frequently operative of any rule in the Senate."

Mr. President, after referring to the pledges made by the Republican Party, which they did not keep, I now call attention to the Democratic Party—whose members now say that they stand for civil rights. Mr. Truman was a member of this body for 5 years. What does the cold record show as to what he did for civil rights? Did he lead any fight for them in this body, Mr. President? I was here during those 5 years. He did not lead one fight for them. Where is he today? He is not in Washington. Mr. President, he is out fishing, in Florida. That shows his great interest in this matter.

Oh Mr. President, these Negro votes are very fine on election day. Apparently the Democrats think they have to make a showing for civil rights this year and perhaps next year and perhaps the year after that—but not a serious effort to get these civil-rights measures enacted; and the effort here these past 10 days has not been serious.

Mr. PEPPER. Mr. President, will the Senator yield for a question?

Mr. LANGER. I refuse to yield at this time; I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota declines to yield.

Mr. LANGER. Mr. President, the effort has not been serious. I imagine the Senator from Florida might give us some of Mr. Truman's votes on various measures. I think that he voted right when it came time to vote; but at no time did he lead a fight for civil rights.

Mr. President, what a difference. When two or three times at the last session I tried to prevent the passage of a bill which, under selective service, would draft the last remaining son of a family whose two other sons had been killed in the service, the Members of the Senate stayed here and had two sessions all night long—two long, long night sessions. But I have not seen any so far this session, Mr. President. So far in this session we have worked no later than 8 or 9 or 10 o'clock at night, and then we have quit until the next day at noon, not 11 o'clock. I, for one, want to make it very plain that at any time that the Democrats really want to pass these civil-rights measures, I am prepared to stay here all night or stay here a week or a month in order to enact the civil-rights program that Harry Truman has advocated since he has become President.

Not long ago the distinguished Senator from New York [Mr. IVES] said he thought he was perhaps as good a friend of civil rights as was any other Senator upon this floor. I think he is correct. I wish to say that during the 8 years I have been here, I have voted for every bill, without exception, calling for the establishment of civil rights in this country. So today I wish to make it very plain that when I vote to override the decision of the Vice President I am still a firm, fighting friend of civil rights—just as strong a friend of civil rights as I ever was; and if the Democrats will begin tomorrow or Monday with a really serious, honest effort to carry out Mr. Truman's civil-rights program, I assure my friend the distinguished majority leader [Mr. Lucas] that he will find me voting with him every single time. I hope the Democratic Party will do that. I hope they begin on it right away, and never quit until they secure the enactment of that civil-rights program. I think they will receive a great deal of support from Senators on this side of the aisle.

Mr. President, apropos of the telegrams and telephone calls on this matter which have been received by Senators—and two of those communications are rather threatening, especially one from New York—I wish to say that it seems to me that the people who sent those messages do not really understand the problem we face here, which was so clearly set forth today by the distinguished senior Senator from Michigan [Mr. Vandenberg].

Mr. President, in closing let me say that when I came to the Senate I had no better friend than Senator Charles McNary, of Oregon, who at that time occupied the desk next to the one I now have in this Chamber. He was then the minority leader. I shall never forget when he said to me that, in his judgment, one of the greatest safeguards of democracy was the fact that the right of unlimited debate exists in this Chamber, and I remember very well that when a distinguished Senator came to me and asked me to sign a cloture petition I talked with the senior Senator from Texas [Mr. Connally], and I also secured the advice of Senator McNary, of Oregon, and I did not sign it. Certainly when a Member of the Senate like Senator La Follette, who was here 11 years, or a Member of the Senate like Senator McNary, gave me such advice, I did not sign it. I took the advice of the distinguished Senator Charles McNary, of Oregon.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. LANGER. I yield.

Mr. CONNALLY. I wish the Senator to be correct in his statement. I am sure he did not mean to say that I asked him to sign the cloture petition, for I was against signing it.

Mr. LANGER. That is correct; the Senator from Texas was against signing it. When such a petition was brought to me and I was asked to sign it, the distinguished Senator McNary, of Oregon, joined the Senator from Texas in saying that the right of free and unlimited debate in the Senate was one of the finest things about this body.

Mr. President, again I wish to assure my friend the Senator from Illinois [Mr. Lucas], the majority leader, that if he will bring up this question of civil rights he will find no better backer than myself, and I shall be one of those who will hold up his right arm in carrying on that fight.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. LANGER. I yield.

Mr. LUCAS. Do I correctly understand that the Senator from North Dakota is in favor of the Wherry-Hayden resolution?

Mr. LANGER. I am not certain; that is a question we shall take up after this one. So far as the question of invoking cloture by a two-thirds vote is concerned, I am not quite sure whether I favor it or am opposed to it. I may even be opposed to it. I know that I do not favor cloture by majority vote, under any consideration.

Mr. LUCAS. In any event, the Senator from North Dakota is in favor of free and unlimited debate, and he has been in favor of it all the time, I understand.

Mr. LANGER. That is correct.

Mr. LUCAS. If the Senator does not favor the Wherry-Hayden resolution, why would he wish to keep us here for a month?

Mr. LANGER. I may be in favor of that resolution; I have not stated that I am opposed to it. I wish to study it and go over it. I do not wish to commit myself regarding it until I look it over and study it and hear the debate on it. I may even wish to offer an amendment to it.

Mr. LUCAS. Mr. President, will the Senator yield further?

Mr. LANGER. I yield.

Mr. LUCAS. The Senator has been talking about breaking this filibuster, but he is in favor of free and unlimited debate. I do not quite follow his reasoning, if he is in favor of having the Senate stay here for a month and if he is in favor of free and unlimited debate.

Mr. LANGER. It is very simple. If the Senator needs help, I shall be glad to give it.

Mr. LUCAS. I shall need a great deal of help.

Mr. LANGER. All the Senator from Illinois has to do is keep the Senate in continuous session. If that is done, it will not be very long, as the Senator from Michigan said today, before we shall arrive at some understanding or agreement which will be mutually satisfactory.

Mr. LUCAS. Mr. President, will the Senator yield further?

Mr. LANGER. I yield.

Mr. LUCAS. What the Senator says may be correct; but I am not sure that I shall be able to depend on the Senator from North Dakota, when we finally attempt to break the filibuster, to help us to break it, because he may not be in favor of the Hayden-Wherry resolution. I hope I can depend on the Senator from North Dakota when the time comes for him to go along with us.

Mr. LANGER. I assure the Senator from Illinois that I shall go along in helping secure the enactment of the Truman civil-rights program.

Mr. LUCAS. But the Senator from North Dakota makes some qualifications in that respect.

Mr. LANGER. No; I make no qualifications. When the Senator from Illinois asks me whether I favor a resolution which I have not yet had ample opportunity to study, I say that I am not sure whether I shall favor it without the crossing of a "t" or the dotting of an "i."

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. LANGER. I yield.

Mr. MAYBANK. The Senator from North Dakota has mentioned the name of the great Senator Bob La Follette. I wish to ask the Senator a question, because we were here together with another great Senator from the West, Senator Wheeler. I am sure the Senator from North Dakota well remembers the debates on the floor of the Senate with that distinguished Senator from Montana. I wish to remind the Senator that many a time Senator Wheeler——

Mr. LANGER. Senator Wheeler stood first, last, and all the time for free and unlimited debate upon this floor.

Mr. MAYBANK. Also, as I remember, he was a candidate, along with the distinguished Senator Bob La Follette, of the liberal movement in America.

Mr. LANGER. That is right.

Mr. KNOWLAND. Mr. President, will the Senator yield for a question?

Mr. LANGER. I yield.

Mr. KNOWLAND. I wish to inquire of the able Senator from North Dakota, in view of his statement and in view of the parliamentary situation with which the Senate is faced on the question of filibustering on a motion to take up a matter, how he anticipates he will ever get a chance to vote on any civil-rights legislation if we cannot even get it before the Senate for a vote.

Mr. LANGER. It would be delightfully simple. Just as the Senator from Michigan said today in his magnificent address, it will be possible to enact civil-rights legislation just as soon as either party makes up its mind it is going to do it—any time Republicans will make the sacrifices necessary to do it. The Senator will remember last year I brought up these Republican platform pledges. The junior Senator from Oregon rose on the floor and said he would bring up his cot every day, he would stay here a week, or a month. Just as soon as either the Republicans or the Democrats make up their

minds to get the civil-rights program through it can be done. Instead of that, we adjourned for 3 days at a time until toward the end of the session. Then, in the last 2 or 3 weeks, some of us who were opposed to the drafting of our boys under selective service were kept here 2 nights before the Republican convention at Philadelphia, all tired out. We were kept in session because Senators wanted to adjourn and go to the convention. Although many days had been wasted during the month or 2 or 3 months before that, there was an adjournment 3 days ahead of time. So I close by telling the people of this country that I am unqualifiedly for the civil-rights program and will help to enact it—if only the Democratic majority will bring it up.

Mr. JOHNSON of Texas. Mr. President, I yield 10 minutes to the distinguished Senator from Oklahoma.

Mr. MONRONEY. Mr. President, I can sympathize with the able Senators who wish to adopt the Anderson motion. I find myself voting with most of those Senators a considerable part of the time.

I do not think that what has been proposed is an effort on the part of Walter Reuther, or of any other person or group in the country, to put something through the United States Senate. As a matter of fact, if a vote should occur on rule 22 in the regular processes of our legislative debate, I would favor cloture by a mere two-thirds vote of the Senators attending. I feel also that any rule change should be subject to cloture, the same as any legislative measure.

I fear that in the process offered here today the cure will be far worse than the disease. The motion on which we are asked to vote reads:

> In accordance with article I, section 5, of the Constitution, which declares that each House may determine the rules of its proceedings * * * I now move that this body take up for immediate consideration the adoption of rules for the Senate for the 85th Congress.

The motion does not say that the amendment which is sought is the amendment of rule 22; it would cover all the rules for the 85th Congress, and for all future Congresses, and it would destroy the historic concept of the Senate being a continuing body.

Until action on the "immediate consideration of the adoption of rules for the Senate for the 85th Congress" had been completed with respect to all 40 rules of the Senate, there would be no rules, no committees, and no committee jurisdictions. Indeed, the Senate would be operating without any procedures, precedents, or prohibitions of any kind until all the rules were adopted.

I feel that only by unanimous agreement, which apparently it would be impossible to secure in this Chamber, could the old rules of the Senate be continued in force while the Senate debated the proposed adoption of new rules.

Perhaps in the Senate today the fine Senators who seek only to amend rule 22 could control and prevent any other changes of the rules. But it would be possible, and likely probable, that other Senators would have other changes which they desired to have made.

Many other changes of the rules have been proposed in the past, such as the rule of germaneness, which is sought by many Senators who have tried to speed up and make more effective Senate procedure. I think not less than a dozen changes have been proposed at various times, including changes in the committee structure, the adding of new committees, the taking away of power from existing committees, and the changing of the jurisdiction of committees.

These are all a part of the Senate rules; and if the Senate were to start work on new rules, there would be no way to maintain, without unanimous consent, the rules under which the Senate historically has operated, and which I feel have been vital to the building of the Senate into the great legislative body that it is.

Thus, under this proposal, without committee consideration of any kind, various fundamental changes in the rules could be made on the opening day or in the tedious weeks that follow the opening day.

Furthermore, each Senate every 2 years would be a new Senate and would adopt a new set of rules on the opening day or in the tedious weeks that follow.

In my opinion, what is at stake is the importance of the Senate. Is it a continuing body? Certainly the precedents of 167 years of historic progress indicate as much. Certainly even those who today advocate a change in the rules would not wish to lose the mark that distinguishes the Senate from almost all other legislative bodies of the world. Certainly the precedent throughout history that the Senate is a continuing body should not be lightly cast aside.

The Constitution provides that always two-thirds of the Members of the Senate shall continue in office while only one-third are elected to each new Congress. Only the newly elected and the reelected Senators take the oath on the opening day. Incidentally, it is the oath prescribed by rule 2 and was used yesterday for the one-third of the Senate who were inducted into office.

The two-thirds of the membership who continue in office did not take the oath, under the precedents that the Senate is a continuing body.

If the Senate should adopt new rules at the beginning of each Congress, it is interesting to note that the oath of office which many Senators took yesterday, as prescribed by rule 2, would have been a nonexisting oath. So if the Senate had no continuing rules, then the one-third of the membership who were sworn in yesterday would have taken an oath not provided for by the rules of the Senate of the 85th Congress.

During the 2 years in which the Joint Committee on Reorganization of Congress studied the matter—and I had the honor of serving on the joint committee with the late distinguished Bob La Follette—not a single witness, as I recall, challenged the concept that the Senate is a continuing body, or that its rules were anything other than continuing rules until they were changed by the Senate, by action in the Senate Chamber, in the form of an amendment to the existing set of rules.

Since during the debate that act has been brought into the question, I should like to correct a misinterpretation which may be current, namely, that inasmuch as the Legislative Reorganization Act is statutory law, and was signed by the President, therefore, all of its provisions are continuing.

Title I of the Legislative Reorganization Act provides as follows:

> SEC. 101. The following sections of this title are enacted by the Congress:
>
> (a) As an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules supersede other rules only to the extent that they are inconsistent therewith; and
>
> (b) With full recogintion of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

I think that provision clearly sets forth the concept under which that measure was introduced and explained to the Senate and to the House of Representatives, namely, that title I was strictly a rule-making procedure, incorporated in the omnibus bill to effect the reforms the bill sought to provide.

In addition to the provisions for committee structure, which are part II of the act, there are provisions for such things as the banning of the introduction of private bills, congressional adjournment, committee procedure, committee power, conference rules regarding amendments in the nature of a substitute, legislative oversight by standing committees, decisions on questions of committee jurisdiction, legislative budget, hearings and reports of the Appropriations Committees, records of Congress, preservation of committee data, and many others.

All of them are a part, not of title II of the Reorganization Act, but of title I, which was clearly specified and reserved as a part of the rulemaking powers of either House or, when the jurisdiction was concurrent, of both Houses.

It would seem to me that under the concept here presented, all the rules regarding reorganization which apply to standing committees would be subject to change without any committee consideration whatsoever; and such a change could occur either on the opening day of a session or in the first few weeks of a session.

That would mean that there would be no standing committees of the Senate and no jurisdiction of committees until the rules were either amended or reenacted, at the discretion of this Senate or of future Senates.

It would seem to me to be the part of wisdom that any changes in the rules—on which all of our Senate precedents are based—should receive committee consideration, testimony, and great care, before being thrown onto the floor for determination in the opening days of a Congress.

I am not arguing that rule 22 has not been adequately discussed. But we are talking about 40 rules of the United

States Senate. It seems to me that before opening up all the rules, in order to take up one particular rule with which we may disagree, we must consider the likelihood of amending other rules to which there has been no dissent.

How would we operate under the concept presented here that today the Senate has no rules until we adopt new ones, and that without having any rules we shall now proceed to put together a new set of rules?

How would traffic in the city of Washington operate if all its traffic laws were thrown out the window while an attempt was being made to amend a prohibition against overtime parking? That would create one of the greatest traffic confusions in history. Certainly wisdom and judgment should dictate that only the traffic regulation needing amendment should be considered, while the others should be allowed to stand.

Indeed, if the existing Senate rules were to be suspended, none of the rules providing for orderly procedure would apply during the course of the adoption of new rules, unless unanimous consent were given.

Would there be any limitation on debate on the new rules? I can find none which would apply. Would rule 19, prohibiting any Member from speaking more than twice on any one question on the same day, apply? I cannot find that it would. It seems to me that in that event, rule 19 would not apply. Thus, Mr. President, the very rule which time and time again helps the leadership to break a filibuster, by reason of the physical exhaustion of the speakers, would not be effective.

The PRESIDING OFFICER (Mr. THYE in the chair). The time of the Senator from Oklahoma has expired.

Mr. MONRONEY. Mr. President, will the Senator from Texas yield 3 additional minutes to me?

Mr. JOHNSON of Texas. I yield 3 additional minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for an additional 3 minutes.

Mr. MONRONEY. I thank the distinguished Senator from Texas.

Mr. President, in the Senate rules there is nothing to provide for the use of Robert's Parliamentary Rules of Order, Jefferson's Manual, or any other legislative procedure or guides.

It has been argued that the House adopts new rules at the beginning of each session. Let me point out that historically the House has been so limited in debate and discussion so often that when the question of the adoption of rules arises, it is merely standard operating procedure to approve the old rules. Most of the Members do not realize that a motion to amend them would be in order. To my knowledge, only twice in 18 years has an amendment to the rules of the House of Representatives been offered.

On the other hand, my experience with the Members of the Senate is that they will wish to discuss the matter at great length, before finally determining the rules by which the Members of the Senate shall live.

In that connection, the Members of the Senate would prefer to have any change made in an orderly way, with committee consideration, with testimony of witnesses, and with the proposed changes formally reported to the Senate, then if a filibuster should occur to take steps to break the filibuster by continuous sessions for weeks and weeks, if necessary.

So, Mr. President, it seems to me that only by an orderly process of changing by amendment the rules of the Senate as a continuing body can we avert a dangerous crisis, namely, a situation in which we would be without any rules to guide our procedure as we would seek to adopt new rules.

Mr. President, I feel certain that Congress will soon pass proposed civil-rights legislation. But I would hate to see us lose so much for this Congress and for future Congresses, by doing away with a precedent which has existed for 167 years in order to bring up one piece of proposed legislation.

Historically, it has been the minority which has long been protected by the privilege in the Senate of unlimited debate. Although at this time this privilege of unlimited debate has prevented the passage of civil-rights legislation, I do not think this is the method to benefit the minorities affected.

In the future it would be highly dangerous to all minority groups if a pattern is set here today that could, on the opening day of any future Congress, impose a gag rule on the Senate.

We are asked to set a precedent for all time to come in this procedure. Sometime in the future an all-powerful majority might easily utilize this pattern to provide for closing debate with only an hour's discussion. Then the minorities themselves, who have benefited by the right of unlimited Senate debate, would be the severest losers.

Mr. President, I yield back the balance of my time.

Mr. RUSSELL. Mr. President, will the Senator from Oklahoma yield to me?

Mr. MONRONEY. I yield.

Mr. RUSSELL. I should like to remind the Senate that the Senator from Oklahoma [Mr. MONRONEY] speaks as a great authority with respect to the Legislative Reorganization Act, for it so happens that he was one of the authors of the act, and was also one of the most active Members of Congress in presenting it. He and the late Senator Bob La Follette, Jr., of Wisconsin, were the authors of that act. It was my privilege to serve as a member of the Reorganization Committee; and I hold the same opinion as does the Senator from Oklahome, namely, that the fact that these rules are set forth in that act does not in anywise affect their character as rules of the Senate of the United States.

Mr. MONRONEY. Mr. President, I may say to the distinguished Senator from Georgia, who served so ably, that it was the only way we could change the rules and at the same time make the statutory changes which were necessary, and that the Senate understood that they were rule changes, and that each Congress could change them, so long as proposed changes were brought up in the regular way.

Mr. RUSSELL. Not only was it understood, but it was spelled out in explicit terms, so that he who runs may read. The distinguished Senator read it earlier in his remarks.

But the rules would expire upon the adoption of this motion, and then we would have no committees.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the distinguished Senator from Connecticut [Mr. BUSH].

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

Mr. BUSH. Mr. President, the scholarly opinion which we recently heard from the Vice President, in response to a parliamentary inquiry by the Senator from Minnesota [Mr. HUMPHREY], has, I believe, so completely covered this subject that it seems almost superfluous for me to make the remarks I have prepared, because the Vice President not only has answered the parliamentary question, but also has made a devastating argument in favor of the motion of the distinguished junior Senator from New Mexico [Mr. ANDERSON] to proceed to immediate consideration of adoption of rules for the Senate of the 85th Congress in accordance with article I, section 5, of the Constitution which declares that "each House may determine the rules of its proceedings."

Four years ago, when the Senate of the 83d Congress was being organized, I remember listening, somewhat awestruck, to the debate on this subject, which ended in a vote to table. I voted then in support of the motion to table, which was made by the late Senator Robert A. Taft.

As a newcomer to this Chamber, I was not familiar at that time with the rules of the Senate. Indeed, I sometimes suspect that to understand fully the rules and procedures of the Senate, supplemented and supported as they are by a mass of precedents and rulings not yet collected in printed form, would take a lifetime of study.

During the past week, I have had the opportunity of carefully reviewing the previous debates on the issues now before the Senate, and of studying the vast amount of material placed in the CONGRESSIONAL RECORD in connection with those debates.

The debate of 1953 seemed to hinge on whether or not the Senate is a continuing body. I am now convinced that this is an immaterial issue.

What is the central question It is this: Is the Senate of each new Congress free to adopt rules for its proceedings under the Constitution? Or, stated in another way: Must the Senate be bound by the dead hand of the past, denying Senators of the living generation the right to participate in the formulation of the rules?

Reason and logic dictate the answer: The Senate must preserve its constitutional power to adopt its rules to changing conditions. As Senator Thomas Walsh, of Montana, said in 1917:

A majority may adopt the rules in the first place. It is preposterous to assert that they

may deny to future majorities the right to change them.

If the question of whether the Senate is a continuing or a noncontinuing body were important, I believe that it is self-evident that for most purposes the Senate acts as if it were formed anew with each new Congress.

Do bills and resolutions carry over in the Senate from one Congress to the next? They do not. Do treaties which have been reported from the Committee on Foreign Relations remain before the Senate from one Congress to the next? They do not.

Do executive nominations upon which no action was taken in the old Congress automatically remain before the Senate for consideration? They do not.

Certainly nothing in the matters just referred to, and others which could be mentioned, argues in favor of the continuity of the Senate. On the contrary, the fact that action must begin anew in so many cases argues strongly against the idea that the Senate is a continuing body.

It is true that in the past the Senate has acquiesced in rules which have continued from Congress to Congress, without adoption by the Senate in each new Congress. This has happened because the question of whether the Senate is free to adopt new rules has rarely been raised, and when it has been raised, as in 1917, and again in 1953, there has been no direct decision on the question. Only a few moments ago the Presiding Officer pointed that out very clearly.

Four years ago a direct decision was avoided by the device of tabling, and the Senate accepted the old rules by acquiescence, just as it accepted, by tacit consent, that its meeting place would be in this Chamber. I do not think the rules provide that the Senate shall meet in this place; but year after year the Senate does come to meet here, because it does so by acquiescence, by unanimous consent. Similarly, one may find many customs and precedents in the Senate which are observed and which go on for years unchallenged by the Senate in each succeeding Congress, even though they are not in the rules. This does not imply that the Senate is a continuing body; it merely implies that these traditions or precedents are observed from year to year by acquiescence, by lack of challenge, by general acceptance.

However, I believe we should come to grips with the essential questions before us, and not spend too much time in fruitless argument over whether the Senate is a continuing body or whether it is not.

Underlying the question of whether the Senate is free to adopt new rules is, of course, the issue created by rule 22 which contains no effective check against the filibuster. This rule requires a vote of two-thirds of the entire membership of the Senate—64 Senators—to invoke cloture upon debate on legislation. And, most objectionably, in subsection 3 it prevents cloture on any motion or proposal to change the rules.

As the rule now stands, it is possible for a small group of Senators, a definite minority, to delay the business of the Senate for weeks by the tactic of filibuster. A small minority can thwart the will of the Senate at any time an issue arises which is distasteful to it.

The senior Senator from Connecticut is not one who wishes to make it possible to limit debate unreasonably. In fact, in considering a substitute for rule 22, I believe we should be very generous in providing for full and adequate, even prolonged debate. The important thing to establish at this time is the power of the Senate to reach a decision on a major issue, and to that end it must be possible to invoke cloture at some point. My personal preference is for cloture by vote of two-thirds of the Senators present and voting, coupled with the abolition of subsection 3 of rule 22.

It is evident that the issue of civil rights looms large in the background of this debate. Both the Democratic and Republican Party platforms of 1956 pledge action in this field of legislation. As chairman of the platform committee of the Republican National Convention of 1956, I personally feel a strong sense of responsibility to help implement by law the plank on civil rights which I supported and which we adopted in San Francisco.

This is one of the great issues of our day, and the Senate of the United States must come to grips with it. And unless we change rule 22, we are powerless to act. If history is any guide, it will be impossible for the Senate to act on civil-rights legislation unless a reasonable limitation upon debate can be achieved—unless the filibuster can be curbed by action of a substantial majority of Senators.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. BUSH. Will the Senator yield me an additional 3 minutes.

Mr. DOUGLAS. Mr. President, acting for the Senator from New Mexico, I shall be glad to grant the Senator from Connecticut 3 additional minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 additional minutes.

Mr. BUSH. The senior Senator from Connecticut is one who has a profound respect for the traditions and precedents of the Senate. We must preserve the Senate's dignity—its authority. We must strive to maintain, or even increase, by our behavior, the respect in which the Senate is held by the people of our country and the world.

But we cannot do so unless we make it possible for the Senate to act on important issues which come before it.

We cannot do so if we permit the dead hand of the past to rule the living generation.

We cannot do so if we are powerless to bring measures to a vote when a substantial majority of Senators desires the Senate to act.

We cannot do so if we permit rule by filibuster and by minority.

I hope that the motion of the senior Senator from Texas [Mr. JOHNSON] to table the Anderson motion will be defeated.

Mr. President, I yield back the remainder of the additional 3 minutes allotted to me.

The PRESIDING OFFICER. To whom does the Senator from New Mexico yield time?

Mr. ANDERSON. Mr. President, the Senator from Texas [Mr. JOHNSON] has the floor.

Mr. JOHNSON of Texas. Let me ask the distinguished minority leader if the Senator from West Virginia [Mr. REVERCOMB] is available.

Mr. KNOWLAND. He is on his way to the Chamber.

Mr. JOHNSON of Texas. If no speaker is immediately available, I wonder if the Senator from New Mexico would object to the suggestion of the absence of a quorum, the time to be charged equally to both sides.

Mr. ANDERSON. I have no objection.

Mr. JOHNSON of Texas. I suggest the absence of a quorum, with the understanding that the time be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the able Senator from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. President, I wish to make two preliminary observations before I make my brief statement.

First, I have been very encouraged by the tone of the debate which I have heard in the Senate today. I think it is well worth while that such a debate on this subject is being held. The two sides have been very adequately presented.

I wish also to express my appreciation for the admirable statement made by the Vice President. He clearly stated the issues before us, as well as his own opinion relative to rulings which may have to be made on questions arising from this debate.

Mr. President, I shall be brief in stating my position on the pending question. First, I believe as thoroughly as any Senator who has spoken, in the maximum freedom of speech in this body. I think it most important that in the Senate we can discuss every question fully and completely without being limited by rules such as prevail in the House.

Secondly, I wish to commend my colleague, the Senator from Indiana [Mr. JENNER], for his splendid presentation of the dangers of what might be called despotic majority rule. In my judgment, we cannot allow any rule to be adopted under which a majority alone would control the debate. I think it is extremely important, when major issues arise, that we avoid any possibility of the majority being able abruptly to force a vote without allowing reasonable debate. There must be the opportunity for full debate.

Mr. President, I do not disagree with my distinguished friend from Georgia [Mr. RUSSELL] when he calls the Senate a continuing body. I think it is a continuing body. I believe it was originally

intended to be a continuing body. However, in my opinion, we do not need to decide that question. When each new Congress is organized, the Senate should have the opportunity to determine what its rules shall be, whether the Senate is a continuing body or not.

Even though it has been the tradition of the Senate that the rules carry over from past Congresses I do not understand how the Senate of a previous Congress—even of the 84th Congress—can adopt rules by which we of the new 85th Congress must be bound. I can see no reason why the new Senators, who were sworn in yesterday, should not have some voice in the rules under which the Senate is to operate.

So, Mr. President, on the question of whether or not the Senate is a continuing body, and on the question of retaining the maximum freedom of speech, I am entirely in accord with Senators who have spoken on both sides. But in the last analysis I insist that the Senate of each new Congress must have ultimate control over its procedures.

I think what is really troubling us is that rule 22, as it reads at the present time, contains a provision that cloture will not lie in the case of debate on a proposed change in the rules. This simply means that if a determined minority, be it ever so small, decides that it does not wish debate to be brought to a close, it can prolong debate throughout the entire session, and thus prevent the Senate from transacting any business.

If we leave the rules as they are, we cannot change rule 22 because no cloture can be applied to the debate proposing to change it. I feel very strongly that the Senate in each new Congress should control its own rules. New Senators should certainly be entitled to a voice in what the rules should be.

I think it is unnecessary for me to say more, because the question has been adequately debated, but I should like to read to the Senate, as a part of my remarks, a statement which I issued a few days ago after I had given long thought to this subject. I said in that statement:

After twelve years in the United States Senate, it is my considered judgment that our present cloture rule—Senate rule 22—to limit debate upon any measure, motion, or other matter pending before the Senate, is too rigid to be of any practical value. This rule requires that two- thirds of the Senators duly chosen and sworn shall vote affirmatively to close debate.

As a practical immediate matter this rule virtually prevents any consideration or vote on President Eisenhower's civil rights recommendations during the 85th Congress. The present rule also might prevent any action on other matters, including national emergencies. Furthermore, under existing Senate rules, cloture cannot be applied to any motion to change these rules. This seems to me to be an intolerable limitation on the powers of the Senate as a legislative body.

I intend to support a more flexible cloture rule providing for two-thirds of those present and voting on a roll call vote. However, I do not favor a mere majority vote to determine cloture. I think debate must be sufficiently unlimited for the people of the country to have an opportunity to know all the pros and cons of any pending issue.

The exact formula of any proposed revision is subject to differences of opinion. The point I wish to emphasize is that the present rule is too rigid and should be changed. I will, therefore, support any parliamentary move that may be made which will assure that rules will be adopted by the Senate at the beginning of each new Congress as in the case of the House.

Irrespective of whether or not the Senate is a continuing body, the fact is that all pending legislation dies with the adjournment of each Congress and has to be reintroduced when the new Congress is organized.

Consistency would seem to require that the Senate should handle its rules as it handles its legislation.

Under that rule, all that it is necessary for those who oppose cloture to do is to absent themselves from the Chamber. All they have to do is to stay away. They can say, "I was not present. I did not vote for cloture, and I did not vote against cloture." Their absence is equivalent to a negative vote under the present rule.

As a practical immediate matter this rule virtually prevents any consideration or vote on President Eisenhower's very reasonable civil rights recommendations during the 85th Congress.

The present rule also might prevent any action on other measures, including those growing out of national emergencies.

A determined few might wish to prevent action on any legislative measure. We have not the power to bring debate to an end and get action. We must retain that power.

I am stating an extreme case. I make no reference to any present Member of this body, of course. However, in time to come an attempt might be made to prevent certain action which the administration in power vitally needed to take, and for which it could not obtain the necessary authority.

Furthermore—and I regret to say this again—under existing Senate rules, cloture cannot be applied to any motion to change the rules. This seems to me to be an intolerable limitation on the powers of the Senate as a legislative body. Therefore, I have come to the conclusion that I should support a more flexible cloture rule, providing for closing debate by a vote of two-thirds of those present and voting when the yeas and nays are taken. In that way, the country will know where each Senator stands on the then pending question, which might be of great interest to the country. Under the present rule, Senators may merely absent themselves, and their constituents might not know how they stand with reference to the particular question under consideration in the Senate.

As the Senator from Georgia [Mr. RUSSELL] has said, every State represented in the Senate has the right to be heard on any matter it desires to be heard on; and it is our duty to express ourselves on any such question.

I do not favor a mere majority vote to determine cloture. I think the debate must be sufficiently unlimited for the people of the country to have an opportunity to know all the pros and cons of any pending issue.

The exact formula of any proposed revision is subject to differences of opinion. We are not going into that question, however, because the Anderson motion does not embody any special form of rule.

The point I wish to emphasize is that the present rule is too rigid and should be changed. I will, therefore, as I have indicated, support any parliamentary move which may be made that will assure the adoption of rules by the Senate at the beginning of each new Congress, as in the case of the House of Representatives.

Irrespective of whether or not the Senate is a continuing body—and I believe that point to be irrelevant—the fact is that all pending legislation dies with the adjournment of each Congress and must be reintroduced when the new Congress is organized.

Consistency would seem to require that the Senate should handle its rules as it handles proposed legislation.

Mr. President, these are my views. I admit this is a controversial subject, and I certainly do not criticize my colleagues who disagree with me. However, I do feel that the present rule ties our hands on closing an unduly prolonged debate and reaching a vote. We should find some way to change that rigid rule.

I shall support the motion made by the distinguished Senator from New Mexico [Mr. ANDERSON], and I shall vote against the motion to table that motion.

Mr. ANDERSON. Mr. President, I yield briefly to the Senator from Maine [Mr. PAYNE].

Mr. PAYNE. Mr. President, I ask unanimous consent that a statement which I have prepared on the subject under discussion may be printed in the RECORD at this point. My statement is in support of the motion made by the distinguished Senator from New Mexico [Mr. ANDERSON].

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR PAYNE

When one considers in the abstract the democratic processes of legislative deliberation and the expression in law of the will of the majority, it would seem that unlimited debate is a manifestation of the purest form of democracy. Under a system of unlimited debate, every voice is heard, every argument pro and con expressed in every detail, and every side of the question at hand is thoroughly considered. We have come to learn, however, that democracy in the abstract or democracy in its purest theoretical form, cannot become a reality as long as democracy is a living tool in the hands of imperfect men.

Democracy in its purest form, including unlimited debate on all issues, is liable to many abuses, and among those is the abuse of obstructionism to which unlimited debate readily lends itself. Thus in our imperfect democracy, although I would insist that we have nevertheless achieved the highest form of democracy known to the world, we are accustomed to protecting ourselves from these abuses through such devices as our Constitution, the Bill of Rights, our court system, and so forth. But there is at least one abuse of the democratic process that we seem to perpetuate rather than remove. That is the abuse of unlimited debate, otherwise known as the filibuster.

Some would argue that the filibuster is a legitimate device to prevent tyranny by the

majority. I would agree that we must be protected from the tyranny of the majority, but this is a function of the judicial branch of our Government which can invalidate laws passed by a majority if they are deemed to be in conflict with the Constitution or the Bill of Rights. It is not the function of a self-designated minority to hold the majority perpetually at bay through the use of the filibuster, no matter how repugnant the will of the majority may be to this minority. If the majority is violating the law of the land or fundamental individual rights, then the aggrieved minority has recourse through the courts.

The filibuster is associated in our minds with civil-rights legislation. Undoubtedly this is the most dramatic contemporary example we have of obstructionism. It is without question that a majority of the Senators, including myself, in this Chamber favored a civil rights bill similar to that passed by the House of Representatives toward the end of the last session of Congress. But with rule 22 operating as an integral part of Senate procedure, it is inconceivable that the Senate could ever have passed similar legislation. We witness in the case of civil-rights legislation a minority not only blocking the will of the majority but also perpetuating an infringement of the inalienable rights of another minority. Thus are the sins of the filibuster compounded. One cannot regard this use of the filibuster without a deep feeling of regret that the democratic process can be so abused and perverted as to constitute a complete negation of the meaning of democracy.

We are inclined to think primarily of the filibuster in terms of civil-rights legislation. In point of fact, the only times I have witnessed a filibuster in the Senate, they were conducted, not against civil-rights legislation, not by a southern bloc, but against Dixon-Yates and tidelands oil by a group of Senators who are the most ardent opponents of the filibuster. To my mind this is particularly significant. Some would assert that this move against the filibuster is directed solely to the muzzling of the opponents of civil-rights legislation. On the contrary, this is only one particular manifestation of the general objective of a limitation on debate. We know that the filibuster can be used to delay consideration of any piece of legislation. We know that any group in the Senate can employ this device to thwart a majority if such a device suits its purposes. And more significant than the legislation that is actually blocked by the use of the filibuster are the many, many compromises that the Senate might accept because of the threat of a filibuster. In short there is no area of legislative action which is completely free from the pernicious influence of rule 22 and all that it implies. The filibuster must be eliminated in order to protect the entire fabric of the legislative process.

In 1953 when I first took my oath as a Senator, the question of the filibuster came before this body in the form of a motion introduced by the junior Senator from New Mexico [Mr. ANDERSON] to adopt rules. Subsequently, a motion to table was introduced by the late Senator Taft, then the majority leader of the Senate. At that time I supported the motion to table, believing, erroneously it is now apparent, that there was a better and more direct tactic for modifying rule 22. It is now obvious to me that rule 22 will stand as it is now written unless the strategy employed in 1953 can prevail and the Senate adopts its rules anew at the beginning of each Congress. In this manner a majority of the Senators who favor a modification of rule 22 can secure that modification by a majority vote. We all are aware that any attempt to modify rule 22 later in the session when the Senate is operating under rule 22 will result in a filibuster and finally in capitulation by the advocates of a change in the rule.

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, my remarks will be very brief. I do not believe that any argument during the present very limited debate will materially influence any votes or change any views on the pending issue.

It is a highly controversial issue, with which most of us have become familiar throughout the years, except for the process now being used in this effort to change the rules of the Senate.

Because it is a controversial issue, there are on each side of it deep convictions. On such issues and on such proposed legislation or change of rules the Senate has never resorted to and should never resort to short cuts to bring about a decision and to enact bills of importance, particularly when such deep convictions prevail.

I shall vote for the motion to table the motion of the Senator from New Mexico [Mr. ANDERSON], which would change the rule, and declare that the Senate has no rules and is not a continuing body.

I shall do so, first, because I believe this method to be an improper procedure. It is one which we cannot in the future follow as a precedent without getting into serious difficulties.

Secondly, I do so—and I wish this statement to be clear in the RECORD—because I support rule 22, and the third paragraph thereof, just as it is written now, without any change, modification, or the crossing of a "t" or dotting of an "i." I want my position to be very clear on that point.

Third, the adoption of the Anderson motion would shatter precedents of more than 160 years in the history of the Senate. That is a very serious thing.

It is very serious to take quick action, instead of submitting a resolution, which would be referred to the Committee on Rules and Administration, to be considered, as other important legislation is considered and processed by the appropriate committee so that not only Members of the Senate, but also other citizens of the country who are interested in the subject may have an opportunity to be heard and to express their views.

We would not take the action suggested here with respect to any other kind of proposed legislation.

We cannot afford to do that in the Senate. We cannot afford to strike down what has been a bulwark of protection to freedom of speech in the only legislative body in the world today where there is unlimited debate. I need not point out in the history of our country its progress and great growth, and our country's stature among nations. All that has developed and been achieved under existing rules of the Senate.

Neither do I wish to be a party to the undermining or the weakening of the very basic structure upon which our Republic and our liberties and our freedom rest.

Too many assaults are being made on the Constitution of the United States today from sources other than Congress. They are very high sources. These assaults are impairing and diminishing the prestige of the basic law of the land. This attempt here today, if successful, would be another step in the direction of procedure by the device of "the previous question." I do not believe that to be a sound and safe method for the Senate to adopt.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KNOWLAND. Mr. President, acting for the majority leader, I yield 1 additional minute to the Senators from Arkansas.

Mr. McCLELLAN. Mr. President, if we adopt the Anderson motion we will create a monster which will haunt us in the future, not only during the remaining days of the present Congress, but in each session of the Congress in the future.

I trust, Mr. President, our action will not place the stigma of Black Friday on this body for the deliberations and actions it takes on this vital issue today.

Mr. ANDERSON. Mr. President, I yield 15 minutes to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, the Senator from New Mexico and other Senators have correctly argued that the Senate has the right, and indeed the duty, to adopt new rules at the beginning of a new Congress and that it is not then bound by the old rules governing debate while it is considering the new.

This must be true unless we are to permit future Senates to be indefinitely shackled by the rules of the past.

It is true because the Constitution expressly provides that "each House may determine the rules of its proceedings"—and because one of the most fundamental principles of our constitutional law is the one Legislature cannot bind or fetter its successors.

As I understand it, the opinion which was recently outlined by the Vice President indicates his concurrence in the view that the restrictions in the past rules of the Senate upon the Senate's constitutional rulemaking power are invalid, that this is particularly true of section 3 or rule 22, and that they are invalid prior to our acquiescence in them. I welcome his opinion as supporting the real basis upon which the Anderson proposal is founded.

Our rules are made for the Senate and not the Senate for the rules. The rules are, in fact, merely instruments to help the Senate transact its business and express its will in an orderly manner. Whenever, in the opinion of the Senate, certain features of these rules impede or prevent these purposes from being carried out, then the Senate has the right under the Constitution to change these rules. And this right must be real and not nominal.

The present provision in clause 3, rule 22, that there can be no limitation of debate upon any motion to consider a change in the rules, in effect, makes any such change in rule 22 impossible once the previous rules have been adopted or acquiesced in. For we all know that a

strong group of Senators are determined to talk any such proposal to death and that no limitation can, under those rules, be applied against them. Theoretically, even one Senator, so long as he has the physical strength to hold the floor, could prevent any change in the rules. Certainly, a determined group can do so.

So, Mr. President, if we lay on the table the Anderson motion, I think we can be pretty certain that we cannot in this session of the Congress change rule 22.

If this provision in clause 3 of rule 22 and the limiting provisions of clause 2 as well, were to apply to every effort to change the rules, therefore, as they do apply after the old rules are approved by implication or acquiescence—this would rob our constitutional rulemaking power of all meaning and effect, and would perpetuate the fetters of the Senate rules of a past Congress in clear violation of the principle that one Congress cannot bind its successors.

What we are really seeking, therefore, is a change in rule 22 and only in rule 22, which will permit the Senate after free and full debate to vote and, hence, to come to a decision on proposals in reference to its own Rules and on matters of substantive legislation.

We are convinced that this can be done expeditiously and without great delay under the proposal of the Senator from New Mexico [Mr. ANDERSON], despite the tacit threats, delicately couched, by some opponents who suggest that there will be an interminable filibuster which will tie up the Senate if we try to proceed to a change in rule 22.

It is made further clear that the Senate can now reach a vote on changing its Rules by the indication of the Vice President that provisions of precious Senate Rules which expressly or practically deny the Senate majority's right to adopt its rules—notably section 3 of rule 22—are invalid and would not apply in such a discussion since they are unconstitutional.

At present under the old rules, however, the Senate does not have this power to reach a vote on matters which a minority—and sometimes a small minority—is determined at all costs to defeat. For, as is well known, by the Wherry amendment of 1949 it is now necessary to get 64 affirmative votes in order to limit debate, instead of two-thirds of those present and voting, which was the requirement between 1917 and 1949. This means that 33 Senators, by either voting "No" or by staying away and being absent from the vote, can defeat any such motion to proceed toward a vote.

The second aspect of this provision is worth special notice. All those who are absent, and hence do not vote, in effect count as voting "No," even though if present they would have voted "Yes." Those who are sick and unable to be present in the Senate Chamber automatically count, as much as those actually voting, against the limitation of debate, as do all those who are absent for any other cause. Each of these absentees is, in practice, allowed to cancel the votes of two Senators who attend and vote "Yes."

It is this provision which makes it possible for Senators who would never want to be recorded publicly as voting to uphold a filibuster to discover previously unrevealed ailments as a cloture vote nears and be compelled to seek solace in a hospital or rest place. Here they can help to uphold a filibuster without being formally compelled to go on record as favoring it.

This is why it will be virtually impossible to pass a meaningful civil-rights measure or a constructive rule change to limit debate as long as the present rule 22 is on the books. And while the general arguments in favor of the Senate's having the effective right to take up and modify its rules at the start of a new Congress are important for the conduct of its business in general, it is the question of civil rights which gives them immediate urgency.

We all know that over large areas of this country Negroes are openly or tacitly intimidated from voting; that they have been and still are discriminated against in education, in transportation, in the opportunity to get decent jobs and to rise on their merits within industry, and in many other respects.

I am not interested in assessing the comparative blame for these facts. We and our ancestors all share the blame to some extent. These denials of equal opportunity occur in many parts of the country, not in one section alone. Certainly I do not want to make the South the whipping boy for the abuses which exist, since all too often the different attitudes in some parts of the North and West are largely due to the simple fact that these areas have a much smaller percentage of Negroes.

But the vast majority of people in the United States have decided to try to right these wrongs. They realize that racism is ultimately incompatible with a free society. They also realize that in view of the political and economic situations in certain areas of the country, some national action will be necessary to help meet at least a portion of this problem.

We believe there is constitutional sanction for such action, both in the 14th amendment to the Constitution, which provides that no State shall deny to its citizens the equal protection of the laws, and in certain other provisions.

Many may, and indeed, do, question the desirability and even the constitutionality of such action. This is their right, and I do not question the sincerity or the good faith of these men.

But under our system of government, we have a supposedly accepted procedure for settling such differences of opinion. It is to have the issues debated before the public and the Congress, for bills to be introduced, hearings to be held, and votes to be taken in both House and Senate.

Then the expressed decision of the majority of the House and Senate, as embodied in the final measure, goes to the White House, and the President has the right to veto it. If he does this, a two-thirds vote is required to pass the bill into law over his veto.

Even then, however, there is still another check. The Federal judiciary and ultimately the Supreme Court have the power to decide whether or not the law is in harmony with the Constitution. If the Supreme Court decides that it is not, then the act is null and void.

I submit, therefore, that under our form of government, ample protection is provided for permitting minorities to be heard and to influence public opinion. But back of all this is the fundamental democratic assumption that, after ample discussion, the majority should have the right to decide. This is the only practicable way to run a democracy.

It is precisely this which the filibuster defeats, for a filibuster is protracted discussion of a motion intended to prevent a vote. The purpose and effect of a filibuster are to prevent the majority from ever having the chance to vote on a measure. In its essence, therefore, it permits a minority—and, frequently, a small, if determined, minority—to so tie up the business of the Senate that the majority opinion on fundamental issues can never be crystallized into law. The records of Congress show that this has happened many times.

This is a denial of democracy. For while thorough discussion is necessary for wise decisions, such discussion in a legislative body is not an end in itself. It must ultimately culminate in a decision and a vote. Unless it does so, this body becomes merely an empty debating society, and our comments mere conversation pieces.

As practical men we know that it is virtually impossible to pass meaningful civil-rights legislation as long as rule 22 is in effect, even though the vast majority of the American people may favor it. For we will immediately face the determined opposition of some 20 to 22 southern Senators, who will be backed up by the articulate public opinion of their region. If the past is any guide, they will be aided by a certain number of Senators from small States to whom the institution of the filibuster gives great opportunity to press the claims of their States for appropriations and for special treatment, and who, therefore, will not wish to surrender this special power to serve their constituents.

Then, we should never forget, as I have explained before, that rule 22 permits absentees to be counted as voting against any motion to limit debate. It is a rare occasion when two or three of our body are not actually ill or unable to attend. These are, in effect, counted as voting "No" on cloture. Then, a tempting opportunity is opened up for secret sympathizers with the filibuster and crypto-opponents of civil rights. As the fateful hour approaches, it will not be difficult for them to detect hitherto undiscovered and latent ailments, and to seek solace and relief in the comfortable precincts of the Bethesda Naval Hospital, or Walter Reed, or even more inaccessible places. A great outbreak of psychosomatic ailments will probably occur and these men in effect will vote "No," even though later they may claim to the public that if present they would have voted "Yes."

The practical realities, therefore, confirm the conclusion that unless we change rule 22, our prospects for constructive civil-rights legislation have gone glim-

mering. And, unless we act under the procedure proposed by the motion of the Senator from New Mexico [Mr. ANDERSON] and defeat the pending motion to lay it on the table, the chances for changing rule 22 are nil. A vote to table Senator ANDERSON's motion is, therefore, a vote against civil rights.

From public statements and from loud buzzings in the cloakrooms, I gather that some opposition to the Anderson motion is being based upon assurances, first, that some change in the rules will later be made, and second, that civil rights legislation will later be passed even if the rules are not changed.

I only ask that Senators who may be tempted by these assurances recall and be guided by the hard, cold facts of Senate history. In 1953, the same assurances—no doubt just as sincerely as now—were given on the floor of the Senate. But no affirmative action on the rules or on civil rights bills resulted. Similar indications were, I understand, hopefully given by the leadership in 1955, but no rule change was made and no appropriate bill passed. Our own experience thus proves that the Senate, and the people of the country we are elected to serve, cannot go forward on such hopeless assurances for some tomorrow. As Shakespeare put it in Macbeth:

Tomorrow, and tomorrow, and tomorrow,
Creeps in this petty pace from day to day
Unto the last syllable of recorded time,
And all our yesterdays have lighted fools the way to dusty death.

Or, to paraphrase Lewis Carroll, I believe the argument of the opponents of the Anderson motion comes to this:

Civil rights legislation every other day. Civil rights yesterday. Civil rights tomorrow. But never civil rights today.

The opponents also argue that we should lay aside the Anderson motion because otherwise we might tie up the Senate with endless debate.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. DOUGLAS. I ask for 5 more minutes.

Mr. ANDERSON. I yield 5 additional minutes to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, in all frankness, let me point out in answer to this second argument, that it is not the proponents of the Anderson motion who suggest long debate upon the rules; on the contrary, it is some of the opponents who apparently threaten lengthy debate, and then utilize their own threats of delay and prolonged talk as a ground to urge that the whole matter be dropped.

But the whole purpose of the Anderson motion is to take up this essential change in rule 22 at the one time when it can succeed—and without undue delay. For under general parliamentary usage, after reasonable debate on a motion for the previous question, a majority of the Senate can end debate and proceed to vote. The procedures under which the Anderson motion and succeeding proposals for a change in rule 22 would be considered are the assurance that the threatened delays can be avoided. The matter can be settled in 1 or 2 days if necessary, and, in any case, long before the possibility that action on any other Senate business might be impeded. Any further delay will be caused by the opposition and not by the proponents of the motion.

We who support the adoption of legislation for equality of opportunity have been greatly heartened throughout the years by the steadfast, courageous, and indomitable devotion to civil rights of that outstanding pioneer and champion in the cause, Herbert H. Lehman.

His voluntary retirement from the Senate has deprived us of his vote and his eloquent voice on the floor today. But I have requested for this occasion and am greatly pleased to present the following message from our former colleague to the Members of the Senate:

Now is the time for action, not just for the sake of civil rights, but for the essential purposes of democracy. The issue of rule 22, and of the right of the Senate to adopt new rules at the opening of Congress, is inseparable from the issue of civil rights. The pending vote is truly the key vote on civil rights for this Congress but it is more than that. It is a key vote on the fair and democratic procedures, and on the broad principle of justice.

Civil rights legislation must be passed to achieve justice in our land. The Anderson motion must be approved to achieve justice in the United States Senate.

I pray for all who stand together on this issue, satisfaction in the rightness of their efforts—and success.

Arthur Krock, veteran correspondent of the New York Times, went to the heart of the whole matter when he wrote in 1952:

Rule 22 is the barrier at which all congressional efforts to legislate the civil-rights program have been stopped dead. National conventions may approve by large majorities specific items * * * but the Senate has been the graveyard of such pledges, and the gravedigger has been rule 22.

We who support the Anderson motion and oppose the motion to lay it on the table propose to free the Senate from this mighty barrier of the filibuster, which has been so effective against civil rights and other legislation.

We propose to retire the gravedigger, rule 22, and install in its place a sensible traffic regulator, a reasonable rule for limitation of prolonged discussion after adequate opportunities for debate have been accorded. Only by thus removing the roadblock can the way again be opened for a majority of the Senate to act on matters of the most vital importance to national welfare and human dignity and freedom.

In closing, I wish to share with the Members of the Senate the earnest statement of a dedicated leader from one of our southern States, Father L. J. Twomey, S. J., of Loyola University, New Orleans. From his penetrating article, Challenge to America, printed in the September 21, 1956, issue of Commonweal, I quote the following passages, with which I fully concur:

Every man is a sacred being, more precious than the material world and all the riches thereof; he cannot be made a cog in the collective machinery of an all-powerful state, or a prop to support the white man's pride of race.

Political society is the instrument in the hands of a free people not alone to preserve law and order but also to take positive means to insure a reign of justice for all its citizens regardless of religion, race, or national origin. For all its serious faults, America has given her people the most equitable form of government in world history. Today we are passing through one of the great turning points of history, and whether men are to be free or slave depends to a large extent on the United States. Do we Americans have the dedication, the courage to think and to live in the spirit of the Declaration of Independence that "all men are created equal and endowed by their Creator with certain inalienable rights"? If so, it is time to prove it. And in the process we will prove to ourselves and the world that democracy is not an illusion.

A few weeks ago I was in the Louvre, in Paris. There I saw two noble statues by Michaelangelo—the Bound Slaves. Those who know those statues will remember the beauty and strength of the figures. But they will also recall that the figures seem to be almost dying; to have lost all vitality and the will to live.

As one examines the statues one finds that their arms are bound with narrow fetters. The arms are held in and fettered, and the spirit seems to be going out of them. They have accepted their servile fate.

But as one looks at the fetters more closely, he finds that they are in fact very insubstantial; that if those slaves could only assert themselves with their strength and their vigor they would be free and the fetters would fall to their sides.

So it is with this marvelous institution, our great Senate. We are indeed bound by the fetters of the past, namely the rules of the Senate as they are embodied in rule 22. But there is no reason why we should perish under those fetters or accept them. With a simple act of the will we can be free; and we can start that act for freedom by defeating the motion to table.

Mr. JOHNSON of Texas. Mr. President, does the Senator from New Mexico object to my yielding time at this point?

Mr. ANDERSON. No.

Mr. JOHNSON of Texas. I yield 4 minutes to the Senator from West Virginia [Mr. REVERCOMB].

Mr. REVERCOMB. Mr. President, with fair consideration of all the argument that I have heard on the subject now under debate, the ultimate decision to be made is whether discussion of proposed legislation pending before the Senate, and hence consideration of it, can be ended by a majority vote of the Senate, or whether, as now, a two-thirds vote of the membership shall be required to end the discussion and consideration of the bill.

This is in essence and conclusion the question we must now decide.

Enough has been written and said here to indicate that the real and immediate purpose of this proposed change is to give to the majority this new power of cloture of debate on legislation designated as civil-rights bills. If such a power could be limited in application to civil-rights bills I would be prone to give it my approval, because I intend to support any fair legislation that will properly secure the rights of all citizens under the laws of this country.

But such is not the situation as we well know. To vest this power in the majority means that henceforth a majority of this body can end debate and end consideration on any bill, any proposed legislation, that comes before it.

There has been abuse of the present rule—unwarranted abuse. When germane argument and true consideration of a pending matter cease and filibuster begins, a wrong is done, and abuse exists.

There has been very great abuse of the present rule. When germane arguments and true consideration of a pending matter cease, and filibuster begins, a wrong is done and an abuse is perpetrated. I am opposed to filibusters, and I have fought against them. I expect to do so again, if a filibuster develops. But I am not willing to place in a majority the power to end debate on any subject before this body, even on bills whose passage I may advocate. In my opinion, to do so would be to make the Senate and its acts and indeed, the National Government the victims of every wind of temporary sentiment which may blow, and of any heated clamor which may momentarily arise.

Doubtless, Mr. President, there are many Members of the Senate who remember that they have been confronted with situations which created the actual danger of which I speak. I recall that at the close of World War II I introduced a bill providing that preferred consideration be given to the return of fathers from the armed services after the fighting had ceased.

The VICE PRESIDENT. The time of the Senator from West Virginia has expired.

Mr. REVERCOMB. May I have 1 or 2 additional minutes?

Mr. KNOWLAND. Mr. President, acting for the majority leader, I yield 1 additional minute to the Senator from West Virginia.

The VICE PRESIDENT. The Senator from West Virginia is recognized for 1 additional minute.

Mr. REVERCOMB. I thank the Senator from California.

I had just stated, Mr. President, that at the close of World War II I introduced a bill providing that preferred consideration be given to the release of fathers from the armed services after the fighting had ceased. That measure was opposed by the administration, and great opposition to it developed. As a matter of fact, the bill was not reported from the committee. A motion then was made in the Senate to discharge the committee from further consideration of the bill. The discussion of that motion continued for weeks and weeks, until there developed strong sentiment in favor of the release of fathers from the armed services so that they might return to their homes to support their families and be with them. That sentiment developed to such an extent that finally the Defense Department relented and an order was issued to bring the fathers home to their families. That order was based not so much on a preference to fathers serving in the Armed Forces as on giving proper consideration to the families concerned. Mr. President, I am confident that if in that instance the majority could have cut off debate early that would promptly have been done; and in that case the result actually accomplished could not have been achieved.

So, Mr. President, although I state frankly that abuse has occurred under the present rule, and although I hope that some way to end such abuse may be found, yet I am reluctant to have lodged in a majority of this body the power to end discussion at any time regarding any measure, even one whose passage I may advocate.

We should not cut down the tree to gain one plum. We should not destroy the freedom of discussion on all subjects presented here.

The VICE PRESIDENT. The time yielded to the Senator from West Virginia has again expired.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from New Jersey [Mr. CASE].

The VICE PRESIDENT. The Senator from New Jersey is recognized for 10 minutes.

Mr. CASE of New Jersey. Mr. President, I rise in support of the Anderson motion.

I have joined in sponsoring the motion to proceed to the adoption of rules because I believe it is both wrong and dangerous to continue to permit a situation in which the proceedings of the Senate can be brought to a halt by a small minority of its membership.

That this is the situation is well known to all of us. It has been demonstrated on a number of occasions when an actual or threatened filibuster has foreclosed the Senate from consideration or action despite the wishes of Senators generally.

The Senate has frequently been described as the greatest deliberative body in the world. But how does this square with the fact that a handful of its Members can reduce it to legislative impotence? How does it comport with the view expressed here today, which would deny the Senate the right to pass on the rules which govern its conduct?

To me, the issue seems simple and clear. It is no more or less than whether the Members of the Senate shall be allowed to review the rules under which they must operate.

I realize that, as in the past, those opposing amendment of the Senate rules argue that, unlike the House, the Senate is a continuing body, and that therefore its rules continue, without readoption, from one Congress to the next. Whether the Senate is a continuing body is an interesting question. Plausible arguments can be mustered in support of the proposition that it is. Certainly there can be no doubt that in the sense that two-thirds of its membership carries over from one Congress to the next, it is a continuing body.

But even more convincing arguments can, I believe, be made to the contrary. It is equally certain, for example, that for purposes of legislation and nominations, the Senate is not a continuing body. An illuminating discussion of the absurdities to which this doctrine of the Senate as a continuing body can lead appears in yesterday's RECORD.

Whatever may be one's views on this point, I suggest that the question of a continuing body is not really relevant to the issue presently before us; indeed, it obscures, rather than illuminates, the real question we have to decide. Even if it be conceded for purposes of argument that the Senate is a continuing body, this cannot affect, as I see it, the Senate's right to set its rules, pursuant to the constitutional provision that "each House may determine the rules of its proceedings."

It is significant that the opponents have again chosen to avoid meeting the challenge that a point of order would be present. Instead, they have once more sought to evade the question by making a motion to lay on the table.

It has become crystal clear that under the rule of the last and previous sessions, the Senate is in fact precluded from review of its rules. For my part, I think such a review should be undertaken at regular intervals; and the logical time for it is at the beginning of each new session of Congress. Indeed, if the matter is not raised at the beginning of a session, it could be urged—and undoubtedly would be urged later—that the Senate had, by acquiescence, readopted its previous rules. This is, in fact, what the Senate has, in my view, done in the past.

To me, it is the height of absurdity to suggest that a Senate rule adopted 10, 50, or 100 years ago cannot be changed by a Senate composed of entirely different Members. But this has been the situation, and it will continue unless the Senate at the beginning of each Congress takes the opportunity to have a fresh look at the rules and to adopt new or amended rules if a majority so desires.

I shall not attempt here to present an exhaustive brief on the matter. In the past it has been thoroughly explored in all its aspects, and the RECORD already contains thorough discussion of the main points involved. I should like, however, to add a few words as to my personal position.

I am solely concerned with ending the possibility of utter frustration of the Senate's will. I do not believe in cloture by simple majority vote at any time when a majority may be so inclined. I value the full expression of minority views too highly to endorse any proposal which could mean summary cutoff of debate before there had been an opportunity thoroughly to explore a measure. But neither do I believe that a small minority should be able to prevent the Senate from acting on a measure, no matter how thoroughly the measure might have been considered and discussed. The protection of minority rights does not require, in my view, that the majority should be able to act only when, and if, the minority is willing.

Yet, for all practical purposes, that is the present situation in the Senate. Such a situation was never contemplated, I am sure, by the framers of our Constitution. Indeed, it is a relatively recent development in Senate history.

As we know, the cloture provision in the rules was amended in 1949, so as to require a majority of 64 Senators—two-thirds of all Senators elected and sworn in—to close debate. Prior to 1949, cloture could be invoked by two-thirds of the Senators present and voting. Even

so, it was rarely attempted, and even more rarely was it attempted successfully. The last time was in 1927, nearly 30 years ago. Under the 1949 rule, the few attempts to invoke cloture have failed. On the face of it, the solution would seem to be simply to amend the rule, which can be done by majority vote. Practically, however, rule 22 makes that impossible, because it expressly excludes any limitation of debate on motions to amend the rules.

Even under the old rule prior to 1949, there was no effective cloture. In the words of Senator Vandenberg, in 1948, when he was President pro tempore of the Senate—

> A small but determined minority can always prevent cloture, under the existing rules * * * a very few Senators have it in their power to prevent Senate action on anything * * * the existing Senate rules regarding the cloture do not provide conclusive cloture. They still leave the Senate, rightly or wrongly, at the mercy of unlimited debate ad infinitum.

How much truer are these words today, when whatever small possibility of cloture there might have been before 1949 has disappeared.

Today the question arises especially in connection with the problem of civil rights. This has not always been the question involved in the past, nor will it be in the future. I personally am deeply concerned with the need for adequate protection of the civil rights of all the people. But I am equally concerned with the maintenance of the integrity of the legislative process.

Obstructionism is hardly the way to secure proper consideration of legislation. For my part, I believe adoption of a method which would make it possible to limit endless talk, undertaken not to illuminate the merits of a proposal, but to frustrate any real consideration of it, is reasonable. It would encourage, not discourage, thorough exploration of important issues. It would improve the functioning of a vital part of our legislative structure in whose continuance lies, I believe, the best protection of the rights of both the majority and the minority.

While I do not wish to embarrass the present occupant of the chair, I want to express, in conclusion, my deep satisfaction and complete agreement with the statement which was made by the President of the Senate in answer to the recent parliamentary inquiry propounded by the Senator from Minnesota [Mr. HUMPHREY]. In my opinion, the statement was an historic one, and a brilliant reconciliation of the apparent dilemma which so long has made it possible to delay action on the rules of this body, the dilemma of whether the Senate is a continuing body, and the right and power and duty of the Senate under the Constitution to adopt its own rules. The statement by the Vice President, in my opinion, will be a landmark, whatever the result of the vote on the motion to table the pending motion of the Senator from New Mexico. In my opinion the Senate will be well advised to follow the statesmanlike, historic, and brilliant exposition of the situation which the Presiding Officer of this body has just presented to us.

Mr. President, I yield back the remainder of my time.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from Kentucky [Mr. COOPER].

The VICE PRESIDENT. The Senator from Kentucky is recognized for 10 minutes.

Mr. COOPER. Mr. President, as I had previously announced, I shall vote for the motion of the Senator from New Mexico [Mr. ANDERSON] that the Senate take up for immediate consideration the adoption of rules for this body in the 85th Congress.

During this debate and previous debates upon similar resolutions, much has been said upon the constitutional issue as to whether the Senate of a particular Congress has the power to prescribe its own rules, or whether it is bound by rules prescribed at some prior session of the Congress.

In the short time that I shall speak, I shall not labor this question. In 1953 when a similar resolution was before the Senate, I voted to lay it upon the table—taking a position opposite to that which I hold today. At that time my affirmative view upon one of the questions underlying the debate on the pending motion, that is, that rule 22 should be modified to permit an ultimate vote upon issues of great importance to the country, was the same as it is today. I believed then, as I do today, that it should be changed. But, I am frank to say that at that time I believed the procedural question—the method by which rule 22 or any rule could be modified, was determined by the theory that the Senate was bound by the rules of a previous session, because of its nature as a continuing body. I must say, upon further thought, that I think my position was an incorrect one. It is my view that the Senate is fundamentally a continuing body, but I do not believe that fact is determinative.

Article I, section 5, of the Constitution gives to both Senate and House the right to determine the rules of its proceedings. It is not written in the Constitution that any particular set of rules or that any method of making rules shall obtain in every session of the Congress.

It seems to me that if the Senate has adhered to rules that have been prescribed in past sessions of Congress, it has done so because of acquiescence, by consent, implicitly given. But, by doing so, the Senate has not in any way limited, and in fact could not limit, its right under the Constitution to adopt its rules at the beginning of each Congress, if it desires.

I recognize the difficulties that arise in making new rules, and perhaps the possible dangers to free and full debate, but this is a separate question which must be considered in the formulation or modification of rule 22, or any other rule. It does not bear upon the constitutional issue as to whether the Senate has the power to make its rules at each Congress, as I believe article I, section 5, establishes.

Whether this basic question will be decided or postponed by the motion to lay on the table, we cannot escape the fact that rule 22 is at the root of the issue before the Senate. I believe strongly that there should be full debate in the Senate. It is needed to assure the development of public opinion, and to protect against unwise or hurried legislation, such as the proposal made in 1937 to change the composition of the Supreme Court. I believe also that minorities must always remember that full debate assures a necessary regard and protection for their rights. But, as I have said, the kind of rule 22 the Senate may adopt if the motion succeeds is a separate question, and we must believe that the Senate will adopt a rule which will give full regard to these considerations.

I do not believe that a rule should be continued which, in practice, prevents a vote even after the fullest debate. I do not believe that a rule should be continued which prevents a vote upon questions of great importance to minorities, as has been the case in the field of civil rights. This is a question which is before the country and one which I do not think we can avoid or ought to avoid, for at stake is a decision as to whether our country and our Government shall assure in fact the rights that the Constitution guarantees. In whatever form legislation affecting civil rights is presented to the Congress, each Member must make a judgment regarding its constitutionality and its wisdom.

I would say only this. There is a grave obligation on our Government, and the people of this country who subscribe to the principle of our free system of Government and to its constitutional processes, to see that positive and effective steps are taken within those processes to remove discrimination and to assure full freedom for all our people.

While I recognize that this matter is not immediately at issue, in the consideration of this motion, the question of civil rights nevertheless has been the substantive issue which has again brought our attention to the rules of the Senate and to the necessity of modifying rule 22.

The question immediately before us, however, is fundamentally one of expressing the constitutional power of this Senate. It is the question whether each one of us shall be free to exercise the full powers and prerogatives provided us in our capacity as representatives of our States and our people.

I shall vote against the motion to lay on the table and thereafter for the motion of the senior Senator from New Mexico, in order to assure full sovereignty for the Senate of the 85th Congress.

Mr. ANDERSON. Mr. President, I yield 2 minutes to the Senator from Minnesota [Mr. THYE].

Mr. THYE. Mr. President, there is no question in my mind that the United States Senate is a continuing body. That is evidenced by the fact that two-thirds of the Members of this body, with the exception of vacancies occasioned by resignations or other causes, carry over from one Congress to another. However, the rules of the Senate are the responsibility of the Senate itself. Therefore, Mr. President, I believe the Vice President, the President of the

United States Senate, made a wise statement this afternoon.

Mr. President, I shall however oppose the motion to table the motion submitted by the distinguished junior Senator from New Mexico [Mr. ANDERSON] on behalf of himself and many other Senators. I think it is timely that we discuss the question as to whether rule 22 should be amended. In my opinion, rule 22 must be amended, because rule 22, in the many years of its existence, and in the years I have been privileged to serve in the Senate, has not permitted us to bring to an end debate on a pending question in order that we might take action and vote. I cannot foresee how certain legislation can be enacted in the future so long as a few men can hold the floor and thereby prevent taking up a measure for the purpose of consideration or the taking of final action on it. Therefore, I shall vote against the motion to table the motion of the distinguished Senator from New Mexico and the many cosponsors of the motion.

Mr. JOHNSON of Texas. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina [Mr. JOHNSTON].

Mr. JOHNSTON of South Carolina. Mr. President, every so often we are confronted with the proposition here of amending our rules for the stated purpose of permitting majority rule. This is not the real reason for the proposed change; the real reason lies in the fact that a few desire to modify our rules so that pet projects and pet legislation they have either originated, or which their constituents may demand, may come before the Congress. The net result of this change of our rules, in my humble judgment, would be to sound the death knell of the rights of a minority.

The safest guarantee for minority rights is free, untrammeled and unrestricted debate. Those who sponsor the pending motion today realize and understand this fact better than any other group in the United States. The group sponsoring the change today is the so-called liberal group. I rather think that type of a classification for my friends is not truly accurate. It is illiberal to deprive one of free discussion. It is a strange fiction that the so-called liberals of a generation or two ago were those who clamored successfully for the retention of a stricter rule than that which prevails today. The great liberal, the great progressive from Wisconsin, Senator La Follette, when an attempt was made to enforce cloture during World War I, said:

> I realize how the hysteria of the moment may be driving Senators to acquiesce here in this procedure which at another time they would resist with all their force. But so far as I am concerned I will never by my voice or vote consent to a rule which will put an end to freedom of debate in the Senate. The adoption of this rule marks a decline in the influence of the Senate in the Government.
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> I know that the majority are determined. I believe that a majority of that majority are in this matter yielding their judgments, and that the time will come when the men who are now clamoring for this change and who by their votes are imposing cloture upon the Senate will see that rule invoked to deprive them and their States of what they deem their rights. I cannot prevent the adoption of this rule, so I am content at this time to protest and vote against it.

It is a strange turn of fate that those who sought to condemn another Senator from Wisconsin [Mr. MCCARTHY] a year or so ago, argued in effect that the Senate was a continuing body and that what had transpired in a preceding session of the Senate was the subject matter of concern and appropriate action in a succeeding session of the Senate.

Let me quote part of what appeared recently in the Evening Star on the subject of whether the Senate is a continuing body. I quote from the distinguished editor of the U. S. News & World Report, Mr. David Lawrence:

> SENATE AND THE CONTINUING BODY—SOME WHO WANT TO CHANGE POLICY SAID TO HAVE FAVORED IT PREVIOUSLY
>
> Chickens come home to roost and so do the principles of true liberalism come back to plague those who abandon those principles for the sake of expediency.
>
> It will be interesting to see whether the "liberals" among the Democrats and Republicans in the Senate apologize now to Senator MCCARTHY, whom they voted to condemn in 1954 on one count relating to alleged conduct in a previous term. For some of these same Senators, who argued then that the Senate is a continuing body and can examine the conduct of a member in a previous term, now are contending that the Senate is not a continuing body at all.
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> The present purpose, of course, is to get a new set of rules adopted in the January session so as to abolish lengthy filibusters against civil rights legislation. If the Senate decides that it is not a continuing body it would take only a majority vote to change the rules. Otherwise it requires a two-thirds vote, and the proponents of the idea of changing the rules know they can't muster two-thirds of the Senate.
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> It will be recalled that in September 1954, it was proposed to censure the Wisconsin Senator for his "failing to cooperate" in 1952 with a Senate committee examining his income tax returns. Later the resolution was changed by the Senate to eliminate the word "censure"—which implies the power actually to punish—and to substitute for it the milder word, "condemn." The resolution was adopted in October 1954, by a 67 to 20 vote of the Senate, and not a single Democrat voted against it.
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> Senator MCCARTHY always conceded that the Senate did have a right to examine the previous conduct of anyone entering the Senate, but he said the time to do it was at the opening of a Congress when a Senator presents his credentials. The Wisconsin Senator, just prior to taking his seat in January 1953, for a new term, directly challenged the Senate to take up all the accusations made against him, but his colleagues failed to do so.
>
> It was not until September 1954, that the Senate's select committee brought in a report proposing censure and arguing flatly that the Senate is a continuing body. It said the issue had been settled by the debate in the Senate in January 1953, when the liberals tried unsuccessfully to change the rules and insisted that each House can adopt new rules at the beginning of a new Congress. The Senate committee report in September 1954, said:
>
> "The fact that the Senate is a continuing body should require little discussion. This has been uniformly recognized by history, precedent, and authority. * * *"
>
> The Senate still can abolish filibusters any time it wishes to do so, but it takes a two-thirds vote to accomplish this, and the anti-filibustering group just doesn't have the votes.
>
> So the debate on whether the Senate is or is not a continuing body nowadays hinges really on whether there's a two-thirds vote available to accomplish the objects sought. Hence, the country now will be treated to many a hypocritical argument. Some of the same Senators who argued in the McCarthy case that the Senate is a continuing body will be heard now arguing the opposite; that the Senate is, after all, not a continuing body and that a majority vote is all that's needed to adopt new rules.
>
> Freedom of speech in the Senate, for example, usually championed by the so-called liberals, was dealt a severe blow by the resolution to condemn a Senator for expressing his opinions.

Yesterday I took my oath of office, along with 34 other Senators. The remaining Members of the present Senate took no new oath of office. They will continue in office and under their oaths from the time they were elected and sworn in until their terms expire. If the Senate were not a continuing body, all of us would be required to take our oaths on the opening day of each session of the Senate. Our terms were staggered for the very purpose of making the Senate a continuing body.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator from Texas grant me an additional 2 minutes?

Mr. JOHNSON of Texas. I yield an additional 2 minutes to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I believe, Mr. President, that the United States Senate is the last citadel of man's freedom. It is the last representative body on earth that should hamstring, hamper, or restrict the fullest discussion of every problem and every question which may be presented to it. This right of free discussion affords me the opportunity to fight to the last ditch in defense of some fundamental principle or to prevent the destruction of some basic right. Without such a rule here we would and could become the prey of hysteria, and minority rights could exist only in theory and not in fact. Those who favor abolishing unlimited and unrestricted debate exercise such a right more freely and more often than do most of us whom some in the press are pleased to call reactionaries or conservatives.

As I stated in debate several years ago, there is no crisis at hand to justify a departure from the rules which time and experience have proved to be so valuable to almost every Member of this body. I predicted in my remarks on the Senate floor 7 years ago, and used the same phraseology used by Mr. David Lawrence, that as surely as the Senate modified its rules "the chickens would come home to roost."

I do not glory in seeing the chickens come home to roost, but there is a glaring inconsistency by some who would now for political purposes or political expediency grab the news headlines in a clamor to change our rules, which have been the source of so much benefit to them in the past, whatever may be the classification of Senators, liberals, or conservatives, or reactionaries.

It has been recounted in many a discussion on this floor how the great liberals of the past—and I include such men as Senators Borah, La Follette, Reed, of Missouri, Norris, of Nebraska, and others—banded together to defeat measures which they considered were in violation of basic, fundamental rights, and in so doing have been given the rewards of history for their efforts in engaging in prolonged debate and lengthy discussions.

Within more recent times we have witnessed prolonged debates in the Senate which have prevented the enlargement in membership of the Supreme Court of the United States. Such a measure was proposed by a Democratic President. I dare say there are only a few in this body today who would again propose such a radical change in the number of Justices on the Supreme Court, however dissatisfied many of us are with the personnel now sitting and with the decisions that Court in recent years has seemed so capable of rendering. The fault there does not lie with the number of Justices; the fault lies with the individuals appointed to the Court, if one has a complaint to make.

Therefore the argument today should be addressed to persuade two-thirds of this body to be present if debate is to be ended on a given bill or a given proposal. The fault does not lie with the rules as they exist.

I reiterate what I said at greater length several years ago, that the establishment of a rule which would restrict and hamper debate will some day plague those who sponsor its passage.

I warn that the cloth we may cut into garments today may at a later date pinch the wearers of them. In my judgment, the rules of the Senate should remain unchanged; and in urging this I make a further attempt at being consistent.

Mr. JOHNSON of Texas. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. HOLLAND. Mr. President, I have frequently spoken in the Senate on this same subject. Therefore I have no inclination and I have no time to dwell at length upon the issues involved.

However, I do wish to say that in my judgment the adoption of the motion of the Senator from New Mexico [Mr. ANDERSON], and other Senators, would be one of the worst steps imaginable. It would break down the outstanding characteristic of the Senate and take it far away from its traditional position of high stability and conservatism.

Mr. President, not long ago I had occasion to check on the statements of the framers of the Constitution as to what kind of Senate they proposed to create. In that check I discovered that stability is the thing which they were mostly seeking to achieve. Two papers by Mr. Madison, 1 by Mr. Jay, and 2 by Mr. Hamilton, published in the Federalist, bear upon this subject. Perhaps the best statement on that point is found in the two papers by Mr. Madison. I believe it is interesting to note that the words "stability," "stable," or "instability," depending on the context, appear exactly 9 times, as used by Mr. Madison in the 2 very brief articles which he wrote, describing the kind of Senate which was proposed to be set up.

Mr. President, the continuing feature of the Senate was mentioned by him only once. He used the word "continuing" simply to make it clear that the continuing quality of the Senate is just one of those things, among many others, which are designed to bring about a highly stable organization, one upon which the country, as well as the friends of our country, other nations, could continue to rely.

On one occasion they said that it was necessary because of the continuing attention that would be necessary to give to important problems which cannot be immediately or easily solved. On two other occasions they spoke of the necessity of creating a body which would establish a system that would have permanance, particularly for discussions of questions dealing with international affairs.

There is much more along the same line said in the papers I have mentioned. However, I wish particularly to emphasize that it is very important to establish and preserve stability and not to create a precedent under which every 2 years, every time a new Congress meets, it would be necessary for the Senate to enter into a Donnybrook type of scrap on the question of what its rules should be, when a majority—and only a temporary majority—influenced, perhaps, by the recent election of the then Executive—and I do not refer to the Executive now in office, but any executive then acting—could change the rules so as to accomplish what it desired or what the executive desired.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. ANDERSON. Under my understanding with the majority leader, I yield 2 additional minutes to the Senator from Florida.

Mr. HOLLAND. I thank the Senator for yielding 2 additional minutes to me.

Without the quality of stability, we would be confronted with a fight of this nature every 2 years.

The second point I wish to make is that no one knows what kind of rule 22 is proposed by the 31 signers of the Anderson motion. The Senator from New Mexico said he was not in favor of majority rule on cloture. The Senator from Illinois [Mr. DOUGLAS] said he was for majority cloture. The Senator from New York [Mr. IVES] said he was in favor of cloture by a majority vote of the full membership.

The Senator from Oregon [Mr. MORSE], in his appearance in 1947 before the Committee on Rules and Administration, said he was for cloture by a majority of a quorum, which is 25 votes.

I say to the Senate that if it adopts the motion of the Senator from New Mexico, it will plunge the Senate into a fight over proposals ranging from cloture by 25 Senators to control by 64 Senators.

That is true because no formula has been agreed upon, and because it is admitted by the proponents of the motion that they are not together in their thinking. Therefore, it would plunge the Senate into a continuous fight on one rule alone. In that connection, I call attention to the fact that there are 40 standing rules, which would be involved, if the motion of the Senator from New Mexico should be adopted.

I hope with all my heart that the motion will be tabled, and the stability of the Senate, thereby, preserved.

Mr. ANDERSON. Mr. President, under my understanding with the majority leader, I desire to yield 5 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I have been reading during the past few weeks comments made by several newspaper columnists. These columnists charge, in substance, that southerners obstruct action by the Senate. I wish to point out that there are not enough of us to prevent a vote on any measure. Some years ago Jiggs and Maggie went to Spain. While there, Jiggs joined a husbands' protective organization called the Society of Gazooks. Under the rules of the Gazooks whenever a husband got into any difficulty with his wife, the other members of the society were sworn to come to his rescue.

Maggie and Jiggs were walking along a street in Madrid. They got into some domestic difficulty, and Jiggs called "Gazooks."

In response to Jiggs' call, hundreds of his fellow Gazooks came running to his assistance. Maggie laid them all out with her umbrella.

The last picture in that particular cartoon showed Jiggs laid up in a hospital bed all bandaged up. He said, "The idea of the society is very good, but the trouble is we don't have enough members."

That is the trouble with us southerners. [Laughter.]

We are wrongly accused of being responsible for obstructing legislation in the Senate. As a matter of fact, we are too few in number to prevent a vote on any measure under rule 22. There are only 22 of us at the most.

Therefore I should like to have it set down as one true fact that southern Senators alone are unable to muster enough votes to invoke rule 22. I should like to lay at rest another statement frequently made by columnists—namely, that filibusters are used only against so-called civil-rights bills. Filibusters have been used in the Senate since 1841. During the 115 years the filibuster has been invoked 45 times. Of those 45 times it has been invoked against so-called civil-rights bills only 9 times, and in 4 of those 9 times, it was invoked against a civil-rights bill which by decision of the Supreme Court was clearly unconstitutional. It is certainly no harm to prevent the Congress from acting in an unconstitutional manner by filibuster or otherwise.

I would say that we are putting the Senate in a rather funny situation. I may be so old fashioned as to be denied the status of a liberal. However, I must confess that I believe the statement that consistency is a jewel.

In the fall of 1954 the Senate voted on the question of censuring the junior Senator from Wisconsin [Mr. MCCARTHY]. The main legal question involved was the question of whether the Senate

is a continuing body. The censure of the Senator from Wisconsin could not have been voted without first adopting the report of the Watkins committee to the effect that the Senate was a continuing body. One hundred percent of the Senators on the Democratic side of the aisle voted that the Senate was a continuing body, and 50 percent of the Senators on the Republican side of the aisle voted for acceptance of the report based on that proposition.

It is obvious that a parliamentary body cannot function without rules.

If the Senate has no continuing rules, it is not a continuing body. Seventy-five percent of the Members of the Senate voted within the last 2½ years that the Senate is a continuing body.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. JOHNSON of Texas. Mr. President, I yield 1 additional minute to the Senator from North Carolina.

Mr. ERVIN. I thank the Senator from Texas.

Mr. President, the Senator from Illinois [Mr. DOUGLAS] quoted Shakespeare. He would not have had any trouble with the soliloquy of the Prince of Denmark who said that the question which bothered him was whether he should accept the present ills rather than to fly to those he knew not of.

An attempt is being made to create a vacuum with nothing with which to fill that vacuum.

The Senators who are supporting the motion lead me to believe that they cannot even agree among themselves. If that be true, we shall wind up with the abolition of a set of rules and without the capacity to get a majority of the Members to agree on a new rule 22. So, Mr. President, the orderly thing to do is to vote for the motion to table and let the motion to amend the rules be sent to the Committee on Rules and Administration so that we may proceed in an orderly legislative manner.

Mr. ANDERSON. Mr. President, I yield 10 minutes to the Senator from Oregon [Mr. MORSE].

Mr. MORSE obtained the floor.

ORDER FOR RECESS ON SATURDAY TO MONDAY AT 12 O'CLOCK

Mr. JOHNSON of Texas. Mr. President, I ask the Senator from Oregon to yield for a unanimous-consent request.

Mr. MORSE. I shall be glad to yield for that purpose.

Mr. JOHNSON of Texas. Mr. President, I ask that at the conclusion of the joint session tomorrow, the Senate stand in recess until next Monday at 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. I should like to announce, Mr. President, that there will be a joint session on Monday.

I thank my friend from Oregon.

RULES OF THE SENATE

The Senate resumed the consideration of the motion of Mr. JOHNSON of Texas to lay on the table the motion of Mr. ANDERSON for himself and other Senators, to proceed to the adoption of rules of the Senate for the 85th Congress.

Mr. MORSE. Mr. President, before I begin my speech I ask unanimous consent to have printed at the close of my remarks excerpts from speeches which I have made on this subject in previous debates.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORSE. Mr. President, new rules are required if majority rule is to prevail in the United States Senate. The present rule 22, with its unique requirement of 64 affirmative votes to bring debate to a close, gives a small group of Senators a veto power that cannot be reconciled with democratic majority rule.

Not only does this veto apply to legislation which reaches the Senate floor, but it has been used to discourage attempts to bring out legislation which could pass if a vote were possible.

One irony of the present situation is that the present rule with its requirement of 64 votes for cloture was adopted by less than that number. It was adopted by majority vote. Forty-four Senators in the Senate when the rule in its present form was adopted are no longer here. It is absurd that the 44 Senators who replaced them should be forced to vote on new rules, and specifically rule 22, on different terms from those who adopted it.

The present rule 22 is unamendable for practical purposes because cloture cannot be applied to amendments to the rule itself under the rule adopted in 1949. The Wherry rule is a fantastic bootstrap operation—by a majority vote it was sought to impose a requirement of 64 votes for cloture and to insulate this filibuster rule by making possible an unlimited filibuster against any attempt to amend it under the rule itself.

PURPOSES OF RULE

Ever since I have been in the Senate I have worked for the protection of minority rights, full and free debate, and majority rule. I know the merits of full debate because I have joined with others to use it to focus public attention upon undesirable legislation. On no occasion have I joined, nor will I join, in an attempt to prevent a vote on the merits of a bill if there has been opportunity for reasonable debate.

I well know the criticism made of the Senator from Oregon on the ground of alleged inconsistency of his position on the filibuster. I repeat today that I shall never participate in a filibuster which seeks to prevent a vote from ever occurring on an issue, but I shall engage in the so-called filibuster tactic for the length of time necessary to accomplish two things; namely, to get the time necessary to awaken the country to the merits of an issue which is before the Senate, and to prevent steamroller tactics. Thus in 1954 there was an attempt to push through the proposals of the administration on the atomic energy bill. I objected to hasty consideration of legislation in such a vital field and joined with several Senators to insure careful consideration of many sections of the measure. Debate continued for many days. But I made it clear then that I would agree to set aside the pending business long enough to adopt an antifilibuster rule. That has been my standing and repeated offer when engaging in prolonged debate. In each instance, those of us who used the "limited filibuster" did not and would not push it to its full powers to prevent a vote. Not all have exercised this restraint nor need they do so under the present rule. But the antifilibuster rule which I have always proposed is one which will protect the minority, and one which would permit a vote finally to occur on the issue before the Senate.

PRESENT RULE CONTRADICTS DEMOCRATIC PRINCIPLES

But it is the very contradiction of democracy to operate under a rule which gives to a few the power to frustrate the will of a majority registered under our constitutional system with all of its built-in checks and balances. The Senate of the 85th Congress should not be deprived of the right to choose the rules under which it will operate.

Rule 22 is not a barricade for the protection of minority rights against temporary shifts of public opinion. Far from it. It has been used as the refuge of reaction against the steadily growing, deeply rooted American belief in fair play and equality. No fiction will fool the people of the country. They know that a vote for new rules is a vote for implementing the constitutional guaranties of personal liberty and equality before the law.

Mr. President, I close this speech by paying a deserved compliment to four Senators. I wish to mention the distinguished Senator from New Mexico [Mr. ANDERSON], for the statesmanlike record he has made in regard to his long-sought attempt to change rule 22. The leadership which he gave us in 1953 and which he is giving us again in 1957 will go down in the history of the Senate as among the great records of statesmanship in the history of the entire body.

This morning the Senator from New Mexico [Mr. ANDERSON], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Illinois [Mr. DOUGLAS] rendered great service in this historic fight. They set forth the thesis which many of us have proposed and defended since 1949. They pointed out—and I wish to emphasize it once again—that the issue before us is not the issue of whether the Senate is a continuing body.

EACH SENATE HAS CONSTITUTIONAL RIGHT TO ADOPT NEW RULES

In 1953 I took the position that it was irrelevant to the issue before the Senate. The issue really is, Mr. President, whether the Senate is going to exercise its constitutional right to adopt rules of the Senate by a majority vote if the Senate wishes to adopt them. Whether we are or are not a continuing body is irrelevant to that issue. But, under the Constitution of the United States, as I have said for years, Mr. President, and as the Senator from New Mexico argued very eloquently in 1953 and again this year, and as the Senator from Minnesota and the Senator from Illinois have

pointed out, the question is not whether we are a continuing body, but whether we are going to exercise our constitutional right to adopt rules governing this body at the beginning of the session.

Mr. President, I wish to pay a very deserved tribute to the Vice President of the United States, the President of the Senate, for the opinion or point of view he has handed down today. I wish to read just three paragraphs from that opinion. He said:

> Any provision of Senate rules adopted in a previous Congress which has the express or practical effect of denying the majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional. It is also the opinion of the Chair that section 3 of rule 22 in practice has such an effect.

Mr. President, I wish to thank the Vice President of the United States for taking that position, because it sustains the point of view which some of us have maintained for many years.

Then the Vice President goes on to say:

> The Chair emphasizes that this is only his own opinion, because under Senate precedents a question of constitutionality can only be decided by the Senate itself and not by the Chair.

Many of us, Mr. President, have been trying for some years to face up to that issue and to decide it by a majority vote.

A group of us for many years have sought to have the issue determined by the Senate directly and squarely by the exercise of majority rule. The principle of majority rule prevails in almost all the parliamentary bodies of this country. It is the common rule in the State legislatures; it is the rule of the United States House of Representatives. What is fantastic about making it the rule of the Senate of the United States? We can make it the rule if this afternoon we defeat the motion to lay on the table.

In the excellent opinion which he has handed down today, the Vice President has this to say about that point:

> Turning to the parliamentary situation in which the Senate now finds itself, if the motion to table should prevail a majority of the Senate by such action will have indicated its approval of the previous rules of the Senate and those rules will be binding on the Senate for the balance of this Congress unless subsequently changed under those rules.
>
> If on the other hand the motion to lay on the table fails, the Senate can proceed with the adoption of rules under whatever procedures the majority of the Senate approves.

The Vice President has joined in making the issue perfectly clear once again to the Senate of the United States.

I close these remarks by paying my sincere compliments to the Senator from New Mexico [Mr. ANDERSON], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Illinois [Mr. DOUGLAS], the Senator from New York [Mr. IVES], the Senator from New Jersey [Mr. CASE], and all the rest of the Senators who have stood shoulder to shoulder with us in this historic fight to restore to the Senate of the United States that basic principle of American Government; namely, that the people should be governed by the majority, and not be harassed and thwarted by the minority.

TRIBUTE TO SENATOR LEHMAN

Nor should we forget the leadership and inspiration given by the giant of American liberalism—Herbert Lehman, of New York. When eventually this fight is won, his pioneering and steadfast championship of human freedom will be credited with pointing the way and marking the path.

When we vote this afternoon on the motion to lay on the table, let no one, as I said from the floor yesterday afternoon, have any doubt as to what we are doing. We shall be voting whether to restore majority rule to the Senate of the United States.

There is another irrelevant matter which has been raised in the debate; namely, what rule will replace rule 22? We will hammer it out on the anvil of exchange of opinion on the floor of the Senate.

But the first thing to do is to clear the way for the adoption of new rules, and that way cannot be cleared until we defeat the motion to lay on the table. Then we can come to grips with our clear constitutional obligation of adopting rules for the Senate which will protect all Americans from the unfair discrimination which now exists in too many parts of our land. When all is said and done, we have before us once again the issue as to whether the United States Senate will follow a procedural course of action which will protect first-class citizenship for all citizens of the United States, irrespective of race, color, or creed.

EXHIBIT 1

[From CONGRESSIONAL RECORD of March 10, 1949]

THE AMERICAN PEOPLE WANT MAJORITY RULE IN SENATE OF THE UNITED STATES

I wish to make a brief comment upon the rather peculiar position in which I find myself this afternoon, a position that might be subject to misunderstanding or misinterpretation if I did not make a clarifying statement. I have no desire to assist in any way a filibuster in the Senate. But I think that, before the cloture petition is filed this afternoon, those of us who have very definite views on the merits of the filibuster issue should get them into the RECORD. I am not sure what the parliamentary situation may be as to our rights to place them in the RECORD, at least in time for them to become a part of the RECORD before the vote, so far as the cloture matter is concerned, if we do not do it now.

So I desire to state for the RECORD my reasons in support of the Morse antifilibuster resolution, and I want to reply briefly to some very able, but I think fallacious, arguments which have been made on this issue by some of my distinguished colleagues on the other side.

I agree with the distinguished senior Senator from Georgia [Mr. GEORGE] this is a momentous debate. I think it is but another chapter in a great fight that is going to continue to be waged in the Senate until the coming of that happy day when the people's will will prevail and a rule in the Senate will be adopted making it possible for the will of the people through a majority vote of their elected representatives to be registered in this august body.

I do not think we are going to win the fight this time. I wish I could be more optimistic about it. But I expect now as in the other rounds of the fight in times gone by, the proponents of an antifilibuster resolution will lose. Why? Because neither party in the Senate, Republican nor Democratic, in my opinion, has stood up in the fight and made it clear it is willing to take those steps necessary to win the fight. Thus it must go back to the people, and the people once again are going to have to impress upon more Senators at the ballot boxes their determination to see to it that the fight is won in the Senate, either by getting men now in the Senate, once they come again face to face with the people on this issue in campaigns, to change their thinking on the issue, or by supplanting men already here, at future elections, with other candidates for the Senate, who will come here and make the fight which I think should be made now, and, as I have said on the floor on this issue in times past, which should have been made in previous battles.

We cannot win unless we are willing, as we have not been thus far in the fight, to continue in session for as many days, weeks, and months as may be necessary to demonstrate to the minority that we do not propose to have the majority will trampled by minority tactics in the Senate. It must be done sometime; why not now?

I have asked that question over and over again during the last 4 years. I shall continue to ask it, until the time comes, which I hope will not be in the far distant future, when my party in the Senate, as a Republican policy will organize by way of opposition to a filibuster, and declare our determination to remain here for as many months as may be necessary to break the filibuster. I hope the alleged antifilibusterers on the Democratic side of the aisle will with equal determination so organize themselves that we can get the issue behind us. I am satisfied the rule of the Senate permitting filibusters is devastating to the interests of the people in the case of issue after issue.

I repeat, Mr. President, that the rights of the people in legislation before the Congress of the United States are no better than their procedural rights in the Senate of the United States. So long as the rules of the Senate permit, through a filibuster, the defeat of the will of the great, overwhelming majority of the American people on various issues, then there must be eliminated the procedures which produce such an unconscionable result, if this is to be a truly representative government. To me it is a very simple issue. I am either right or wrong, Mr. President, in saying that the most fundamental tenet of a democratic form of government is that which says the majority will shall prevail, subject to the checks and balances of the Constitution, through a judiciary, and the veto of the President, in case the majority of the Senate and the House pass legislation which cannot be squared with the fundamental constitutional guaranties of the document which gave us all of our rights and liberties.

That is why I never have been able to accept, and cannot now accept, the able arguments of distinguished Democrats on the other side of the aisle, that the Constitution guarantees to them that, under the rules of the Senate, they shall have preserved to them the right to block the majority through procedural tactics, because, in their judgment, they do not believe certain legislation which the majority otherwise would pass is constitutional. Mr. President, that defies, in my judgment, our whole theory of government, not only of checks of powers but separation of powers as well.

The American people need to reflect once again on the fact that under our system of government, if we pass legislation which, in fact, is unconstitutional, the courts will pass on it unless, before it gets to the court, the President of the United States exercises his veto, which, under the Constitution, requires a two-thirds vote to override.

When the Founding Fathers were faced with the problem of establishing the checks in the Constitution they did not have any

difficulty in providing a two-thirds vote requirement when they wanted a two-thirds vote requirement as a check. They understood the effect of a two-thirds vote requirement as well as we do; and in the magnificent document which they wrote they checked us, the Senate of the United States, in the passing of unconstitutional legislation, by giving to the President the veto power over us and requiring that his veto shall stand unless a two-thirds vote of the Senate, as well as of the House, overrides it. But they did not anywhere in that document provide that the debate in the Senate of the United States shall be unlimited in the sense that a handful, a minority, of Senators can organize and block the will of the majority by preventing a vote ever occurring on a piece of legislation. If they wanted to place that power in any minority group in the Senate, the English language was perfectly capable of being so used. But they did not do it. What did they provide? They provided that the House and the Senate shall be allowed to make their own rules governing procedure.

Mr. President, I think one of the most able arguments which has been made in the course of this debate was the argument made by the Senator from Georgia [Mr. George], for whom I have the highest respect and for whose views, as the RECORD will show, I find myself many, many times, I think, more often than not, in agreement; a man who, in my judgment, is a great lawyer, but with whom, on this issue, I find myself in complete disagreement. Because the argument he made recently on the floor of the Senate, in my judgment, has had great weight in the thinking of my colleagues, I propose, very humbly, this afternoon to answer a few of his observations, inasmuch as I disagree with the Senator on a great many of his historical observations and interpretations, and I disagree with him on some of his conclusions as to constitutional law.

In the speech of the Senator from Georgia, delivered on February 28, 1949, he said, at page 1640 of the RECORD, that had someone suggested a limitation on debate in a conference of the States before the formation of the Constiution, it would have dissolved the conference.

The Senator from Georgia can assert it, but it is an assumption, which, in my judgment, does not rest upon historical probability. Why do I say that? Because, Mr. President, the Continental Congress, which preceded these great constitutional debates, operated on the basis of a rule which permitted of the previous question. It did not dissolve over that parliamentary practice which limited debate. At the very time the constitutional fathers sat it was the common practice in parliamentary bodies, colonial, and, to the extent we had them, combinations of colonial bodies such as the Continental Congress to use the previous question technique as the device for limiting debate.

I most respectfully say to my good friend from Georgia that I know of no basis in history to support his assumption that had any such proposal been made at the Constitutional Convention to limit debate in the Senate of the United States, the Convention would have dissolved. To the contrary, I think the assumption ought to be that, in view of the parliamentary practice which prevailed at that time, by way of the previous question as a device for limiting debate just the opposite conclusion from that reached by the Senator from Georgia is the one which we should accept.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. MORSE. I shall be very glad to yield for a question.

Mr. GEORGE. Does not the Senator know that the previous question, at the time of the adoption of the Constitution, was itself a debatable question, and that it has little relationship to the previous question as now known in the House of Representatives?

Mr. MORSE. I am perfectly aware of that, but I am sure, also, that the Senator from Georgia would agree with me that at the time of the Constitutional Convention, at the time of the Continental Congress, the usages or practices which grew up around the use of the previous question did not fall into the evil way of a filibuster as it has developed on the floor of the Senate. Rather the fact is that Members voted on the previous question for limiting debate on a majority-vote basis. In other words, the practice was that men who assembled in parliamentary bodies, after full and fair debate on the merits of an issue, recognized the right of the majority eventually to end debate by the previous question.

In defending the right of unlimited debate in the Senate, Senators George and Connally, for example, relate it somehow to State sovereignty, to the sovereignty of the individual State.

Sovereignty means supreme power. The question of the location of sovereign power in the United States is to be answered, not by reference to the political theory of the American Constitution, but by reference to the hard facts of American life. Whatever the original design, the stubborn fact is that supreme power has come to reside in the Central Government (if it resides anywhere) as a result of the outcome of the War Between the States, the industrial revolution, and the onward march of science and technology. The intellectual edifice of State sovereignty and States rights, with its corollary doctrines of nullification and withdrawal, treating the National Government as the mere agent of associated States, which was elaborated by Calhoun, collapsed with the defeat of the South in the Civil War.

State sovereignty, in a narrow sense, no longer fits the cold hard facts of modern industrial society. It has passed away forever down the irreversible stream of time. Yet it lingers on in the southern mind like the nostalgic echo of a voice that is still. "But, oh, for the touch of a vanished hand, and the sound of a voice that is still."

Mr. President, the Senator from Georgia, in his very able speech on February 28, said that a right which attaches to the sovereign State is this right of unlimited debate. As I have just said, the Constitution does not say so. Article I, section 5, paragraph 2, of the Constitution provides that each House may determine the rules of its proceedings. Therefore I do not think there can be any reasonable doubt, certainly no reasonable constitutional doubt, concerning the power of the Senate under the Constitution to adopt a rule regulating debate in this body. If that premise is sound under article I, section 5, paragraph 2, then certainly there is no invasion of sovereign powers of the States under the Constitution for this body to adopt a majority-vote rule, because article I, section 5, paragraph 2, contains no word of limitation on the power of the Senate of the United States to adopt its rules.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. MORSE. I yield.

Mr. GEORGE. Of course, the Senator is familiar with the Constitution, and he recognizes does he not, that there are some things which cannot be done by the Congress except by the consent of the States, and the one and foremost provision is that no State can be deprived of its equal representation or equal suffrage without its consent?

Mr. MORSE. That is correct.

Mr. GEORGE. I also call the Senator's attention to another constitutional provision, namely, that there can be no subdivision of a State, or the creation of a new State out of an old State, or the creation of a new State by combination of parts of two States, except by the consent of the States.

Mr. MORSE. That is true.

Mr. GEORGE. The Senator would not contend, would he, that by mere rule or regulation those constitutional prohibitions could be written out of the Constitution?

Mr. MORSE. Not at all, but I do contend that the observation just made by the Senator from Georgia is entirely irrelevant to the issue before the Senate, as to whether or not under article I, section 5, paragraph 2, of the Constitution, the Senate of the United States has the right to adopt a rule governing debate in the Senate which will provide that a majority vote may limit debate. Such a proposed rule has not the slightest connection with the sovereign right of any State.

Mr. President, of course, there are rights given to the States under the Constitution which the Senate of the United States cannot take away from the States, but I cannot go along with what I consider to be a fallacious conclusion in the logic of the Senator from Georgia, that because certain rights of the States are guaranteed to them under the Constitution there is any connection whatsoever with the grant of rights and powers in article I, section 5, paragraph 2, which specifically reserve to the House of Representatives and the Senate the right to adopt rules governing their proceedings. I most respectfully say that the implication of the argument of the Senator from Georgia is a clear non sequitur.

Mr. President, in his very able speech, the Senator from Georgia pointed out that there is a danger of whittling away the rights of the States. Let us consider the Hayden resolution for a moment. I am sure the Presiding Officer knows that I am not in favor of the Hayden resolution, save and except I may in the last analysis be forced to vote for it because I apparently stand here this afternoon, as I said before, as the only defender of the President of the United States in support of a majority-rule principle for limiting debate in the Senate; and, of course, if I have no support at the present time for the position the President of the United States and I take in this matter, I shall have to bide my time until the electorate changes that situation, and during the interim I may have to go along with the Hayden resolution, inadequate as I think it is; but it is better than the present rule. So let us look at the Hayden resolution for a moment.

I say, Mr. President, that the safeguard of States rights is to be found in the equal representation of the States in the Senate, and not in its parliamentary procedure. I repeat, my first answer to the able argument of the Senator from Georgia is that the safeguard of States rights is to be found in the equal representation of the States in the Senate, not in its parliamentary procedure.

The Hayden resolution proposes no change in the voting requirements for the application of cloture, nor any reduction in the time allowance for debate following the vote on the cloture motion. No apprehension of the impairment of the rights of the States was voiced in the debate preceding the adoption of the existing cloture rule in 1917, for which all the southern Democratic Senators voted on that memorable day. Were States rights jeopardized during the 5-year period from 1917 to 1922, before the first breach in the ramparts of the present rule was found by a presiding officer? The States rights argument in this connection, I say most respectfully, Mr. President, is unsound, and designed to catch timid and unwary souls.

Mr. President, let us consider what an examination of the facts shows about the debates which occurred in 1917 at the time the present cloture rule was adopted.

The date was March 8, 1917. The debate consumed 6 hours, or 26 pages of the RECORD. Of the Senators who participated in the debate, six expressed their preference

for majority rather than two-thirds cloture. They were:

Hollis, of New Hampshire, whose comments appear on pages 26 and 27 of the RECORD for March 8, 1917.

Norris, of Nebraska, whose comments in support of majority rule appear on pages 27 and 28 of the RECORD for that date.

Stone, of Missouri, whose support of majority rule cloture appears on page 31.

Owen, of Oklahoma, whose comments appear on page 32.

Thomas, of Colorado. Read his support of majority rule on page 33.

Vardaman, of Mississippi. Note his comment on page 39.

Senator Stone on that occasion prophesied that the two-thirds cloture rule would prove ineffective, and I venture in my humble way to prophesy this afternoon that, even with the adoption of the Hayden resolution, we will not solve the filibuster problem in the Senate, and we will never solve it until we adopt the majority-vote principle in this body.

Mr. BALDWIN. Mr. President——

Mr. MORSE. I will not yield. I am sorry.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. MORSE. I wish to say why I will not yield, except to the Senator from Georgia. As a matter of courtesy to him, because of my reference to his argument, it would in my judgment be most unfair for me not to yield. But I am not going to yield to any other Senator, now that I have the floor, for two reasons. First, I do not want to be charged with engaging in a debate 1 minute longer than in all sincerity and good conscience I think I have to speak to make my case on the merits of the great issue pending before the Senate. In the second place, I am not going to yield because I do not want to be taken off the floor, and, although I know that the Senator from Illinois [Mr. Lucas] would not attempt to take me off the floor by way of seeking to file a cloture petition while I am on the floor, I know he cannot necessarily control other Members of the Senate. I recall that at one time last year—I think my memory serves me correctly—a debate was proceeding when a ruling was handed down that if a Senator obtained the floor for the filing of a cloture petition he could take the speaker off his feet, and I am going to do my best to protect myself until I finish this argument, which so far as my political record is concerned, Mr. President, is of utmost importance to me. I submit that from the standpoint of future events in this country, the arguments which I propose to make this afternoon are going to be of utmost importance to some other Senators in the Senate of the United States.

On March 8, 1917, Senator Owen, of Oklahoma, stated that at least 40 Senators then favored majority cloture, but were bound by a gentlemen's agreement to vote for a two-thirds rule. It is my understanding that what happened behind the scenes in 1917 was that some 40 Senators expressed preference for a simple majority-vote rule in the Senate of the United States for limiting debate, but the leadership prevailed upon them, as so often happens in the Senate now, to modify their views or compromise their position by going along with a two-thirds vote rather than the majority vote which they preferred. It was that understanding and that arrangement which I assume Senator Owen was referring to when on March 8, 1917, he said that at least 40 Senators then favored majority cloture, but were bound by a gentlemen's agreement to vote for the two-thirds rule.

The RECORD shows, Mr. President, that Senator Thomas, of Colorado, on that day said:

"The principle of majority rule is an established and essential principle in American government from the Nation to its smallest hamlet. The majority should have and exercise the power of determining what its policy will be not only with regard to legislation, but, as well, the methods by which legislation is to be accomplished. Two-thirds cloture," he said, "will bring no real measure of relief. It will provide a delusion and a snare. Unless the rules be amended by providing cloture by majority the practical operation of this amendment will prove a deep disappointment to the hopes of its sponsors."

If prophetic words were ever uttered in the Senate of the United States, Mr. President, on March 8, 1917, Senator Thomas, of Colorado, uttered them in connection with the quotation from his speech I have just read to the Senate, because I think it is perfectly clear that the two-thirds vote rule in regard to cloture has proved to be a delusion and a snare.

On that same historic day, the Senator from Mississippi, Mr. Vardaman, stated that he recognized that unlimited debate has served the people of the South. "But," he added, "I would prefer that the rule would provide for the invocation of the cloture by a majority rather than by a two-thirds vote."

Mr. President, the two-thirds cloture rule was adopted on March 8, 1917, by a vote of 76 to 3. Of the 16 Senators not voting, it was announced that 11 would have voted "yea." Thus, at least 87 of the 96 Senators then favored a limitation of debate in the Senate of the United States. Where were the southern protests on that day when the sovereignty of the States was being invaded? Where were the southern protests on that day that a great constitutional safeguard was being destroyed in the Senate of the United States? Southern Senators on that day voted for the rule. I think it is also quite obvious that they voted for the rule, thinking, as was the practice for the 5 years thereafter, that it applied to all matters of business before the Senate, be it a motion to take up a bill, or to approve the journal, or to consider a measure in the sense of the subsequent interpretation of the word "measure" being limited, as the Presiding Officer 5 years later ruled, to a pending bill.

No; I am not impressed, Mr. President, with the argument that the sovereignty of the States is being invaded by putting into application the simple majority-vote principle in the Senate of the United States so that we can transact the people's business and protect the people from the obstructionist tactics of men who seek to talk a bill to death so that no vote can ever occur on it.

I repeat now what I think I have said before on the floor of the Senate—I certainly have said it in committee—that there is all the difference in the world between a prolonged debate on the merits of an issue and a prolonged debate that is intended to continue until such time as the majority yields to an agreement or understanding that no vote on the measure at all shall take place, but, rather, that the majority shall surrender to the minority and the proposed legislation shall be laid on the table or be withdrawn. That has happened since I have been in the Senate, and the CONGRESSIONAL RECORD is filled with many instances of its happening before I came to the Senate. I say that that type of prolonged debate in the Senate of the United States defeats what I consider to be one of the fundamental purposes and principles of democratic government—majority rule.

Not only that, but let it be understood that one of the most costly prices we pay for the filibuster tactics in the Senate of the United States is in committee—not on the floor of the Senate, but in committee. The American people, I am sure, are not fully aware of the fact that the threat of the filibuster is a common weapon that profilibusterers use frequently in committee, where, after a committee by a clear majority is of one mind as to what kind of legislation should be recommended to the floor of the Senate, a minority of the committee will say, in effect, "If you vote the bill out in that form, we warn you we will talk it to death on the floor of the Senate." I call that parliamentary intimidation and, in my judgment, it is used too often in the Senate of the United States, with the result that too frequently committees bring to the floor of the Senate, not legislation by way of recommendation which corresponds to their real desires as a majority; not legislation which the majority of the committee thinks would be in the public interest; but legislation which has been whiplashed out of them by way of a threat of a filibuster if they do not yield in committee to the will of the minority.

Mr. President, if I had to state what I think is the greatest evil in the filibuster, I would not mention first the tremendous waste of time and expense involved in holding up the people's business on the floor of the Senate in actual debate, bad as I think that is. I should say that the great cost of the rule which permits a filibuster is paid in committee, in executive sessions of the committee, away from the public view, where the public is not aware of what is going on behind committee doors. We are confronted there with the threat that if we do not yield to the whiplash of the minority by writing into the bill provisions which we do not think ought to be in the bill, we either cannot get a bill at all, or if we get it to the floor of the Senate, the minority will talk it to death, to use the exact phrase which I have heard on several occasions in committees of which I have been a member since I have been in the Senate.

That is not good government. I do not think it is democratic government. Thus I repeat that I am proud to stand here today shoulder to shoulder with Harry S Truman in support of a principle of good government which I think in some way, somehow, we must make prevail in America—that the Senate of the United States shall operate and function on the basis of a majority vote principle. My invitation is an open one, and will continue to be extended over the months and years ahead, so long as I am in the Senate, for Democrats and Republicans alike to join with me in support of President Truman on this issue, because he is right.

Returning to the argument of the Senator from Georgia [Mr. GEORGE], in this very able argument he said, on February 28:

"We can have absolutism in a legislative body. We can bring about absolutism in the Congress by a gag rule."

Mr. President, absolutism means despotism. Absolutism is the doctrine or practice of unlimited authority and control. I repeat that there are ample limits upon public authority in our constitutional system of checks and balances; but unlimited debate in the Senate has never been a part of American political theory.

I quote from the scholarly book by W. F. Willoughby, Principles of Legislative Organization and Administration, published in 1934. I read excerpts from pages 495 and 499. In that book Willoughby says:

"The real issue involved in obstruction in the Senate is simply this: Shall majority rule and responsible party government prevail? Impartial students of the question have concluded that it is desirable that the Senate should provide by its rules for greater freedom of debate than obtains in the House, but that it should at the same time provide means by which an abuse of this freedom may be prevented. * * * Obstruction which goes beyond that of legitimate debate is an evil that should be brought under control, both because it consumes the time of the Chamber and because it places undue obstacles in the way of proper working of party government. * * * As in all cases where

power is granted, the opportunity for its abuse exists and * * * reasonable safeguards against such abuse should be provided. Such safeguards, however, should not go as far as to enable the minority, in an open contest, to make its will prevail over the majority. While a majority can use its powers in an illegitimate way, the same is true of the minority, and as between the two, the former * * * is the lesser evil."

Mr. President, I fail to see any basis in merit for the fear of the Senator from Georgia that the adoption even of a majority-vote rule in the Senate of the United States would run any danger whatsoever of absolutism. The Senator from Georgia was speaking of the Hayden resolution. I am sure that he would deplore even more my resolution. However, even under my resolution, I do not see any basis for the fear which he has expressed, if we constantly keep in mind the other checks against a majority which might seek to abuse its powers, as suggested by Mr. Willoughby in the book from which I have quoted; if we keep constantly in mind the veto power of the President, the two-thirds vote under the Constitution in regard to overriding the veto, and the great judicial safeguards of the United States Supreme Court in protecting constitutional rights both of individuals and of States.

That leads me to repeat for the record the protection to minority rights contained in the resolution for which I am fighting and which adopts majority-vote rule principle. It has been suggested in the course of this debate—in fact, in the committee the distinguished Senator from Arizona [Mr. HAYDEN] suggested it—that if we adopt a majority-vote principle in a resolution which provides for 96 hours of debate, as my resolution does, and which accords to each Senator the right to farm out his time, as my resolution does, there is nothing thereafter which would stop the Senate from further modifying such a rule so as to reduce the 96 hours to 48, the 48 to 24, the 24 to 12, the 12 to 6, or to use the argument of reducing it to an absurdity, wiping out entirely—so those who fear that danger say—any right to debate after cloture has been adopted.

I know that reducing things to an absurdity is frequently a very effective technique when someone wishes to argue from fear rather than from the realities. I believe that those who make that argument fly in the face of the realities of practice of the Senate. Why do I say that? I say it because, as I shall show later by certain statistics which I shall offer, it is most difficult to get 16 Members of the Senate to sign a cloture petition in the first instance. They are not going to do it, and they do not do it, unless and until they become convinced that there is in progress a filibuster which seeks to prevent a vote from ever occurring on an issue.

After the petition is signed, there is another safeguard reality. Those who employ the fear argument tell us that there is a danger that a majority may subsequently further modify the rule or overlook it. The safeguard is that after 16 Members have signed a cloture petition, under my resolution it would require a majority of the Members of the Senate to apply cloture. Has that happened very frequently? In the cases in which cloture petitions have been filed, we find that out of 19 times when such a petition was filed, it was possible to get a majority vote only 12 times. Incidentally, it was possible to get a two-thirds vote only four times. That is why I say that the proposal which is being offered here for a two-thirds vote is ineffective. Statistically it is shown to be little more than a gesture. A two-thirds vote was obtained only 4 times out of 19, and a majority vote 12 times out of 19. So it is evident that a majority of the Members of the Senate will hesitate a long time before they stop their colleagues from discussing the merits of an issue, unless they are convinced that the minority have organized in an endeavor to prevent the majority from even voting. Then I say it is proper for the Senate rule to vest in the majority the right to vote, as provided in my resolution. Although there are some Members of the Senate who seem to think that this type of a practical check in the Senate is not effective, I think the matter of fair play in the Senate and the matter of senatorial courtesy is one of the very practical safeguards protecting the minority from any steamroller tactics which those who have protested my use of the so-called senatorial courtesy argument seem to fear. History supports me, Mr. President, for the statistics which I shall shortly present show that the majority is very hesitant, as it should be, to apply any gag upon the minority, save and except in instances when it is satisfied that the minority is seeking to deny to the majority its democratic right to reach a vote on the issue in question.

So I say that when we examine the realities of Senate practices, the fear arguments, which are being advanced by the opponents of my resolution providing for a majority-vote rule, deserve very little weight.

But the Senator from Georgia apparently feels that there is a great danger of this, because in his speech on February 28 he said:

"Senate Resolution 15 is a grant of power which ultimately will be used to perpetrate a great wrong."

Mr. President, I do not share that opinion. I do not agree with the Senator from Georgia that Senate Resolution 15 is a grant of power. I say it is naught but a rule of procedure prescribing the conditions under which debate may be closed. It can be successfully invoked, under the Hayden resolution, only if two-thirds of the Senators present vote in favor of it. Two-thirds of the Senate will not perpetrate any great wrong upon the American people; in fact, the statistics show that, on the average, 83 Senators have voted on each of the 19 cloture petitions or motions which have been submitted since 1917. We see, therefore, that when a cloture fight arises in the Senate, and when the time comes for voting on that question, there are not very many empty seats in the Senate Chamber. The record shows that to be so. I repeat that, on the average, 83 Senators have been in their seats at the time of the vote on 19 different occasions since 1917 when cloture petitions have been filed and the question of invoking cloture has been voted on.

Mr. President, cloture does not take away any part, I submit, of the right of the smaller States of the Union to have their say in regard to what they wish to say.

In his speech on February 28 the Senator from Georgia also said:

"The smallest State in this Union * * * can say what it wishes to say."

I agree with the Senator from Georgia, but I deny his conclusion that Senate Resolution 15 will in any way take away that right. There will be ample opportunity for every State, large or small, to be heard upon the merits of a question, under Senate Resolution 15 or under my resolution providing for cloture by majority vote, if you will, Mr. President, both during the prepetition stage, during the 2-day interval between the filing of the cloture petition and the vote on it, and during the 96 hours of potential debate after cloture has been adopted, if it is adopted. Under those procedural steps, I ask, Can one really imagine a situation in the Senate of the United States in which the smaller States will not have ample opportunity or time to have their say, and all they want to say, on the merits of any issue pending before the Senate of the United States? Let us keep in mind, first, the reluctance of any 16 Members of the Senate to file a cloture petition unless they are convinced that a filibuster has started—which means that prior to that moment there has been adequate and ample time for debate on the merits of the issue in question—and, second, the fact that after the filing of the petition there is a 2-day interval which permits of 2 continuous days of debate on the merits of the issue involved in the cloture petition, and the further fact that after the adoption of cloture, if it is adopted, 96 hours of debate are permitted under the Hayden amendment, if each Senator wishes to use his hour, to discuss the merits of the issue, and the further fact that under my resolution 96 hours of debate are permitted, with the farming-out privilege, which I think is an additional safeguard to minority interests in the Senate—which I, too, wish to protect; I simply do not wish to give the minority the right to trample the majority underfoot. That is the difference. I do not wish to give to the minority the right to deny effectively to the majority the right to pass proposed legislation, which the present rule permits the minority to do.

No, Mr. President; the talk about taking away from the smaller States their right to say what they wish to say on an issue is a fear argument. It simply will not work out that way in practice. It does not work out that way in practice, and I submit it cannot work out that way in practice. My proposal does give—and its great merit is to be found in its strength—to the majority in the Senate the right to prevent any minority group of Senators from denying to the majority the right finally to pass proposed legislation.

My good friend the Senator from Georgia said on February 28:

"If a man's soul recoils from such a proposition as that, is he not justified in saying that, so long as he can prevent it, it shall not even be submitted to the Congress of the United States for decision?"

My answer to him is that I do not think such a right should be recognized under the rules of the Senate of the United States, because I believe such a claimed right, if allowed to be exercised, is equivalent to a license to defeat a fundamental tenet of democratic government, namely, the will of the majority. For one Senator or a minority of Senators to refuse to permit the Senate to vote upon a proposition, simply because the minority believe it is unconstitutional or is contrary to some sectional interest, in my judgment, is an arrogant substitution by the minority of their judgment for that of the entire Senate and of the courts of the land. The final arbiters of the civil rights and liberties of the American people are and should be the courts, not transient minorities in the Senate of the United States, whose Members may come from only one section of the country or from only one political party, and none of whom may have been elected recently. The fifth amendment to the Constitution did not enact Herbert Spencer's proposed social statics. Neither should rule 20 enable a handful of Senators to prevent consideration of legislation passed by the House of Representatives and desired by an overwhelming majority of the American people.

Let me say a word about the interesting question of political science and political ethics, as to just whom we represent in the Senate. Reasonable men may differ, as they differ on the point I now make; but so far as I am concerned it is a crystal-clear dictate that I feel was vested in me when the people of my State sent me to the Senate. They did not send me to the Senate from Oregon for Oregon. They sent me under our representative system of government from Oregon for the Nation; not to sit here and vote a blind partisan sectional interest on any piece of legislation. Great as the temptation sometimes is to vote and act in that way, weak and inclined as some of us at times may be to yield to the temptation, if and when we do, I say, in my judgment, we do not measure

up to the great trust the people of our States placed in us when they sent us to the Senate.

I look upon the Senate as a part of our representative government, as a part of a legislative government, I may say to my good friend from Georgia, as a part of one of the legislative branches of the Government, sent here to legislate in the interests of all the people from the Pacific to the Atlantic and from the Canadian border to the Gulf of Mexico. The people of Oregon did not send me here as an ambassador from Oregon. I thought we answered and found the solution to that issue, terrible as it was, costly as it was, in the War Between the States. I thought as the outcome of that war the notion of Calhoun that we sat here as ambassadors from our respective States was repudiated, and that from that time on we were to sit in the Senate, not as ambassadors from particular States, fighting for the selfish sectional interests, economic, political, and social, of various sections of the country, but fighting for the welfare of the Nation. At least it is in that spirit I propose to stand always on the floor of the Senate and fight as a representative in the Senate from the great State of Oregon, believing that by so doing I am carrying out the great principle of representation to which I pledged myself when I took the oath at the Presiding Officer's desk when I first came into the Senate, to support and defend the Constitution—which means all the rights set forth in the Constitution for the benefit of the whole Nation—and to pass legislation, if necessary, to see to it that millions of people in this country who may not be getting the full fruits of their constitutional rights as set forth in the letter of the Constitution shall be able to live in terms of those rights. That is my conception of my duty of representation in the Senate. I am perfectly aware of the fact, as I read the able speech of the distinguished Senator from Georgia, delivered on February 28, that he was a considerably different notion as to what representation in the Senate imposes upon him by way of duties and rights and obligations.

Since I have come to the Senate I have been saddened several times because I felt on both sides of the aisle alinements were formed on the basis of selfish sectional interests on various economic and social problems before the Senate for consideration. I know the pressure to do that is great, and I know that sometimes when one does not yield to the pressure his failure to do so may be at great cost to his own political fortunes. I have been able to practice it thus far, and I pray I shall have the strength and the courage to continue to practice it on specific issues, namely, that whenever I am satisfied a vote for a measure that would be of great benefit to my State would not at the same time be in the public interest, I intend to vote against the measure.

I say from the floor of the Senate this afternoon to the people of the State of Oregon I am willing to apply that concept of my duty now to two great measures about which much misunderstanding as to the facts exists in Oregon. Due consideration has not been given to the facts to which the Oregon people sent me here to give consideration. I suspect the people of Oregon, at a referendum, if it were held today might vote against the positions I think I shall probably take on those issues. But I shall take them because I do not think it important that any of us stay in the Senate, though I think it important that while we are here we vote on the basis of what we think is the national interest and not the interest of our respective States, if on an issue the national interests and the interests of our States are in conflict.

Thus, I mention the Tidelands case, and I say to the people of Oregon today that in spite of the fact that a tremendous drive is being made in Oregon to line up the State in support of the tidelands bill, and although I am convinced that on the basis of that propaganda and its effect on public opinion as of now, in the State of Oregon, if I wanted to play politics with the issue I would vote for it; I shall not vote for it if, when the debate is over, such able constitutional lawyers in this body as the distinguished Senator from Missouri, Mr. Donnell, can convince me that, as a matter of law, the tidelands belong to all the people of the United States, and not merely to the people living in the States whose shores the tidewaters wash. That is a specific application of the principle I am talking about. That issue, so far as I am concerned, must be decided in answering the mixed question of fact and law: Who, as a legal proposition, under our Constitution, owns the tidelands? If the debate satisfies me they are owned by all the people of the Nation, I shall vote against the tidelands bill. And let me say, so far as considerations of party responsibility are concerned, that I shall vote against it, even though the Republican Party made the tidelands bill a part of its platform. Theory, Mr. President, is fine. The test comes as to whether one is able to practice the sound political theory which I think was clearly written into our organic law. I do not read the Constitution of the United States as containing one word which would support even a presumption that Members of the Senate should sit here and vote sectional interests, although I confess that too frequently that is what has happened.

There is another issue, and that is the labor issue. In my State I cannot find very many middle-of-the-roaders. They seem to want either the Taft-Hartley law or the Thomas bill, depending, apparently, upon whether they follow the lines of management or the lines of labor. I think that in due course of time the people of my State will awake to the fact that both the proponents of the Taft-Hartley law and the proponents of the Thomas bill are taking extreme positions which are not in the public interest. They have got labor so disturbed, in my State, that the letters and telegrams I am receiving from labor are phrased in terms of charging me with running out on some position I have heretofore taken in the Senate of the United States. It is probably asking too much that they read the RECORD but I say to organized labor, not only in Oregon but at the A. F. of L. headquarters, the CIO headquarters, and the brotherhoods' headquarters here, "you are being taken for a ride by the proponents of the Thomas bill. You are being taken for a ride in several respects. First, they apparently are giving you the false impression that the Thomas bill has a chance of passing the Senate."

I shall not argue a question of fact, Mr. President, and that is all it is. It is so simple that all we have to do is to count. I have done some counting. I say to labor that the Thomas bill cannot pass the Senate of the United States. It is about time for labor to take stock of that fact. What we need, as I have said before, is a piece of labor legislation which will protect the legitimate rights of labor, which is all labor has the right to ask, and which will protect the legitimate rights of management, which is all management has a right to ask, and which thereby will protect the public interest.

I thought I had made myself clear, time and time again, on this issue during the committee hearings, but propaganda works wonders when the propagandists seek to misinform. Let me say once again that one of the amendments I tried to offer in committee, but was not allowed to, and which I shall offer, in due course of time, on the floor of the Senate, calls for the repeal of the Taft-Hartley law, because, in my judgment, that law is an extreme piece of legislation which is productive of class-conscious conflict and labor unrest, and is unfair and unworkable in many of its provisions. I shall also propose amendments, with the joint sponsorship of Senators on both sides of the aisle, which will protect the legitimate rights of labor and of management and which, to the extent that we can use the figure of speech in this discussion, follow a fair middle-of-the-road course of procedure.

Mr. President, I say again that I refuse to sit in the Senate of the United States either as a blind partisan representative of a sectional interest, or as a biased representative of any pressure group, be it labor or management or any other group. I say that it is not important that I stay here, but it is important so long as I stay here that that be my course of action.

Some people say, "In this organized drive against you, what are you going to do when you are licked in 1950?" My reply is, "I am not licked yet, but if and when that shall happen, I shall go back to my home town and into my law office and into further public service on a lower level." I might even run for the city council, Mr. President, because I think I might do a pretty good job of public service even on the city council. We need to understand in America that good public service is needed on all levels of our governmental organization. I think it is to be taken for granted that one who is as devoted to the public interest as I think my record shows I am, can be counted upon, so long as he has the strength to do so, to devote a great deal of his energies to public service, irrespective of the height of the level. I shall keep it pure public service, too, Mr. President.

I return now to my major thesis, namely, that it is a mistaken notion to assume that we sit here as the representatives of the small States or of the large States; but it is a sound theory that we sit here as representatives of the Nation.

Mr. President, in his very able speech on February 28 the Senator from Georgia said:

"There are those who would repeal the Bill of Rights, but I am sure there are none of those persons in the Senate."

In reply to my good friend from Georgia, I say that the Bill of Rights is not involved in the fight to curb the filibuster. It would require a constitutional amendment to repeal the Bill of Rights. All that is involved here is a procedural reform in the parliamentary rules of the Senate. Some persons are seeing ghosts under their beds, in the fears they are stirring up over the implications of this fight to curb filibusters in the Senate. The Hayden resolution is not inspired by a desire to clear the way for this or that legislation, but by a desire to increase the efficiency of the Senate in the performance of its legislative functions. My resolution is devised and designed to accomplish the same ends more effectively and more efficiently than is the Hayden resolution.

Mr. President, another argument in the able speech of the Senator from Georgia was the statement that whenever a measure possesses any real merit there will never be a filibuster against its consideration.

I merely submit the record to answer that argument. I say that the annals of the Senate of the United States are replete with filibusters ranging in length from a few hours to 2 months, on many meritorious issues; and without taking the time to read them, I cite as a reference a list of outstanding filibusters from 1841 to 1948, as published in the corrected copy of George Galloway's pamphlet entitled "Limitation of Debate in the United States Senate."

Mr. President, I ask to have incorporated as a part of my remarks at this point this list of filibusters in the Senate for the years mentioned, as set forth on pages 17 to 19 of the Galloway pamphlet.

The VICE PRESIDENT. Is there objection?

There being no objection, the list was ordered to be printed in the RECORD, as follows:

"OUTSTANDING SENATE FILIBUSTERS FROM 1841 TO 1948

"1841: A bill to remove the Senate printers was filibustered against for 10 days. A bill relating to the Bank of the United States was filibustered for several weeks and caused Clay to introduce his cloture resolution.

"1846: The Oregon bill was filibustered for 2 months.

"1863: A bill to suspend the writ of habeas corpus was filibustered.

"1876: An Army appropriation bill was filibustered against for 12 days, forcing the abandonment of a rider which would have suspended existing election laws.

"1880: A measure to reorganize the Senate was filibustered from March 24 to May 16 by an evenly divided Senate, until two Senators resigned, giving the Democrats a majority.

"1890: The Blair education bill was filibustered. The force bill, providing for Federal supervision of elections, was successfully filibustered for 29 days. This resulted in the cloture resolution introduced by Senator Aldrich, which was also filibustered and the resolution failed.

"1893: An unsuccessful filibuster lasting 42 days was organized against a bill for the repeal of the Silver Purchase Act.

"1901: Senator Carter successfully filibustered a river-and-harbor bill because it failed to include certain additional appropriations.

"1902: There was a successful filibuster against the tri-State bill proposing to admit Oklahoma, Arizona, and New Mexico to statehood, because the measure did not include all of Indian Territory according to the original boundaries.

"1903: Senator Tillman, of North Carolina, filibustered against a deficiency appropriation bill because it failed to include an item paying his State a war claim. The item was finally replaced in the bill.

"1907: Senator Stone filibustered against a ship-subsidy bill.

"1908: Senator La Follette led a filibuster lasting 28 days against the Vreeland-Aldrich emergency currency law. The filibuster finally failed.

"1911: Senator Owen filibustered a bill proposing to admit New Mexico and Arizona to statehood. The House had accepted New Mexico, but refused Arizona because of her proposed constitution. Senator Owen filibustered against the admission of New Mexico until Arizona was replaced in the measure. The Canadian reciprocity bill passed the House and failed through a filibuster in the Senate. It passed Congress is an extraordinary session but Canada refused to accept the proposition.

"1913: A filibuster was made against the omnibus public building bill by Senator Stone, of Missouri, until certain appropriations for his State were included.

"1914: Senator Burton, of Ohio, filibustered against a river and harbor bill for 12 hours. Senator Gronna filibustered against acceptance of a conference report on an Indian appropriation bill. In this year also the following bills were debated at great length, but finally passed: Panama Canal tolls bill, 30 days; Federal Trade Commission bill, 30 days; Clayton amendments to the Sherman Act, 21 days; conference report on the Clayton bill, 9 days.

"1915: A filibuster was organized against President Wilson's ship-purchase bill by which German ships in American ports would have been purchased. The filibuster was successful and as a result three important appropriation bills failed.

"1917: The armed-ship bill of President Wilson was successfully filibustered, and caused the defeat of many administration measures. This caused the adoption of the Martin resolution embodying the President's recommendation for a change in the Senate rules, on limitation of debate.

"1919: A filibuster was successful against an oil and mineral leasing bill, causing the failure of several important appropriation bills and necessitating an extraordinary session of Congress.

"1921: The emergency tariff bill was filibustered against in January 1921, which led Senator Penrose to present a cloture petition. The cloture petition failed, but the tariff bill finally passed.

"1922: The Dyer antilynching bill was successfully filibustered against by a group of southern Senators.

"1923: President Harding's ship-subsidy bill was defeated by a filibuster.

"1925: Senator Copeland (New York) talked at length against ratification of the Isle of Pines Treaty with Cuba, but the treaty was finally ratified.

"1926: A 10-day filibuster against the World Court Protocol was ended by a cloture vote of 68 to 26, the second time cloture was adopted by the Senate. A bill for migratory bird refuges was talked to death by States rights advocates in the spring of 1926, a motion for cloture failing by a vote of 46 to 33.

"1927: Cloture again failed of adoption in 1927 when it was rejected by 32 yeas against 59 nays as a device to end obstruction against the Swing-Johnson bill for development of the lower Colorado River Basin.

"One of the fiercest filibusters in recent decades succeeded in March 1927 in preventing an extension of the life of a special campaign investigating committee headed by James A. Reed of Missouri. The committee's exposé of corruption in the 1926 senatorial election victories of Frank L. Smith in Illinois and of William S. Vare in Pennsylvania had aroused the ire of a few Senators who refused to permit the continuance of the investigation despite the wishes of a clear majority of the Senate.

"1933: Early in 1933 a 2-week filibuster was staged against the Glass branch-banking bill in which Huey Long first participated as a leading figure. 'Senators found him impervious to sarcasm and no man could silence him.' Cloture was defeated by the margin of a single vote. Finally, the filibuster was abandoned and the bill passed.

"1935: The most celebrated of the Long filibusters was staged on June 12–13, 1935. Senator Long spoke for 15½ hours, a feat of physical endurance never excelled in the Senate, in favor of the Gore amendment to the proposed extension of the National Industrial Recovery Act. But the amendment was finally tabled.

"1938: A 29-day 'feather duster' filibuster in January-February 1938, defeated passage of a Federal antilynching bill, although an overwhelming majority of the Senate clearly favored the bill.

"1939: An extended filibuster against adoption of a monetary bill, extending Presidential authority to alter the value of the dollar, continued from June 20 to July 5, 1939, but finally failed by a narrow margin.

"1942, 1944, 1946, 1948: Four organized filibusters upon the perennial question of Federal anti-poll-tax legislation were successful in these years. An attempt to pass fair employment practice legislation in 1946 was also killed by a filibuster. The present Senate cloture rule proved ineffective in these cases as a device for breaking filibusters."

Mr. MORSE. Mr. President, another argument of the Senator from Georgia was that some things in America cannot be settled by legislation. If this be true—and it may be—the remedy then certainly is not to deny to the Senate a chance to consider legislation in point, but for the Senate and the House to reject a bill, after full debate on the floor of each House, in accordance with a majority vote principle. That is the answer to that argument. But it certainly is no sound argument to set up a straw man and say, by way of assumption, that some things cannot be settled by legislation, and then say, "In order to prove we are right about that, we are going to deny to the majority any chance to try to settle them by legislation. We are going to put up our minority viewpoint as a blockade to any legislative attempt to try to settle things which we, the minority, may think cannot be settled by legislation."

The Senator from Georgia also said, in the course of his speech, that we should not shackle the States with respect to matters which offend their traditions, cultural institutions, and deep convictions. I submit that the Hayden resolution is not proposed to shackle the States. It is a reform, I repeat, in legislative parliamentary procedure. The civil-rights bills, if we want to discuss them at this point, are not designed to shackle the States, but to extend the frontiers of democracy throughout the country, and take the shackles off millions of fellow citizens who are being denied their constitutional rights and liberties in some sections of the country.

The Senator from Georgia refers in the course of his speech to the baneful influences of parties. I think it is clear that he means political parties. There are adequate safeguards, either under the Hayden resolution or the Morse resolution, to protect the minority from what I think the Senator from Georgia has in mind when he talks about the baneful influences of parties.

A few moments ago I listened to a very able and stirring address by the distinguished Senator from Pennsylvania [Mr. Myers], the Democratic whip, who, although he has left the President of the United States on this issue, nevertheless made perfectly clear this afternoon in his speech that he thinks there is an obligation resting upon the Democratic Party to carry out what he considers to be at least certain party commitments on which a great campaign was waged in this country prior to November 2, 1948. I understood the Senator from Pennsylvania to be talking about giving effect to party responsibility, and urging his Democratic colleagues to keep faith with what he considers to be the pledges of his party in the field of civil rights.

I recognize that there may be those who will characterize his position as an exhibition of the baneful influence of political parties, but I say that by way of legislation we ought to submit such proposals on their merits to the Congress and let the majority decide by majority vote whether or not the pledges of the Democratic Party—yes; and the pledges of the Republican Party—should be given their day in the Senate for submission to a majority vote of the Senate, in order to enact legislation which will make it possible to send those issues to the President for his signature or his veto, and to the United States Supreme Court ultimately for its determination as to whether they are constitutional.

Mr. President, let me say, on the question of the constitutionality of legislation, that if I felt that any piece of legislation in the field of civil rights violated any constitutional provsion I would not vote for it, and I would not have my friend, the Senator from Georgia, or any other Senator on the other side of the aisle who may differ with me on the issue of civil rights, vote for a piece of civil-rights legislation which he or they believed contained a single unconstitutional provision, because I believe we must live up to our oaths to support the Constitution. I have not yet, and I never shall vote for a piece of legislation in the Senate which I think contains any unconstitutional provision. But I am never going to take the position that because I think a piece of legislation contains an unconstitutional provision I have a right to organize a fighting minority in the Senate to block the majority

from ever voting on such a piece of legislation. I have lived up to my oath when I make my argument against the constitutionality of a legislative proposal, when I cast my vote against it, and then start the legislation on its way to the White House, if it passes, and to litigation, on the way to the courts, for their determination as to its constitutionality.

I do not know, Mr. President, how we are to preserve our democratic form of government if we adopt any other principle in regard to such issues. The principle which it seems to me the gentlemen of the opposition are in fact defending is that they ought to have the right, a right which should be recognized, by physical force and endurance, through a filibuster, to prevent a vote on a piece of legislation to which they are opposed, in their good judgment, reasonable as they may be in their attitude on whether it is constitutional or unconstitutional.

The word "despotism" has been mentioned in the debate, and I say it is more accurately applied to the position of a minority which wants to block a vote from ever occurring on an issue than to a majority which seeks to live within the checks and balances of our constitutional system of government.

At another place in his remarks the Senator from Georgia said, "You will come to majority rule in the Senate of the United States." Is not that a horrendous prospect? I thought that majority rule was always intended to be the rule governing the passage of legislation in the Senate. I thought that majority rule was the procedure for adopting amendments to the Senate rules. I thought majority rule to be the very essence, so far as a fundamental tenet is concerned, of our republican form of government. I thought that at all levels Federal and local officials are elected, laws are passed, and decisions rendered by majority vote, save and except in specific instances where by words of limitation in organic law exceptions are made to the majority-vote rule. As I said earlier in my speech, no such exception is set forth in the Constitution applicable to the issue to which we are addressing our attention, namely, the right of the Senate of the United States to adopt a parliamentary rule of procedure which will permit the majority to prevail in accordance with such provisions as are contained in the Hayden resolution and the Morse resolution.

At another point the Senator from Georgia said:

"There is an almost irresistible drift toward a larger and larger concentration of power in the Federal Government."

I agree to that statement; and I believe, Mr. President, I have, concerning that drift, some of the same fears the Senator from Georgia entertains. My fears are so deep that I think we must not delay longer in adopting in the Senate of the United States rules which will so improve its efficiency that we can move faster and more expeditiously to check abuses which develop through the great centralization of power in the Federal Government. So I say the drift to which the Senator from Georgia refers, to my way of thinking, presents all the more reason for increasing the efficiency of Congress so that it can cope more effectively in the public's interest with big business, big labor, and big government.

Filibusters weaken and delay the legislative processes and expose the Senate to public ridicule and the loss of public confidence. One has only to look at the calendar before us to see how correct I am as to the effects of a filibuster in producing delay in the enactment of legislation. Already in this debate both the proponents of the filibuster and the opponents of the filibuster have been expressing great concern over the fact that a backlog of vitally important legislation, such as rent control, ECA legislation, agricultural legislation, appropriation legislation—all vital to the welfare of the country—is beginning to pile up. No one should be surprised at that argument. It is the stereotyped argument. If Senators will read the past history of filibusters in the Senate they will find that the filibusterers say, in effect, "Yield now to us, the minority, because if you do not yield to us now you will be simply a party to piling up higher and higher important pieces of legislation which should be passed in the public's interest, because we will not let you vote on that legislation unless you withdraw the particular matter now before the Senate on which we are filibustering."

Mr. President, I have not analyzed myself sufficiently well to know just why it is that temperamentally, intellectually, yes constitutionally, I cannot yield to that sort of intimidation, and I never shall. I think the people of the United States had better understand the true meaning of that particular technique of the filibuster, because when they analyze its true meaning, then I think they will have a more adequate understanding of the common definition of a word which has crept into this debate, namely, "despotism."

In the course of his remarks the distinguished Senator from Georgia said:

"These proposals"—

Referring to the civil-rights bills—

"are essentially revolutionary."

I file my dissent to that conclusion and observation, because I do not think it is at all revolutionary to propose by law to abolish the poll tax, to outlaw lynching, and to promote fair employment practices.

As to the merits of such legislation, Members of the Senate can have many honest differences of opinion, but as to any conclusion that it is revolutionary, such a conclusion I think has to be based upon the assumption that giving to all the people of the country, irrespective of race, color, or creed, full protection to their constitutional rights, full constitutional liberties written into the organic law by the Founding Fathers, is revolutionary. To state the argument is to answer it. Revolutionary? No. Unfortunately, however, it represents a process of evolution we have had to develop in the field of civil rights, as the result of the already too long delay caused by refusal to accept, in some sections of the country, a full recognition of the fact that discrimination on the basis of race, color, or creed cannot be reconciled with constitutional guaranties.

At another point in his notable address the Senator from Georgia said:

"It is impossible, except through revolution, ever to take away the equality of representation in the Senate."

As I stated to him earlier in our colloquy, no one is proposing to take away that equality. I think that is a false, bogey argument. That equality does not confer, however, upon any State or group of States, the right to prevent the Senate from considering and enacting legislation. The business of an organism is to function, and the constitutional rights and duties of the Senate call upon us to legislate, leaving to the other branches of Government the opportunity to exercise their checks upon us if we legislate contrary to the organic law.

The last comment I shall make on the distinguished Senator's remarks of February 28 is his reference to the formation of political policies along sectional lines. I deplore that, too. But I ask, What is the basic cause of the sectional aspect of some proposed legislation? I say out of deep conviction that I think the basic cause is to be found in the cultural lag of the South behind the political and economic standards of the rest of the country, plus the unwillingness of many southern leaders to use their influence in extending the frontiers of political and economic democracy in that region.

I recognize it is going to take time to satisfy the many needs of the South that need to be satisfied in order to give it comparable standing economically with other parts of the country. I have said before, and I now repeat, that we cannot do these things overnight. I do not happen to be one who believes that it would be in the best interests of the South or of the Nation overnight to put into effect all the reforms which the civil righters want to put into effect. I am severely criticized by some of them because I have taken that position. Of course, we cannot make progress, as I said before, by way of a social avalanche. But I do say that we cannot even take the first steps until the Senate changes its rules so that at least we can pass some legislation which will give hope to millions of our fellow citizens for a full share of the liberty and freedom which those of white skin are entitled to enjoy under the Constitution.

On January 27, 1949, I addressed a letter to the Senator from Arizona [Mr. HAYDEN] in answer to a point which he made, and a point which the Senator from Georgia [Mr. GEORGE] made in his speech on February 28, the Senator from Arizona having set forth to me the fear that, if my resolution were adopted, at some subsequent time there might be a further change of the rule which would permit, not 96 hours of debate, but of a lesser time. In order that the RECORD may be complete, and in order that it may show that I have conscientiously tried to work out a conscionable compromise with those who have a vitally and fundamentally different point of view on this subject, I wish to read the letter of January 27 which I wrote to the Senator from Arizona:

JANUARY 27, 1949.

Hon. CARL HAYDEN,
United States Senator,
Washington, D. C.

DEAR SENATOR: You will recall that in conversation with me at the time I introduced my resolution (S. Res. 12) to amend the cloture rule, as well as in statements during the hearing (see discussion at pp. 66–69 of the transcript) on the pending cloture resolutions, you pointed out that if rule 22 were amended as I suggest in my resolution, to permit cloture to be voted by a majority, then in the future that rule or any other could be amended by a simple majority so as to further curtail freedom of debate.

While a majority may now amend the rules, I recognize that if the cloture rule were changed so as to permit cloture to be voted by a majority then the circumstance to which you refer could occur; and conceivably the guaranties to the minority contained in my resolution could be reduced. While I feel that the danger to which you refer is not likely to occur, your committee may wish to consider the following suggestion:

If, in addition to a rule such as is embodied in my resolution, rule 40 were amended at the same time to provide that a two-thirds vote would be necessary to amend that portion of rule 22 relating to cloture, the danger you envisage would be minimized. The result of such a combination of amendments to the rules would be that cloture could be applied by majority rule but the guaranties of adequate time for debate could be changed only by a two-thirds vote.

I considered proposing such a change as a formal part of my resolution, but I decided that there was no practical danger that the safeguards contained in my resolution would, if adopted, be cut down at a later time. Therefore, I limited my resolution to amending rule 22. I still feel the same way, but in view of the fears you and others have expressed, I thought it might be helpful to offer this additional suggestion for your consideration.

With kindest regards.

Sincerely yours,

WAYNE MORSE,
United States Senator.

Mr. President, if and when we get into such a position that amendments to the Hayden

resolution can be offered, I intend to offer my resolution, Senate Resolution 12, calling for cloture by majority vote with 96 hours of debating time after cloture has been adopted, with the right to farm out the time, plus a further amendment along the lines of the letter which I wrote to the Senator from Arizona on January 27.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MORSE. Just a moment. The amendment I have suggested would provide that thereafter the provision as to the length of time allowed the minority to debate after cloture had been adopted shall not be changed except by a two-thirds vote.

Mr. RUSSELL and Mr. HAYDEN addressed the Chair.

The VICE PRESIDENT. Does the Senator from Oregon yield, and if so to whom?

Mr. MORSE. I yield first to the Senator from Georgia. First, let me state the condition under which I yield. I yield for a question only, and with the understanding that the Senator to whom I yield will not seek to offer parliamentarily any matter which will take me from the floor.

The VICE PRESIDENT. The Senator can yield only for a question; and if any interrupting Senator does not ask a question, the Senator can protect himself by refusing to yield further.

Mr. MORSE. I yield for a question.

Mr. RUSSELL. I assure the Senator that I shall only ask a question.

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Am I to understand from the statement just made by the distinguished Senator from Oregon that every matter to come before the Senate should be submitted to a pure majority vote, except the one final work of perfection, the resolution proposed by the Senator himself, allowing majority cloture, which can never be assailed in the future except by a two-thirds vote? Is that the position of the Senator?

Mr. MORSE. I will tell the Senator what my position is. I think it is fundamental that we adopt a cloture rule which will permit of proceeding with legislation and voting on legislation by way of a majority vote; and because I think it is so fundamental to preserving the democratic form of government in the Senate that we must adopt a majority-vote principle in order to stop a minority from filibustering us into inaction on a particular piece of legislation. I am willing to try to work out with those who say they fear my resolution will threaten and jeopardize minority rights in the Senate to the degree of denying the minority adequate time to debate an issue on the merits, some conscionable compromise which will give the minority assurance that they are to have at least 96 hours after cloture has been adopted, to debate an issue, unless, under my proposal for cloture limitation, in that particular respect two-thirds of the Senate decide to reduce the 96 hours to a further limitation of time.

Mr. RUSSELL. Mr. President, will the Senator yield for a further question?

Mr. MORSE. I yield for a question only.

Mr. RUSSELL. It is the position of the Senator that any question before the Senate should be decided on a majority basis except the one rule which the Senator himself proposes to write, which shall be sacrosanct, and can be assailed only by a two-thirds vote of the Senate?

Mr. MORSE. First, let me say that I do not propose to write it. I simply propose to yield to Senators who I think represent the minority point of view in this matter, and that in order to remove some of their fears about the majority not giving them adequate time to express the minority point of view. I am willing that they be given greater protection.

Mr. RUSSELL. Does not the Senator think it is somewhat unfair to denounce those of us who oppose the imposition of cloture or gag rule by a mere majority, while at the same time seeking to preserve, with the protection of a necessary two-thirds vote, the rule which he insists should be written?

Mr. MORSE. No; I do not think there is anything unfair about it. On the other hand, I think I am clearly demonstrating great fairness in trying to answer the argument of the minority that if my so-called simple majority rule is adopted for limited debate, at some subsequent time the majority may try to take away from the minority the 96 hours of debate assured them under my rule.

Mr. RUSSELL. Mr. President, will the Senator yield for a further question?

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Does not the Senator think that he should be a little more tolerant of the views of those who are seeking to protect themselves by a two-thirds rule, inasmuch as he himself is seeking to protect his provision by a two-thirds requirement that he proposes to write into the rule?

Mr. MORSE. Mr. President, the Senator from Georgia is mistaken if he thinks I am trying to protect my provision by a two-thirds rule. I want my provision as is; but many of the Senators on the minority side of this question have argued that my provision may, some time in the future, be changed to provide for cloture by a simple majority vote so as to deny the minority a reasonable time to debate. Unless the Senator from Georgia wishes to take the position that after cloture is invoked 96 hours is not adequate time in which to debate the merits of the issue—and, of course, those 96 hours would come after all the time that would be available prior to the invoking of cloture—I see nothing at all unreasonable about my offer of compromise.

I hasten to add that I do not prefer the compromise; however, I offer it in good faith only to assure those of the minority that I am willing to work out any conscionable proposal which will accomplish what I think is fundamental; namely, a basic rule which provides cloture may be applied by a majority vote and that after cloture is applied or invoked the minority shall be given 96 hours in which to debate the merits of their position.

Mr. RUSSELL. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield for a further question?

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Mr. President, it is impossible to carry on this discussion in the form of a question and really express my views, so I shall desist.

Mr. MORSE. Mr. President, I should like to point out that throughout this debate I have not heard any mention of the rules of debate which prevail in legislative bodies generally in this country. Of course, the rules of other legislative bodies are not controlling in regard to our decision; I am perfectly aware of the fact that in a great many respects the Congress of the United States, which is created by the Federal Constitution, and is a part of a Federal Government of delegated powers, is quite a different legislative body from the legislatures of the States; but I am also aware of the fact that the legislative bodies of the States and the Congress of the United States have many similarities, many points in common. I think they certainly have one great common denominator, which is a general recognition on the part of the people of the country that legislative bodies, representing the people of the country either on a Federal level or on a State level, ought to carry out the people's will by way of a majority principle.

So I thought it would be rather interesting to find out what are the rules in the various State legislatures in regard to limitations upon debate, and to see whether, when I propose in the Senate of the United States the adoption of a majority-vote principle, I have proposed a parliamentary monstrosity which endangers the very foundation of our form of government. As I have listened to some of my friends of the opposition during this debate, I sometimes have asked myself the question, "What is it that you are proposing that is so terrible, so threatening to the perpetuation of democratic forms in this country?" Then I have reflected for a moment, and I have recognized that all I am offering is to put into practice a parliamentary procedure that is common throughout the Nation in the various State legislatures; and then I have felt a little better about it, because even momentarily I do not like to entertain the suspicion of a fear that I am proposing something that is revolutionary, as has been said by implication here on the floor of the Senate, in its effect on our great freedoms and liberties, as guaranteed by the Constitution, which I am just as desirous of defending as is any member of the opposition.

So I requested the Legislative Reference Service of the Library of Congress to prepare for me a study of the practices which prevail in the various States. I wish to read a few excerpts from those findings. I am satisfied—having checked them by a sampling process—that it is a very fine piece of research work which has been submitted to us, and I wish to give the entire Senate the benefit of the information set forth in the study.

The study shows that—

"Examination of the rules of procedure in effect in the several State legislatures indicates that four major approaches are followed in an effort to limit debates. These are: (1) limitation on the number of times a member may speak to any single question; (2) limitation on the length of time a member may speak; (3) use of the previous-question motion to cut off debate; and (4) special forms of cloture."

Now let us see very briefly what is the general finding in regard to each one of these methods of limiting debate:

"1. Limitation on number of times a member may speak: With but isolated exceptions, the rules of State senates and houses of representatives alike limit the number of times any member may speak on a single question at a single stage in procedure. The number specified is commonly twice, with a proviso that a member may not even speak the second time until all who desire to speak once have done so. Exceptions are, however, commonly made in favor of committee chairmen, bill sponsors, etc.

"2. Duration of normally permitted debate: About half of the legislative chambers go further and specify that, at least on a given day or at a given stage in procedure, a member may not speak in excess of a limited period of time without unanimous consent or other permission. Periods as short as 5 to 10 minutes are found (Oklahoma House and Senate respectively); a 30-minute limitation is common; while 1 hour (Alabama Senate and Arizona House), and 2-hour specifications (South Carolina and Colorado Senates) are also found. In some instances there are even more restrictive time limits in force for debate on special subjects, that is, question of privilege."

Mr. President, what about the technique by way of moving the previous question: We find that—

"Most State legislatures specifically permit use of the motion for the previous question as a device for cutting off debate, and word their rules so as to facilitate its use. Only two legislative chambers (the Senates of Utah and Vermont) are known to forbid the motion.

"4. Other forms of cloture: In view of the frequency of provisions of the above types, it is obvious that the State legislatures do not have any great need for other forms of cloture. The following are some examples of those special cloture rules known to exist."

Mr. President, without taking time to read it, I ask unanimous consent to have the entire memorandum inserted at this point in the RECORD as a part of my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

"LIMITATION OF DEBATE IN STATE LEGISLATURES

"Examination of the rules of procedure in effect in the several State legislatures indicates that four major approaches are followed in an effort to limit debate. These are: (1) limitation on the number of times a member may speak to any single question; (2) limitation on the length of time a member may speak; (3) use of the previous-question motion to cut off debate; and (4) special forms of cloture.

"1. Limitation on number of times a member may speak: With but isolated exceptions the rules of State senates and houses of representatives alike limit the number of times any member may speak on a single question at a single stage in procedure. The number specified is commonly twice, with a proviso that a member may not even speak the second time until all who desire to speak once have done so. Exceptions are, however, commonly made in favor of committee chairmen, bill sponsors, etc.

"2. Duration of normally permitted debate: About half of the legislative chambers go further and specify that, at least on a given day or at a given stage in procedure, a member may not speak in excess of a limited period of time without unanimous consent or other permission. Periods as short as 5 to 10 minutes are found (Oklahoma House and Senate respectively); a 30-minute limitation is common; while 1-hour (Alabama Senate and Arizona House) and 2-hour specifications (South Carolina and Colorado Senates) are also found. In some instances there are even more restrictive time limits in force for debate on special subjects, e. g., questions of privilege.

"3. Previous question: Most State legislatures specifically permit use of the motion for the previous question as a device for cutting off debate, and word their rules so as to facilitate its use. Only two legislative chambers (the senates of Utah and Vermont) are known to forbid the motion.

"4. Other forms of cloture: In view of the frequency of provisions of the above types it is obvious that the State legislatures do not have any great need for other forms of cloture. The following are some examples of those special cloture rules known to exist.

"New York Senate, rule 14, section 1, paragraphs 3 and 4:

" 'When any bill, resolution, or motion shall have been under consideration for 2 hours, it shall be in order for any senator to move to close debate, and the president shall recognize the senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put, and if it shall receive the affirmative vote of a majority of the senators present, the pending measure shall take precedence over all other business.

" 'The vote shall thereupon be taken upon such bill, resolution, or motion with such amendments as may be pending at the time of such motion, according to the rules of the senate, but without further debate, except that any senator who may desire to do so shall be permitted to speak thereon not more than once and not exceeding 5 minutes; upon the rollcall any senator may speak not to exceed 5 minutes in explanation of his vote.' (New Mexico Senate has a variant of this applicable after 6 hours with 30 minutes allowed subsequently.)

"Alabama Senate, rule 34:

" 'The committee on rules may at any time report a special rule that debate on a pending measure shall cease at a certain hour, and a vote be taken on the measure. The consideration of such special rule shall not exceed 30 minutes, when a vote shall be taken thereon.'

"Indiana Senate, rule 51, paragraph 2:

" 'The Senate at any time, by resolution adopted by a majority of the senators-elect, may further limit the time of debate.' (E. g., shorten normal half-hour allowed each member.)

"Louisiana Senate, rule 9, second paragraph:

" 'The senate may at any time, by a majority vote, limit debate so that no senator shall be permitted to speak longer than 1 hour at one time without permission of the senate, and a motion to that effect shall be in order at any time, taking precedence over every other motion, except a motion to adjourn.' (Par. 1 prohibits a member from speaking more than twice to any question without permission of the senate.)

"Massachusetts Senate, rule 47:

" 'Debate may be closed at any time not less than 1 hour from the adoption of a motion to that effect. On this motion not more than 10 minutes shall be allowed for debate, and no member shall speak more than 3 minutes.' (Motion has high priority under rule 46.)

"Colorado Senate, rule 10, paragraph 2:

" 'Debate may be closed at any time not less than 1 hour from the adoption of a motion to that effect, and upon a majority vote of the members-elect an hour may be fixed for a vote upon the pending measure. On either of these motions not more than 10 minutes shall be allowed for debate, and no senator shall speak more than 3 minutes; and no other motion shall be entertained until the motion to close debate, or to fix an hour for the vote on the pending question, shall have been determined.'

"Rhode Island Senate rule 23, is the most comprehensive existing, to our knowledge, and is quoted below:

" 'When any bill, resolution, or motion shall have been under consideration for 2 hours it shall be in order for any senator to move to close debate, and the president shall immediately recognize the senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put. The motion to close debate may be moved and ordered upon a single motion, or an amendment or amendments, or may be made to embrace all pending amendments and include the bill, resolution, or motion to its passage or rejection. If such motion to close debate shall receive the affirmative votes of a majority of the senators present, a vote without further debate shall thereupon be taken upon such bill, resolution, or motion, provided that any senator who desires to do so shall be permitted to speak thereon not more than once and not exceeding 5 minutes, and provided further that one motion to adjourn shall be in order before such vote is taken. Should said motion to adjourn be carried, the measure under consideration shall be the unfinished business of the senate until disposed of. All incidental questions of order pending at the time of such motion to close debate is made, and on such questions arising after a motion to close debate has been made and before the final vote has been taken on the matter or matters to which the motion to close debate shall have been directed whether the same be an appeal or otherwise, shall be decided without debate.'."

* * * * *

LIMITATIONS ON DEBATE ADOPTED BY THE SENATE

Mr. MORSE. Mr. President, in the course of debate it has been stated in effect that opponents of either my clcture rule or the proposed Hayden rule sometimes say one of the great traditions of the Senate is that it has carried on its proceedings for more than a century and a half without any effective limitation upon debate, so why change now? I should like to read now a memorandum showing that the Senate rules provided for a motion for the previous question during the first 17 years of its existence, and that a dozen other limitations upon debate have been adopted by the Senate over the passing years. Rather than take the time to read it, because I have talked longer than I intended, I ask unanimous consent to have the memorandum entitled "Limitations on Debate Adopted by the Senate in the Past" inserted in the RECORD at this point in rebuttal of the argument that we have gone along for 150 years without any rules or limitation of debate, so why adopt one now?

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

"LIMITATIONS ON DEBATE ADOPTED BY THE SENATE IN THE PAST

"1. From 1789 to 1806 the Senate rules provided for a previous question motion which, if adopted by majority vote, had the effect of ending debate and bringing a question to a vote.

"2. Since 1846 the Senate has frequently adopted unanimous-consent agreements which are a species of cloture.

"3. During the Civil War debate in secret session on matters relating to the rebellion was limited by rule to 5 minutes by any Member and was confined to the subject matter.

"4. In 1868 the Senate adopted a rule providing that motions to take up or proceed to the consideration of any question should be determined without debate.

"5. In 1870 the Senate adopted the Anthony rule limiting debate on the call of the calendar to one 5-minute speech per Senator on any question. The Anthony rule was made a standing rule in 1880. (Rule 8.)

"6. During the 1870's Senate debate on appropriation bills was limited by the 5-minute rule.

"7. In 1881 the Senate agreed, for the remainder of the session, to limit debate to 15 minutes on a motion to consider a bill or resolution, no Senator to speak more than once or for longer than 5 minutes.

"8. In 1884 the Senate amended its rules to provide that all motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate. (Rule 8.)

"9. In 1884 the Senate amended its tenth rule so as to provide that all motions to change the order of precedence on special orders, or to proceed to the consideration of other business, should be decided without debate.

"10. In 1884 the Senate provided by rule that motions to lay before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives should be determined without debate. (Rule 7, 7.)

"11. In 1908 it was decided that Senators could, by enforcement of the rules, be restrained from speaking on the same subject more than twice in the same legislative day.

"12. In 1917 the Senate adopted its present cloture rule. (Rule 22.)

"13. In 1939 and 1945 the Senate passed executive reorganization acts containing an antifilibuster rule."

Mr. MORSE. The memorandum will show that such a generalization as the one advanced by those who have made the argument I am attempting to rebut is not sound. It will also show the matter of limitation of debate has been one of frequent discussion in the Senate. It has in recent years been successfully defeated so far as changing the existing rule is concerned, by way of the filibuster technique itself. Thus we are confronted with the paradoxical situation that in order to eliminate the filibuster technique from the Senate we first have to defeat a filibuster. I do not know how many times the Senate is going to be willing to surrender in the face of that intimidation. I can merely go on hoping, as I said earlier in my remarks,

that the happy day will come and come soon when both the Republican and Democratic parties in the Senate will awaken to the fact—and I believe it to be a fact—that the great majority of the American people want us to end the filibustering technique in the Senate by the adoption of a rule that will successfully banish it from the Senate.

There was another very able speech made during the course of the debate which I want to answer very briefly. I refer to the speech by the distinguished Senator from Mississippi [Mr. STENNIS]. He made his speech on March 1, 1949. The Senator challenged the proponents of the Hayden resolution to show how the American people have ever been harmed by the filibuster. I have already had inserted in the RECORD a list of the filibusters, as set forth in the corrected copy of the Galloway report, and I say one need only read that list and take into account the implications of the legislation filibustered to recognize that the public interest did suffer and has suffered as the r sult of many filibusters in the Senate. I would answer him further that the public interest has suffered the rights of millions of fellow Americans have suffered, because the filibuster technique has made it possible to date to prevent the passage of civil-rights legislation, for example.

Of course the Senator from Mississippi does not agree with me on the merits of civil-rights legislation. But the fact that he does not agree with me on civil-rights legislation does not make his argument a sound one when he says, "Wherein has the public interest suffered as a result of the filibuster technique?" It has suffered not only in respect to civil-rights legislation but it has suffered in my judgment because of the many compromises, as I stated earlier in my remarks this afternoon, which frequently have to be made in committee before we can even get legislation to the floor of the Senate, under a threat that if we do not yield to minority demands the bill will be talked to death on the floor of the Senate. That is a terrible cost to have to pay for minority rule in the Senate.

The public interest has suffered also, as is evident from a statement of the legislation involved in bills held up by filibusters, as set forth in the Galloway report, because of the compromise changes that had to be made before the legislation was subsequently passed. The argument has been made in the course of the debate that eventually the legislation was passed. But the proponents of that argument do not tell us in what form it was finally passed. In many instances it was passed in compromised form, compromises having been forced by the threat of filibuster. That is rule by intimidation, not by majority vote. That is rule by legislative blackmail, not by democratic processes.

Let us not forget that over the years of the history of the filibuster there is a filibuster on bill X or issue X, and a whole series of bills behind it never get to a vote in that session because of the delay caused by the filibuster. That is a tremendous loss to the public. The record will show that in many instances many appropriation bills were lost. Is it any answer when the Senator from Mississippi says, "But eventually the bills were passed, eventually the appropriations were made"? I say that is no answer at all. How much of a loss is it to the people of the United States to have postponed for 1 or 2 or 3 years a very important appropriation for some great public development that ought to have been passed at the very time a filibuster backlogged it and prevented it from getting to the floor of the Senate for passage?

If we want to add up the great cost to the people of the United States caused merely by delay alone to bills which were held up and never got to the floor of the Senate for a vote because another bill was filibustered, the delay cost alone would be a complete answer to the Senator from Mississippi, who says, "In what way has the public interest suffered from filibustering practices in the Senate?" I answer, in a multitude of ways, at terrific cost to the public welfare; and we ought to end it. The more quickly we end it, the better for the people of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point in my remarks a table entitled "Citations to Later Action on Filibustered Bills."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Citations to later action on filibuster bills

Bills	Year of filibuster	Citations to later acts on same subjects
River and harbor bill.	1901	32 Stat. 331, June 13, 1902.
Do	1903	33 Stat. 1117, Mar. 3, 1903.
Do	1914	38 Stat. 1049, Mar. 4, 1915.
Colombian Treaty	1903	33 Stat. 2234, Feb. 23, 1904.
Canadian reciprocity.	1911	37 Stat. 4, July 26, 1911.
Arizona-New Mexico statehood.	1911	37 Stat. 39, Aug. 21, 1911.
Ship-purchase bill	1915	39 Stat. 728, Sept. 7, 1916.
Mineral lands leasing bill.	1919	41 Stat. 437, Feb. 25, 1920.
Migratory-bird conservation.	1926	45 Stat. 1222, Feb. 18, 1926.
Colorado River bill	1927	45 Stat. 1011, May 29, 1928.
Do	1928	45 Stat. 1057, Dec. 21, 1928.
Emergency officers' retirement.	1927	45 Stat. 735, May 24, 1928.
Washington public buildings bill.	1927	45 Stat. 51, Jan. 13, 1928.
Oil-industry investigation.	1931	49 Stat. 30, Feb. 22, 1935.
Work relief bill, prevailing wage amendment.	1935	49 Stat. 1609, June 22, 1936.
Flood-control bill	1935	49 Stat. 1570, June 22, 1936.
Coal-conservation bill.	1936	50 Stat. 72, Apr. 26, 1937.

Mr. MORSE. Mr. President, can the colored people of the South seek and secure protection in the Senate of the United States with respect to the passage of civil-rights legislation? I do not think so. I do not believe they will get such protection until we shall be able to modify our rules so that the majority-vote principle will prevail, and we can pass legislation free from the blockade of a minority that says, "We will not let you get to a vote."

At another point in the debate a statement was made, I think by my good friend the junior Senator from Georgia [Mr. RUSSELL], to which I desire to refer. I may say in passing that all I have said about the Senator from Mississippi [Mr. STENNIS] with respect to the high regard in which I hold him, I say with equal affection in regard to the junior Senator from Georgia. But here, again, on this point, he and I disagree. At one time in the debate he challenged, as I read the RECORD, the Senator from Illinois [Mr. LUCAS] to name some prominent Democrats who ever favored cloture. There were many Democratic Senators who signed the cloture petition on November 13, 1919, to close debate on the reservations to the Versailles Treaty, among whom were Senators McKellar, Harrison, Hitchcock, Robinson, Sheppard, Swanson, Underwood, Walsh, and others.

I may say further to my good friend from Georgia that if he will go back to March 8, 1917, when cloture was first adopted, he will find all the Southern Democratic Senators who were present on that day voting for it. He will find Senator Vardaman, of Mississippi, saying on that date, as I have previously stated here today, that he favored a majority rule. In effect, he said: "Yes; the filibuster has protected the South," but, nevertheless, he felt that the majority-vote principle ought to be adopted. There were distinguished statesmen from the South in years gone by who favored cloture.

Mr. President, by way of summary I desire to emphasize the points in regard to my own resolution. To me it is a very simple issue: We either favor making it possible to act by a majority in the Senate of the United States, or we favor permitting a minority to block the will of the majority. We either believe the people of the United States want our representative form of government to function on the basis of majority rule, or we believe that the people of the United States favor minority blockage of their will.

I submit that the objective evidence clearly supports the conclusion that the American people want majority rule in the Senate of the United States. I submit, Mr. President, that, taking the country as a whole, when the present President of the United States took the issue to the people in the last campaign, it is a fair conclusion, by and large, that the people supported his position in regard to majority rule.

As I have said heretofore on the floor of the Senate in respect to another issue, I recognize that I cannot in all honesty say that there has been any mandate on this subject to date. We have to judge as we read or take the public pulse what public sentiment is, but I am firmly of the opinion based upon my observation and from my talks with thousands of them, that the American people by and large are sick and tired of the retention of the filibuster technique in the Senate. I am satisfied that the great majority of the American people are applauding Harry Truman today because of his great courage in saying to Congress and to the people of this country, "Yes, I favor majority rule and the majority rule principle in respect to cloture in the Senate."

Mr. President, I close with the same premise with which I started my speech; I am very proud to stand here today helping Harry Truman fight his battle for majority rule in the Senate. I am saddened and deeply regret that I do not have a whole army of Democrats behind me in backing up the President of the United States. I am sorry the majority leader and the Democratic Whip have left me on this issue. But I think they will come back, perhaps not at this session of Congress, but as the President takes this issue to the people, as I hope he will, and as other men who hold firm convictions about the importance of preserving majority rule if we are to preserve democratic government itself take their position to the people of this country. The time will come, and I think in the not too distant future, when there will be a sufficient number of men, either those now serving in the Senate who will have changed their thinking on this point, or new men who will be elected by the people who will have the point of view of majority rule to accomplish what I think we should accomplish now, namely, the adoption of Senate Resolution 12 rather than Senate Resolution 15, the resolution which would give us a cloture rule based upon the majority-vote principle.

REPUBLICAN COALITION WITH REACTIONARY DEMOCRATS GREAT MISTAKE

(Remarks of Hon. WAYNE MORSE, of Oregon, in the Senate of the United States, March 14, 1949)

Mr. MORSE. Mr. President, I hesitate to rise to speak at this hour of the morning, but there were some remarks made by the Senator from Nebraska and the Senator from California with which I am in complete disagreement. Therefore, for the record, and at the time the remarks are made, I wish to answer them.

As we all know, for a great many years prior to 1946 the Democrats were in control of the Senate. They did not take effec-

tive steps to adopt a cloture rule so as to make it possible to control filibustering in the Senate. So much, from the standpoint of the responsibility of the Democratic Party on this issue.

But during the 80th Congress the Republicans were in control of the Senate. What did the Republicans do about making that fight which sometime must be made if we are to check filibustering in the Senate? By and large, they did nothing. For a large part of that time the Senator from Nebraska was acting majority leader on the Republican side of the aisle. I want to say what I have said before, that the Republican Party cannot escape its responsibility between the years of 1946 and 1948 for not doing anything effective about checking the filibuster in the Senate. There is no question about the fact, at least in the cloakrooms, if they do not want to admit it on the floor of the Senate, that there is a general admission that a great deal of political strategy is taking place in regard to party position on this issue.

The responsibility of the Senate, Democrats and Republicans alike, who really want to do something about filibustering in the Senate, is to join forces and drive the filibuster off the floor of the Senate, by sitting here for as many hours and days and weeks as necessary to break it. I think we could break the present filibuster in 10 days if we were willing to sit here as Republicans and Democrats in continuous session to break it. Of course, it would cost a price; it would cost a price in respect to certain legislation; but the American people are never going to get rid of the practice of the filibuster in the Senate without paying a price, because whenever this fight is made, there is always going to be some important legislation backlogged as a result of it. I am willing to trust the American people on that issue, and I happen to hold to the point of view that an overwhelming majority of the American people want the practice of filibustering in the Senate stopped.

I also happen to hold to the point of view, contrary to that held by my good friend the Senator from California [Mr. KNOWLAND] for whom I have an exceeding high respect, that the American people do no think it fantastic to make a fight for majority rule in the Senate. Why? It is the principle of majority rule that controls in the overwhelming majority of the State legislatures in limiting debate. It is majority rule that prevails in the House of Representatives in regard to a limitation of debate. Since when does it become fantastic to stand for the principle of majority rule in limiting debate in the Senate? The only thing fantastic about it is that there has been for many years a strong minority in the Senate from a section of our country that has taken the position it ought to have the right preserved to them to domineer the majority in the Senate by filibuster tactics.

They talk about our sitting here as ambassadors from our States. I say that notion of representation in the Senate died with Calhoun and with the War Between the States. We sit here, in my judgment, to do the people's business, and we cannot do the people's business, in my judgment, with any such proposal as I have heard from the lips of the Senator from Nebraska tonight, which he calls a compromise, that does not in effect involve a tightening of the cloture rule.

The statistics cited by the Senator from California and also by the Senator from Nebraska include pairs and dead pairs. Senators who have gone away and walked off the floor of the Senate cannot be included in any statistical analysis of what the effect of the proposal made by the Senator from Nebraska will be.

The Senator from Rhode Island is correct when he points out that in the last 19 cloture-petition attempts in the Senate, the average vote was 83. That means that in some instances the vote was down to 76. But what the Senator from California and the Senator from Nebraska are overlooking is that when there is a constitutional two-thirds requirement, men are encouraged to take "walk-out powders" in the Senate and let the Sergeant at Arms find them—if he can. Mr. President, if you will check up on the experiences of the attempts of the Sergeants at Arms over the years to find Senators who do not want to be found, I will tell you that the constitutional two-thirds majority will open the way, will open the door to some very unfortunate practices in the Senate if what we are actually trying to do is have an effective cloture rule against filibustering.

I said at one time that if I went along with anything other than a majority rule, I would go along with the Hayden-Wherry resolution. It does not make much difference whether I go along with it or not, because, for the present, I think the Senator from Arizona [Mr. HAYDEN] and the Senator from Nebraska [Mr. Wherry], if they can get it to a vote, will get a majority vote for it in the Senate of the United States. But that will not solve the problem, because, in my judgment, time will show that it will not effectively check filibusters. We shall not check filibusters in this body until we come to majority rule. I am perfectly willing to let the last forum decide that, which will be the people of the Nation, if we have to take this issue to them in the next 4 to 6 years.

I desire to say, in closing, Mr. President, that I shall continue to fight for majority rule in the Senate, and I do not care what adjectives any colleague wants to attach to that fight for what I consider to be a basic tenet of American democracy. The Senator from California can call it fantastic if he wants to, but I will meet him anywhere in California, before his own constituents, and let them decide whether the issue I am fighting for in the Senate of the United States is fantastic, because I believe the people of America believe that the time has come to put into practice in the Senate majority rule. They will not reach the judgment, Mr. President, that it is fantastic.

I say to the Senator from Nebraska that I am not in the slightest degree interested in such a compromise as that which he has outlined tonight. The only way he will get it by me is by a motion by which I shall be outvoted. He will never get it by me on any parliamentary basis that requires unanimous consent.

I repeat what I have said several times since I have been in the Senate, that once again the time is here for Republicans to stand up and be counted before the minority groups of America who want to know whether we are going to protect their civil rights by meeting head on this filibuster intimidation which is raised in this case, by continuous sessions for so long as it shall take to drive the filibusterers down in the fight which they are waging against the majority.

Mr. President, it was day before yesterday that a Senator stood up on the floor of the Senate and compared the fight which some of us are making for majority rule in the Senate with communistic tactics. Let me say that the commonest communistic tactic is to use minority devices to defeat the majority. That is my answer to that Senator who sought to spread on the RECORD the innuendo that those of us who are fighting for majority rule in the Senate of the United States are fighting for a communistic principle.

Once again I say, in closing, Mr. President, that I am willing at any time to let the American people decide whether the fight I have made and which I shall continue to make in the Senate for majority rule conforms to their idea of democratic processes.

MARCH 16, 1949

Mr. MORSE. Mr. President, at the outset of this speech I wish to say that I am addressing my remarks principally to those Members of the Senate who have not signed the Wherry substitute for Senate Resolution 15. I say I am addressing my remarks to those Members of the Senate who have not signed that resolution, because it is my understanding, and I wish I could believe it is a mistaken understanding, that those who signed the Wherry substitute have, in fact, committed themselves in advance of this debate to vote in accordance with the terms of the substitute, and, therefore, nothing that any of us can say in this debate in regard to what we consider to be the serious limitations of the substitute measure could possibly open their minds. That is the understanding which has been given to me, Mr. President. Unfortunately, one of the conditions which were exacted for the ending of the filibuster last night was that definite commitments be made not to accept amendments. Over half, at least, of the Members of the Senate were in favor of the resolution, and, therefore, over half of the Senators in favor of the Wherry substitute amendment pledged themselves to vote for the subject matter of that amendment, in advance of debate. If I am not correct in regard to that, with respect to any Senator who signed it, that any Senator who did sign it is open to conviction upon this matter, I should be glad to be so advised. But in the absence of such advice, let me say, as the second point in my introduction, that I shall not yield even for a question from any Senator who signed the Wherry substitute, because if those Senators have closed their minds, as I believe they have by way of a commitment to vote for the Wherry substitute, I do not care to discuss any of the questions I intend to raise in regard to this resolution with any of them, because it would be a waste of my time. I like to carry on discussion only with men who are not committed and who have their minds open at least to what I consider to be serious facts.

I shall not talk at any great length, Mr. President, because I think from this point on those of us who are opposed to the position which has been taken by those who have committed themselves to the Wherry substitute must, from now on, take it to the people of America and not to the Senate of the United States. I am satisfied that the people of America will not share the point of view and the philosophy of those who have signed the amendment in regard to cloture in the Senate of the United States.

I repeat today what I said a few days ago, that I am satisfied that an overwhelming majority of the people of the United States believe that the principle of majority rule ought to govern not only the passage of legislation in the Senate, Mr. President, but also the rules which make possible our getting into a position in which it is difficult to pass legislation.

* * * * *

It has been interesting to note the propaganda which has been set afoot in America in regard to the evils of majority rule and in regard to the desirability of filibustering on the floor of the Senate. There is a force in America which I shall characterize as a spirit of financial fascism which has the audacity these days to tell the American people that the practice of filibustering on the floor of the Senate should be protected. It is clever, but not too subtle, propaganda.

I hold in my hand a copy of Business Week for March 12, 1949, containing an editorial entitled "The Trend." Note the title of the editorial, "The Tyranny of the Majority." I ask unanimous consent to have published as a part of my remarks this editorial in full at this point.

The PRESIDING OFFICER (Mr. George in the chair). Is there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"THE TYRANNY OF THE MAJORITY

"Filibustering has become a horrid word in the American language. It has been described in the mildest terms of its critics as a technical evil connected with the machinery of lawmaking.

"It has been cursed and condemned as a device against democratic decision.

"The sharpest criticism has been leveled at filibusters in recent times by those who carry the 'liberal' label. They are good and mad at the southern Democrats. They lambast the southerners in the Senate for filibustering against all attempts to put civil-rights legislation on the Federal statute books.

"Unconsciously, the zeal of the so-called liberals has befogged their minds. Unwittingly, they are sniping at democracy and liberty. They assert that what they are seeking is a further expression of democracy, and that they are going after it in the democratic way. But they obviously are not remembering their American history.

"Lessons of history

"A refresher course would remind them right at the beginning that this Nation's Government was framed to avoid tyranny in any form. The drafters of the Constitution put in safeguards against despotic power in any hands.

"The Founding Fathers went to great pains to set up a system of checks and balances. They apportioned power among the legislative, executive, and judicial branches of the Government. They determined to place checks on the powers of all—even the powers of the people who had the right to vote. Thomas Jefferson, for example, was convinced that government by a simple majority could be as despotic as the one-man tyranny of the British King.

"This aversion to simple majority rule explains the makeup of the Senate. The upper House of Congress was designed deliberately as an offset to the popularly elected House of Representatives. Each State has an equal number of Senators, regardless of population. The Senators are elected three times as long as the Representatives, and only one-third of the Senate comes up for election every 2 years. Obviously, the Senate was never intended to perform its functions and reach its decisions by snap judgments of temporary majorities. It is supposed to function only after the careful deliberation permitted by unlimited debate.

"Through the years when slavery was the big national issue, there were great debates. The North sought to impose its will on the minority of States. The South clamored for States rights. After a war was fought to preserve the Union, President Lincoln was moved to say:

" 'There is too much desire on the part of some of our very good friends to be masters, to interfere with and dictate to those (southern) States, to treat the people not as fellow citizens; there is too little respect for their rights.'

"The fundamental belief in the democratic rights of a substantial minority has never been successfully submerged. It has been the salvation, in turn, of both conservatives and liberals. The latter certainly can recall the power of the individual expressions of such liberals as the two La Follettes, expressions which took the form of filibusters more than once. In a speech against cloture, the elder Senator La Follette said:

" 'Believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule, that moment you will have dealt a blow to liberty. * * *'

"Full and free debate in the Senate is more than a precious heritage. It is more than an effort to protect the right of free discussion. It is an expression of the doctrine that no one group should be in a position where it could beat down all opponents mercilessly. The doctrine states that important minorities should be persuaded and must not be coerced. No one group should be able to impose its own opinions, its interests, its views on others if, by so doing, the vital interests of other groups are not at all respected. This is the practical core of American Government in operation.

"Longstanding tradition

"The principle, of course, is not written down in black and white as a Government law. It is simply a tradition. There is serious doubt whether it could ever be made official. But it is workable nevertheless.

"Any infringement of the right of unlimited debate in the Senate would lead to coercion of important minorities. Stifled debate would give to the majority free and careless sway over legislation. This would defeat the basic American idea that all absolute power must be limited, including the power of the majority of the moment.

"As long as there are conflicts between the majorities and the minorities, there will be dilatory debate of some sort. And delay is not easy to accept. But an intelligent majority will be wise to accept some measure of delay if it is really convinced that its objective is basically sound.

"Filibustering admittedly is a negative device. But so is a brake on an automobile. The brake can check the speed of the car if it gets out of control. Filibustering is useful when it checks the impulses of an unscrupulous or an inconsiderate majority. In the present situation, filibustering is not directed solely against the passage of civil-rights legislation. The filibuster is being employed to curb the headlong enactment of an ill-advised administration program fraught with great peril to a free society."

Mr. MORSE. Mr. President, I wish to comment on certain paragraphs from the editorial from Business Week. I hasten to add that I just do not believe that the views of the writer of this editorial represent the views of 95 percent of the businessmen of America. The businessmen with whom I talk, at least at a percentage rate of 95, are just as devoted to the principle of majority rule in a democracy as is the junior Senator from Oregon. But there are at work in the business fraternity of this country, just as there are at work among other pressure groups, certain propagandists who are seeking in their subtle way to undermine the basic tenets of democracy. I consider this editorial in Business Week a serious undermining of what I think are very elemental principles of our constitutional form of government with its guaranties.

The editorial says:

"Filibustering has become a horrid word in the American language. It has been described in the mildest terms of its critics as a technical evil connected with the machinery of lawmaking.

"It has been cursed and condemned as a device against democratic decision.

"The sharpest criticism has been leveled at filibusters in recent times by those who carry the liberal label. They are good and mad at the southern Democrats. They lambast the southerners in the Senate for filibustering against all attempts to put civil-rights legislation on the Federal statute books.

"Unconsciously, the zeal of the so-called liberals has befogged their minds. Unwittingly, they are sniping at democracy and liberty."

Mr. President, as one of those liberals, according to the editor of Business Week, I am sniping at democracy and liberty because I stand on the floor of the United States Senate and defend what I am satisfied the Founding Fathers had clearly in mind, namely, that our constitutional form of government should operate on the basis of a majority-rule principle, save and except in those specific instances in the Constitution where a two-thirds vote requirement was specifically set forth.

Let me say, Mr. President, as has already been pointed out in this debate, that the two-thirds requirement, where it is set out in the Constitution of the United States, was not a so-called constitutional two-thirds requirement, as the defenders of the Wherry amendment contend in this debate, but a requirement of a two-thirds vote of those present and voting.

At the time the Constitution was adopted, when the two-thirds vote was used in a parliamentary body it was used on the basis of a two-thirds vote of the Members present and voting, and in the Continental Congress a majority vote meant a majority vote of those present and voting. When a vote was taken on a motion for the previous question, the issue was determined by a majority of those present and voting. Now in the year 1949, more than a century and a half after the Founding Fathers wrote into the organic laws of this country these precious tenets of democracy, the Senate of the United States proposes to adopt a two-thirds-vote requirement more stringent than our Founding Fathers themselves used in connection with their own parliamentary bodies.

Someone, if my ears serve me right, said that the amendment is a step forward. Well, if going back more than 150 years is a step forward, then it is a forward-looking resolution, but only on the basis of such a premise.

I say to the editor of Business Week that when he says that those of us who are liberals in the Senate of the United States unwittingly are sniping at democracy and liberty when we defend the principles of majority rule, he confesses either his ignorance of democratic principles or he deliberately seeks to propagandize the American people by way of falsehood.

He continues in his editorial: "They assert," referring to the liberals, "that what they are seeking is a further expression of democracy, and that they are going after it in the democratic way. But they obviously are not remembering their American history."

Now let us see what aspect of American history the editor of Business Week wants us to remember.

"A refresher course would remind them right at the beginning that this Nation's Government was framed to avoid tyranny in any form. The drafters of the Constitution put in safeguards against despotic power in any hands."

Ergo, standing for majority rule in the Senate of the United States is then playing into the hands of despotic power, according to editor of Business Week. Nonsense. Why does not the editor at that point in his editorial start talking about specific checks and balances set out in the Constitution to protect us from the tyrannical will of a majortiy when a majority seeks to follow a tyrannical course of action?

No, his conclusion, which he would have us adopt, is that the very practice of majority rule, putting it into application, would contstitute tyranny. Is it tyranny when we pass legislation by majority rule? Why, no, Mr. President, because we have those precious safeguards in our Constitution that check the Senate of the United States. Whenever a majority passes legislation that in fact violates constitutional guaranties, there is the veto power, and when that power is exercised by the President, then the Constitution provides that two-thirds of those present and voting shall be required to override the veto.

The second check which apparently the editor of Business Week has never heard about, though we know better—we know he knows about it, but in this slanted writing of his he did not tell his readers about it—is the Supreme Court. And if this body, practicing the majority-rule principle, passes a piece of legislation which is unconstitutional, the check is in the Supreme Court, not in a right under the Constitution of the United States for a minority to filibuster and prevent a majority from passing legislation that it, the majority, believes is constitutional but which the minority believes to be unconstitutional.

The editor says:

"The Founding Fathers went to great pains to set up a system of checks and balances. They apportioned power among the legislative, executive, and judicial branches of the Government."

But he failed, as I have just pointed out, Mr. President, to tell how it operates, and how it operates consonant with the application of a majority-rule principle.

"They determined to place checks on the powers of all—even the powers of the people who had the right to vote. Thomas Jefferson, for example, was convinced that government by a simple majority could be as despotic as the one-man tyranny of the British king."

Oh, what a blot on the memory of Thomas Jefferson, to take out of context one observation and seek to give the impression that that great defender of human and social rights, were he in the Senate of the United States today, would be voting to protect the filibuster technique.

"This aversion to simple majority rule," says the editor of this Business Week, "explains the make-up of the Senate. The upper House of Congress was designed, designed deliberately, as an offset to the popularly elected House of Representatives."

In respect, Mr. President, I ask, to the operation of a majority rule? Clearly not. Because article 1, clause 5, section 2, of the Constitution gives to each House the right and privilege of devising its own rules for carrying on its proceedings. The Founding Fathers did not put on any check, which by implication and innuendo the writer of this editorial seeks to give the impression they intended, that the Senate of the United States should operate on a voting principle other than majority rule.

"Each State has an equal number of Senators, regardless of population."

Correct. But what has that got to do with the application of a majority rule? Nothing.

"The Senators are elected for a term three times as long as the Representatives, and only one-third of the Senate comes up for election every 2 years."

Correct. But what has that to do with the question as to whether or not we ought to have a rule in the Senate whereby majority-vote principles can prevail? Nothing.

"Obviously, the Senate was never intended to perform its functions and reach its decisions by snap judgments of temporary majorities."

Why, the editor apparently is not aware of how legislation passes in the Senate of the United States, how it has to go through committees, how it is subjected to committee hearings, and to debate on the floor of the Senate. He, apparently, is not aware of the safeguards of minority rights that have been set out in every proposal offered to the Senate which I have read, that provides for any form of majority rule for limiting debate in the Senate of the United States.

The editor of Business Week ought to know, if he does not, that every resolution we have offered seeking to outlaw the filibuster through the application of the principles of majority rule provides, first, that 16 Senators must sign the cloture petition; provides, second, that it must lie on the table, as under the present rule, for a day; provides that thereafter 96 hours of debate is possible, which amounts, as we usually operate in the Senate, to more than a week of debate if we follow our ordinary meeting schedule of the Senate.

What more protection has the minority the right to ask for? What the minority seeks in the Senate of the United States is a continuation of its protection to block the majority by the minority tactics through the filibuster.

I contend, Mr. President, that the Wherry substitute is not to any appreciable extent going to injure in any way the effectiveness of a southern filibuster, or a northern filibuster, or the filibuster of any other minority group in the Senate that wants to organize under the Wherry substitute for a filibuster.

To say that I am at a complete loss to understand how the editor of a magazine such as Business Week could write such a slanted and propaganda editorial against the democratic system of majority rule in America is to put it mildly, Mr. President.

The editorial goes on to say:

"Through the years when slavery was the big national issue, there were great debates. The North sought to impose its will on the minority of States. The South clamored for States' rights."

Mr. President, I think great debates in the Senate of the United States still are carried on in regard to social slavery. I think the great debates in the Senate on issues of civil rights are basically debates on whether or not large groups of minorities in this country are to be held shackled to the will of a minority in the United States Senate, or whether my party, the party of Lincoln, the great emancipator, whom the editor of Business Week quotes in the next paragraph, is going to put into effect and practice the true meanings of the liberties and freedoms of the Constitution, which the War Between the States was fought to settle. I sometimes wonder who won that war. Certainly the Negroes of America, who are denied their civil rights, must say that the North did not win it so long as filibustering tactics in the Senate are allowed to prevail and deny the passage of civil-rights legislation.

Let us see what the editor of Business Week took out of context from Lincoln's statement:

"After a war was fought to preserve the Union, President Lincoln was moved to say:

" 'There is too much desire on the part of some of our very good friends to be masters, to interfere with and dictate to those States, to treat the people not as fellow citizens; there is too little respect for their rights'."

What has that to do with the debate in the United States Senate over the question whether or not majority rule shall govern our proceedings here? Absolutely nothing. We can all agree that the carpetbag days carried along with them human abuses and injustice and tyrannical conduct; but that chapter in our history has nothing to do with the issue as to whether or not the Senate of the United States ought to adopt a rule of procedure which will make certain, as the Wherry resolution does not, driving out of this body control by a minority.

The editor continues:

"The fundamental belief in the democratic rights of a substantial majority has never been successfully submerged. It has been the salvation, in turn, of both conservatives and liberals. The latter certainly can recall the power of the individual expressions of such liberals as the two La Follettes—expressions which took the form of filibusters more than once."

He then proceeds to quote the elder La Follette. Let us quote him; and let us recognize that that quotation was based upon the clear understanding of the Senator from Wisconsin that in 1917 it was the intention of this body to prevent filibustering by way of cloture, with respect to any and all business of the Senate.

The distinguished Senator from Michigan [Mr. Vandenberg] said in effect the other day, in his notable speech, that he did not know what was in the minds of Senators in 1917 when they adopted rule 22, but he did know what they said 2 years later. Mr. President, I think it is very clear, as was so ably pointed out by the distinguished junior Senator from Tennessee [Mr. KEFAUVER] in his exceedingly able speech, that if we search the record of 1917 even in a cursory manner, it is perfectly obvious that Senators thought they were debating a cloture rule to apply to all matters of business.

One cannot read the speeches of the elder La Follette, as I have, without being completely satisfied that Bob La Follette, who believed in filibustering—in respect to which belief I am in complete disagreement—believed, as this quotation, I think, clearly implies, that the attempt was being made to adopt a cloture rule which would apply to all matters of business before the Senate. Thus he voted against it. He did say, as the editor of Business Week states:

"Believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule, that moment you will have dealt a blow to liberty."

That was the view of the then senior Senator from Wisconsin, based, I submit, if we check his record, upon his conviction that in 1917 an attempt was being made to apply cloture to all items of business before the Senate.

On the merits of his opposition to giving effect to majority rule in the Senate of the United States subject to those safeguards and checks which will protect minority rights to adequate debate on the merits of the issue, I am in complete disagreement with the record of the senior Senator from Wisconsin, just as, as a citizen of Wisconsin in those days, I was in complete disagreement with the record of the senior Senator from Wisconsin with regard to the war issue.

Mr. President, in my judgment any argument on the part of the editor of Business Week, or of any Member of this body, past or present, that we destroy any liberties to which we are entitled under a democracy by adopting a rule which would permit of majority limitation of debate in the Senate of the United States so long as the minority has adequate time to discuss the merits of the issue, flies in the face of the whole theory of our system of checks and balances under our Constitution. I cannot read that document, or the constitutional debates, or any chapter of American history and reach the conclusion that the people of America ever intended, at any period of our history, to set up a Government under which minorities could rule.

I repeat what I said on this floor about 2 o'clock the other morning. When those in this body argue that fighting for a principle of majority rule in the Senate follows communistic tactics, I say that the contrary is true. Basic to the whole theory of communism is the adoption of a governmental system under which small groups of men can dictate to the majority. Those of us in the liberal camp, fighting the leftists on the one hand and the reactionaries on the other, bottom our case for democracy upon putting into practice in all branches of our Government the principle of majority rule.

We follow it in our courts and our court decisions determining the very interpretation of the Constitution itself. That is done on the basis of the majority-rule principle. The House of Representatives functions on that basis. The Senate passes legislation on

that basis. We are limited by the Constitution to majority rule, save and except in respect to the specific requirements for a two-thirds vote as definitely set out in the Constitution.

I think it is rather sad in the year 1949 to have contained in the CONGRESSIONAL RECORD a charge that those of us who are fighting for majority rule in the Senate of the United States are standing for the tactics of communism. I am sorry if I seem to express some resentment about it; but there is no Member of the Senate who makes such a charge to whom I will yield, so far as my patriotism and my devotion to a political democracy and to a capitalistic economy are concerned. I assert today that the members of my party are coming to living up to the principles of majority rule in the Senate, some day. Believe me, Mr. President, they are coming to it, because the American people are going to drive them to it, and are going to drive them to it by first driving some of them out of the Senate. Just wait and see, Mr. President. The American people will never take this lying down. They will not and should not tolerate a coalition which seeks to prevent majority rule in the Senate. Some of us may be defeated in the meantime, while fighting for majority rule; but we shall take our chances on that; and if defeat comes, we shall go down in it with a smile on our face, knowing that at least we stood firm in our devotion to what I think is one of the principles which is of the very essence to a society of freemen operating in a democratic system—namely, majority rule.

Thus, before I close my remarks, I shall offer as a substitute for the Wherry amendment, my resolution, Senate Resolution 12, which calls for majority rule; and I shall ask for the courtesy of a yea-and-nay vote on it, because I want the Members of the Senate to stand up and be counted on the question of whether they are willing to vote for, or whether they will oppose, majority rule in the Senate. I am perfectly willing to let future events take care of themselves, so far as my political future and theirs may be concerned.

The editor of Business Week says:

"Full and free debate in the Senate is more than a precious heritage. It is more than an effort to protect the right of free discussion. It is an expression of the doctrine that no one group should be in a position where it could beat down all opponents mercilessly. The doctrine states that important minorities should be persuaded and must not be coerced."

Mr. President, just see the clever, subtle innuendoes which the editor of the magazine works into his writing, and the idea which he seeks to implant, that if we wish to have the principle of majority rule observed in the Senate, with adequate time for debate on the merits of the issue, and with a check by the President and a check by the Supreme Court of the United States, in some way we favor coercing minorities. Mr. President, that is vicious propaganda, and it is such propaganda that is undermining the faith of our people who are attempting to follow the basic tenets of democratic government.

The editor of Business Week further says:

"Any infringement of the right of unlimited debate in the Senate would lead to coercion of important minorities."

In what way? It would lead to putting into effect and into law what the elected representatives of the people of the United States believe to be the desire of the country, and that law, in turn, as I have said, would be subject to the checks and safeguards of the reviewing bodies, as provided by the Constitution.

The editor further says:

"But an intelligent majority will be wise to accept some measure of delay if it is really convinced that its objective is basically sound."

Mr. President, is it delay that he wants us to accept? The operation of our normal procedure is pregnant with delay, so that full opportunity can be given to the minority to make its case on the merits. We provide for hearings, the printing of reports, debate on the floor of the Senate. How many times do we hold up action until we can obtain the full report and have it before us for study? Then there is the delay which occurs in the case of a veto, if a veto comes; and then there is the delay which finally goes along with the eventual application of the law, through judicial processes, ending in the decision of the highest court of the land.

Mr. President, I repeat that so much of this editorial is nonsense—to seek to give the American people the impression that if the majority-vote principle is adopted in the Senate, minority rights will be destroyed.

The editor almost made one confession, when he said in the editorial that "Filibustering admittedly is a negative device. But so," he says, "is a brake on an automobile. The brake can check the speed of the car if it gets out of control."

Of course, Mr. President, if the brake freezes, it simply stops the car from moving at all. In my judgment that exactly will be one of the results of the Wherry amendment. It will function as a frozen brake, upon what ought to be a forward movement on the part of the Senate.

I read further from the editorial:

"In the present situation, filibustering is not directed solely against the passage of civil-rights legislation. The filibuster is being employed to curb the headlong enactment of an ill-advised administration program fraught with great peril to a free society."

Mr. President, it is with that sentence that the editor of Business Week lets the cat out of the bag. In my judgment, in those words he represents the type and spirit of financial fascism in America which wishes to stymie legislation that is needed in order to make the capitalistic system work for the benefit of all our people. He represents the spirit of financial fascism which believes we can best preserve capitalism by denying to great groups of people in our country the full fruits of a capitalistic system. He represents the type of selfish interest in America that is selling the capitalistic system short. I will have none of his philosophy. I happen to be so devoted to the capitalistic system as the only economic system that can possibly preserve for us political democracy that I say we, the representatives of the people, must keep ourselves in position at all times so we can pass whatever legislation is necessary to make democracy work. That is our job. That is the job of the 81st Congress. I am of the opinion that too many Republicans in the 81st Congress have completely forgotten that our job is to pass legislation which will promote the social, economic, and political welfare of the American people. It is our job to pass those reforms necessary to make the capitalistic system work. Instead of carrying out that great responsibility, too many Republicans are forming coalitions with southern Democrats who appear to be determined to defeat such legislation in the Senate. I am willing to suggest here and now, Mr. President, that most of those southern Democrats will be just as opposed to most of the major provisions of the President's legislative program as they are opposed to civil rights.

Mr. President, I do not swallow the President's legislative program hook, line, and sinker. If I have not made that clear already in the 81st Congress, if I did not make it clear in 70 major speeches across the country in the last campaign, then nothing I would say now could make it any clearer. However, let me put this in the throats of a few of my Republican colleagues to swallow right now. I do not know how many of them can stand up and be counted as having made 70 major speeches in behalf of the Republican Party in the last campaign. But the junior Senator from Oregon did. He would do it again, and he intends to do it again in 1952 for his party. But at the same time he is not going to endorse the mistakes of the Republican Party, either. Where he considers the Republican Party wrong on an issue he is going to tell his audiences in what respects he thinks the Republicans are wrong, and let the voters decide then who is right. That is democracy put to work.

But I want to say that, whether we Republicans like it or not, the fact is that, as between the program we offered in the last campaign—and I speak here not of our platform, because we heard so little about our platform during the campaign, from so many of our speakers—but as between what our Republican political speakers in the last campaign, for the most part, offered the American people, and what the Democratic speakers in support of the President's program offered, we can find part of the explanation of the Republican defeat. I am satisfied the people made a choice favorable to the general overall proposals of the President of the United States in contrast to the evasion, the noncommittal program which characterized the Republican campaign. I tried in my way to convince the voters that our program was based upon our excellent platform. I talked about that Republican platform which, by and large, was one of the most progressive platforms we have adopted in the last quarter of a century. What did I find by way of voter reaction? I found that audience after audience and group after group expressed to me by questions from the floor and discussions from the floor a clear indication that if the voters could be sure we would carry out the pledges of our platform, the people would support the Republican Party. Some way, somehow, I believe they developed a fear that they could not count on us to carry out the pledges of the Republican platform. I have seen little evidence in the 81st Congress showing that their lack of confidence was a mistake. So I am going to watch, Mr. President, I am going to watch for the voting records of Republicans on great pieces of social legislation, to see whether or not we as a party are ready to implement the major planks of the Republican platform.

I say, Mr. President, it is such leaders of business as the editor of Business Week who are selling capitalism short when in the last sentence of his editorial he said:

"Filibuster is being employed to curb the headlong enactment of an ill-advised administration program fraught with great peril to a free society."

With these words he confesses as to why certain reactionary forces in America are supporting the retention of a filibuster in the Senate. Representatives of financial fascism certainly want to keep the minority strong and the majority weak in all our governmental processes.

Mr. President, I think it is most unfortunate that the decision of the distinguished Vice President applying the cloture rule to motions was not sustained by the Senate. I think it is most unfortunate that a majority of the Republicans did not sustain that decision.

I say that, Mr. President, with these observations. I think that when the distinguished Senator from Michigan [Mr. Vandenberg] a year ago or thereabouts handed down a decision holding that under the facts and circumstances existing before him at the time cloture did not apply to the motion then before the Senate he was right on the precedents. If he wanted to follow those precedents, he was right. I said so at the time, and I say so now. But I want to make two points about his decision.

In the first place, there was a clear distinction between the facts and circumstances, or, as we lawyers say, between the operative

facts presented to the distinguished Senator from Michigan, and the facts presented to the distinguished Vice President. On the basis of that distinction alone, one could vote to sustain the Vice President, and one could have voted, if it had come to a vote, to sustain the distinguished Senator from Michigan at the time of his ruling.

The second point I want to make, Mr. President, is that the first precedent and all the other precedents upon which the Senator from Michigan [Mr. Vandenberg] based his ruling were wrong. The first precedent as I think has been brought out so clearly in this debate, and as I have satisfied myself, since the Vandenberg ruling, was wrong because the first precedent went contrary to the clear intent of those who passed the cloture rule in 1917. There has been a great deal of talk about the value of precedents, but no mention yet have I heard of the clear duty of a court, once it decides that a precedent is wrong, to reverse the precedent by handing down a decision that the court feels is right and sound as a matter of law. Thus I say, Mr. President, that although the Senator from Michigan could justify following precedents based on facts, similar to the facts which were before him when he ruled he likewise could have justified a refusal to follow those precedents. He would have been just as right in fact more so had he taken the position that the first precedent did not conform to the spirit and the intent of the framers of the cloture rule because they thought they were providing for limitation of debate on all matters of debate or business which might come before the Senate. Finding that the precedents violated the spirit and intent of the Senate when it passed rule 22 he could have refused to follow the bad precedents which always make bad law. He did not follow the course of action which many courts follow, of not accepting as binding upon him a precedent in this case which violated the intent of rule 22. In comparable situations before a court which adopts a liberal construction of a statute in order to carry out the intent of Congress we find many decisions reversing unsound precedents.

So, on the basis of my analysis of the distinction between the cases, Mr. President, I had no hesitancy a few days ago in refusing to follow the precedent established by the ruling of the Senator from Michigan. I satisfied myself on the basis of study, in my preparation for speeches on this subject in this term of Congress, that the first precedent handed down in the Senate after the passage of the cloture rule and upon which the Senator from Michigan relied was an erroneous one. I decided that we should overrule it at the first opportunity. So I say, if the operative facts before the Vice President had been identical with the operative facts before the Senator from Michigan, I would still have voted to sustain the Vice President, because my study had convinced me that the first precedent which the Senator from Michigan had followed was unsound in that it violated the intent of the cloture rule. Therefore, it should have been reversed by the Senator from Michigan. Most certainly the Republicans should have sustained the Vice President because of the different facts presented by the situation which arose on this matter this year.

Mr. President, I wish to register my deep opposition to the compromise resolution which has been proposed by the minority leader for himself and 51 other Senators. This substitute has been called a compromise, but, in my judgment, in actual fact and truth, it represents a surrender. If it is adopted there will be less likelihood of curbing the filibuster, I believe, than there is under the existing rule of the Senate. I say the people of America should know that what is labeled a reasonable compromise and a step in the direction of more effective controls on obstructionist tactics in the Senate is, in reality, a long stride backward from which it will be extremely difficult to recover.

The first part of that substitute resolution would permit cloture to be invoked on any measure, motion, or other matter save and except any motion to consider a proposal to change any standing rule of the Senate. It is argued that this will close the loophole in the present rule which permits filibustering on the Journal or on a motion to take up a bill. That is correct, Mr. President, but on paper only. I repeat, that is correct, Mr. President, but on paper only. If there are no vacancies, it means 64 Senators must vote affirmatively to bring debate to a close, as contrasted with the present rule which requires only two-thirds of those present and voting.

As I said earlier in my remarks, the present rule, in regard to the two-thirds requirement, carries out the general practice in respect to the application of two-thirds rules in any phase of the business of most parliamentary bodies. It is the rule which prevails where a two-thirds vote is required in most of the legislative halls of this country. It is the rule which is set forth in the Constitution in respect to any two-thirds vote requirement designated in the Constitution. Yet here, in 1949, in order to stop a filibuster we Republicans are asked to make a compromise, or a deal, or a trade, or whatever one may wish to call it, with a group of men who have made clear that they will not enter into a compromise unless they are assured that they are adequately protected in what they consider is basic in this fight, namely, the right to filibuster on their terms. They agree to this deal because they are satisfied it will enable them to prevent the passage of legislation which they do not want passed. In order to carry out such a trade we have this proposal which seeks to establish as a rule of the Senate a so-called, but miscalled, constitutional two-thirds majority requirement to stop a filibuster. This deal is a poor horse trade. It is a surrender of even the simple two-thirds majority vote requirement we have under the present rule 22.

Let us consider, Mr. President, whether this difference in size of the vote is as the Senator from California [Mr. KNOWLAND] told us, a very small difference, indeed. On the 19 occasions on which cloture has been invoked since 1917 the average total vote has been 83. Two-thirds of that number is 56. It is obvious, therefore, that the difference between the average vote in the past and the required vote under this substitute is eight. That is scarcely a very small difference, to use the language of the Senator from California, Mr. President. That difference of 8 votes is an increase of 14 percent. Do not tell me, Mr. President, that this substitute proposal involves only a small difference between its operation and the operation of the existing cloture rule.

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The argument is made by the Senator from California that cloture-vote history shows an average of more than 90 Senators present and voting, or paired. I say, Mr. President, that reference to pairs means nothing in this discussion. What counts under the procedure of the Wherry substitute is votes actually cast for and against, assuming a quorum. However, under the substitute proposal a Senator who is paired or absent is, in effect, voting against cloture. Hence, a premium is placed upon absenteeism in the Senate of the United States.

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As I said the other morning on the floor of the Senate, some of the great dangers of the Wherry substitute are the parliamentary devices which are permitted under the Wherry substitute. It will encourage the development of some clever strategy, on the floor of the Senate in order to keep a filibuster going. It will encourage men to take what I call a walk-out powder, absenting themselves from the Senate, and letting the Sergeant at Arms engage in a hide-and-seek contest with them. We know that if men want to hide themselves away, and if that is going to help along in a filibuster fight—and that is what it will get down to—they are going to hide themselves away, and we will be frozen here by a requirement that we have to garner 64 of them in order to get a single rollcall vote. It is unfair for the signers of the round-robin Wherry resolution to impose such an unreasonable rule upon the Senate.

Mr. President, that is not my conception of a new cloture rule which will be more effective in harnessing filibustering in the Senate of the United States. That is not my conception of a cloture rule which will prevent domination of the Senate by a minority group of willful men, as Woodrow Wilson referred to filibusters. It places a premium on absenteeism. It will make filibustering more effective, not less effective, in the Senate of the United States.

I repeat, Mr. President, that what counts, under present procedure, are the votes actually cast for and against cloture assuming a quorum. However, under the substitute proposal a Senator who is paired or absent is in fact voting against cloture.

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Only three times in history has a favorable two-thirds vote of the entire Senate been obtained, not four times, as has been said, but three times—in 1919, on the Versailles treaty, in 1923, on the World Court, and in 1927, on the branch banking bill. In other words a constitutional two-thirds vote of the entire Senate membership has been obtained on a cloture petition only three times. On one additional occasion a two-thirds vote of those present and voting was secured to pass a cloture petition thus making the four times that a cloture petition has ever passed the Senate.

That is why I have been heard to say so frequently that even the existing rule, with its mere two-thirds requirement, is not an effective check against filibustering, because as it has worked out seldom have we been able to obtain a two-thirds vote to support a cloture petition. That is why I say that if we want an effective check against filibustering in the Senate we must come to a majority vote rule.

Instead of that we move in the opposite direction under the Wherry amendment with a proposal to freeze a 64 vote requirement, whereas in 1927, in the case of the branch banking bill, a so-called constitutional two-thirds vote requirement could not have been obtained, and the measure would have fallen. Thus on one of the occasions when cloture succeeded in the Senate, it would have fallen 9 votes short, had there then been in effect such language requiring a so-called constitutional two-thirds vote as is provided by the Wherry substitute. Thus instead of having the situation that in the 19 times cloture has been attempted it has been successful only 4 times, the situation would have been worse under the Wherry substitute because under it cloture could have been obtained only 3 times instead of 4.

Mr. President, I dislike to reiterate unnecessarily, but this point must be emphasized for the RECORD. Looking at the record of cloture since 1917, if the Wherry substitute had been in existence and applied to the cases where the Senate attempted to apply cloture, success would have been less rather than more, because in the same number of cases the vote of 64 Senators, as required under the Wherry substitute, could not have been obtained, because in the case involving the Bureau of Customs and Prohibition, in which the Senate was successful in bringing about cloture under the existing rule, the vote was 55 to 27.

Mr. President, if we propose to strengthen th antifilibuster rule, it should be obvious

that progress lies in reducing rather than in increasing the percentage of the Senate required to close debate. Assurance that a cloture petition will lie against a filibuster to take up a bill is an empty assurance and of no comfort if it is a foregone conclusion that when put to a vote the petition will fail to receive 64 affirmative votes, even though the actual votes in favor may be a two-thirds vote or more of those voting.

I am exceedingly disturbed, Mr. President, over that effect of the Wherry amendment. I am at a loss to understand why the Senate of the United States here today, having the power to change its rules by majority vote, would now use that majority vote—and 52 Senators have committed themselves by way of a round-robin petition on the Wherry substitute—to fasten upon themselves and the rest of us a frozen two-thirds so-called constitutional majority of 64 votes.

Well, Mr. President, I am going to stick by the majority-rule principle even when it licks me. Therefore I shall be sportsman enough to say that if that is what the will of the majority is today I am going to have to take it. I will cast my vote against. I shall proceed to do all I can to see to it that in the not too distant future we have enough Members of the Senate of the United States who will reverse that action and bring us back, not to a principle of increasing the votes required for cloture by a so-called constitutional two-thirds vote, but by reducing the votes required in the direction of what I consider to be the ideal—a majority vote. That is why I say, whether we like it or not, this matter is now a great political issue. We are not going to get the politics out of this matter, if I understand some of my friends on the Democratic side correctly, as far as the Democratic Party is concerned. We are not going to get the politics out of it, I can assure the Senate, so long as it is my privilege to represent my people in the Senate in the Republican Party, because it is being made a political issue by the action which is being taken here.

I take the position that we must carry the fight of civil and human rights to the American people in the form of making clear to them that if they want protection in the legislative form that those rights ought to be protected, then they must send to the Senate of the United States men who will adopt an effective check against filibusters. I am of the opinion that the Wherry amendment is not an effective check against the filibuster.

So I say, the proposal, insofar as it relates to the size of the vote required to invoke cloture, is definitely a backward step.

I have said before, Mr. President, that the American people want majority rule in the Senate and are in favor of abolishing the filibuster technique. New evidence in support of this position is found in the recent public-opinion polls, published in the Washington Post for March 11, 1949. That poll shows that, among voters who know what a filibuster is, 54 percent were in favor of changing the rules to permit cloture by a simple majority rather than the present two-thirds majority. Only 35 percent disapproved, and 11 percent had no opinion.

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If my colleagues do not think that existing public opinion in respect to majority rule in the Senate is right, they ought to try to take some facts to the American people to convince them that majority rule should not prevail in the Senate. I shall await with interest and some amusement, Mr. President, those great public discussions in which Senators go before a constituency and tell their voters that they think we ought to retain a filibuster rule in the United States Senate which will permit a minority successfully to block the action of the majority on needed legislation. I should like to be present in those minority-group audiences when my colleagues tell them that, and at the same time tell them that they want the votes of the members of those minority groups. If Senators are going to recognize that minority groups are composed of American citizens they should recognize right now in the Senate before this vote is taken on the legislative rights of minority groups.

Unfortunately in some sections of the country they do not have the right to vote unless they pay a tax to vote. That is one reason for part of the civil-rights fight. They ought to have the right to vote. There ought to be a free franchise in America, so that when men come to the Senate of the United States their election will be by all the adults of their State who exercise a free right to vote. The fact is that many of them come to the Senate of the United States from States where many people are not even eligible to vote because of a poll-tax requirement. Such Senators are among those who are now taking the position that we ought to retain a rule in the Senate which would permit them to further their minority-rule principles by being protected in their claim to filibuster as the Wherry plan protects them. Count me out on that one.

I leave it to my colleagues speaking before those minority groups to justify that sort of minority domination in the United States Senate. But they had better be sure, before those audiences, that they are talking to adults who do not have the right to vote, because, if they make the argument before audiences composed of members of minority groups entitled to vote, they will not get a vote out of the audience, and by all means should not, whether they are Democrats or Republicans.

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I do not wish to delay the Senate very long. The statement of the distinguished Senator from Oregon [Mr. MORSE] surprises me very much. His fervor is so much greater than the logic of his reasoning that I must say a word or two.

The Senator from Oregon seeks to leave the impression that majority rule is an ingredient—even a principal characteristic—of our Constitution. It is no such thing I think one of the distinguishing characteristics of our Constitution is the denial of rule by the majority. The Constitution requires, in its own rules—that is, the rules by which it may be changed—three-fourths of the States to change it. The fact of the matter is that there never would have been a Constitution if the principle which the Senator from Oregon advocates had been insisted upon by the Founding Fathers.

The question of the method by which the Constitution could be changed was one of the principal considerations in the ratification of the Constitution; it was essential to its ratification by several of the smaller States, particularly Delaware, John Dickinson representing that State.

So I think it is quite inaccurate and very mischievous to leave the impression that majority rule in some way is a distinguishing characteristic of our Constitution, or to equate majority rule with democracy, as the Senator from Oregon has so fervently attempted to do.

There is nothing whatever to the argument that majority rule is essential to a democratic system of government. I again call attention to the fact that, under its rules, the United States Senate is the only upper body I know of in the civilized world which has continued to function and to exercise any real influence upon the course of events.

If we destroy the rules of the Senate, and if we subject the Senate to the kind of rules which the Senator from Oregon has advocated, there will be no real reason for the Senate to continue in existence in this country, other than, perhaps, as a refuge to which persons may retire in their old age, there to spend an honorary retirement, as is done in other countries.

The Senate of the country which is our neighbor to the North has no real power. In England, the House of Lords has no real power; its power was destroyed years ago, for one reason or another in other parliamentary countries with an upper and a lower house, the upper house generally speaking, has little real power.

Should rule 22 be changed, and the Senate have no power to resist the arbitrary imposition of his will by the Executive, I should say it would have no real reason to exist. There would be no excuse for the expenditure of money to pay our salaries, if we could perform no function other than to give instantaneous approval to whatever measures might come to us from on high.

The great distinction between the Senate and the other body of Congress is the power of the Senate to examine and to subject approval of measures to delay, in order that the people themselves may be able to understand controversial issues.

I hope Senators will not take seriously the argument that democracy is in some way equivalent to majority rule, because there is nothing whatever to such an argument. There is nothing in our Constitution which in any respect implies, directly or indirectly, that majority rule should be the rule of the Senate. The Constitution itself requires that the Senate discharge many of its responsibilities by a two-thirds majority.

For the Senator from Oregon to say that in some way the Constitution provides that the Senate must adopt its rules by majority vote is a complete inaccuracy; there is no justification whatsoever for such a statement.

One last word about the practices in other parliaments, to which the Senator from Oregon made reference. I believe he said that majority rule is a common practice in almost all parliaments. I presume he meant the Legislature of Oregon. But it is not the common practice in the parliaments of other countries. It was not the practice at all in the mother of parliaments, the Parliament of England, from which our Congress sprang, in a sense. At the time the Founding Fathers were considering our rules, the rules of parliament were the rules which guided them. So I respectfully suggest that the Senator from Oregon is quite incorrect in his theory.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. JOHNSON of Texas. Mr. President, I yield 20 minutes to the distinguished minority leader.

Mr. KNOWLAND. Mr. President, on January 4, 1957, I believe the Senate of the United States is facing one of the most crucial decisions which any Member of this body has had confront him during his period of service, regardless of how long that may be. I have served in this body, now, some 11 years. There are Senators who have served for a much longer period of time. Regardless of the length of time which Senators on my side of the aisle or on the other side of the aisle may have served, I do not believe any Senator will be faced with a more important decision than that which will face him this afternoon at the hour of 6 o'clock. One hundred and sixty-seven years of experience and of tradition are deeply challenged, with far-reaching consequences to the Senate of the United States and, I believe, to our country, as well.

As has been suggested, in the absence of any rules, the procedures of the Senate could be delayed for weeks or, indeed, for months. Without rules there would be no Senate committees; and without committees, the legislative business of the Senate could not be conducted, except by unanimous consent. Mr. President, that would be minority rule with a vengeance, for then any one of the 96 Members of the Senate could hold up the proceedings of this great body, because our hands would be tied, and we could not conduct the public business, including matters affecting the vital defense of the Nation, except by unanimous consent. In such a case a single arbitrary Senator could prevent the great Government of the United States from functioning, inasmuch as the Government cannot function by Executive edict. Nor can legislation be enacted by the operations of the House of Representatives alone. Laws can be passed and appropriations made only by the Congress of the United States, functioning as 2 equal bodies, the 2 of them together constituting a coordinate branch of the Government, not a subordinate branch. If the Senate were turned into a jungle, without any rules, the very security of the Nation could be jeopardized—for instance, on the eve of the receipt from the President of the United States of a message on matters which may vitally affect the security of Europe, the security of the Middle East, and the very security of our own Nation, as well.

Mr. President, this is a grave question upon which men may honestly differ. Each Member of this body is sincere and deeply devoted, and undoubtedly each Member has searched his conscience and is trying to reach a decision in the public interest. I do not question the motives of any Member of the Senate. But I feel that, at this place, I have the responsibility of pointing out what I believe to be some of the very grave consequences facing the Senate this afternoon if the Anderson motion should prevail.

The distinguished majority leader, the senior Senator from Texas [Mr. JOHNSON], my able colleague who sits directly across the aisle from me, has made a motion which will be voted on this afternoon. His motion is precisely the same as a motion made 4 years ago at this time by the then occupant of the chair I now occupy; I refer to Robert Taft, late a Senator from Ohio, and then the majority leader of the Senate of the United States.

Mr. President, I fully support the position taken by the distinguished majority leader of this body. If he were not the majority leader, and if, instead, the duty of the majority leadership had fallen upon my shoulders, I would have made the motion which he made yesterday—to be voted on today—a motion similar to the motion made 4 years ago by my distinguished predecessor in this chair, who at that time bore the responsibilities of the majority leader of the Senate. Today I fully support the present majority leader in the motion he has made.

Like most of us, Mr. President, I have been called upon by delegations of sincere persons who are vitally interested not only in proposed civil-rights legislation, but also in other proposed legislation which they believe to be for the public good. Under the Constitution they have the right of petition, the right to call on their Senators and their Representatives; and that right must never be taken from them. I have had some suggest to me, as a Republican leader of the Senate, that under the circumstances there might be some partisan advantage for my party if we were to gather sufficient votes to defeat the motion of the Senator of Texas to lay on the table the motion of the Senator from New Mexico. My reply on the several occasions when that suggestion has been made has been that I will never use the position I occupy in this body to gain a partisan advantage for my party at the expense of the prestige or power of the Senate of the United States.

As I have pointed out, if the Senate were to have no rules on January 3, that would mean that the Senate then would proceed, in effect, in committee of the whole to adopt rules—every one, from rule 1 to rule 40. In that event, every rule—including every section, every paragraph, and every line—would be subject to debate. Those of us who have had experience in the Senate and those of us who have read about the history of the Senate know that even when legitimately keeping to the pending subject matter, not when filibustering and, as sometimes pointed out by columnists, consuming large amounts of time by reading from the World Almanac or from other documents not pertinent to the question or measure before the Senate—which I do not deny has happened in the Senate in the past—but even if debate in the Senate were confined strictly to the subject of the rules, 1 month or 2 months or 3 months could easily be consumed before the business of the Senate could be conducted.

Mr. President, let me also point out that under the conditions which then would prevail, assuming that we could ultimately reach a vote, a bare majority of the Senate could determine what the rules of the Senate would be. Although I am confident that the present membership of the Senate would not do that, yet it is possible that at some time in the future some Senate might by a bare majority determine what the rules of the Senate would be.

Let me point out that in this case we are not making a decision governing only the 85th Congress. Instead, today, while we are trifling with 167 years of Senate tradition and American history, we may be making history for the next 150 years of American life. If the motion of the Senator from New Mexico were agreed to, at some time in the future some Senate with a disciplined majority might, by a bare majority, adopt rules which would provide that on a question before the Senate there could be not more than 1 hour's debate on either side, and that no Senator could speak for more than 5 minutes. Such a rule could be adopted if there were a bare majority in favor of doing so. A rule of germaneness could also be adopted.

When I first became a Member of the Senate, coming from the legislative body in my State of California, I favored, I am frank to say, cloture by majority vote, because both houses of the California Legislature, in which I had served, had had very tight rules of a kind. So, I thought it would be a fine thing to have a rule of germaneness for the Senate of the United States, until I began to serve here and found that under the procedures of this body, proposed legislation to be called up is normally handled by a motion on the part of the majority leader. Sometimes the membership of this body is closely divided—as is now the case, with 49 on the other side of the aisle and 47 on this side of the aisle. Under such conditions, it is rather difficult for either side, even if it wished to do so, to be arbitrary. Certainly with my able colleague, the majority leader, and the other 48 Members now on the other side of the aisle serving in the Senate, I know—and I know it as an American citizen, not as a partisan—that even if the distinguished majority leader had 67 votes on his side of the aisle, he would not ride roughshod over the Members on my side of the aisle. I also know from history that sometimes the representation of my party in the Senate has been reduced to 17 votes. I realize that if there were a majority leader and a majority party in the Senate which wished to ride roughshod over Senators on this side of the aisle, that could be done, in the jungle which would develop in the Senate of the United States in the absence of any rules.

A rule of germaneness could preclude a Senator from gaining the floor at any time to discuss vital matters of national or international policy even though the bill under consideration related to patents, agriculture, or school lunches. He would be restricted to the subject matter of the bill established as the pending business by motion of the majority leader.

I do not believe it is prudent to put one's neck in a guillotine because of a desire to cure a bad headache; but I think that is precisely what the Senate is being asked to do by the motion of the Senator from New Mexico. Neither is it wise, in my judgment, to change the precedents of 167 years, in order to meet one problem of civil rights.

I am in favor of the President's civil-rights program which will be presented to the Congress. I expect to join with other Senators—with Senators on both

sides of the aisle, I hope—in favoring such a program. To my mind, although perhaps not to the minds of some Senators on the other side of the aisle, it will be a reasonable and a fair program, and one which the Senate of the United States should adopt. I believe the correct procedure would be to have the bill introduced next Monday, when Senators will be able to introduce bills, to urge early committee hearings, to have it reported to the Senate, and to debate it fairly and fully, as it should be debated, affecting as it does many citizens in all parts of our country. We shall have a committee to which to refer such a bill next Monday, if the Senate has any rules under which to proceed. We shall have a Committee on Foreign Relations to which to refer the President's message which will be delivered tomorrow, if the Senate has rules tomorrow. But whether the Senate has rules or not apparently will depend to no small extent upon whether this body in its judgment lays on the table the motion of the Senator from New Mexico [Mr. ANDERSON].

On Monday next, when it will be possible to introduce proposed legislation in the Senate, I shall introduce, and I shall ask all my colleagues on this side of the aisle, and I hope, many of them on the other side of the aisle, to join with me, a proposal to amend rule 22 of the Senate. I cannot introduce such a proposal now, under the general agreement, but I should like to read it to the Senate.

I do not say this proposal is the final solution. I do not say, after a committee has met, after hearings have been had, after testimony has been taken, after there has been a study made of the traditions of 167 years and the needs of the present, that the proposal may not be greatly improved. That is what we have committees for. But I propose to introduce, on behalf of myself and any other Senator who cares to join me, a proposal which reads:

> That subsection 2 of rule 22 of the Standing Rules of the Senate is amended (1) by striking out "except subsection 3 of rule 22," and (2) by striking out "two-thirds of the Senators duly chosen and sworn" and inserting in lieu thereof "two-thirds of the Senators present and voting."

Section 2 would read:

> Subsection 3 of rule 22 of the Standing Rules of the Senate is repealed.

There would thereby be provided cloture by a two-thirds vote of those voting, and it would provide that cloture could be applied against a change in the rules themselves.

There has been considerable talk about the difference between requiring a two-thirds vote of the membership and a two-thirds vote of those present and voting. I am perfectly willing to admit that, from an academic point of view, there could be a difference. I am perfectly willing to admit that, from a practical and realistic point of view, there could be a slight difference. However, I think we all know that whenever there is an attempt to tamper with the rules of the Senate, any Member who can get out of a sick bed, or come from anywhere else he will return from wherever he may be, and will be present in the Senate Chamber to cast his vote one way or the other. While it is true that in some exceptional cases a Senator might not be able to be present, and his absence would be equivalent to a negative vote, I think the full vote of the Senate would be recorded in most cases.

I think my proposal would be a reasonable change. I appeal to my colleagues on the other side of the aisle, those from the North and the South, the East and the West, to keep an open mind on the proposal for a number of reasons. First of all, in the Constitution of the United States, it is provided that only a two-thirds vote of those voting is necessary to impeach a President of the United States or other public Federal officer. It takes only a two-thirds vote of those present to expel a Member of the Senate. It takes only a two-thirds vote of those present and voting to ratify a treaty, which can have tremendous importance at home and abroad. It takes only a two-thirds vote of those present and voting to override a Presidential veto. It takes only a two-thirds vote of each House of Congress to propose a constitutional amendment which may ultimately be ratified by three-fourths of the States.

Much has been said about majority government. Yet we lose sight of the fact sometimes that we are operating as a republic and not as a pure democracy, as that term is sometimes used. There has been reference to a comparison of the Senate of the United States with other legislative bodies. I say most respectfully I do not believe that any comparison can be made between the Senate of the United States and any other legislative body in the world. It is not comparable to the distinguished body at the other end of the Capitol. All 435 Members of that great body are elected each 2 years. There is no continuity of membership in that body except as determined by the voters in the respective States.

The Senate is not comparable with a State legislature. I say it most respectfully, because I have served in both houses of the legislature of my State. The Senate of the United States was created as a result of a compromise in order to build this Republic. Unless there had been that compromise, unless the States as sovereign entities could have had equal representation in this Chamber, there might never have been created the Republic which has now grown from a small Nation of 3 million people on the Atlantic Coast to a great Nation of 168 million people stretching from the Atlantic to the Pacific—the greatest Nation ever known, a Nation which has provided for our people a higher standard of living than any other people have known at any time and at any place in history.

It was a part of the contract that was entered into for the creation of this Federal Republic that the Senate of the United States should be constituted as it is, and so long as I have the breath of life in my body, I will fight to prevent diminishing in the slightest degree the power, the duties, and the responsibilities of the Senate of the United States.

Mr. President, what is the situation? If the motion to lay on the table should be defeated. There would be created the jungle to which I have referred. Under what parliamentary rules would the Senate then proceed? It has been suggested by some outside sources that the Senate could use Robert's Rules of Order. But why Robert's Rules of Order? Is anyone to say that we should take a book, able though it is, which is sold for profit, in which, so far as I know, not a single Member of the existing Senate or of any past Senate has had a word to say about 1 page or 1 line or a single rule of the book, and adopt it in place of the rules adopted by the Senate over the years and supported by 167 years of tradition. These rules have been handed down to us by Members of this body, or our predecessors at least, who helped to adopt the rules and to amend them. Why Robert's Rules of Order? I have in my hand a list of a few other rules of order, about which I have some idea, and which are in current use in schools, colleges, debating societies, chambers of commerce, and perhaps in union meetings; but these organizations—all of them—are different from the Senate of the United States, which is a part of our great Federal system, and those rules cannot be compared with rules devised to govern the Senate of the United States.

What are those other "rules of order?"

Parliamentary Procedure, by Rose Marie Crugan; Handbook of Parliamentary Procedure, by Henry A. Davidson; Lex Parliamentaria Americana, by Luther Stearns Cushing; Manual of Parliamentary Practice, by Luther Stearns Cushing; Rules of Proceeding and Debate in Deliberative Assemblies, by Luther Stearns Cushing; Precedents of Proceedings in the House of Commons, by John Hatsell; A Manual of Parliamentary Practice, by Thomas Jefferson; Manual of Legislative Procedure, by Paul Mason. This work is used in the California Legislature.

Sturgis Standard Code of Parliamentary Procedure, by Alice Fleenor Sturgis; A Handbook on Parliamentary Practice, by Rufus Waples.

All these are in addition to Robert's Rules of Order.

Are we to take 2 weeks, or a month, to decide what temporary rules we shall use, before we establish a single committee of the Senate?

Mr. President, I have used more than my time, but I have a very deep conviction on this subject, and I would not feel that, as minority leader, I was discharging my duty to my colleagues on this side of the aisle or to my colleagues on the other side of the aisle, unless I mentioned these matters.

I think there is an orderly way to proceed. When I occupied the position of majority leader, I helped to break what some people called a filibuster with respect to legislation to which the Senator from Oregon [Mr. MORSE] referred. I know that he is a very sincere man. He did not consider that he was conducting a filibuster. I assume that he

considered that he was educating the people of the country, so that they might finally be opposed to the proposed legislation which was adopted despite his opposition. Other Members, when they conduct prolonged discussion, feel that it is not a filibuster, but that it is an educational process. Senators may honestly differ on that question. But I certainly would not deny any Member of this body the opportunity freely and fully to discuss legislation of importance to the Nation and to the respective States.

There was some talk earlier to the effect that the statement that we would have no rules if the pending proposal were adopted was not accurate, because of the passage of the La Follette-Monroney Act. The distinguished Senator from Oklahoma [Mr. MONRONEY], who was then a Member of the House, and who coauthored, with the great Bob La Follette, the La Follette-Monroney Act, spoke a while ago. I wish every Member of this body could have been present to hear him. He made it very clear, I believe, that the rule change sections of the La Follette-Monroney Act, in effect only amended existing rules of the Senate. If there are no rules, obviously there can be no effective amendments. Therefore we fall back to the jungle. If we have no rules, there are no committees to which the President's message can be referred tomorrow. There is no committee to which we may refer a proposed amendment to the rules. There is no committee to which we can refer the civil-rights bill, which I hope will be introduced on Monday.

The Senate of the United States, consisting of 96 Members, should recognize the conditions with which the Senate will be confronted if the proposed action is taken.

I conclude by saying that, of course, I am interested in civil rights. I think every American is interested in civil rights. I am interested in making certain that every American who is entitled to a vote under the Constitution shall enjoy the right to vote, and to express his views as an American citizen, whether he lives in the North, the South, the East, or the West.

But, as an American citizen and as a United States Senator, I am equally interested in making sure that if a citizen, under existing law, casts his vote, and the vote is counted, the vote shall be honored, whether in the North, the South, the East, or the West. The counting and the honoring of the votes already cast by American citizens is also an important and a basic civil right.

I make this final plea: Before the vote is taken at the hour of 6 o'clock, the Senate of the United States should recognize that it is proposed to upset 167 years of tradition, of precedent, of orderly procedure, by reason of which, regardless of whatever emergency occurs, the Senate is always ready for business.

I point out one situation which is likely never to happen, but which could happen. Suppose that on the third day of January of 1957 the new Members-elect, representing one-third of the membership of the Senate, had decided, in the interest of getting together and becoming acquainted, that they would meet at a luncheon. Suppose that some great catastrophe had occurred and all 32 of the Senators-elect had been killed in a single instant. It is true that in due time the governors of their respective States could fill the vacancies, and probably in days, weeks, or months, if the vacancies could be filled by appointment, without requiring election—as is the case in most States, where the governor can fill a vacancy—those places could be filled. But in the meantime, without a single new Member, the Senate of the United States, as a continuing body, with continuing rules, could meet, could receive messages from the President of the United States, and could carry on the public business.

I hope the motion of the majority leader [Mr. JOHNSON of Texas] will be adopted by an overwhelming vote.

Mr. ANDERSON. Mr. President, I yield 3 minutes to the senior Senator from Colorado [Mr. ALLOTT].

Mr. ALLOTT. Mr. President, I honor and respect the views just voiced so ably by the minority leader. But I am not afraid, on this evening, that the United States Senate is about to enter into a jungle, or into a period of anarchy.

I oppose the motion made by the majority leader, and I do it upon a legal and constitutional ground.

First of all, it seems to me that one of the greatest mistakes that has been made in connection with this entire subject is to confuse the question of civil rights with the question which is here being considered.

The fundamental question before the Senate is whether or not the Senate shall proceed to adopt its rules. If we deny that the Senate now has the opportunity and the right to do so, in effect we deny that at the time the Senate meets to organize it can adopt the rules which shall govern it. If the Constitution means anything, it means that as we meet, we can adopt rules to govern the procedure of the Senate.

I think the minority leader placed his finger very ably on one point, when he defined what he would be willing to vote for in the way of a modification of the rules. That is what I would vote for. I do not say glibly, "Let us have a vote and a rule by majority," because there are some things in Government procedure, some things in connection with procedures of this body, which are far too serious to be governed by a mere majority vote. At times there are votes which affect one State or two States. Any Member of the Senate may find himself in the position of voting upon a proposal which involves only his own State, or perhaps his own State and another State. We do not wish to be shut off by a mere majority vote from having an opportunity to discuss any subject before the Senate.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, may I have an additional half minute?

Mr. ANDERSON. I yield an additional half minute to the Senator from Colorado.

Mr. ALLOTT. Because I feel that we should not impose upon this session of the Senate fewer rights than the Constitution gave to the Senate when it originally created it, I shall vote against the motion of the majority leader, which, in effect, will be a vote in support of the motion of the Senator from New Mexico [Mr. ANDERSON].

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to my colleague, the junior Senator from Texas [Mr. DANIEL].

Mr. DANIEL. Mr. President, the vote which I shall cast in favor of the motion to table this attempt to rewrite the rules of the Senate may be the last that I shall cast as a Member of this distinguished body. If so, I am thankful that circumstances permit my last vote to be in favor of continuing freedom of debate in the United States Senate.

It has been a great honor and privilege to have served in this body during the past 4 years. I shall miss the association and service with my distinguished colleagues. Accurately, this has been called the world's greatest deliberative body. One reason for that is the fact that here we have preserved freedom of debate. If ever that freedom is limited by less than a vote of two-thirds of the membership as now provided by the rules, the Senate will be reduced to the level of an ordinary debating society or the common variety of lesser legislative assemblies.

There are many reasons for this time-honored free debate in the United States Senate. One of the most important is that this is the last resort for elected representatives of the respective States to present their arguments and protect their rights even when they hold what may be for the moment a minority viewpoint. If that right is destroyed here, it is forever lost.

It so happens that during my years in the Senate the only extended debates, sometimes referred to as filibusters, have been conducted or participated in by many of those who speak the loudest today against such procedure of free and full debate. I hold here a document from the Legislative Service of the Library of Congress entitled "Limitation of Debate in the United States Senate," dated December 1956. Beginning on page 23 there is a list of Outstanding Filibusters from 1841 to 1955, and on page 26 is found:

> 1953: A prolonged debate took place on the so-called tidelands offshore oil bill. It began April 1 and ended May 5. The tidelands debate lasted for 35 days, one of the longest on record. During this debate Senator MORSE established a new record for the longest single speech. On April 24–25 he spoke for 22 hours and 26 minutes.
>
> 1954: An extended debate occurred in July 1954, on a bill to amend the Atomic Energy Act of 1946 (S. 3690). The debate lasted 13 days. On July 26 Senator KNOWLAND sought to invoke cloture on S. 3690, but his motion failed by a vote of 44 yeas to 42 nays.

Debate extended almost to filibuster proportions last year against the Harris-Fulbright bill to amend the Natural Gas Act, and again many of the proponents of this change in the rules actively led that demonstration of free speech.

I happened to be on the other side, actually a coauthor of the tidelands and natural gas bills. The filibusters

were against my own legislation, but never did I wish to deny the opponents the right to speak as long as they desired. It would seem that those who have so freely enjoyed the right of extended debate in this body would be among the last to deny that right to others.

Mr. President, the constitutional and legal precedents against this procedure have been covered fully by others who have spoken in favor of the motion to table. I simply concur in what has been said, and ask unanimous consent to have placed in the RECORD a brief prepared by the Library of Congress citing the precedents for what should be our decision today—that the Senate is a continuing body with existing rules which cannot be changed except as provided for therein.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

IS THE SENATE A CONTINUING BODY?

PRO BRIEF

I. Constitutional construction supporting the theory that the Senate is a continuing body

Applying two cardinal rules of constitutional construction, viz: That the Constitution must be construed as a whole, *Town of Concord* v. *Portsmouth Savings Bank* ((1875) 92 U. S. 625), and that it cannot be presumed that any clause is intended to be without effect, *Marbury* v. *Madison* ((1803) 1 Cr. 137), to article I, section 3 of the Constitution of the United States, which provides for two-thirds of the membership of the Senate to be in office at all times, and to article I, section 3, which provides that a majority of the Senate shall constitute a quorum to do business, it is apparent that the Senate was intended to be and is a continuing body. These provisions assuring a quorum of qualified Senators at all times could have no other purpose than to make the Senate a continuing body.

II. Judicial decisions supporting the theory that the Senate is a continuing body

The Supreme Court of the United States has held that the Senate is a continuing body. *McGrain* v. *Daugherty* ((1926) 273 U. S. 135). In this case the Court said, at pages 180–181:

"Another question has arisen which should be noticed. It is whether the case has become moot. The investigation was ordered and the committee appointed during the 68th Congress. That Congress expired March 4, 1925. The resolution ordering the investigation in terms limited the committee's authority to the period of the 68th Congress; but this apparently was changed by a later and amendatory resolution authorizing the committee to sit at such times and places as it might deem advisable or necessary. It is said in Jefferson's Manual: 'Neither House can continue any portion of itself in any parliamentary function beyond the end of the session without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose.' But the context shows that the reference is to the two houses of Parliament when adjourned by prorogation or dissolution by the King. The rule may be the same with the House of Representatives whose Members are all elected for the period of a single Congress; but it cannot well be the same with the Senate, which is a continuing body whose members are elected for a term of 6 years and so divided into classes that the seats of one-third only become vacant at the end of each Congress, two-thirds always continuing into the next Congress, save as vacancies may occur through death or resignation.

"Mr. Hinds in his collection of precedents says: 'The Senate, as a continuing body, may continue its committees through the recess following the expiration of a Congress'; and, after quoting the above statement from Jefferson's Manual, he says: 'The Senate, however, being a continuing body, gives authority to its committees during the recess after the expiration of a Congress.'"

The people ordained and established the Constitution as the supreme law of the land, *United States* v. *Butler* ((1936), 297 U. S. 1), and the Constitution established the Supreme Court as the final authority to determine the meaning and application of those words of that instrument which require interpretation. *Pennkamp* v. *Florida* ((1946), 328 U. S. 331). The argument of the opponents of the thesis that the Senate is a continuing body to the effect that the foregoing statement in *McGrain* v. *Daugherty*, supra, is obiter dictum, because the Court did not rest its finding exclusively on this point, is without foundation. A reason for a decision is not obiter dictum merely because it is one of two reasons for the conclusion. *Richmond Screw Anchor Co.* v. *United States* ((1928), 275 U. S. 331); *United States* v. *Title Insurance & Trust Co.* ((1924), 265 U. S. 472). A tacit recognition of a point in a decision is equivalent to an expressed determination. See *Cliquot's Champagne* ((1866), 3 Wall. 114).

The highest courts of two States recognize the rule of decision in *McGrain* v. *Daugherty*, supra, that the United States Senate is a continuing body. See *Robertson* v. *State* ((Ind. 1887), 79 N. E. 582); *Petition of Special Assembly Interim Committee, etc.* ((Cal. 1938), 90 P. 2d 304, 308); *Swing* v. *Riley* ((Cal. 1939), 90 P. 2d 313).

The opponents of the theory that the Senate is a continuing body cite these two cases along with a New Jersey case, *State* v. *Rogers* ((1894, 28 A. 726), for the proposition that courts of these States, with constitutional provisions for overlapping terms for senators, have held that their senates are not continuing bodies. While the bald statement is true, it fails to disclose the underlying differences between these senates and the United States Senate. The following quotes show beyond cavil that these cases cannot be used by way of analogy as authority for the proposition that the United States Senate is not a continuing body.

In the Indiana case the court stated:

"In the Senate of the United States a majority constitutes a quorum and as there is always more than a quorum of qualified Senators holding seats in that body, its organized existence is necessarily continuous. But in the senate of this State two-thirds of its members are necessary to make a quorum. As one-half of its members go out of office at the end of each legislative term of 2 years—that is to say, on the day after each general and biennial election—it becomes, at the end of each such legislative term, a disorganized body."

In the New Jersey case the court stated:

"Beyond all question, we here find that a duty is imposed on both the assembly and the senate to confer at an appointed time, and to effect a yearly organization. Such a regulation is appropriate to a body that expires yearly, but it is inappropriate and unprecedented in its application to a body that is possessed of a permanent life In the practice of the United States Senate, which, we have stated, is an ever-living body, there is no fixed day for the admission of new members-elect."

Here is a State court, before the decision in *McGrain* v. *Daugherty*, stating that the Senate is a continuing body.

In California, the court in the case of *Petition of Special Assembly Interim Committee, etc., supra*, stated at page 310:

"Whatever may be the rule as to the United States Congress, it is quite clear that in this State the legislature is not a continuing body—each session is composed of a new body, separate from its predecessor, all of the members of the assembly and one-half of the members of the senate being newly elected for each regular session."

In the second California case the court disposed of the contention that its senate was a continuing body by pointing out that 50 percent of the senate membership at each regular session is newly elected. See page 315.

III. Customs and rules of the Senate support the theory that the Senate is a continuing body

While there is no direct precedent on the question as to whether the Senate is a continuing body, most of what might be called collateral precedents flowing from the customs and rules of the Senate definitely point to the acceptance of the theory that the Senate is a continuing body.

It has been the custom of the Senate since its organization, to begin the operation of each new Congress without readopting or reaffirming its rules and to continue its elected officers from Congress to Congress, except when there has been a change of party control. In addition to these customs, the rules of the Senate, and the Legislative Reorganization Act of 1946, would appear to be predicated upon the underlying concept that the Senate is a continuing body. Rule 25 (2) provides that "each standing committee shall continue and have the power to act until their successors are appointed." Section 134 of the Legislative Reorganization Act provides that: "each standing committee of the Senate * * * is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate as it deems advisable."

These long-continued, contemporaneous, and practical precedents, necessarily predicated on the Senate being a continuing body, must be given great weight. See *United States* v. *State Bank of North Carolina* ((1832) 6 Pet. 29). A congressional construction of the Constitution which has been followed since the founding of the Federal Government is entitled to great respect. *Ex parte Quirin* ((1942) 317 U. S. 1).

IV. Support for the theory that the Senate is a continuing body from authoritative writers in the field of Government

Many of the authoritative writers in the field of Government have stated categorically that the United States Senate is a continuing body. "The Senate has never required reorganization since the beginning of the Government." Lodge, "Senate of the United States," page 11. "It * * * meets fully organized and provided with rules determining its methods of procedures." Willoughby, "Principles of Legislative Organization and Administration," page 243; "[It] * * * is a continuing body." Haynes, "Senate of the United States," page 341. See IV, Hinds Precedents, 4396, 4400, 4404–4405.

The reasoning of distinguished writers and the unbroken rule followed by the Senate may be considered in determining the meaning of provisions of the Constitution. See *Stockton* v. *McFarland* ((Ariz. 1940) 160 pp. 2d 328).

V. Nonapplication of the proposition that one Congress cannot bind another to the issue of whether the Senate is a continuing body

The argument that one Congress cannot bind a subsequent Congress has no application to the issue as to whether the Senate is a continuing body. Neither a continuing nor a noncontinuing body may pass an irrevocable rule. To admit that difficulty exists in changing the rules of the Senate is to admit that the rules are revocable.

VI. Conclusion

The pertinent constitutional provisions, an unequivocal decision by the Supreme Court that the Senate is a continuing body,

Senate customs and rules, and writings by leading authorities in the field of Government prove conclusively that the Senate is a continuing body.

Mr. ANDERSON. Mr. President, in order that the majority leader may have an opportunity to close the debate, I yield myself the remainder of the time available to my side of the question.

I wish to reply, at least in part, to what the able minority leader [Mr. KNOWLAND] has stated. I am sure no Senator will misunderstand what I say. I wish to assure everyone that I regard the able minority leader as a fine and upright and honorable man, as my good friend, and as an able leader. I am sure everyone will understand that nothing I say is intended to be critical of him.

I should like to say to him that I have walked with him and have shivered with him and have gone through the jungle with him—through the jungle where no rules exist. I should like to reassure him and bring him a little faith by pointing out to him that the House of Representatives yesterday walked into the same jungle and 30 seconds later marched out intact. The House had adopted rules, just as the Senate can adopt rules.

If he will read from page 47 of yesterday's CONGRESSIONAL RECORD, he will find that in the House rules were adopted in about 30 seconds.

The able minority leader also has said that we would be breaking the traditions of 167 years. Yes, Mr. President, in the House of Representatives, in 1890, they did break the traditions, by the courage of a great Speaker. The last time I visited the Hall of the House of Representatives there was not a crack in it. The Republic had not fallen. Somehow the Members of the House got through that jungle unscathed. The minority leader said that some awful Senate, by a bare majority, could adopt a rule of germaneness and thereby hurt the people of the country.

By a majority vote, in 1949, the Senate did just that. It provided that the Senate could not change its rules except by almost unanimous consent.

At that time I was one of those who were rolled under. Ever since then I have lifted my voice in an effort to get away from that evil situation. Why should it not be possible to end this evil thing in a decent fashion?

I should like to say to the able minority leader, as I have said to other Senators, that I subscribe exactly to what he has outlined. I have never advocated majority cloture. I subscribe almost identically to the words he has used. I say to him, as St. Paul said to the Athenians: "That which ye have worshipped without knowing, come I to declare unto you."

Let us extirpate this evil. Let us do it now. In view of the statement made by the Vice President, it can be done now.

Oh, Mr. President, the Senator from California will find that he can send his resolution to the Committee on Rules and Administration, but that after weeks and after months it will not see the light of day on the floor of the Senate. It will not see the light of day on the floor, anymore than did the resolution of the Senator from Indiana [Mr. JENNER].

The Committee on Rules and Administration wrestled and wrestled with the matter. It labored long and brought forth a mouse, and placed it on the calendar of the Senate. There it reposed, quietly. No one ever moved to bring it up.

In the last Congress, we talked about doing something about cleaning up elections. A bill to control and clean up elections was introduced with the sponsorship of 88 Senators. That bill never saw the light of day on the floor of the Senate. If all the Senators on the other side of the aisle and half of the Senators on this side of the aisle will join in the proposal the Senator from California has made, it will still safely stay on the calendar and never see the light of day. Why do I say that? I say it advisedly, because I have been trying to follow this matter for a long time.

I refer Senators to CONGRESSIONAL RECORD, volume 95, part 1, page 131, where the Senator from California said that something should be done to end filibusters and to make it possible for the Senate to operate. He said:

> So long as a filibuster may be conducted against a motion to take up a bill, not even two-thirds of the Members of the Senate can bring to a close the debate whenever it is the desire of one man or a small group of men to obstruct the legislative process.

On the same day, at page 133 of the RECORD, I find this statement by the able Senator from California. The Senator from Kentucky, Mr. Barkley, had yielded to the Senator from California. The able Senator from California said:

> I should like to say to the able Senator from Kentucky, who is soon to leave the floor of the Senate and to preside over its deliberations, that I can testify that on a number of occasions he has been vitally interested in finding some way to terminate a filibuster, as were some of us on this side of the aisle. But I also wish to point out to the able Senator from Kentucky, and I think he will agree to this, that if we are ever to get an amendment to the rules of the Senate we should endeavor to get it very early in the session.

That is why I say if we wish to do anything about it, we must do it now.

In the CONGRESSIONAL RECORD, volume 95, part 1, page 597, he is quoted as saying that he would try to bring about a change in the rules. I say he was sincere in that statement. That statement was honestly made. He tried hard, because I was doing my best to help him.

On page 598 of the RECORD of the same day he said:

> The Senator from California in the 3 years he has been privileged to serve as a Member of this body has certainly learned that unless an amendment to the rules of this nature is brought to the Senate of the United States in the early days of the session, there is no opportunity of obtaining consideration for it.
>
> If the Senator from California seems to be a little aggressive along these lines—

And he was a little—

> I can assure the Senator from Illinois that it is because of the experience I have gained in this honorable body, that action should be taken early in the session.

Therefore, Mr. President, I plead with the Senate to take action early in the session. Now is the hour. This is the time to move. Do not lay the motion on the table. Let it come to a head, and we shall get rules just as the House of Representatives gets rules—possibly not quite so quickly, but we shall have rules, and get them without difficulty. In the meantime, we shall find an easy way to operate, as the House does. It has no particular rules while it is organizing, except general parliamentary rules. That is what the first Senate had, and that is what this Senate can have.

I hope the Senate will not vote to lay the motion on the table, but will, instead, in the early days of the session, have a chance to change the rule.

The VICE PRESIDENT. The time of the Senator from New Mexico has expired, and the Senator from Texas is recognized for 19 minutes.

Mr. JOHNSON of Texas. Mr. President, like my distinguished friend from New Mexico [Mr. ANDERSON], I served several terms in the House of Representatives, and I have great respect for that body. But God forbid that there will come a time when we turn the Senate into a House of Representatives or the House of Representatives into a Senate. Each body was conceived to fulfill a specific function and it would not serve the country for either to trespass on the other. We will not stay within our own proper function if we merely search for an easy way to operate as has been suggested.

Mr. President, I believe the issue which is before the Senate today involves the most difficult decision that any Senator will be called upon to make during the entire session.

It is an issue upon which feelings are strong and honorable men differ deeply. Attitudes cut across party lines and separate men who are otherwise together.

Some years ago I anticipated the type of situation in which there is no clear-cut viewpoint divided within the customary groupings of the Senate. This is an occasion which always brings great difficulties to a man who occupies a position of leadership.

Speaking to my colleagues on this side of the aisle, I outlined to them my concept of how I could properly act under such circumstances. I said, and I quote:

> In those instances where we may disagree I will state and vote my disagreement. But I will do my utmost at the same time to protect the rights of those with whom I disagree.

In my opinion, we have reached a position where no one man can fully express the views of all the Members of the Senate or all of the Members on either side of the aisle. In this situation I have tried to carry out my pledge—a pledge which covers not just my colleagues on this side of the aisle but all of the Members of the Senate.

I have sought to work out conditions of debate in which every Member will have the fullest opportunity to present his views. This, of course, is purely a procedural question. There are a number of courses which could have been followed.

Without the unanimous-consent agreement it would have been possible to shut off debate at any time—even immediately following the presentation of the motion by the junior Senator from New Mexico—and bring the motion to a vote. This might have brought everything to a close immediately but it would not have been in accord with the rights Senators should have to state their views.

As the situation now stands, everyone has the right to present his case under reasonable conditions worked out by reasonable men. At the end of the presentation, the Senate itself can vote and can decide.

With that responsibility fulfilled to the extent of my capacity, I now have an obligation to state my attitude as a United States Senator toward this question which involves the nature of our Senate and the conditions under which we will legislate for many years to come.

These views are my own as an elected Senator for the State of Texas. I do not seek to impose them on anyone else as I am sure that other Senators do not seek to impose their views upon me.

My viewpoint does not reflect my attitude toward any specific piece of legislation. My concept of the rules of the Senate remains the same regardless of whether I favor or oppose any bill to which they may be applied.

I believe in taking the bitter with the sweet. If the rules operate against me, I shall never complain; and if they operate in my favor, I shall never exalt. I consider the rules a stabilizing force—and they must be stable if we are to maintain our social and economic freedom in this rapidly changing world.

I do not believe that those who favor this motion will contend that they are primarily interested in the nature of the Senate as a continuing body. Their move is being made for one reason and one reason only.

They seek through the continuing body issue to reach rule 22 today. They seek through rule 22 to reach civil-rights legislation which they insist cannot be passed by any other means.

I do not question the sincerity of their procedures or their objectives. But I think they are wrong—and that their proposal, if successful, could open the way to legislative turmoil and could produce a weapon that could be used with frightening consequences against the minorities in our Nation.

However irksome it may be at times, I think we will all agree that the procedures of the Senate are designed to protect minorities under all circumstances. Sometimes minorities have used these procedures foolishly and sometimes wisely. But we do not substitute wisdom for folly by granting a majority the right to override the minority at any time.

In this instance, we are asked to abandon our traditional safeguards of minority rights in order to get legislation which might protect a minority under specific circumstances—and then again might not. I am not opposed to legislation just because it is experimental. But I am opposed to paying too high a price for experimenting—too high in terms of sacrificing traditional protection for freedom.

Furthermore, I cannot agree with the contention that rule 22 prevents the Senate from acting on any subject within its proper jurisdiction.

It has been my experience in the Congress that a truly determined and united majority cannot be blocked from exercising its will. A majority that is frustrated should reexamine its position and it will find a proper and constructive path for action.

For these reasons, I am compelled to oppose this effort to upset a concept under which the Senate has operated for 168 years. I agree with those urging this course of action that longevity alone is no reason to maintain a procedure.

But it is a reason to stop and ask ourselves whether the change is proper, whether the change is necessary, and whether it will enrich, rather than impoverish, our national life.

Within the limits of the material I have been able to find, I cannot see any shadow of doubt as to the continuing nature of the Senate.

This is apparent from the expressed philosophy of the men who wrote the Constitution; from the 6-year terms and the rotational service which leave us at all times with a quorum able to transact business.

This fact is so apparent that it is not now seriously challenged by those who are pursuing this course of argument. Instead, they are claiming that the continuity of the Senate does not include the continuity of the rules and that article I, section 5, of the Constitution requires the Senate in each Congress to adopt its rules anew.

I am not a lawyer and I do not pretend to be an expert on constitutional interpretation. But I cannot see that the language of article I, section 5—which is written in exceptionally clear English—provides for any such thing. It merely states:

> Each House may determine the rules of its proceedings.

There is nothing here which gives any shadow of substance to the belief that we must act upon our rules every 2 years. Trying as hard as I can, I can find no other interpretation except that we have the right to determine our rules without regard to any other parliamentary body.

Had there been any other intention, the men who wrote the Constitution—men who had a tremendous capacity to express themselves—would certainly have said so. And had they intended to establish the novel and precedent-breaking concept that a continuing body must change its rules every 2 years, they could hardly have failed to notice the clear lack of any such expression in the document they were drafting for the permanent guidance of the United States.

It seems to me that this point is clear and accepted by practically every authority. I will cite only one, although it would be a simple matter to find others.

Prof. Edward S. Corwin, for many years editor of the annotated volume of the Constitution published periodically by the Library of Congress, is an outstanding authority. He says:

> The Senate is a continuing body. * * * Hence its rules remain in force from Congress to Congress except as they are changed from time to time, whereas those of the House are readopted at the outset of each new Congress.

We can, of course, change the rules at any time a sufficient number of Senators desire to do so. To insist that they cannot be changed because the present cloture rule is inadequate does not accord with our history. The fact remains that a Senate which had no cloture rule at all was able to write and adopt a cloture rule.

And the cloture rule to which I refer was adopted without going around Robin Hood's barn to obtain a ruling that the Senate is not a continuing body.

I cannot see the prudence of now opening the Senate to a prolonged and chaotic period by making a decision which would deprive us of all of our rules and all of the things that go with those rules, including our committee structure.

If we were to find ourselves in such a situation, I am afraid we might lose our power to act—and the loss might be much more than temporary.

I am well aware of the problems that have arisen in our country that the proponents of this motion seek to solve. I agree with them that effective methods should be found to solve those problems—methods that guarantee justice and the preservation of our free institutions.

But there is no solution in abandoning a rule that was designed specifically to protect minorities. We do not add to the sum total of human freedoms by exchanging one protection which we know works for another which at best is only speculative.

We are being asked for a ruling that the Senate is a discontinuing body insofar as its rules are concerned, and this course could have unforeseen and troublesome consequences. We are being asked to abandon a reasonable freedom of debate, a freedom which once rescued one of the most basic of our liberties, the writ of habeas corpus.

Mr. President, it is my belief that this Congress can act effectively on any proposed legislation that is within its legitimate sphere. Hasty or ill-conceived action that does not accord with the realities within our Nation will encounter stern and unrelenting opposition.

But I have great faith in the ability of reasonable men to find a solution to any problem, no matter how grave it may be. And the solution does not require that a majority have the right to ride roughshod over a minority.

But the rules of the Senate are a bulwark against rash action by a temporary majority. No one needs such a bulwark more than the minorities.

I should like to remind my colleagues, Mr. President, that while we are a temporary majority today, we may be a minority tomorrow; and we may be protecting that minority by the rules of the Senate which are denounced today.

There are times, of course, when such a bulwark may be vexatious and irksome. But I know of no way to write a rule which can be applied in some cases and withheld in other cases.

Mr. President, it is my belief that the rules of the Senate cannot be conducted on the basis of a popularity contest, changing with every stray gust of wind from all points of the political compass. I hope that a majority of my colleagues in the Senate, on both sides of the aisle, will subscribe to that view. But whatever their view, I wish to congratulate each and every Senator for the dignity and the reason with which he has approached the debate on this question.

I say with great pride that as a young Member I sat in this body and heard the then distinguished majority leader, Senator Taft, perform his duty to protect the rules of the Senate by moving to table a similar motion of the Senator from New Mexico [Mr. ANDERSON]. That was 4 years ago. The motion to table was made on the instruction of the Republican conference, with, as I recall Senator Taft saying, only one dissenting voice. As I further recall, there were only a few dissenting votes when the vote was taken in the Senate.

There is an old saying that if you know you are right, and you just keep a-coming, no gun can stop you.

It was with great pride that I listened to the eloquence of the minority leader when he pleaded for reason and sanity and due process in order that a majority of the Senate may work its way, but work its way under the rules the Senate has laid down.

I urge that my motion to lay on the table be supported.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Case, N. J.	Flanders
Allott	Case, S. Dak.	Frear
Anderson	Chavez	Fulbright
Barrett	Church	Goldwater
Beall	Clark	Gore
Bennett	Cooper	Green
Bible	Cotton	Hayden
Bricker	Curtis	Hennings
Bridges	Daniel	Hickenlooper
Bush	Dirksen	Hill
Butler	Douglas	Holland
Byrd	Dworshak	Hruska
Capehart	Eastland	Humphrey
Carlson	Ellender	Ives
Carroll	Ervin	Jackson
Jenner	McCarthy	Russell
Johnson, Tex.	McClellan	Saltonstall
Johnston, S. C.	McNamara	Schoeppel
Kefauver	Monroney	Scott
Kennedy	Morse	Smathers
Kerr	Morton	Smith, Maine
Knowland	Mundt	Smith, N. J.
Kuchel	Murray	Sparkman
Langer	Neuberger	Stennis
Lausche	O'Mahoney	Symington
Long	Pastore	Talmadge
Magnuson	Payne	Thurmond
Malone	Potter	Thye
Mansfield	Purtell	Watkins
Martin, Iowa	Revercomb	Williams
Martin, Pa.	Robertson	Young

The VICE PRESIDENT. A quorum is present.

Mr. JOHNSON of Texas. Mr. President, on the pending question I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas [Mr. JOHNSON] to lay on the table the motion of the Senator from New Mexico [Mr. ANDERSON].

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Illinois will state it.

Mr. DOUGLAS. Will the Chair restate the pending question?

The VICE PRESIDENT. The pending question is on agreeing to the motion of the Senator from Texas [Mr. JOHNSON] to lay on the table the motion of the Senator from New Mexico [Mr. ANDERSON.]

On this question the yeas and nays have been ordered, and the Secretary will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West Virginia [Mr. NEELY] is absent because of illness.

I further announce that if the Senator from West Virginia [Mr. NEELY] were present and voting, he would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Wisconsin [Mr. WILEY] is absent on official business. If present and voting, he would vote "nay."

The result was announced—yeas 55, nays 38, as follows:

YEAS—55

Barrett	Byrd	Daniel
Bennett	Capehart	Dirksen
Bible	Carlson	Dworshak
Bricker	Case, S. Dak.	Eastland
Bridges	Cotton	Ellender
Butler	Curtis	Ervin
Frear	Kerr	Saltonstall
Fulbright	Knowland	Schoeppel
Goldwater	Langer	Scott
Gore	Long	Smathers
Green	Malone	Sparkman
Hayden	Martin, Pa.	Stennis
Hickenlooper	McCarthy	Talmadge
Hill	McClellan	Thurmond
Holland	Monroney	Watkins
Hruska	Mundt	Williams
Jenner	Revercomb	Young
Johnson, Tex.	Robertson	
Johnston, S. C.	Russell	

NAYS—38

Aiken	Hennings	Morton
Allott	Humphrey	Murray
Anderson	Ives	Neuberger
Beall	Jackson	O'Mahoney
Bush	Kefauver	Pastore
Carroll	Kennedy	Payne
Case, N. J.	Kuchel	Potter
Chavez	Lausche	Purtell
Church	Magnuson	Smith, Maine
Clark	Mansfield	Smith, N. J.
Cooper	Martin, Iowa	Symington
Douglas	McNamara	Thye
Flanders	Morse	

NOT VOTING—2

Neely	Wiley

So the motion to lay on the table was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move to reconsider the vote by which the motion of the Senator from New Mexico was laid on the table.

Mr. KNOWLAND. Mr. President, I move to lay on the table the motion to reconsider.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from California to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

ARTICLES PRINTED IN THE RECORD

On request, and by unanimous consent, an article was ordered to be printed in the RECORD, as follows:

By Mr. MCCARTHY:

A series of articles entitled "Senator MCCARTHY Reports to the People of Wisconsin."

RECESS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate stand in recess until tomorrow at 12 o'clock noon.

The motion was agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate took a recess until tomorrow, Saturday, January 5, 1957, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

Hon. Joseph R. McCarthy Reports to the People of Wisconsin

EXTENSION OF REMARKS

OF

HON. JOSEPH R. McCARTHY

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Friday, January 4, 1957

Mr. MCCARTHY. Mr. President, from time to time I plan to send to the people of Wisconsin a series of reports. I hope to cover topics of current interest so as to give them a clearer idea of the work we are doing in Washington.

I hold in my hand now the reports already made, comprising 11, and I ask unanimous consent to have them printed in the RECORD.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

REPORT No. 1

The first major legislation on the Senate calendar this year is the Harris bill which seeks to remove direct Federal controls over natural gas production. This bill has stirred up an unusual amount of public interest since it will affect the household budgets of millions of gas consumers.

I am supporting the Harris bill because I believe that our free enterprise system, which the bill promotes, not only safeguards our liberties, but also is the best protection we have against high prices. If the Harris bill is passed, it will mean cheaper gas for the home-user.

The gas producing industry is not a monopoly. There are over 8,000 producers of natural gas, not one of whom supplies over 5 percent of the market. Beyond this, gas producers must compete for the fuel market with producers of coal and oil. The gas production business is thus highly competitive and does not need Federal regulation.

Now, how will the removal of Federal controls affect your gas bill? First, it should be noted that the field price of gas (which

opponents of the Harris bill want to regulate) is only a very small part of the customer's gas bill. To illustrate this point: The cost of gas to the average Wisconsin family is $74.62 a year; but if the gas producer should give away his product—if gas were free—this average family would save only $4.96 a year. (The major portion of the consumer's gas bill goes to those who transport and distribute the gas.) The prices charged by those who transport the gas would still be regulated under the Harris bill.

The aim of the Harris bill is to reduce the price of gas to the home-user by increasing the supply of gas.

The principal reason for the recent increase in the price of gas is that increases in the supply of gas have not kept pace with the increased demand for it. In the last 10 years, the consumption of gas has doubled—as you know, millions of homes have converted over to gas from coal or oil. During the same period, available gas reserves have increased by only one-third. Now: when demand outstrips supply, prices will rise—it is the law of supply and demand.

But why is the supply of gas lagging so as to drive up the price the housewife must pay for gas. One of the main reasons gas prices have risen sharply in the past 2 years is Federal regulation of gas production. Federal controls—the very controls that the Harris bill seeks to remove—have discouraged the investment of risk capital that is needed for new gas discoveries. As a result, additions to gas reserves have drastically decreased. Moreover, many producers in Texas, Oklahoma, and Louisiana—instead of submitting to Federal regulation—have begun to divert their gas to local utilities and to nonfuel uses, such as the manufacture of carbon black. This also cut down the supply of gas available to home-users in Wisconsin.

If Federal controls are kept on, the present trend is bound to continue: Less and less gas will be added to present reserves, and more and more of the gas that is available will be diverted for local use in the gas-producing States. This means that the Wisconsin housewife will have to pay higher and higher prices for gas, and it may mean, in the not too distant future, that the gas supply to the Midwest will be cut off altogether.

The Harris bill seeks to prevent this from happening.

In the event a gas producer corners some section of the market and tries to hike his price above the market level, the Harris bill provides adequate protection. It prevents any producer from selling gas in interstate commerce at higher than the reasonable market price.

If the Harris gas bill is passed it will mean more gas which in turn will mean cheaper gas for the housewife.

Finally, I fear that Federal regulation of this competitive industry is a step toward socializing our entire economy. If gas production is subjected to Federal regulation, there is no logical reason not to regulate coal and oil production. And if all fuel production is regulated, why stop there? Why not impose Federal controls on the production of cheese and milk? To prevent the socialization of our country, I believe Americans must stand together and oppose the attempts of the planners and the socialists to pick off competitive industries, one by one.

JANUARY 26, 1956.

REPORT NO. 2

The fabulous case of *U. S. v. Hughes*, concluded last week in New York, indicates the unconscionable lengths to which powerful Liberals in this country have gone, and will still go, in order to discredit and defame those who are attempting to expose the Communist conspiracy.

The United States prosecuting attorney, in his opening statement at the Hughes trial, described the case as "one of the most fantastic schemes * * * in all the annals of political intrigue." This was, if anything, an understatement.

Paul Hughes came to my office late in 1953 seeking a job. I never saw the man; but members of my staff interviewed him, and turned down his application. He then went to a number of prominent Liberals, posing as a McCarthy investigator. The Liberals paid him handsomely for a mountain of scandalous and defamatory information about me and the committee—information that is now admitted to be completely false. (An example of this sort of information Hughes peddled: The McCarthy committee maintained an arsenal of submachine guns and Lugers in a secret cache in the Senate Office Building.) All in all, the anti-anti-Communists paid their "secret spy" $10,800 for such information, in an effort that they now admit was designed to eliminate MCCARTHY.

The names of the men who were involved in this attempt to defame a committee of the United States Senate and its chairman read like a who's who of my leading political opponents over the past 6 years: Joseph L. Rauh, chairman of the ADA; Clayton Fritchey, deputy chairman of the Democrat National Committee and editor of the Democratic Digest; Telford Taylor, chairman of the National Committee for an Effective Congress (which masterminded the censure movement); James Wechsler, editor of the New York Post; Philip Graham, James Wiggins, Alfred Friendly, publisher, editor, and managing editor, respectively, of the Washington Post; and Paul Porter, partner of the law firm of Arnold, Fortas, and Porter, attorneys for Owen Lattimore.

The main issue in the Hughes trial was whether Rauh and his cohorts knew that the information they paid for was false—or whether, through their unreasoning hatred of MCCARTHY and congressional investigating committees, they had been duped into believing that Hughes' manifestly ridiculous reports were authentic. The verdict, which resulted in the freeing of Hughes, indicates that an impartial jury believed the Liberals were in the plot as deeply as Hughes. Hughes was indicted for perjury on six counts. Four of them charged that he had lied when he told a grand jury that several of these Liberals were involved in an attempt to get Harvey Matusow to repudiate his testimony against Communists. The other two counts charged that Hughes lied when he testified that Rauh knew that fictitious documents furnished by Hughes were indeed fictitious, and that Rauh knew that the name "Bill Decker," which was affixed to the documents as an attesting witness, was a fictitious name, and was in reality an alias for Paul Hughes.

On 2 of the 4 counts involving Matusow, the jury voted unanimously to acquit Hughes; on the other 2 it split. On the remaining 2 counts, involving Rauh, chairman of the ADA, the jury voted 11 to 1 that Hughes had not lied when he said Rauh was aware that the documents were fraudulent.

Even if the Liberals are to be believed when they claim they were innocent dupes (which the jury verdict makes difficult), they stand convicted of hypocrisy and duplicity of the worst sort. For years they have attempted to frighten the American people with concocted stories about paid secret informers; then, on their own showing, they turn around and hire one of their own. For years they have railed against smearing people on the basis of unsubstantiated evidence; yet on their own showing, Rauh and Fritchey paid $10,800 for smear material to an impostor whose credentials they never bothered to verify. For years they have piously pleaded for fair play in politics; yet on their own showing they paid thousands of dollars for such items of advice from Hughes as that "MCCARTHY will not be defeated by extensive use of fair play (or) squeamishness"—and that a Senate committee and its chairman can be discredited only by relaxing somewhat on ethics.

I am convinced that the full truth behind this ugly attempt to discredit a Senate committee has not yet been revealed—that probably many prominent people are involved beyond those already named. I believe, therefore, that a congressional committee ought to be instructed to investigate the entire matter. I wonder if you agree with me. Since I want you to have all the facts, I regret that space does not permit more than a brief explanation of the case in this letter. A detailed and revealing account of the case can be found in the February 8 and February 15 issues of National Review magazine, 211 East 37th Street, New York City.

FEBRUARY 10, 1956.

REPORT NO. 3

Since the Senate is now debating the farm bill recommended by the Senate Agriculture Committee, I want to devote this letter to the farm problem.

I am seeking to amend this proposed legislation, so that the bill will provide for a mandatory 90 percent support price for dairy products, and will thus give dairy farmers the same benefits as other farmers. As the bill now stands, basic commodities, such as corn, cotton, tobacco, etc., must be supported at 90 percent of parity, while dairy products may be supported at as low as 80 percent of parity, at the discretion of the Secretary of Agriculture. I believe that all farmers should be treated equally, irrespective of what they produce.

As regards the general question of fixed price supports, I continue to believe they are desirable—until such time as just and sensible steps are taken to bring farm production into line with consumption of farm products. I have always felt that President Eisenhower was right when he said in Kasson, Minn., on September 6, 1952, that high, fixed price supports are in the nature of a "moral and legal commitment which must be upheld." Over the past 15 years the farm community has been encouraged by the Government to commit maximum manpower, maximum natural resources, maximum plant and machinery, toward the objective of maximum production. Farmers have made these long-range commitments—often against their best judgment as to the volume of production the domestic market would bear—on their understanding that the Government would see to it that whatever they produced would be bought at fair prices. It seems to me that when the Government suddenly yanks out the rug, and thus defeats the farmer's expectations, it is, in effect, repudiating a moral contract with the farm community.

My own belief is that farmers should get 100 percent supports if they are to receive their fair share of the national income; but since 90 percent supports are the best we can get this year, I shall vote for supports at that level.

What I cannot understand, however, is why the committee should have decided that producers of corn, cotton, tobacco, milling wheat, etc., are entitled to mandatory 90 percent supports, but that producers of dairy commodities are not. Why the discrimination against dairy farmers? Certainly such discrimination cannot be justified by comparing how, say, corn producers have fared under the Benson flexible support policy with how milk producers have fared under that policy. We all know that the Benson policies have had a disastrous effect on the net income of the producers of basic commodities. But the Benson flexible support policy has had the same kind of effect on the income of dairy farmers.

In April 1954 Secretary Benson decided to reduce the support price for dairy products to 75 percent of parity. You know the effect that decision had on the income of Wisconsin farmers who are, primarily, dairy farmers. In 1953, with a 90 percent support price, the average farm family in eastern Wisconsin earned $3,760 net. In 1954, with the Benson low supports in effect, the average family earned only $3,321 net—a drop of 11 percent. In the same period the net income of the average western Wisconsin farmer dropped from $3,159 to $2,494—a decrease of 21 percent. I have been unable to obtain 1955 statistics from the Department of Agriculture, but we all know that the same dreary situation prevailed last year.

Now, if it is true that the tragic consequences of Secretary Benson's policies are being shared by the dairy farmer—and every diary farmer knows this to be true—then why should the Congress deliberately single out dairy farmers as a group that deserves only half-way support measures? The effect of the farm bill, without my amendment, is to treat dairy farmers as though they were second-class citizens in the farm community.

(You should understand that the 80 percent floor on supports for dairy commodities, which the farm bill now authorizes, is a reasonably sure guaranty that dairy prices will be supported at no higher than 80 percent. Secretary Benson is now supporting dairy prices at 75 percent of parity, the minimum allowed by law, and thus appears determined to support dairy prices at as low a level as he can get away with.)

As for the problem of surpluses, one fact that you may not know is that the Agriculture Department is, right now, extremely slow in filling applications for dairy surpluses from charitable institutions. If these orders were filled promptly, the problem of dairy surpluses would not be as pressing as it is today. Nor do I think that the Agriculture Department has done all it might by way of encouraging hospitals, homes for the old and needy, and other charitable institutions, to apply for dairy surpluses. The demand for butter, for example, especially amongst the needy, is relatively elastic; thus if the Department adopted more liberal policies as regards the allotment of dairy surpluses to charitable institutions, we would find that more dairy products would be consumed by the needy without affecting the market price.

Also it seems to me that we have not adequately exploited the opportunities for supplying our friends abroad with our excess dairy commodities. The sorely tried people of Korea, for example, would dearly like to consume dairy products that are surplus in the United States.

Since the basic farm problem is the discrepancy between production and domestic consumption, I think that steps must be taken to reduce the production-consumption gap. But I do not believe that the whole burden of this agonizing readjustment should fall on the farmer, as has been happening under the Benson farm program.

Nor do I believe it is fair to try to lessen the suffering of some farmers, and to leave others in a state of critical depression, as the present farm bill would do. Under our Constitution, and under the American tradition, all of our citizens deserve the equal protection of our laws. This includes dairy farmers.

MARCH 5, 1956.

REPORT NO. 4

Our committee (the Senate Subcommittee on Investigations) has just completed an investigation of current United States-authorized strategic trade with the Communist nations. Since most newspapers have printed few, if any, of the hair-raising details of the committee's findings, I thought I should bring the principal facts to your attention.

The long and short of the matter is that you, the American taxpayer, are subsidizing the construction of the Communist war machine. This conclusion is inescapable since you are footing the bill for billions of dollars of American aid to so-called friendly nations that, in turn, are supplying highly strategic war materials to the Soviet war economy.

The committee's investigation of this matter began in 1954 under my chairmanship and has continued up to the present in the face of strenuous efforts by the executive branch to keep the story from Congress and the American people. The committee discovered that in August 1954 our Government made secret concessions to our allies as regards what they could ship to the Communist bloc without losing American aid. As a result of these concessions, over 200 highly strategic items—such as machine tools, metals, and electronics, transportation and electrical equipment—were removed from the anti-Communist embargo.

I list below a few examples of the materials we agreed to let countries receiving United States aid ship to Soviet Russia, together with an indication of their strategic value.

Electric-power generators up to 60,000 kilowatts, turbines up to 85,000 horsepower, and motors up to 12,500 horsepower: This electrical equipment is used in making fissionable material for atom and hydrogen bombs.

Horizontal boring mills: These machine tools, which cost between $200,000 and $500,000 each, are used in making tanks, artillery weapons, aircraft, and atomic reactors such as those used on the submarine *Nautilus*.

Vertical boring mills: Essential in making jet engines.

Dynamic balancing machines: Used in making jet engines and guided missiles.

External cylindrical grinding machines: Used in making guided missiles and radar equipment.

Surface grinding machines: Used in making jet engine parts, guided missiles, radar equipment, and diesel engines.

High-precision boring mills: Used in making jet engine and guided missile parts.

Copper wire: Next to fissionable materials, copper is the single most strategic metal. Thousands of miles copper wire, for example, go into the engine of every bomber.

Aluminum: Indispensable in making aircraft.

Nickel alloys up to 30 percent: Used in making aircraft parts and tanks.

Molybdenum alloys up to 20 percent: Used in making jet aircraft parts.

Magnesium: Used in aircraft construction and in foot-soldier equipment.

In return for these highly strategic war materials, the Communists are shipping to the free world, butter, cotton, and wood pulp.

The American people were not informed of these secret concessions to our allies; indeed, deliberate and (until our committee got on the track) successful attempts were made to conceal them. Here is how the strategic trade agreements were reported to the Nation by Harold Stassen, who was the central figure in the negotiations. The agreements, Stassen announced in the summer of 1954, "will result in a net advantage to the free world of expanded peaceful trade and more effective control of the war potential items."

Not content with misleading statements of a general nature, Mr. Stassen resorted to specific falsification when, as Battle Act Administrator, he made his annual report to Congress in November 1954. The following is a paragraph from Mr. Stassen's report: "Minerals and metals of basic importance to the Soviet military power such as aluminum, copper, nickel, molybdenum, cobalt, magnesium, tungsten, and titanium remain on the embargo list."

Mr. Stassen's statement, with respect to aluminum, copper wire, magnesium, and alloys of nickel and molybdenum, was simply untrue.

The seriousness of our concessions can be appreciated by taking a closer look at just one of the items being shipped to the Communists—copper. Mr. Stassen said that copper was still embargoed. He was right about unprocessed copper, but he failed to mention that the finished product, in the form of highly strategic copper wire, was taken off the embargo. The committee then learned the following additional facts: (a) Since August 1954, when the embargo was relaxed, over 200 million pounds of copper wire have been shipped to the Soviet bloc by countries receiving United States aid; (b) the principal shipper is Britain; (c) the United States is providing a direct subsidy to British copper mines in Rhodesia; moreover, (d) copper is on the United States critical stockpile list, and because it is in short supply in this country, we found it necessary during 1954 and 1955 to divert 150 million pounds of copper from our strategic stockpile for industrial use. In other words, although copper is badly needed in this country for our own war potential, we are giving the British money to mine copper, which they then turn around and sell to the Communists.

Congress provided in the Battle Act of 1951 that the President must immediately terminate United States aid to nations that ship materials of "primary strategic significance" to the Communists, or that he must immediately explain to Congress why he is not doing so. In this case, aid was not cut off, nor were the facts of the 1954 embargo revision transmitted to Congress. The way Mr. Stassen, as Battle Act Administrator, got around the Battle Act was to determine that certain obviously strategic items were not of "primary strategic importance," despite the fact they had been so regarded in the past. The executive branch thus brazenly defied the clear intent of Congress.

Later on in this session, Congress will be asked to appropriate some $5 billion for aid to nations that are now shipping the Communists strategic war materials. I intend to oppose that appropriation unless it is accompanied by an airtight guaranty that American money will not be used in the future to build the Communist war machine.

I should add that the executive branch is now studying British demands to relax the embargo against Red China. These demands must be resisted. I trust you agree with me that trading with any of our enemies, in any goods whatsoever, is contrary to American interests.

MARCH 19, 1956.

REPORT NO. 5

AGAIN GOVERNMENT BY SECRECY

The Senate hearings on strategic trade with the Communists (which I discussed in my last report) have dramatically spotlighted the still serious problem of government by secrecy. The Investigations Subcommittee, now headed by Senator MCCLELLAN, is running into the same problem that plagued committees investigating communism during the Truman administration, and that prevented this same subcommittee during my chairmanship from getting the full story behind the Peress and subversion cases.

Government by secrecy stems from the tendency of career bureaucrats, who manage to stay on in the executive branch from one administration to the next, to view themselves as all-wise rulers. The bureaucrats figure that they know much better than the elected representatives of the people what is good for the country. Therefore, they reason, it is advisable to keep Congress in the dark about matters on which Congress might oppose them.

The East-West trade controversy is an excellent case in point. The bureaucrats in the executive branch who arranged to let our

allies ship highly strategic war materials to the Communists realize that this decision is unpopular in Congress, for Congress declared its opposition to trading with the enemy in the Battle Act of 1951. Therefore, in order to forestall congressional intervention, it is important to the bureaucrats that Congress and the public not learn how and to what extent the intent of Congress has been defied.

The Executive has dropped the cloak of secrecy on two types of information sought by the subcommittee:

1. "Classified" data: The committee is asking for the complete list of strategic goods that we are permitting our allies to ship to the Communists. The bureaucracy, however, claims that the release of this information would jeopardize security. For the Executive to classify this information for security reasons is perfectly absurd. The Communists themselves have had this information since 1954. Since the Soviet Union can find out what it can buy from our allies merely by putting in a purchase order, what conceivable justification is there for keeping this information from the American people? Plainly, the liberal bureaucrats in the executive are trying to avoid embarrassment to themselves and are trying to forestall objections by Congress and the public to the continuance of American aid to countries that help build the Communist war machine.

2. "Privileged" data: The committee also wants to know who in our Government recommended that we take scores of highly strategic items off the strategic-trade-control list. But the Executive claims that the release of this information will impair the efficiency and morale of Government employees.

Before the blackout order was enforced by the Executive, the committee got the impression from Defense Department witnesses that the Defense Department was strongly opposed to decontrols. But the cloak of secrecy fell before the committee could learn the identity of those who overruled the Defense Department—or their reasons for doing so. Congress obviously needs this information: otherwise, how can Congress make an informed judgment as to whether such persons should be kept on the Government payroll?

The bureaucracy seeks to justify its position by citing the separation-of-powers doctrine. Actually, there is neither legal authority nor respectable precedent to support this interpretation of separation of powers. Present Government secrecy practices date back to the blackout orders of the Truman administration, by which Truman sought to cover up Communist infiltration of the Government. At the time of the first Truman order, it is interesting to recall, RICHARD NIXON and a host of other Senators and Congressmen charged that the order was unconstitutional and illegal.

It is, of course, impossible to include in this report all the constitutional and statutory arguments that prove that executive secrecy orders are invalid. Suffice it to cite a law passed by Congress in 1912, and reenacted in 1948. You will remember that I referred to this law on numerous occasions during the Army-McCarthy hearings:

"The right of persons employed in the Civil Service of the United States [this means all Government employees beneath Cabinet officers and assistant secretaries of the departments] * * * to furnish information to either House of Congress or to any committee or member thereof, shall not be denied or interfered with."

This is the law of the land. It obviously conflicts with executive secrecy orders that forbid Government employees to give information to congressional committees. And when a statute of Congress conflicts with an Executive order, there is no question, under our Constitution, but that the statute prevails.

That is why I announced last week that I would not respect executive classification of information on strategic trade with the Communists—that I would tell the American people the truth, no matter how much the truth might embarrass the bureaucrats. That is why, also, several days later, I walked out of the hearing room when executive witnesses sought to give the committee certain information on the understanding that it would not be divulged to Congress and the people. I cannot be a party to an agreement to keep the public in the dark about the mismanagement of our Government. To do so would be to join with the bureaucrats in the conspiracy of silence against the American people.

After I walked out, the executive witness refused to talk further. That is the way the matter was left when the Senate began its Easter recess. I am hopeful that when we reconvene next week, Chairman MCCLELLAN will bring the matter to the Senate floor for a showdown resolution demanding public release of the information. The committee has let the bureaucracy know that it is fed up with government by secrecy. Let's hope the Senate as a whole will be equally firm.

The issue of government by secrecy is far more important than the immediate question of East-West trade. If bureaucratic arrogance goes unchallenged we will, for all practical purposes, have ceased to be a republic. If the bureaucracy is allowed to treat the conduct of government as its own private affair—which it may or may not tell Congress and the public about as it sees fit—we will have replaced government by the consent of the governed with government by decree of the bureaucrats.

APRIL 9, 1956.

REPORT NO. 6

SUPREME COURT DECISIONS ON COMMUNISM

In recent months, the Supreme Court has handed down a series of very disturbing decisions on the Communist issue. These decisions are not only very bad law, they have had the effect of seriously weakening our defenses against the Communist conspiracy. Your legislative officials, on the local, State, and National level, have attempted to construct effective barriers against Communist subversion. I am afraid that all of these anti-Communist efforts will soon be nullified unless something is done soon to check the wrecking program that has been inaugurated by the Supreme Court.

The American people will make an effective protest only if they are given the facts; therefore, I would like to discuss, very briefly, three of these decisions.

The Steve Nelson case—involving State sedition laws

Steve Nelson was a member of the national board of the National Committee of the Communist Party, United States of America, when he was convicted under Pennsylvania law on subversive charges. Nelson, in the 1930's, attended the Lenin School in Moscow which is reserved for only the most promising and worthy Communists, and which stresses instructions in espionage and sabotage. Thereafter, during the entire time he was outside the United States, Nelson performed espionage for the Soviet Government. In 1933, for example, he was in China working for the Shanghai branch of the Comintern.

When he returned to America, Nelson became a top official in the United States Communist Party. Naturally we do not know the full extent of Nelson's activities. But we do know that in April 1943, he met with a top official of the NKVD in California to plan espionage activities on the West Coast, and that earlier that year he had transmitted highly secret atom-bomb information to the Soviet Union.

Nelson was finally apprehended, and convicted under Pennsylvania's Sedition Act. The Supreme Court, however, overruled the conviction on the incredible grounds that the States have no right to prosecute those who attempt to overthrow our Government by force and violence. This decision has the effect of invalidating all State antisubversion laws, including Wisconsin's criminal anarchy law. And it means that all the Communists who have been put in prison under State laws must be set free and permitted to resume their efforts to overthrow our Government.

Let us look at the two principal reasons the Supreme Court gave for its decision. The Court said, No. 1, that Congress intended to prevent the States from prosecuting Communists when it passed the Smith Act (which made it a Federal crime to advocate or to attempt the forcible overthrow of our Government).

The truth of the matter is that the title of the United States Code which contains the Smith Act includes the following very explicit provision:

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof."

Now, what could be plainer than that? I do not see how the Supreme Court can maintain the respect of the American people when it holds that a law means the exact opposite of what it says.

The Court said, No. 2, that State prosecution of Communists interferes with Federal prosecution of Communists.

The truth of the matter is set forth in an advisory opinion submitted by the Justice Department during the hearing of the Nelson case:

"The administration of the various State laws has not in the course of the 15 years that the Federal and State sedition laws have existed side by side, in fact, interfered with, embarrassed, or impeded the enforcement of the Smith Act."

But the Supreme Court judges completely ignored that statement, apparently on the theory that they know more about the Justice Department's business than the Justice Department does. Such arrogance and arbitrariness by our highest court not only helps individual Communist leaders like Steve Nelson; it destroys public confidence in our whole judicial system—which has always been an objective of the Communist Party. Is it any wonder that the Communist Daily Worker hailed the Nelson decision as a tremendous victory?

Fortunately (due to the unique circumstances in this case), Congress may be able to overrule the Nelson decision. I have introduced a bill which restates Congress' intention to permit the States to prosecute the Communists. I am happy to be able to report, after conferring with other Senators, that the prospects are excellent that the States' constitutional right to investigate and bring to justice those involved in the Communist conspiracy will be restored during the current session.

The Slochower case—involving fifth amendment teachers

Slochower is a New York public school teacher who took the fifth amendment when asked about his Communist affiliations. His school fired him, but the Supreme Court ordered him reinstated. While this case happened to involve a New York school, it applies equally to Wisconsin schools. Therefore, let us discuss the Supreme Court's ruling in terms of its effect on the people of Wisconsin.

Let us suppose that Mr. X, a teacher in one of Milwaukee's public schools, is asked by a congressional investigating committee whether he is a member of the Communist Party. Mr. X replies: "I refuse to answer that question on the grounds that a truthful answer might tend to incriminate me." Now, I trust that the Milwaukee Board of Educa-

tion would decide that Mr. X is unfit to teach the children of Milwaukee—since it must be concluded from Mr. X's answer that he is either a Communist or that he lied when he took refuge in the fifth amendment. But the Supreme Court forbids the dismissal of Mr. X. Thus, under the Supreme Court ruling, we are required to entrust the education of our youth to fifth amendment-Communist teachers, and Wisconsin taxpayers are required to pay the salaries of such teachers.

The Communist Party, U. S. A. versus Subversive Activities Control Board

This was the worst decision of all. In an opinion handed down on April 30, the Supreme Court said there were not sufficient grounds for holding that the Communist Party was under the control of the Soviet Union. The decision was based on the argument of the Communist lawyers that three of the Government's witnesses were "professional informers" and thus were "unreliable." It is incomprehensible to me how the Court could have fallen for that argument in the light of the fact that literally hundreds of unimpeachable witnesses and thousands of pages of unimpeachable documentation have established beyond any possibility of doubt that the Communist Party is Moscow dominated. Moreover, Congress has officially declared the Communist Party to be an arm of the Soviet Union. But the Supreme Court professes to be unconvinced—with the result that the Subversive Activities Control Act of 1950 is still being defied by the Communist Party.

Such decisions present a real danger to our republican form of government. The Supreme Court must somehow be made to understand that its job is to interpret our laws, not to make them. Our Constitution provides for a government of laws, made by the representatives of the people—not for a government by Supreme Court judges who assume they are a law unto themselves.

REPORT NO. 7

OLD NAME, NEW FACTS: FORT MONMOUTH

In the fall of 1953 the Senate investigating committee began a major investigation of subversion in the Army Signal Corps at Fort Monmouth. As chairman of the committee, I stated that secret radar information had been purloined from Fort Monmouth by Soviet espionage agents, and that the committee was determined to expose the Communist spy ring that was evidently operating there. You may recall that this charge was labeled a "fraud" and a "hoax" by the Pentagon bureaucrats and their propagandists in the liberal press; the Fort Monmouth investigation, they said, was just another instance of McCarthyism. The administration then called on the Army-McCarthy hearings and succeeded in halting our investigation of communism in Government.

Now, 2½ years later the chairman of the Senate's Internal Security Subcommittee, Senator EASTLAND, and the subcommittee's ranking minority member, Senator JENNER, have issued a special statement asserting that the Fort Monmouth investigation was justified. The Senators' statement was based on testimony by a former Soviet officer, now living in exile in the United States, which described the "receiving end" of the Fort Monmouth espionage operation in Russia.

Soviet officer's testimony

I am devoting this newsletter to a verbatim account of the Soviet officer's testimony, not for reasons of personal vindication, which I regard as a relatively unimportant matter, but because I feel it is urgently necessary for you to appreciate the appalling success of Communist espionage operations, and thence the vital importance of disregarding the advice of those who belittle the Communist threat to our internal security.

(The questions at this hearing are asked by Robert Morris, chief counsel of the Internal Security Subcommittee. The witness is described by the pseudonym of "Mr. Andriyve" in order to avoid retaliation against his family in Russia.)

"Mr. MORRIS. Were you employed in the Soviet Union during the war?

"Mr. ANDRIYVE. Since latter 1943 I was in the Red army, mobilized along with millions of other people, and during 1944, and probably January 1945, I was employed with the Signal Corps Military Research Institute in Moscow.

"Mr. MORRIS. Now, what were the functions of that job?

"Mr. ANDRIYVE. I had the function of, I would say, examining a series of documents, all of them in foreign languages. I would say 90 percent of them of American origin and 10 percent of British and French origin."

Documents obtained by secret police

"Mr. MORRIS. Where did those documents come from?

"Mr. ANDRIYVE. I received them from the secret police section. A batch of the documents would be given to me practically every day for perusal, examination, and determination of their nature, that is, technical nature, with the task to determine how should they be channeled among the Soviet institutions. Part of the documents had to do with high-power super-high-frequency and ultra-high-frequency tubes that are used for radar.

"Mr. MORRIS. Now, was there anything to indicate the point of origin of these documents? You say 90 percent came from the United States?

"Mr. ANDRIYVE. Yes; 90 percent came from the United States—very many were printed on Soviet photopaper. So we could safely assume that the microfilms got into Russia from America and were developed and enlarged at some local Soviet level.

"Mr. MORRIS. Now, what were some of the places they originated?

"Mr. ANDRIYVE. Honestly, it is already 12 years after the event, and I forgot a lot except for maybe, two, both of them because I saw them quite often on the documents. One is Fort Monmouth and the other is RCA.

"Mr. MORRIS. Is there anything more you can tell us about the Fort Monmouth documents? Did they appear in quantity?

"Mr. ANDRIYVE. I would say, yes; in quantity."

Reds continued to get secret radar data from Fort Monmouth

"Mr. MORRIS. And what year was this, now?

"Mr. ANDRIYVE. That was 1944. After 1944 I was transferred to other business, doing other business within the radar part. But I saw a friend of mine who was doing the same type of work—I saw him repeatedly in 1945—and we talked on the general state of affairs of his work and my work, so he said that the flow of documents continued.

"Mr. MORRIS. And were they contemporaneous documents; I mean, did the dates that appeared thereon indicate they were freshly acquired?

"Mr. ANDRIYVE. Yes, sir; the documents I dealt with were fresh and sometimes very fresh.

"Mr. MORRIS. Now, were there any photographs involved? Of equipment?

"Mr. ANDRIYVE. Equipment; oh, yes; very much."

"Thousands" of "classified" documents were stolen

"Mr. MORRIS. Did any of these documents bear a classification mark 'secret,' 'top secret,' 'confidential'?

"Mr. ANDRIYVE. Very many of them had classification marks. I would say the vast majority had some classification, either 'secret' or 'top secret' or 'confidential.'

"Mr. MORRIS. And you say that these [classified] documents appeared in great numbers?

"Mr. ANDRIYVE. Yes, sir.

"Mr. MORRIS. I know it is a hard thing, but I wonder if you could estimate approximately how many were turned over to your section by the secret police?

"Mr. ANDRIYVE. Thousands.

"Mr. MORRIS. And how they came into your possession you do not know, except for the fact they were given to you by the secret police?

"Mr. ANDRIYVE. I had no way of knowing that. The only thing I could tell you, was just in a facetious vein, we would tell to the secret police officer, 'Where did you steal them?' and he would say, "Shut up; it is none of your business. Your business is to try to find out how to use them, and it is our business how to get them.' "

It was the business of our committee back in 1953 to find out how the Communists were getting our radar secrets. But after we had brought about the suspension of 33 security risks, and were on the trail of the higher ups who were responsible for the Fort Monmouth situation, the Pentagon bureaucrats intervened and said, in effect, "Shut up, it is none of your business." We now have a clearer idea of why it was so important to highly placed individuals in the Federal bureaucracy to call off the Fort Monmouth and other anti-Communist investigations. We have a clearer idea of why it was important to them to provoke the Army-McCarthy hearings, and thus to divert public attention from espionage at Fort Monmouth.

I hope the American people will learn from this lesson, and will never again listen to those who try to discredit efforts to expose the Communist conspiracy. Remember: the Soviet espionage apparatus still flourishes in America. The Red agents who were responsible for the immense volume of stolen information described by Mr. Andriyve (only a small part of which, we must assume, came to Mr. Andriyve's attention) have never been apprehended and are still operating.

REPORT NO. 8

MORE AID TO TITO?

On June 28, I introduced an amendment to this year's mutual aid bill calling for the immediate termination of American aid to Communist Yugoslavia. I introduced the amendment because I believe that it makes no sense to include in our foreign aid program—which is designed to fight world communism—an appropriation of $65 million in military and economic assistance to a Communist country that has said it will be an ally of Soviet Russia for all time to come.

Unfortunately, the attempt to deny Tito the use of American money was defeated in the Senate by a 50 to 38 vote. The Senate decided to leave the Yugoslav question to the executive branch, which has already indicated that it favors continuing American aid to this Communist country. Believing that Americans who are aware of the facts will be opposed to further Yugoslav aid, I want to set forth in this newsletter what I believe to be the relevant facts in this controversy. I hope that you will see fit to write the President and advise him of your views.

The lost gamble

Over the past 5 years we have poured into Communist Yugoslavia $946 million of American taxpayers' money in order to build up Tito's military machine and bolster his economy. We have subsidized Tito on the theory that with our help, he would make his alleged break with the Kremlin permanent. That policy was always a gamble, at best; now it is perfectly clear, after Tito's recent visit to Moscow, that the gamble has been lost. I quote now the statement made

by Yugoslavia's Communist dictator when he arrived in Moscow.

The Tito-Kremlin alliance

Referring to the temporary break between Communist Russia and Communist Yugoslavia, Tito said, "We were greatly pained, but we believed that the time would come when everything separating us would be overcome and when our friendship would receive a new and still more firm foundation. This time has come, thanks to the Leninist policy of government and the Central Committee of the Communist Party of the Soviet Union.

"The arrival of Comrades Khrushchev, Bulganin, Mikoyan and others in Belgrade, the talks with them, the declaration which was drawn up on that occasion, and afterward the courageous and farsighted foreign policy of the collective leadership of the Soviet Union are, in my profound conviction, a guaranty that nothing of the kind will ever happen again between the two countries marching along the path of Marx, Engels and Lenin."

And at the end of his speech, Tito cried, "Long live the Soviet Union! Long live the friendship of the peoples of the Soviet Union and Yugoslavia!"

Yet, incredibly, our State Department is requesting an additional $65 million in military and economic aid for Yugoslavia. It is asking for more aid, even though our reward for past aid has been Tito's public profession of the Marxist-Leninist faith and of his solidarity with the Soviet Union.

The meaning of Tito's statement

It should be obvious to all that when Tito says that Russia and Yugoslavia are now marching together along the path of Marx, Engels, and Lenin, he is saying that Russia and Yugoslavia are marching together toward their joint goal of destroying the United States. But some of those in our Government seem to forget what Leninism means. In 1848, in the Communist Manifesto, Karl Marx said that bloody revolutions were necessary in all countries of the world except England and the United States. Marx made it clear that England and the United States were to be communized but felt that it could be done by Communist infiltration of the governments from within. In 1914, however, Nikolai Lenin corrected Marx, and said that bloody revolutions would be necessary in the United States and England as well as in other countries. Ever since, it has been a cardinal principle of Leninism—which Tito professes to be following—that the Communist world must bring about a bloody revolution in the United States. I do not understand why American taxpayers should be asked to finance and bolster the dictatorship of men like Tito who has declared that he is for Leninism, which means he is for a revolution in America to establish a Communist dictatorship here.

The reasons for the State Department's policy

In my mind, the reasons the State Department gives for its policy of continued aid to Yugoslavia are even more fantastic than the policy itself. First, Secretary of State Dulles says that if we cut off American aid we might drive the Yugoslavs back into the camp of the Russians. That statement was made a full 3 weeks after Tito proclaimed an eternal alliance with the Kremlin—which would seem to have put him about as far into the Russian camp as he could get. It would appear that Mr. Dulles and his advisers do not even read the newspapers.

Second, Dulles says that we must continue American aid because we do not want to make the Yugoslav economy dependent on the Russian economy. This kind of reasoning is fairly typical of the State Department; yet it baffles me. If Yugoslavia is a firm ally of the Soviet Union—as, of course, it is—why is it an advantage to America to drain off American wealth into Yugoslavia instead of Russian wealth?

Third, Mr. Dulles argues that Yugoslavia is not subservient to Soviet Russia, as are the other countries of eastern Europe. In other words, Dulles says that while we should not give aid to a satellite of our enemy, it is all right to give aid to an ally of our enemy. Precisely the same argument could have been made during the Second World War in favor of giving American aid to Japan on the grounds that Japan, though allied with Nazi Germany, was not subservient to Nazi Germany. But anyone who would have made such a statement at that time would have been hooted out of town. What is the difference between that case and the one confronting us today? Surely everyone recognizes that we are at war with the Communist world. How can our Secretary of State recommend that we give financial assistance to one of our Communist enemies? To be sure, the war is a cold war today; but in all of the crucial diplomatic battles, Yugoslavia supports the Soviet Union. And if the war should become a hot one, we have it on the word of Marshal Zhukov that Communist Russia will be shoulder to shoulder with Communist Yugoslavia in any future war. I am sure that if American men ever fall victim to Yugoslav bullets, they will not be able to derive much consolation from the fact the bullets were fired by a Soviet ally rather than by a Soviet satellite.

The attempt to cut off aid to nations shipping war material to the Communists

Of course, it also makes no sense to give American aid to nations that ship strategic war materials to the Soviet bloc. I devoted my newsletter of March 19, 1956, to this subject, pointing out that our so-called allies were shipping machine tools and metals to Soviet Russia that are used to make hydrogen bombs, jet planes, guided missiles, and other equipment for the Communist war machine. Since these nations, notably Great Britain, have been receiving huge financial subsidies from the United States, the result is that American taxpayers are indirectly financing the construction of the Communist war machine. Therefore, I introduced another amendment to the foreign-aid bill providing that no nation that shipped strategic war materials to the Soviet bloc could receive American aid. The McCarthy amendment on strategic war materials was supported by 22 other Senators, but was rejected after a vigorous floor fight.

As the result of these Senate actions, I was forced to vote against this year's foreign-aid bill. I favor aid to our fighting allies in the Far East such as the Republic of China, South Korea, southern Vietnam, Pakistan, Thailand, and the Philippines. but the foreign-aid bill is a package deal by which all requested aid must be voted for, or none of it. I could not bring myself to vote for a package that included such items as aid to Tito, aid to Nehru, and aid to countries that ship strategic war materials to the Communist bloc.

REPORT No. 9

CONGRESS WINDS UP

Congress packed a large volume of legislation into its closing days, most of which (with the exception of the foreign-aid appropriation) I favored. I was especially glad that my amendments to the Rivers and Harbors bill, which authorized the construction of new dock and harbor facilities at Port Washington, Prairie du Chien, and Milwaukee, were passed. I feel this legislation will bring substantial benefits to the people of southeastern and southwestern Wisconsin.

I am also gratified that the Social Security Act was extended and improved, though I feel that if my amendments had been adopted, the new legislation would have been better still. These amendments would have reduced the retirement age of women to 60 and of men to 62, and would have increased the amount of money a person may earn, and still be eligible for retirement benefits, from $100 to $150 per month.

There was considerable interest during the social security debate in the proposal to provide disability benefits at age 50. I voted against this proposal, though with considerable misgivings. I strongly favor the idea of helping those who cannot earn a living because of physical disability, but I was convinced that the bill, as drafted, was undesirable for three reasons: (1) It contained no workable definition of "disability," and thus invited fraud on the part of persons who are not really disabled; (2) it limited the benefits to persons who are 50 years of age or over, whereas I believe that we should help anybody who is really disabled, regardless of age; (3) I don't believe that disability payments should be taken from social security funds, but should be taken from the general Treasury fund. I plan to urge improved legislation during the next session of Congress, which will put into effect the principle of aiding all disabled persons.

The Stassen affair

I have long felt that I should publicly express regret for having suported Harold Stassen in the 1948 presidential campaign. Stassen's unsavory attempt to dump Vice President NIXON is only the last in a long series of actions that, in my opinion, qualify Stassen as one of the most contemptible politicians of our era. His recent career has been such that I have had to oppose Stassen at nearly every turn since 1952, but the NIXON episode is final proof that anyone who ever thought well of Stassen was sadly deluded.

I call Stassen's attack on NIXON unsavory, not because he is opposing a man who I happen to think has done a good job, but because the attack obviously has the single purpose of promoting Harold Stassen's personal political fortunes—whatever may be the cost to the Republican Party and to the Nation. Harold Stassen is obsessed by an overpowering ambition to become President. As for his methods—anything goes that promises to place Stassen's name in the limelight.

Stassen's secret poll

Take, for example, the so-called secret poll that, according to Stassen, showed that the Republican ticket would run 6 percent stronger with Gov. Christian Herter of Massachusetts as the Vice Presidential candidate than with NIXON. It is impossible to believe that Stassen was telling the truth about this poll. Whether the poll was never taken, or Stassen lied about the results of it, I do not know. But it is inconceivable that Governor Herter, whom a vast majority of Americans had never heard of, would have run ahead of a man who is known by all Americans and well liked by most of them. Other polls bear out this conclusion. For example, a Roper poll, taken about the time of Stassen's alleged poll, asked the question: "If Eisenhower decides not to run, whom would you like to see as the Republican Presidential candidate?" NIXON was selected by 12 percent of those who indicated a choice; Herter by barely 1 percent.

A reputation for untruthfulness

There were other reasons that prompted Washington observers to conclude that Stassen's poll was a "phony." Stassen had been known to falsify the facts before. He falsified the facts, both in his official reports to Congress and in his testimony before a Senate committee, in an effort to cover up the fact that the United States was permitting its allies to ship strategic war materials to Communist nations. I quote from the Senate Investigations Committee's official report on East-West trade (p. 46):

"The Battle Act Administrator, Mr. Stassen, in 1954 misstated the facts in his Fifth Battle Act Report, when he reported: 'Miner-

als and metals of basic importance to the Soviet military power, such as aluminum, copper, nickel, molybdenum, cobalt, magnesium, tungsten, and titanium remain on the embargo list.' In this and other portions of the Fifth Battle Act Report, Mr. Stassen misrepresented the facts, which thus misled the Congress and the American people. Moreover, when he testified before this subcommittee, Mr. Stassen appeared to be an arrogant, evasive, and uncandid witness. The subcommittee feels that Mr. Stassen is to be severely criticized for his conduct in this matter."

It is no wonder, in the light of his record, that the motives for Stassen's attack on NIXON have been suspect. Moreover, Stassen's pose of martyrdom in the face of almost universal criticism of his actions, fools no one. Those who know Harold Stassen know that he has never been a martyr to any "cause" except his own.

Stassen's real motivations

What, then, does Stassen hope to gain for himself? For one thing, Stassen believes that if he should succeed in dumping NIXON, there is a good possibility that the vice presidential nomination will be his. He knows that the leftwing of the Republican Party wants desperately to get rid of NIXON, and he believes that if NIXON is dumped, the triumphant leftwingers will be in a mood to reward the man who led the dumping campaign. The fact that the Herter-for-Vice President campaign is, in reality, a Stassen-for-Vice President campaign is amply demonstrated in the following news item. Referring to the "Herter headquarters" set up by Stassen, a Washington newspaper reported:

"Heading up the volunteer crew at the 'Ike and Chris' headquarters is H. Brooks Baker * * * who also serves as chairman of 'Young Americans for Eisenhower First, and Stassen Second'."

(I should add, in case there are any doubts about it, that this organization was set up several months ago, under Stassen's auspices, to drum up support for making Stassen the vice presidential candidate.)

Actually, however, Stassen is not placing all of his bets on getting the vice presidential nomination this year. He is probably playing for much higher stakes. Stassen knows that at the present time there is no "heir apparent" to President Eisenhower as the leader of the leftwing of the GOP. There are many who aspire to that title besides Stassen—Sherman Adams, Milton Eisenhower, Tom Dewey, Paul Hoffman, to name a few. But none has yet definitely emerged as the man who will be the leftwing's leader when President Eisenhower leaves office. Stassen believes that his attack on NIXON will give him a large head start over his rivals. Stassen believes, moreover, that the leftwingers will control the Republican Party in the future, and that in 1960 or 1964, they will be disposed to make "the hero of the anti-Nixon campaign" the GOP presidential candidate. Stassen figures there is no better way to ingratiate himself with the leftwingers than to lead a fight against NIXON, a man whom the leftwingers fear and dislike. His chances will be especially good, Stassen believes, if an Eisenhower-Nixon ticket should be defeated in November. In that event, the leftwingers will place the blame for a Republican defeat on NIXON, and Stassen will be hailed as the man who called the turn, and thus the man who should be nominated for President in 1960.

These, I firmly believe, are Harold Stassen's real motivations. It is likely, however, that Stassen will fall victim to his own overpowering ambition. I think that the Republican Party and the American people will reward his dump-Nixon efforts by dumping Stassen himself into political oblivion, which is where he has belonged for some time.

REPORT No. 10

AMERICAN MONEY TO COMMUNIST YUGOSLAVIA

Recent events in Eastern Europe show that we must begin giving American aid to anti-Communist elements in the satellite countries, and halt all aid to Communist regimes such as the Tito government in Yugoslavia.

The uprisings in Poland and Hungary are eloquent proof that the spirit of freedom still lives in the Communist world and that the captive peoples are determined to throw off their chains. We must give all possible assistance to the gallant efforts of the Polish and Hungarian people to rid their countries of their Communist oppressors.

At the same time we must halt aid to Tito. It certainly makes no sense to send arms and economic aid to Tito while we fail to send arms to anti-Communists in Hungary and Poland. It is true that we did cut off the shipment of a proposed 380 jetplanes to Yugoslavia, but we are still sending the smaller weapons to them. Last June I introduced legislation to stop all aid to Tito on the twofold grounds that it is immoral to subsidize the Communist enslavement of Yugoslavia and that Tito is a self-proclaimed partner of the Soviet Union in the Communist conspiracy to conquer the world. The Senate defeated that legislation by a 50 to 38 vote—a very grave mistake. Just the other day, Tito gave his approval to the Kadar government in Hungary, which is currently presiding over the Soviet massacre and deportation of Hungarian patriots. This is additional proof that Tito is playing the bloody Soviet game, and an additional reason why Tito should not be subsidized by the American taxpayer.

The Congress at the last session gave President Eisenhower the power to stop this aid to Yugoslavia. Why has he not done so?

A NEW CHEESE PROCESS—GOOD NEWS FOR WISCONSIN DAIRY FARMERS

I am happy to report that it appears that we may have found a way to dispose of the gigantic cheese surplus that has been depressing the prices of Wisconsin dairy products for so many years. A new process has been developed that transforms cheese into a liquid concentrate that can be bought by foreign governments for undernourished millions abroad. During recent weeks I have been in constant contact with the State Department and the International Cooperation Administration in order to expedite the testing of this new product in Pakistan. As a result, large quantities of this concentrate are being sent to Pakistan this month for field tests in which United States Army and ICA technicians will participate. I hope that this will be the first step in establishing a greatly expanded market for Wisconsin dairy products.

The problem of cheese surpluses

As you know, the existing cheese surplus is one of the chief reasons that dairy prices have been low. The best information we can obtain on this is that the surplus is now approximately 330 million pounds. This huge surplus not only depresses dairy prices—the cost of cheese storage is a heavy burden on the American taxpayer. It costs the United States Government approximately 9 cents per pound per year to store this cheese. We have good reason to believe that the new process will reduce the surplus by at least 100 million pounds within a single year, which will result in substantial savings to taxpayers as well as an increase in farmers' incomes.

How the new process helps solve the problem

We have a large cheese surplus in this country because there is more cheese produced than is bought by American consumers. One of the answers to this problem is to create a foreign market for American processed cheese—especially a market in Asia where there is a great need for high-protein food and where cheese is not produced in large quantities. Until now, it has been difficult to develop this Asian market—for two reasons. First, the cost of shipping ordinary cheese abroad is practically prohibitive due to the fact that cheese must be refrigerated. Second, the Asian people are not accustomed to the taste of cheese, which has made it difficult to persuade Asian governments to buy ordinary cheese for their people. The new process overcomes both of these obstacles.

The American Consultants Corp., which has its headquarters in Milwaukee, has developed a process that converts cheese into a comparatively tasteless liquid concentrate. This permits any desired flavor to be put into the concentrate so as to accommodate the taste of the consumer. For instance, it can be given a curry flavor for the Pakistanis, as is being done with the shipment that will soon be tested in Pakistan. It also permits the product to be shipped in small, hermetically sealed containers, without need of refrigeration. Finally, the elements of the concentrate are the same as ordinary cheese, so that the nutritional value of cheese is preserved. This means that the concentrate will be of great benefit to the Asian people suffering from protein-deficient diets.

There is also reason to hope that this new process will provide a greater market for cheese in the United States. Experiments have shown that by injecting a different taste into cheese, it may be used in the preparation of many new products. For example, the adding of chocolate flavoring and water to the concentrate makes an excellent chocolate syrup, from which excellent chocolate milk can be made by adding 6 ounces of water to 2 ounces of the concentrate. Several South American countries have indicated great interest in this product and are testing it. The concentrate can also be used to make bread, pies, and candy bars.

The processing is so easy that any cheese factory can make the concentrate from its own cheese.

Disposing of the cabbage surplus

As most of you know, Wisconsin cabbagegrowers faced a serious crisis last month due to their inability to find buyers for this year's bumper cabbage crop. I am glad to report that this situation is now somewhat improved, thanks to the excellent cooperation we have gotten from the Department of Agriculture and the United States Army.

Early in October, when the crisis was reaching the acute stage, I requested the Fruit and Vegetable Division of the Department of Agriculture, through its director, Mr. Sylvester Smith, to come to the aid of the cabbagegrowers by purchasing surplus cabbage for the school-lunch program. Mr. Smith, and Mr. Gordon Gunderson, the head of the Wisconsin school-lunch program, responded to our call for help and immediately began to make arrangements for large purchases of cabbage for the school-lunch program. As of the date this newsletter is being written, the Agriculture Department has moved out 54 carloads.

Help from the Quartermaster Corps

We are in constant contact with the Quartermaster Corps of the Fifth Army and military establishments such as Great Lakes and Camp Lucas to see if they can arrange to buy some of the sauerkraut, knowing that is part of the diet of the military personnel. We hope that they will buy some of the kraut so as to help empty the vats, which are full. Such purchases would allow the sauerkraut manufacturers to purchase more cabbage, much of which is now in makeshift storage bins. Unfortunately, time has almost run out and unless we can get speedy action, much of the cabbage will spoil.

NOVEMBER 20, 1956.

REPORT NO. 11

Jean and I have been out in Wisconsin since shortly after the close of the session. We have an office and a home in Appleton where I have been available to discuss any problems our Wisconsin people have wanted to talk over with me. We have spent about half of our time in Appleton and the remainder has been spent in traveling as much as possible throughout the State. Unfortunately, my stay in Wisconsin has been cut shorter than I expected, as I have been subpenaed to testify in the case of Aaron Coleman against Newark Star-Ledger. Coleman was one of the men suspended from the secret radar laboratory during the Fort Monmouth hearings on the grounds that he was a security risk.

SURPLUS CHEESE PROBLEM

We are still working on the problem of disposing of the 330 million pounds of surplus cheese which is depressing the dairy market. I shall not go into detail at this time, but field tests are being run on the new process in some parts of Latin America and also in Asia. We hope to have a report for you on this in the near future.

SOME FACTS ON THE "CENSURE" VOTE

Since I have been back in the State I have been asked by a sizable number of people about the so-called censure vote. Actually there was no vote to censure. It was a vote to condemn me for saying what I thought about the Gillette committee and the Watkins committee. I was not disturbed by the vote to condemn. However, I was very much disturbed and still am disturbed by the Senate's one-sided vote to accept a report which said, in effect, that no one had the right to criticize a Member of a "duly-authorized Senate committee." Of course, every Member of the Senate is a member of a "duly-authorized Senate committee." It is needless for me to say that I shall not abide by that ridiculous and dangerous rule. Whenever I find any wrongdoing, whether it is on the part of a Senator or anyone else in Government, I shall do my best to expose it.

In talking to some of my Wisconsin friends I got the impression that they may not have had a complete report on what happened before and subsequent to the so-called censure vote. At that time I was condemned because I would not reveal all of my finances to the Gillette committee, although I had told that committee that I would appear if they decided to subpena me, but would not dignify their kangaroo court by a voluntary appearance. For some unexplainable reason they never did issue a subpena asking me to appear.

After the vote to condemn, the Internal Revenue Bureau conducted a field audit covering a period of 6 years time. As you know, a field audit consists of examining each and every item of expenditures and of income. This was done in painstaking detail. At the end of the audit by the Internal Revenue Bureau, their findings were to the effect that I had overpaid my taxes over that period of time in the amount of $1,066. A check was sent to me by the Treasury Department. A photostat of that check was carried in a number of the papers. If any of the readers of my newsletter would care for a photostat of this check they may get it by merely dropping a line to my office at Washington, D. C. The only address necessary is Senator JOE MCCARTHY, Washington, D. C.

Actually rather than to have voted to condemn MCCARTHY they should have made it stronger and voted to hold me in contempt of the two committees, which I have mentioned, and in contempt of the Senators who voted to approve the report to the effect that it was improper to criticize any Senator. The reason I say they should have made the resolution stronger and voted contempt is because I had and have the utmost contempt for the Gillette committee and also for the Watkins committee, as well as the Senators who tried to establish the rule that no Senator could be criticized for his activities.

Some of my Wisconsin friends have forgotten that former Senator Johnson, of Colorado, who was one of the six-man jury allegedly "trying MCCARTHY," had given a public interview to the Denver Post, in which he said all of the Democrats, which included himself, and that practically all of the Republicans loathed me—apparently because of my exposure of graft, corruption, and communism in government. No other reason for this loathing was given by him. Before he was appointed, Senator SAM ERVIN, another member of the six-man jury, gave a statement to his local press to the effect that he was prejudiced against me to the extent that if he were appointed on the committee he should be disqualified. The chairman of the six-man jury, Senator ARTHUR WATKINS, of Utah, went on television and radio and smirkingly stated that it made no difference whether the six-man jury of Senators were prejudiced against me or not. As I stated at the time, if while I was a circuit judge, a justice of the peace had made the statement that WATKINS made that prejudice on the part of a jury was unimportant, I would have immediately taken steps to disbar him.

The greatest example of cowardice that the Senate has witnessed in its long history was when Senator WATKINS, after having taken the chairmanship of this so-called censure committee, refused to answer my questions or debate the ridiculous provisions of the report they had issued. For example, when I started to question him about the provision of the report that said it was improper to criticize a Senator, he dashed from the floor and said he would not answer any questions by me unless they were submitted in writing a day ahead of time—an unheard of thing—a disgrace to the State of Utah and a disgrace to the United States Senate.

Incidentally, a leading columnist, David Lawrence, who is also the editor of U. S. News & World Report, on November 28 pointed out the ridiculous and contradictory arguments made by the Senators during this disgraceful show.

One of the ablest editors in the country, Richard Lloyd Jones, editor of the Tulsa Tribune, on November 24 of this year in his editorial had this to say:

"MCCARTHY * * * was punished for revealing the cruel arrogance and murderous contemplations of the Communist forces that are directed by the Kremlin at Moscow."

Incidentally, Senator FLANDERS, who filed the charges against me admitted that he had not drafted them himself, but that an extreme leftwing group, which had taken up offices across from the Senate Office Building, had concocted all of the 72 charges which he filed. In passing, it is of some interest to note that Paul Hoffman, who recently tried to read Senator ANDREW SCHOEPPEL, chairman of the Republican Senatorial Campaign Committee, and Senator BARRY GOLDWATER, former chairman of the Senatorial Campaign Committee, and others out of the Republican Party, contributed $1,000 for the preparation of this leftwing smear.

UNITED NATIONS

As you know, the Internal Security Committee made an official report to the effect that the United Nations was ridden from top to bottom with Communist spies, saboteurs, and extreme leftwingers. This together with the United Nation's speedy action to protect the Communist stooge, Nasser, in Egypt, and their failure so far to do anything about the blood bath in Hungary, plus the past history of the United Nations, has caused me to lose confidence in that body. Nevertheless they could, even at this late date, take the commendable step of expelling Soviet Russia from the United Nations.

As a positive suggestion I would urge that we withhold all American funds from the United Nations at least until Russia has been expelled.

A MESSAGE TO FUR FARMERS

As you know, my amendment was passed cutting down the tax on United States raised fur, but the job has not been completed. There are still two major problems which stand in the way of prosperity for the fur farmers and which also increase the price of clothing for people who live in the cities. Those problems are the carryover of the old wartime tax on furs and the dumping of furs on the American market from Russia and Russia-controlled countries. I have discussed this with Members of the Senate and hope to be able to do something about this during the next term of Congress.

DECEMBER 12, 1956.

SENATE

SATURDAY, JANUARY 5, 1957

(Legislative day of Thursday, January 3, 1957)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Almighty God our Father, amid the bewilderments of these confused and chaotic days upon the earth, uncertain and troubled as we are about so many things, we must be sure of Thee, else we are lost and undone. In these times that try our souls as we gird the might of the Nation to defend threatened liberties, we pray that we may take care to strengthen the spiritual foundations of our democracy, knowing that without Thee we build on sinking sand. With evil forces which deal in fetters and chains for the body and mind, loose in the world, make our America worthy to be Thy channel of liberty to all men who yearn to be free.

We pray for a special bestowment of Thy enabling grace upon the President of the Republic as with his coadjutors he faces the difficult and delicate problems of this desperate hour. May the listening world this very day be assured by what it sees and hears that those who speak for America lift our living Nation a single sword to Thee.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Journal of the proceedings of Friday, January 4, 1957, was approved, and its reading was dispensed with.