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Recommended Citation

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tained by the Senate in such a ruling. When a Presiding Officer tried to overturn that precedent, the Senate overruled the Presiding Officer.

In 1959 we changed that rule, to provide that debate could be closed off by a two-thirds majority. I see no reason to believe that the rule could not be changed through the use of orderly process. Should it not be incumbent upon those who wish to change the rule to try to change it by orderly process, under the rule that they themselves voted to make a rule of the Senate, before they try to use a disorderly process, or have the Vice President try to tell us that the rules are unconstitutional? He might as well tell us the Senate has no rules whatever, except such rules as he wishes to dispense from time to time.

There was considerable discussion, also, of matters which happened in 1917, when the Senate had no rule for closing debate. Also, a statement was made that it would never be possible to proceed to a change of the rules if it was necessary to have 67 votes to shut off debate. How do we know we would ever get to the point of requiring 67 votes? How do we know there would be a filibuster against a change of the rules? If there were a filibuster, how do we know it would not be possible to get 67 votes? The Senate has not even tried.

Then he would like to destroy the fundamental liberties Senators have enjoyed to make their case and present their views to the Nation when they believe something exceedingly harmful to the Nation is sought to be done, and, by the measure here proposed, simply be denied their rights. What is proposed to be done is to have the Chair decide that the rules of the Senate are unconstitutional, rules which protect small minorities. Then someone will move the previous question. I submit that if Senators wish to change the rules, they can be changed without resort to that kind of procedure.

I recall that when I first came to the Senate in 1949, the Senate had a debate over changing its rules. A point was reached when the Presiding Officer, the Vice President of the United States, Alben Barkley, undertook to rule that a motion to proceed was subject to a cloture petition. I suppose many Senators had to muster a great amount of political courage to overrule that ruling of the Chair, but they did so.

A former President pro tempore of the Senate, a great Member of this body, a former chairman of the Committee on Foreign Relations, the late Arthur Vandenberg, made a speech that perhaps did not help him with political problems in his home State, but it was one of the greatest speeches I ever heard. He said that the ruling by the Vice President was error and that the ruling should be overruled by the Senate on an appeal from the ruling of the Chair.

Former Senator Cordon, of Oregon, made a point I shall never forget. He said that at any time the Senate, by a bare majority, wants to do violence to its rules, the Senate has the power to do so, particularly if it has the support of its Presiding Officer. But he said that at that time—and he was referring to the time when that debate occurred—the Senate was not in a position where it was compelled to resort to that extreme measure.

Mr. President, we are not in a position of being compelled to resort to the extreme measure of changing the rules of the Senate as they now exist. They can be changed in orderly fashion. Senators who might want to change the rules in order to obtain an advantage for the passage of certain legislation proposed by certain majorities, particularly when they will be publicly resisted by others, should be willing to subject themselves to discomfort over a period of time to listen to the debate on a subject on which they are not in agreement.

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

Mr. LONG of Louisiana. I yield.

Mr. TALMADGE. The Senator from Louisiana has had much experience with legislative bodies. I have had some experience of that kind in the State of Georgia. Has the Senator ever heard a definition of what is commonly referred to as a steamroller?

Mr. LONG of Louisiana. I have no particular definition in mind. Perhaps the Senator from Georgia has a better one than I have. I believe I know what he has in mind.

Mr. TALMADGE. In Georgia a steamroller is commonly referred to as a majority of a body plus the presiding officer. Of course, the Senator knows what a steamroller can do. It can run roughshod over the opposition of a minority at any time it sees fit, regardless of what the rules might be, what the law may be, or what justice may be under the circumstances.

Is it not true that the advocates of the resolution are trying to create a steamroller in the U.S. Senate, with which they can run roughshod over the wishes of all other Senators?

They may represent 80 percent of the population of the United States; yet they would run roughshod over the remainder of the population.

Mr. LONG of Louisiana. In my judgment, to do so could be the greatest disservice they could do to themselves as well as to the Nation, because the Senator from Georgia knows that while today one group may be driving the steam roller, looking down the road, there may be a new driver on the steam roller tomorrow. Someone else will be in charge of it. One never can be certain what the final result will be. I would certainly protect their rights today if I had the power and the privilege to do so. But I must say that over a period of time, with the shifting of parliamentary majorities, and the results which go with politics, the chickens have a way of coming home to roost.

Mr. TALMADGE. Is it not true that all of us at some time or another are in the minority?

Mr. LONG of Louisiana. That is true.

Mr. TALMADGE. When we are in the minority and the other side is operating the steam roller, they can run run roughshod over us at will.

Mr. LONG of Louisiana. That is entirely correct.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. The attachés of the Senate will please notify all Senators that this will be a live quorum.

The PRESIDING OFFICER (Mr. HICKEY in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 5]

Aiken	Engle	Miller
Allott	Ervin	Monroney
Anderson	Fong	Morse
Bartlett	Fulbright	Morton
Beall	Goldwater	Moss
Bennett	Gore	Mundt
Bible	Gruening	Muskie
Blakley	Hart	Neuberger
Boggs	Hartke	Pastore
Burdick	Hayden	Pell
Bush	Hickenlooper	Prouty
Butler	Hickey	Proxmire
Byrd, Va.	Hill	Randolph
Byrd, W. Va.	Holland	Robertson
Cannon	Hruska	Russell
Capehart	Humphrey	Saltonstall
Carlson	Jackson	Schoeppel
Carroll	Javits	Scott
Case, N. J.	Johnston	Smathers
Case, S. Dak.	Jordan	Smith, Mass.
Chavez	Keating	Smith, Maine
Church	Kerr	Sparkman
Clark	Kuchel	Stennis
Cooper	Lausche	Symington
Cotton	Long, Mo.	Talmadge
Curtis	Long, Hawaii	Thurmond
Dirksen	Long, La.	Wiley
Dodd	Magnuson	Williams, N.J.
Douglas	Mansfield	Williams, Del.
Dworshak	McCarthy	Yarborough
Eastland	McClellan	Young, N. Dak.
Ellender	McNamara	

Mr. HUMPHREY. I announce that the Senator from Montana [Mr. METCALF], the Senator from Ohio [Mr. YOUNG], and the Senator from Tennessee [Mr. KEFAUVER] are absent on official business.

I also announce that the Senator from Wyoming [Mr. McGEE] is necessarily absent.

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Florida [Mr. SMATHERS], provided I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. PELL in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, since this Congress has convened there has been considerable debate on the floor of this body with respect to a further proposed change in Senate rule XXII.

I will not unduly take up the Senate's time, but do want to go on record as being opposed, not only to any further relaxation of this rule, but also to taking up this matter outside the orderly procedures of the Senate. It is my opinion that the country is served well when orderly procedures are followed. For this reason, I will support a motion to refer this entire matter to the Senate Rules and Administration Committee to

insure that we will take no action in haste that we will repent in leisure.

Freedom of debate in the Senate has served this great Nation of ours well over the years. Well it may be that it was subject to a few abuses, but the benefits which have been derived far outweigh the harm that would be done if this great principle was not preserved.

I know of no major legislation, and this includes two civil rights bills in the last 4 years, which has ever been prevented from consideration or passage by reason of extended debate. Why, then, is there a necessity for further relaxation of this rule?

The only reason that comes to my mind is the fact that there are moments when individuals motivated by passion or zealous zeal, and misled by misrepresentations of interested groups, call for the expediency of consideration of various measures which may later be found not to have the attraction which they appear to have at the moment.

No one attributes any ulterior motive to the good intentions that motivate individuals in these circumstances.

Without the temperate consideration of all measures affecting the public interest in an atmosphere where reason, justice, and truth can be fully explored, great harm could come to our democratic way of life. It is with this thought in mind that our Founding Fathers created this great body so as to insure the preservation of this principle.

Majority rule stampeding its will in utter disregard of minorities could wreak havoc on the Nation as a whole. This course of action follows the path down the road to tyrannical government.

In his Manual of Parliamentary Procedure, Thomas Jefferson wrote as follows:

> The rules of the Senate which allow full freedom of debate are designed for protection of the minority, and this design is a part of the warp and woof of our Constitution. You cannot remove it without damaging the whole fabric. Therefore, before tampering with this right, we should assure ourselves that what is lost will not be greater than what is gained.

Note the careful admonition of Jefferson:

> That in such tampering with this right we should assure ourselves that what is lost will not be greater than what is gained.

This is sage advice. It cannot and should not be taken lightly. It is the foundation upon which this great Republic has endured and continues to endure.

Free and unfettered debate is what gained for this great body the well deserved reputation of being the world's greatest deliberative assembly.

Section 3, of article I of the Constitution of the United States provides as follows:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for 6 years; and each Senator shall have one vote.

This provision was later changed by the 17th amendment, which provides in pertinent part as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have one vote.

I quote these two provisions of the Constitution of the United States to point out the principle of maintaining the equality of power among large and small States insofar as representation is concerned in this body. Each State is equal. It is this concept which provides protection of the minority. We must not forget that the majorities of today may be the minorities of tomorrow.

Any further relaxation of rule XXII would, in my opinion, unduly limit freedom of debate and dangerously destroy the fundamental basic relationship that presently exists consonant with the Constitution of the United States. Wisdom, reason, and justice dictate that only in unlimited debate can we preserve individual liberties, maintain a government of law, and fully protect the rights of each State to be equally represented pursuant to the Constitution of the United States.

Only by preserving this great principle can we insure that reason, truth, and justice will prevail. Any other course will carry us down the road to tyrannical government.

My very able and distinguished colleague from Georgia [Mr. TALMADGE] has, in my opinion, made a great contribution in the present debate. I should like to quote a remark which he made summarizing succinctly the grave responsibility which we have pending before us. On page 32, of Senate Report 1509, relating to proposed amendments to rule XXII, under date of April 30, 1958, the able Senator stated:

> The onslaught to stifle freedom of speech on the floor of the Senate is an attack not only on the Senate itself but also on the stature, perquisites, and prerogatives of each Senator in national affairs and every other responsibility incident to the senatorship.
>
> It is an attack which threatens the whole fabric of our form of government and strikes at the very vitals of representative government.
>
> It is an attack which seeks to destroy the constitutional balance of Federal and State power and deal a death blow to the States as political entities.

Again on page 34, he stated:

> Our wise Founding Fathers were aware that the excesses of democracy can be as fearful in their consequences as are the excesses of totalitarianism. To safeguard against both extremes they gave us our republican form of government with its delicately contrived system of checks and balances of which freedom of debate in the Senate is at least an implied, if not actual, part.

These remarks are consistent with wisdom and foresight. Indeed, he is to be commended for such an invaluable contribution, not only to the Senate of the United States, but to the American people as well.

I should like to conclude my statement in opposition to the pending Humphrey-Kuchel substitute, which would permit cutting off debate by a mere majority, and the Anderson motion, which would permit cutting off debate by three-fifths of the Senators present and voting, by quoting a remark made by former President Franklin D. Roosevelt, while Governor of New York, when he stated in a radio address, delivered on March 2, 1930, as follows:

> The moment a mere numerical superiority by either States or voters in this country proceeds to ignore the needs and desires of the minority, and, for their own selfish purposes or advancement, hamper or oppress that minority or debar them in any way from equal privileges and equal rights—that moment will mark the failure of our constitutional system.

These words of warning, echoed continuously from the days of Thomas Jefferson, are as valid now as they were then.

The issue before us is as basic as our freedom itself. Destroy the concept of unlimited debate by any further relaxation of Senate rule XXII, and we embark upon a course inexorably leading to the certain corrosion of liberty itself.

Mr. MANSFIELD. Mr. President, the debate on the rules question has now proceeded for several days. I should like to contribute this much to the discussion: The fundamental question which is before us, as Walter Lippmann has put it, is not whether a majority of Senators shall prevail, but what kind of majority? How large a majority on transcendental issues? As the Senators well know, the Constitution requires a larger majority on certain matters beyond the simple majority by which ordinary bills are enacted. It requires a two-thirds majority on treaty ratification. It requires a two-thirds majority on constitutional amendments. It requires a two-thirds majority on impeachment. It requires a two-thirds vote to override a Presidential veto.

Do we quarrel with these larger-than-simple majority provisions? We do not. They are there, and wisely so, to prevent us from being carried away by the passions of the moment and to make certain that merely one Senator over a simple majority will not move this body into ill-advised action or this Nation into new paths which are not likely to be trod successfully unless a preponderance of the States are in accord.

I would not presume to put the rules of the Senate on the same level as the Constitution. Nevertheless, in those rules, various procedural matters call for varying majorities. These range all the way from unanimous consent, to two-thirds, to simple majorities. And, again, the purpose of these variances is essentially the same as that of the various types of majorities embodied in the Constitution—that this body shall proceed in an orderly fashion, with appropriate deliberation.

So let us then, each of us, divest ourselves once and for all of any superior virtue in which we may be constrained to clothe ourselves merely because we advocate that debate in the Senate shall terminate on the basis of a simple majority, a three-fifths majority, a two-thirds majority, or whatever.

And let us now narrow and reiterate the question: What kind of a majority to prevent abuses under rule XXII while still retaining that measure of extra caution on matters pertaining to the Senate's capacity for full and complete debate? Let no one make light of this capacity. It is a procedure which is intimately related to the great and unique contribution of the Senate to this Gov-

ernment and Nation throughout the entire history of the Republic. What is at stake here in this consideration of rule XXII is not civil rights alone. It is every issue of transcendental importance that comes before the Senate, today and tomorrow. It is an essential part of the frame within which every such issue is considered in this body. It is that unique characteristic of this body which, as it has before us and as I hope it will do after, helps to set this institution, this citadel, if I may use that term, apart from all other legislative institutions throughout the world. That uniqueness, Mr. President, clearly stems in part from the concept of full debate, because it is this concept which insures our right and underscores our responsibility to bring to bear such individual wisdom as each Senator may possess on the great issues of his time.

I am not blind to past abuses of this right of full debate. I am not blind to the fact that the exercise of this responsibility has bordered many times on the irresponsible. But that does not change the fundamental question which is involved in the consideration of rule XXII. I repeat: It is not the question of civil rights except in the most temporal sense. It is, rather, the nature of the institution itself. In this connection, I would address myself to all of the Members of the Senate and ask them to consider rule XXII in terms of the stature of a continuing Senate of which we are but momentary custodians.

And to the Members on this side of the aisle alone, I would address this additional question: When shall we act to change this rule, if indeed, change is warranted? A new situation now prevails in this Government. Members of this party have the responsibilities now not only in the Congress but also in the administration of the Government.

Speaking as one Senator, I am persuaded that further change in rule XXII is needed. The spectacle of Senators sleeping on cots in their offices, night after night, for weeks on end, in an effort to reach the point of a vote on a single isue before time would put an end to the 86th Congress, was not an edifying one. It added not at all to the stature of this body as a responsible and effective instrument of government.

I should not like to see that spectacle repeated while I remain a Member of the Senate. And I hope that it will not be repeated—ever. I favor a change in the rule to make it less likely that it will be repeated. But the question, "When to change?" remains. It remains, may I say, particularly for my colleagues on this side of the aisle.

I ask each Democratic Senator to weigh most carefully the situation as it now exists. As Democrats, we no longer have only a partial-party responsibility for the leadership of the Government. We have the whole responsibility. The Nation awaits that leadership. There are pent-up needs for action—legislative and executive—in the field of distressed areas, education, minimum wages, medical care for older citizens, and so forth. These needs can be met, and they must be met. It is the responsibility of this party to meet those needs—to meet them adequately, to meet them promptly.

During the next 4 years, there will be no blaming the failure to meet these needs no Presidential veto. The mandate is ours; the authority is ours; the responsibility is ours, in the executive branch and in the legislative branch. I do not see that we shall adequately discharge that responsibility, that we shall effectively use the authority which the people of the United States have conferred upon us, if we now, at this moment in the time of this Congress, engage ourselves within this party in a time-consuming, emotion-filled, disunifying, disrupting struggle over rule XXII.

Some will say that there is a great need in this Nation not only for action on distressed areas, on medical care, and on minimum wages, but also on a more fundamental question—the constitutional right of every citizen of the United States to equal treatment under the Constitution and the laws of the United States, regardless of where he may live in the Nation, regardless of who he may be. To those colleagues, I reply that I am fully in accord. But I say, further, that there are many paths to progress in the field of civil rights, paths dependent not at the outset of this new administration on new legislation, as is action on distressed areas, medical care, minimum wage, and similar matters.

We will have a President during the next 4 years who will lead vigorously in this fundamental field of equality of all citizens under law, a President equipped by conscience and by personal conviction to so lead, a President who will use the moral suasion of the office of the Presidency to so lead, a President armed with the inherent powers of the office, a President equipped with legislation previously passed to so lead. As we must look first to the Congress for the legislation to move the Nation forward in the realm of socioeconomic legislation, I believe we must look first to the new President for the actions which he is so well equipped to take in bringing the ideal of the equality of all citizens closer to the reality in this Nation.

It goes without saying that Members are free on this issue of rule XXII, as on all others, to vote as they deem proper. For myself, however, assessing the issue not only in terms of my personal convictions but also in terms of my responsibilities to my Democratic colleagues and to the incoming administration, I must act in a fashion which, I am persuaded, in the end will move the Nation forward most rapidly, most soundly, not only in matters of civil rights but also on all the new frontiers to which the new administration will address itself.

And I must act, too, without regard for party but as a Senator in a fashion which I believe will best gird the dignity and preserve the vitality of the Senate as an institution, as a citidel of this Government. I am persuaded that, insofar as these considerations are involved in rule XXII, a change of the kind sought in the proposal of the distinguished Senator from New Mexico [Mr. ANDERSON] is desirable. The distinguished minority leader [Mr. DIRKSEN] is, I am informed, in accord with me in the view that the requirement of three-fifths of the Senators present and voting should be sufficient to preserve the concept of full debate in the Senate while discouraging its abuse.

But both the minority and majority leaders believe that this matter ought first to go to the Rules and Administration Committee. We are confronted with possible rulings by the Presiding Officer of far-reaching consequence. These have never been given adequate hearing and consideration by the Committee on Rules and Administration. As probable chairman of that committee, I wish to assure the Senate that this proposition will receive such consideration, and that I shall leave no stone unturned to see to it that a measure of the kind proposed by the Senator from New Mexico is reported to the Senate at a later date. And, further, the minority leader joins with me in assuring the Senate that we shall do everything in our power to bring such a measure to a vote in this body.

Mr. President, I move that the pending resolution, Senate Resolution 4, to amend the cloture rule by providing for adoption by a three-fifths vote, as modified, together with the amendment proposed thereto by the Senator from Minnesota [Mr. HUMPHREY], for himself, the Senator from California [Mr. KUCHEL], and other Senators, be referred to the Committee on Rules and Administration.

Mr. DOUGLAS and Mr. JAVITS addressed the Chair.

Mr. MANSFIELD. I yield to my colleague from Illinois.

Mr. DOUGLAS. Has the Senator yielded the floor?

Mr. MANSFIELD. No. I will yield to the Senator from New York.

Mr. JAVITS. Mr. President, I should like to address two inquiries to the majority leader, and in so doing I express my respect, as he knows, for everything he has said, with which he knows I differ strongly.

The first question I wish to address is: What assurance do we have, if we follow the course suggested by the majority leader, that when the committee reports back to the Senate—and there is no provision in the motion of reference for a report date, though I will say immediately to my colleague that with him as chairman of the committee I would have no qualms about that—some measure which he favors and the minority leader favors, we will not be compelled, because of the situation we will then face, to encounter a filibuster which we cannot break except by a vote of the very kind which the Senator says is unfair now to the majority in the Senate?

Mr. MANSFIELD. I will say to the Senator from New York, for whom I have a great deal of admiration and respect, that what he has is my word; and that in itself should be sufficient, and is, so far as I am concerned, in my relations with every Member of this body. I will do all I can to reasonably expedite hearings on this measure, and others, if they are referred to the Committee on Rules and Administration.

If a measure is reported, then I intend to do all I can to see that it is approved by the policy committee and reported to the Senate.

Insofar as a filibuster is concerned, I am not at all certain that there will be a filibuster, because I am not at all certain exactly what the term "filibuster" means. Sometimes it depends upon who is wearing the shoe, as to whether it is called a filibuster, an extended educational debate, or some sort of device or other.

It is my belief that if we do not operate in the manner suggested, we shall not proceed expeditiously to the consideration of the legislation which is very important to many of Senators who are interested in this particular proposal at this time. If it is going to take a great deal of time now, I think the program is in danger. If it is going to take a great deal of time later, what have we lost? We have acted expeditiously. We will have presented our arguments to the proper committee. They will have been heard. Legislation will be reported out. The policy committee will bring that legislation to the floor. I do not know what more anyone can ask for. In my opinion, the chances for success then would be better than they are now.

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

Mr. MANSFIELD. I am delighted to yield.

Mr. JAVITS. The Senator agrees, then, as I understand what he has said, that it is true that once we pass this amendment and adopt the resolution, we shall then be bound by the Senate rules and we shall be unable to end debate, no matter how it may be characterized, on a motion to change the rules brought in by the Rules Committee, except pursuant to rule XXII as it now stands. Am I correct in that?

Mr. MANSFIELD. Is the Senator absolutely certain that he is not bound now?

Mr. JAVITS. The Senator believes that the same majority which can change the rules can also sustain the Vice President's ruling that debate may be terminated, and therefore that there is available to the Senate at this time—and there will not be available when the Senator brings in his report from the Rules Committee—a way in which the Senate can act without delaying important legislation or any other measure, and that we are inviting the very thing which the Senator feels is unjust in the rules now.

Mr. MANSFIELD. I do not agree with the Senator from New York, and I would advise my colleagues on both sides of the aisle and on all sides of this question to read very carefully the Vice President's advisory opinion and to define in their own minds just what the word "majority" means. If the opinion is examined closely, as Senators who are also lawyers should have done by this time, perhaps they will come to an understanding that the advisory opinion of the Vice President refers to a majority of 26, or one more than the majority of a quorum, and I think that view ought to be retained.

Mr. JAVITS. Mr. President, will the Senator yield on a **factual question?**

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. Is the Senator aware of the fact—and I know he is—that the Rules Committee conducted hearings through a subcommittee composed of the Senator from Georgia [Mr. TALMADGE] and myself in 1958 on this very subject, that the Rules Committee considered the issue, and by a majority of 5 to 4 reported the very proposition which is known here as the Douglas plan on April 30, 1958, recommending precisely what the Senator says we should do, and that no action whatever ensued on that recommendation?

Mr. MANSFIELD. I remember; yes.

Mr. JAVITS. Will the Senator tell us why he believes, therefore, that we should take the tortuous course which he suggests to the Senate, without any ability to close debate, when we encountered disaster when we did exactly what he proposes?

Mr. MANSFIELD. Because I believe in the Senate.

Mr. JAVITS. I thank my colleague. If my colleague would permit me to make a further observation, I would say I believe in the Senate, too; but I believe in the majority of the Senate and not in the minority, and I respectfully submit that the course that my colleague asks us to take delivers the Senate over to a minority. I thank my colleague.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. CASE of New Jersey. It is my understanding that the majority leader's view is that the situation, insofar as the power of the Senate to close debate is concerned, will not be different if the issue is referred to committee and reported back and comes upon the floor at some time later in the session, from what it is now.

Mr. MANSFIELD. That is my opinion; it is one Senator's opinion.

Mr. CASE of New Jersey. If that is so, I wonder if the Senator from Montana would yield for a unanimous-consent request that, assuming the majority leader's motion is adopted and his suggestion that the matter be referred to a committee is followed, when the subject again comes before the Senate, it shall be considered in all respects as the first business of this session of the Congress.

Mr. MANSFIELD. I do not know the purpose of the proposal of the Senator from New Jersey.

Mr. CASE of New Jersey. I will make my proposal even more explicit. The majority leader differs from the Vice President, I believe, and certainly from the Senator from New Jersey, in his view as to the power of the Senate to bring debate to a close on this issue by a majority vote at the outset of a new Congress. Let that be as it may. If the Senator from Montana is correct, he is correct. If we are correct, as we think we are, in accordance with the Vice President's advisory opinion, then we are right. But will the Senator from Montana join the Senator from New Jersey in asking the Senate to establish now, by unanimous-consent agreement, that whatever the situation in that regard is, it shall not be prejudiced by following the course which the majority leader suggests? In substance, there would be preserved the right, by whatever form of words is appropriate, to bring debate to a close through vote by majority established under the Constitution, whether it be by motion for the previous question, motion that debate end, or whatever the form of words. I ask whether the situation in that regard would differ, when the matter comes back from the Senator's committee, from the present situation, when it is the first business of the Congress?

Mr. MANSFIELD. No; I could not agree because I do not believe we have the authority to bind the Senate at a later date. The Senate in operation at that time, perhaps some months hence, will have to lay down its own rules.

Mr. CASE of New Jersey. The Senator misunderstands my question, I believe. I am not asking that he bind Senators as to how they shall vote on a subject of that kind, either by reference to the Chair or by appeal from the ruling of a Presiding Officer.

What the Senator from New Jersey asks is that the Senator from Montana join me in asking the Senate by unanimous consent to agree that the situation in that regard shall not be different, insofar as the power of a majority to close debate is concerned, than it is if we consider the matter and conclude it now?

Mr. MANSFIELD. No; I could not join with the Senator from New Jersey in that request, because I do not agree with the Vice President's advisory opinion. It is his own personal opinion. I do not believe it fits with the parliamentary facts, and on that basis I could not agree.

Mr. CASE of New Jersey. If the Senator from Montana will indulge me once more, I understand that the Senator from Montana disagrees with the ruling of the Vice President, and, of course, I believe the Vice President is correct.

But be that as it may, will not the Senator agree that whatever the correct situation is, we may consider the question, when it comes back to us from the Senator's committee—if it goes to his committee—on the same basis and with no prejudice because of the fact of its having been sent there, as if we had considered the question and concluded it as the first business of this Congress?

Mr. MANSFIELD. I must admit, in all frankness, I do not quite know what the Senator is getting at, but if it would make him feel better, I would join with him and let the question be put to a vote.

Mr. RUSSELL. Mr. President, there cannot be any vote on that question.

Mr. CASE of New Jersey. If the Senator from Montana will indulge me further, this is not a question of a vote.

In order to protect the right of every Senator, I believe it would require a unanimous-consent agreement, and if such agreement is not forthcoming—and any single Senator may block the re-

quest—then the Senator from New Jersey is not prepared to follow the request of the majority leader. He believes that the business of the Senate—the President-elect's program, and all the rest—can be furthered better by concluding this issue now and by exercise of the power of the Senate to close debate after a reasonable debate is had before the business of inauguration occurs than by following the course the Senator recommends.

Mr. MANSFIELD. May I say to the Senator from New Jersey, for whom I have great respect and admiration, as I have for the Senator from New York, that he is entitled to his point of view, as are the 99 other Senators; and if at any time a single Senator, whether he be Democrat or Republican, does not express in the open the views which he honestly believes, I do not think he should be a Senator.

Mr. CASE of New Jersey. I appreciate that statement. Of course, everything we say is with the utmost respect for each other's point of view in this regard.

Mr. MANSFIELD. I thank the Senator from New Jersey.

Mr. DOUGLAS. Mr. President——

Mr. DIRKSEN. Mr. President——

Mr. MANSFIELD. Mr. President, before I take my seat may I say that the proposal is introduced by the junior Senator from Illinois [Mr. DIRKSEN] and myself.

Mr. DOUGLAS. Mr. President, it is never pleasant to disagree with one's leader. It is particularly unpleasant in the present case. I feel compelled to do so, however.

I should like to begin by quoting the pledge which our party took last summer on this very issue, which has not been often mentioned in this debate, but of which we should be aware. I can certainly assure the Senators that the voters in the country are aware of this pledge. Let me read it. It is on page 47 of the Democratic platform.

> 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 87th 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.

Members of the Senate, and particularly Members on this side of the aisle, let me call attention again to the fact that this pledge stated that action should be taken "at the beginning of the 87th Congress."

It is upon that platform that our national candidates campaigned. It was to that platform that our candidates for President and Vice President declared their support. It was upon the basis of that platform that hundreds of thousands and indeed millions of voters in the North and, yes, the West, supported our candidates. There were indeed some in the South who voted Democratic for that very reason.

It was upon that platform that many of us who ran for the Senate gave our pledge of allegiance, and received an overpowering majority from the voters. We Democrats, in my judgment, are also bound morally as well as by the mere letter of the platform to follow that declaration.

There is altogether too much of a tendency in these days to treat party platforms as something with which to bamboozle the voters, not as something to which we pledge our true support and allegiance.

The test is coming, at least for those of us on this side of the aisle, as to whether those were empty words or whether they were something which we meant.

If the motion of the majority leader is agreed to, in my judgment it will be a black day for the Senate, for the country, and for the leadership of the Democratic Party.

I wish to credit the Senator from Montana with full sincerity when he says that he feels the Senate rule should be changed, but he is saying, now is not the time to do so.

We have 10 days before the new President will be inaugurated. During that time we can find out whether the Senate is or is not in favor of a change in the rules so as to permit a majority to bring a measure to a vote. This is indeed the only period in the life of this Congress when by a majority vote we can pass upon this question.

Under the rulings of the Vice President, under the mandate of the Constitution, under the precedents of Jefferson's manual, and under the precedents of the House and of the Senate, we can move the previous question. The previous question is not subject to debate and is decided by majority vote, and thus we can terminate debate upon the main issue and proceed directly to the issue of changing the rules.

We can do it during this preliminary period in the new Congress by majority vote, and we can only do it now. As the Senator from New York has pointed out, once the rules of the Senate in their totality are adopted either directly or implicity by acquiescence, then thereafter we can only limit debate by a two-thirds vote of the Senators present and voting.

We know this, Mr. President. The overwhelming majority of the people in the country want a change in the Senate rules so that after full debate the majority may have the chance to vote. We also know that a small minority would deprive the people of that chance. A majority of the people want the change. Even a majority of the Senate wants it, although representation in the Senate is somewhat lopsided.

The point is that while we have a majority in favor of a change, we do not have two-thirds. We do not have two-thirds because when the question of civil rights is involved, our southern friends —and I do not question their sincerity—do not want to have the rules changed because they do not want to have the full implications of the 14th and 15th amendments to the Constitution carried out by Congress. That is 22 votes right there.

A majority of the Senate want to do that, but not two-thirds. Some Senators from other regions will support the practime of the filibuster in order to help their friends from the South. We know that.

However, once we pass this point in the life of the Senate of a new Congress, then the two-thirds rule comes into effect, and it is goodby to effective civil rights legislation for this session. I think it is in fact goodby to civil rights legislation for the next 4 years. In the next Congress we may not be in the same position of being able to move the previous question that we are in during this interregnum before the new administration takes office.

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

Mr. DOUGLAS. I yield.

Mr. JAVITS. The Senator made the statement about the rules being——

Mr. DOUGLAS. I know what the Senator has in mind. The Senator is a very able lawyer. The Senator from Illinois is not a lawyer. I say this is the one period during which we can move the previous question. In my judgment that motion can be upheld by a majority vote, and we can proceed to act upon the rules change which is now before us. But thereafter we will not have this right, because the Senate will not be proceeding under the constitutional authority to make its rules and under the rulings of the present Vice President, and consequently rule XXII in its present form will operate, and a two-thirds vote will be required.

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

Mr. DOUGLAS. I yield.

Mr. PASTORE. If I understand the Senator from Illinois correctly, I believe the situation to be this. He feels that at the present time we have a right to move the previous question and bring this matter to a vote.

Mr. DOUGLAS. That is correct.

Mr. PASTORE. Why has not that been done? What are we waiting for?

Mr. DOUGLAS. I am perfectly willing and ready to move it or move to table Senator MANSFIELD's motion.

Mr. PASTORE. I do not know why the Senator does not do it.

Mr. JAVITS. Mr. President, will the Senator from Illinois yield so that I may speak on that point?

Mr. DOUGLAS. I yield.

Mr. JAVITS. I believe we all understood the situation. At the same time we felt that a certain amount of debate was legitimate, required, and necessary. I believe all of us have been trying in our own conscience to determine at what point it would be fair and seemly to say there has been enough debate of these proposals and that we should now test the main point. I believe some of us felt that we were within a day or 12 hours or 2 days, but that we had not actually arrived at that point.

Mr. PASTORE. Does not the Senator believe we have reached the Rubicon?

Mr. JAVITS. Yes.

Mr. PASTORE. Let us try to cross it, then.

Mr. DOUGLAS. There is before us the motion of the Senator from Montana, the distinguished majority leader, that I believe we should vote on.

A vote in favor of it is a vote against the Democratic platform, because the Democratic platform stated that action should be taken at the beginning of the 87th Congress. Those who drafted that plank in the platform knew what they were doing. They knew that if the matter were referred to a committee, the two-thirds rule would apply when it came back to the floor and that we could never get a two-thirds majority to vote for the necessary change. That is why they used the words, "at the beginning of the 87th Congress."

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. CASE of New Jersey. I wonder if I might state the view of some of us on this side of the aisle by saying that a vote for the pending motion of the Senator from Montana is also a violation of the Republican platform, which substantially, if not in the same specific terms, provides for the same thing.

Mr. DOUGLAS. I am glad to have the Senator from New Jersey say that. I did not want to interpret the Republican platform, because it is somewhat vaguer than ours.

Mr. CASE of New Jersey. Only as to the time. I believe that in some instances it is a little more specific.

Mr. DOUGLAS. I am glad to have the Senator say he thinks it is a moral commitment for the Members of the Senate on his side of the aisle. It is certainly a moral commitment for those of us on this side of the aisle, although it is not a moral commitment for those who repudiated the platform. Those who repudiated the platform specifically on this point, in my judgment, are not bound by it. I believe in the right of the individual conscience to dissent, but this should be stated prior to the election, so that the voters may know for what they are voting. They should not be bamboozled.

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

Mr. DOUGLAS. I yield.

Mr. CLARK. I would like to make it very clear indeed that not only what the Senator from Illinois has stated is true about our platform, but that those who vote to support the pending motion give up all possible hope of ever changing the cloture rule during the 87th Congress, if we do not do it now. Those who vote for the pending motion do so with the consciousness that we can never do it as long as this Congress exists.

Mr. DOUGLAS. In my judgment, we forgo action in the 88th Congress as well, for reasons which I shall not go into but which are fairly obvious.

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

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. I think, in response to the distinguished Senator from Rhode Island, who asked why the previous question had not yet been moved, it ought to be made crystal clear—and some of us discussed this matter by the way, last week—that had it been moved last week, some Senator would have said, "This is really applying the gag to the Senate; there simply was not any time, really, to state our respective positions."

Therefore, there was a reluctance to apply the previous question, if for no other reason than the time factor.

Also, the previous question opens up a new experience, at least within the past 150 years in the U.S. Senate, and there was some reluctance to apply the previous question on that basis.

So far as motions to table motions were concerned, it was rather difficult for those who favor majority rule in this body, such as is proposed in the resolution offered by a number of Senators, to move to table our own motion. Therefore, the motion before us—while I intend to vote against it—surely, at least, poses a decision for us to make.

I might add, since I am attempting to make the position on this question quite clear, that for those who want to see a change in the rules, in the light of our platform commitment, a vote for the motion would surely delay any such change in the rules, while a vote against it would at least fulfill our commitment to our platform requirements and platform promises. I have heard much talk about the platform. I have heard it said that we did not promise, in the platform, majority rule. That is quite obviously taken care of by the wording. It reads:

> We urge that action be taken at the beginning of the 87th 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.

In this instance, the majority leader's motion is a positive motion in the sense that it is not a motion to table. To have moved to table would have killed the proposal. If a motion to table were to carry, I would be less than honest if I did not say that on the majority rule proposition we do not have the votes which would be needed to carry it, although I think we would be considerably stronger than we were 2 years ago.

On the proposal for a three-fifths majority, it appears to me that the private declarations of a number of Senators indicate that there is strength for a proposal for the proposal of three-fifths of the Senators present and voting.

I have said previously, and publicly, that if the time factor on the three-fifths majority proposal was of serious consequence—in other words, three-fifths after a cloture provision was filed, and then waiting 2 days—waiting 5 days or 10 days was relatively unimportant. The main point was to arrive at a point for making a decision.

So, while I regret to see this situation develop at it has, I know that the majority leader's motion is, at least, one in which there is an affirmative statement of support for the proposition of a three-fifths majority. However, at least from my point of view, I do not believe we should indicate that we will get the prompt action from the Committee on Rules and Administration that we would get by taking up the motion at this particular time. The danger, which has been cited here, is the danger of carrying over beyond January 20. I might add that that danger could have been alleviated had some Senator moved to table; but, I repeat, no Senator on the side which favors the motions was willing to move to table and apparently the opposition felt that time was on their side.

Mr. MANSFIELD. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield to the Senator from Montana, with the understanding that I will have the right to make a further statement.

Mr. MANSFIELD. I felt that a motion to refer these proposals to committee would still allow debate on the proposals, whereas a motion to table would have been a gag, and there would have been no opportunity for debate, because a motion to table is not debatable.

Mr. DOUGLAS. I appreciate the graciousness of the comment of the Senator from Minnesota in this matter, that this is not a motion to kill but rather a motion to discuss.

In effect, however, if the motion of the Senator from Montana to refer is agreed to—and I do not believe the debate on it should be prolonged—it is a motion to kill. We know perfectly well that if the resolution goes to the Committee on Rules and Administration and is reported back to the Senate, it will then be confronted on the floor with a filibuster, and we will be back in the old situation. Two-thirds of the Senators present and voting will be needed to limit debate.

We all know, from our experience, that that two-thirds will not be forthcoming. Our southern friends, who feel very sincerely on this subject—I do not wish to question their sincerity—will oppose it. They have allies in border States. They have a number of crypto allies north of the Ohio River who will help them out. We will not get two-thirds, even though a vast majority of the people in the country want to move forward in the field of civil rights, and even though a majority of the Senate, I believe, want to move forward.

We can test all this now, however, by motions to table and motions of the previous question which will be decided by a majority vote. We should do it now, and this is the one period in which we can do this.

If the Senate agrees to the motion to refer, then the matter is dead for 2 years. In my judgment, it is dead for 4 years. I do not wish to elaborate on why I believe it is dead for 4 years. The facts are obvious. We will have no meaningful civil rights legislation.

Our platform not only pledges itself to a change in the rules at the beginning of this session; it pledges itself to an advance in the field of civil rights. We have hitherto kept the question of civil rights out of this discussion. We have discussed the matter in terms of parliamentary procedure. We have tended to lose sight of the substantive questions and issues behind this proceeding.

We all know that about 20 million Americans suffer under various forms of legal and social stigma. We in the North have our faults in this matter. But insofar as there is a lack of equality in the North, it is not due to statutes.

It is due to the attitudes of human beings.

We believe that statutes, ordinances and governmental acts which are in violation of the 14th and 15th amendments should not prevail. Many of us believe very strongly in the basic principles behind the 14th and 15th amendments—the equality of all citizens under the law. We believe there should be no first-class citizens and no second-class citizens, but that all citizens should be on a plane of equality and be judged on their merits. That is the essence of the first sentence of the 14th amendment which states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

There are many of us who believe very intensely in the last pledge of the 14th amendment that no person shall be deprived by any State of his right to the equal protection of the law.

We believe also in the 15th amendment, that no person shall be deprived of the right to vote because of race, color, or previous condition of servitude.

We should also remember that the 14th and 15th amendments both explicitly give to Congress the power to make those provisions effective by appropriate legislation. We have that power. We have almost never exercised it or exercised it effectively. Many of us want to exercise it in a salutary fashion, in no punitive fashion whatsoever, but so that America may move forward. However, we are stymied by a relative minority of the Senate and by a still smaller minority throughout the country.

I do not want to make too emotional a speech, but we are now engaged in a great struggle with communism throughout the world. The results of that struggle will, in large part, depend on what the people of Asia, Africa, and Latin America decide. Their judgment of us will depend, in large part, upon what we do in the field of civil rights.

I know our friends from the South are patriotic. I had the privilege to serve in the military forces with units which were primarily Southern in character. One could not ask for better comrades in arms, comrades more courageous or more patriotic. But we are helping here also to decide the future of this Nation.

If we kill the resolution by what seems to be a purely parliamentary procedure, if we send this resolution to the Committee on Rules and Administration, we shall be saying, "No civil rights legislation in the next 2 years, and probably not in the next 4 years."

It is not merely that we shall be dishonoring our platform, to which many of us are bound in honor. We shall be setting back the cause of human freedom, not only in this Nation, but throughout the world.

I close with just two lines which have come into my mind from a poem by Arthur Clough. About a century ago he wrote a poem which he called a modern Decalog, in which he gave the Ten Commandments as they would have been phrased by a Victorian Pharisee. When he came to the commandment "Thou shalt not kill," he wrote:

Thou shalt not kill, but needs not strive Officiously to keep alive.

If we send these resolutions to the Committee on Rules and Administration, we shall in effect, be voting to kill them by not trying to keep them alive and not trying to adopt them. We will allow "King Filibuster" to defeat the basic desires of the American people for a further forward step in race relations and in the dignity of man.

It has not been easy for me to make this speech. But I ask the Members of the Senate to remember their pledges, to look at the situation in the world and then to consult their consciences before they vote.

Mr. DIRKSEN. Mr. President, I should like to ask the majority leader whether he contemplates the taking of any action tonight and what is in his mind with respect to the possibility of taking a vote on the motion to commit.

Mr. MANSFIELD. Mr. President, I wonder whether it will now be possible to propound a unanimous-consent request, in the hope that we might vote on this proposal—on a majority-vote basis, I may say—on Friday?

Mr. JAVITS. Mr. President, reserving the right to object, let me ask whether the majority leader actually has propounded such a request?

Mr. MANSFIELD. I was broaching the possibility. I will make that unanimous-consent request, Mr. President: That the proposal of the minority leader and myself be voted on at 4 o'clock, Friday afternoon.

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. CLARK. Mr. President, reserving the right to object——

Mr. JAVITS. Mr. President, reserving the right to object, I should like to propound a parliamentary inquiry of the Chair.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. If this unanimous-consent request is agreed to, will, nonetheless, the right of any Senator, whatever that right may be, be preserved and not be prejudiced by such unanimous consent—in other words, the right of any Senator to move that debate on this motion be closed, under the Constitution, at any time, even before 4 o'clock on Friday, rather than under the rules of the Senate?

Mr. CLARK. Mr. President, reserving the right to object——

Mr. DIRKSEN. Mr. President, I have the floor.

Mr. CLARK. Then let the Senator from Illinois proceed. But do not I have a right to object?

Mr. DIRKSEN. If the Senator from Pennsylvania is going to object, very well.

Mr. MANSFIELD. No, he is objecting to my proposal.

The PRESIDING OFFICER. It is the understanding of the Chair that if it is agreed that the vote be taken on Friday, at 4 p.m., that will preclude the taking of any vote before that time.

Mr. JAVITS. Will the granting of the unanimous-consent request constitute business within the terms of the advisory opinion of the Vice President, so that any Senator will be precluded from moving to close debate on any other motion now pending, namely, either the Anderson motion or the Kuchel-Humphrey motion, under the Constitution, rather than under the rules of the Senate?

The PRESIDING OFFICER. The Chair could not give a decision at this time.

Mr. HOLLAND. Mr. President, we could not hear the ruling of the Chair.

The PRESIDING OFFICER. The Chair replied that he could not give a decision at this time, because he would like to make a further study of the question.

Mr. DOUGLAS. Mr. President, may I address an inquiry to the distinguished majority leader?

Mr. DIRKSEN. I yield.

Mr. DOUGLAS. The distinguished majority leader says he wishes to postpone the vote to Friday.

Mr. MANSFIELD. Not necessarily. I thought many Members wanted to speak, and I thought they should have that privilege.

Mr. DOUGLAS. Let me say that so far as I am concerned, I shall be ready to vote on this matter tomorrow, so we may have more time prior to January 20; and it might even be that a motion to lay on the table the motion of the Senator from Montana would be in order.

Mr. MANSFIELD. I think it would be in order; and in either way we would then face the issue.

Mr. DOUGLAS. Certainly there is no disposition to delay.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to vote on the pending motion at 4 o'clock tomorrow afternoon.

Mr. RUSSELL. Mr. President, reserving the right to object, let me say that I have heard these perfervid statements made in efforts to arouse emotion to such an extent as to influence the Senate to vote to destroy itself—efforts made by waving the banner of civil rights. But anyone who has served in the Senate knows that if it had been possible to use the rules of the Senate to defeat the civil rights bill, there would not have been a Civil Rights Act of 1957 and there would not have been a Civil Rights Act of 1960.

This is only a straw man set up here in an attempt to deal with a question much braoder than the question of civil rights.

I do not know that I want this sword of Damocles hanging over my head for the next 2 years, under the statement made by the distinguished Senator from Montana. So I will object to any request that the vote be taken tomorrow, in order to have an opportunity to consult with some of those who have been associated with me in trying to preserve the rules of the Senate.

It seems to me—to judge from what the Senator from Montana has said—that it is proposed that we proceed to kill this cat by cutting off its tail by degrees.

But I wish to have an opportunity to discuss this question before we vote.

So I shall object to any request for the taking of any vote tomorrow. I wish to have full opportunity to consult with some of those who have been associated with me in the attempt to preserve the Senate as a deliberative body.

Mr. DIRKSEN. Mr. President, I should like to make a further suggestion to the majority leader: As he so well knows, and as the Senate knows, I have almost a congenital disinclination to have the Senate meet on Saturday unless that is absolutely necessary. Tomorrow is Wednesday; then comes Thursday; and then comes Friday. In the interest of giving ample time to all Senators, I think perhaps the discussions could be completed by Friday, and we could agree to vote on Monday. There will be Members who will be out of the city; some of our Members may be gone. Frankly, I should like to protect them.

I do not believe that for a period of 2 or 3 days, at least, this matter is one of such haste or urgency that we have to peg the vote on it for Thursday or for Friday. I like to be mindful of the convenience of all Members of the Senate, not only one or two of them.

So I respectfully suggest that matter to the attention of the majority leader, because then no Senator can quarrel on the basis of saying that he has been shut off and has not had an opportunity to discuss this matter.

Mr. MANSFIELD. Let me say to my friend that his distinguished colleague, the senior Senator from Illinois [Mr. DOUGLAS], suggested the possibility of taking the vote tomorrow. It has also been proposed that the vote be taken on Thursday; and now we have a proposal that the vote be taken on next Monday. In this job one is in the middle, as the Senator from Illinois well knows.

Mr. DIRKSEN. That is so true. [Laughter.]

Mr. HUMPHREY. It is quite obvious.

Mr. MANSFIELD. So, Mr. President, in an attempt to extricate ourselves from the middle in which we find ourselves, I will propound a unanimous-consent request; and if it is agreed to, I shall be the most surprised and the happiest Member on this floor. I ask unanimous consent that the vote on the proposal now pending before the Senate be taken at 2 o'clock on next Friday.

Mr. JAVITS. Mr. President, reserving the right to object, at this time I should like to propound the parliamentary inquiry which I propounded before—namely, will the granting of such unanimous consent change whatever rights the proponents of these motions have or whatever rights other Senators have to move to close debate under the Constitution, rather than under the rules of the Senate?

Mr. RUSSELL. Mr. President, I respectfully submit that is not a parliamentary inquiry.

The PRESIDING OFFICER. The Chair does not believe that any rights of any individual Senator would be lost as a result of agreeing to the pending request.

Mr. DIRKSEN. Mr. President, I think that ruling requires some clarification.

Mr. RUSSELL. Mr. President, of course no right would be lost, anyway. But a Senator does not propound a parliamentary inquiry when he rises here, whenever a proposal is made, and asks whether any Senator will have lost any of his rights under the Constitution. A Senator cannot be denied any of his rights under the Constitution. So the inquiry is an idle one.

Mr. JAVITS. Mr. President, reserving the right to object, I think the question which has been put to the Chair has now been answered in the affirmative; and therefore I should like to propound another parliamentary inquiry of the Chair: Will the unanimous-consent request, if agreed to, prevent or preclude the making, any sooner than 2 o'clock on Friday, of a motion to lay on the table the motion made by the majority leader?

The PRESIDING OFFICER. The Chair is of the opinion that no action could be taken in the meantime under the request of the Senator from Montana.

Mr. JAVITS. Mr. President, then I object.

Mr. DIRKSEN. Mr. President, will the distinguished occupant of the chair clarify his ruling a little, because, I say in all deference, it was not quite responsive to the question raised by the Senator from New York. I should like to know specifically whether a motion to table would be in order at any time prior to 2 o'clock on Friday. I think that was the question of my esteemed colleague from New York.

Mr. JAVITS. That was my question.

Mr. RUSSELL. Mr. President, it has always been the precedent in the Senate that, if we agree to a unanimous-consent request, that cuts off anything except something else done by unanimous consent. That has always been so under the rulings of the Senate, heretofore, under the Constitution, and under the rules of the Senate.

Mr. DIRKSEN. Yes, but I wanted the ruling to be responsive to the question. Obviously, if the Senate gives unanimous consent, that is the end of it. But the ruling was not responsive to the question raised.

Mr. HUMPHREY. Mr. President, may I raise this point with the Senator?

Mr. DIRKSEN. Yes.

Mr. HUMPHREY. If we give unanimous consent to the request, it is the opinion of this Senator that no action can take place disposing of this particular motion until that hour arrives; but when the hour arrives, we may dispose of it in a number of ways. In other words, the toolkit making possible the end of this motion would be wide open. It could be by moving the previous question. It could be by strict majority vote on the issue itself. It could be by motion to table. It seems to me we could not lose or preclude Senators of our rights, once that hour arrived, to defeat the motion or to agree to the motion, whichever way the Senate decided.

Mr. DIRKSEN. But it was quite clear that the motion to table, under the unanimous consent, would not be in order until 2 o'clock Friday.

Mr. HUMPHREY. But it would be in order at 2 o'clock Friday on this question or the previous question motion.

Mr. RUSSELL. No, Mr. President. I cannot let that statement go unchallenged. I have not heard of any rule in the Senate that provides for any previous question. The motion to table in the Senate, as the previous question is used in the House, cuts off all debate. It slices it off then and there. It is a sudden-death motion in the Senate. So we have no motion in the Senate known as the previous question, and I do not propose to let any statement go unchallenged to the effect that there is a previous question rule in the Senate.

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

Mr. DIRKSEN. I yield.

Mr. HUMPHREY. I recognize the Senator's view on this issue. Let me put it this way: The Vice President has given an advisory opinion to the effect that the previous question would be in order. I know that holding would be challenged by the Senator from Georgia, and there would have to be an appeal from the ruling of the Chair if that were done.

Mr. RUSSELL. He did not limit it to the previous question. He said any procedure. He left the door wide open for all Senators who advocate summary gag of the Senate to put forward any motion. He did not specify particularly the previous question. He said any other procedure. That was the Vice President talking; that was not a rule of the Senate.

Mr. HUMPHREY. The request of the Senator from Montana does not preclude the Senate from having a wrangle to dispose of a motion when the hour arrives. In other words, we can proceed to work on this motion with whatever tools seem to be at hand, even though some of them may seem to be of a questionable character or questionable value according to the Senator from Georgia.

Mr. MUNDT. However, it does not take place until the conclusion of the time specified in the unanimous-consent agreement.

Mr. HUMPHREY. That is correct.

Mr. DIRKSEN. The pending question is the motion of the majority leader, in which I concur as a cosponsor, to commit these measures to the Committee on Rules and Administration. That is the pending business at the present time.

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. And the first vote of the Senate would obviously recur on that motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. Which is a debatable motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, I renew my unanimous-consent request that the Senate agree to vote on the pending motion at 3 o'clock Friday next. We have split the difference between 2 o'clock and 4 o'clock.

Mr. KUCHEL. Mr. President, reserving the right to object, I am informed that some of our colleagues will not be here on Friday. This is a relatively important issue. Some of us believe it is supremely important. I wonder whether or not, and I have discussed this question with some of my colleagues, it would be in order to have it come up some time in the afternoon of Thursday.

Mr. MANSFIELD. The same difficulty in that respect holds here. If we cannot make it Thursday or Friday——

Mr. KUCHEL. Would Thursday be agreeable?

Mr. MANSFIELD. Tomorrow or Friday. I do not think tomorrow would give Members of the Senate time enough. On Thursday there are complications on this side of the aisle. On Friday there are difficulties on that side. Saturday is the day next to the day of rest.

How about Monday at 2 o'clock?

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. MANSFIELD. Surely.

Mr. JAVITS. I do not think we have to play games here. I think the issue is very clearly stated. I may state to the Senate my own view so we can understand what we can or cannot agree upon. If we are to agree to a very short time, 1 day or 2 days, I see no objection; but if we are to go beyond that, then we are depriving the Senate of the opportunity to end debate under the Constitution, and it is that question, as the Senator from Rhode Island has properly said, which could be decided tonight or tomorrow morning. If we delay beyond that, we are getting closer to the time when the Vice President, who has stated what his ruling would be on this question, will no longer be in the Chair. This is the perfectly frank situation we face. Hence, no one is going to seek to take advantage of anyone else. If the majority leader wants consent to end the debate at a time certain, when Members of the Senate can come in and vote, I see no objection; but I see grave objection to Mondays and Fridays, with the argument dragging on, and our getting beyond the time when we, and those who have the same interest in this question as I do, think the question should be decided. I would be constrained to object to any request that will allow the debate to continue for a period of days more than 2 days.

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

Mr. ERVIN. Mr. President, a parliamentary inquiry.

Mr. DIRKSEN. Mr. President, I yield to the majority leader.

Mr. MANSFIELD. It looks as though it will be impossible to arrive at a unanimous consent agreement, because no matter what day is selected, some Senator has an engagement. I think I should serve notice that, regardless of the list of engagements Senators may have, their business is on the floor of the Senate. We would like them to get to the floor, and we would like them to give prior consideration to these important matters, and every Senator should participate in the proceedings.

Mr. DIRKSEN. Mr. President, with respect to the observations of the distinguished Senator from New York, I have tried to protect a Senator who is absent this evening so there would be no voting. I am trying to protect a Senator who will be gone on Wednesday and Thursday. I am trying to protect a Senator who will be absent on Friday. I make no bones about it. If I think they are going to vote the right way, I am going to try to protect them all the more. It is just that simple.

When I made the suggestion that I thought we ought to vote on Monday, it was in the hope that the faithful who have seen the light, and have seen it properly, will be back here and be recorded when the clerk intones the roll.

This is "for keeps." I know that. I am not kidding myself about it.

I am not going to make any speech tonight. I am going to save a long-winded speech for later, when the Chamber is full of Members, because there are a lot of things I have to say. I am simply going to say this much, in a substantive vein: Out of the 26 years, I have been in the minority for 22. [Laughter.]

I have become a congenital "minorityite," I guess, and I think that way.

As I think back to House days and some of the things that unfolded—like the Bituminous Coal Act; Henry Wallace's Potato Act; the National Industrial Recovery Act, with the "blue eagle"; and the Agricultural Adjustment Act, under which we "plowed under" 15 million pigs—I am glad I was born before Henry Wallace's time. Since I am a member of a large family, I might have been plowed under after 1933 myself. [Laughter.]

I have seen these things unfold, and I like to have some weapons with which to fight, as a minority Member, as I look down the road. It is that simple.

I find great comfort in the fact that even on the other good side, so far as the House of Representatives is concerned, one of the first things which the House Committee on Rules did in January 1935—26 years ago almost to the day—was to modify a rule. The chairman of the Committee on Rules was called in, and he presented a rule for modification.

What was it? Up to that time a House committee could be discharged and a bill could be brought to the floor with 145 signatures. When good old John O'Connor, of New York, the chairman of the Committee on Rules, finished, the number was pushed up to 218. What was the reason? It was to make sure that all sorts of mischievous legislation did not get through the House of Representatives. It was a protection. LISTER HILL knows it. He was there. JOHN MCCLELLAN knows it. He was there. Many Senators were Members of the House at that time.

So I think in terms of a minority Member and a desire to be protected; but, more than that, a desire to have a weapon with which to protect a minority position.

I am fluid in one sense. I am against the majority proposal. I was always against it. Then the fortuities of politics put me in difficulty. I cosponsored, with the distinguished former majority leader, LYNDON JOHNSON, the two-thirds rule which is on the books, and also the amendment of rule XXXII. Then I discovered, when all the faithful gathered together in Chicago—and I was not a member of the Resolutions Committee—in the platform which was written was a statement that there ought to be a modification of rule XXII. What kind of modification was not stated. I am against the majority provision. What shall I be in favor of, to be in conformity with the platform?

Frankly, I do not know. Perhaps we can work something out on the basis of three-fifths. Perhaps there are other things to be considered. That is the reason the proposal should go to the Rules and Administration Committee. It will not go back to the Rules and Administration Committee, because had it come from the committee we would be considering a motion to recommit instead of a motion to commit, which we are cosponsoring today.

I think we will best serve our own interests and we will best serve the interests of the new administration if we take a second look at this matter.

The pages of history are full of language and sentiment about rules, but now we are dealing with reality.

I should like to see the Senate "get off the hook." I do not care for the business of waking up in my office every 2 hours, when it sounds as if the Pennsylvania train is going through with a full head of steam, in a filibuster.

I say to every Senator present in the Chamber that the distinguished majority leader is a man of consummate honor. I have found him to be that, in my House experience. He will be the chairman of the Committee on Rules and Administration. He says to the Senate, "Let me take the measure to the Committee on Rules and Administration. I assure Senators that it will receive a hearing and it will come to the Senate, without the necessity for putting a time tag or a day certain upon the motion."

I have that much faith in him. I have unlimited faith in him. I believe he is as good as the words he utters on the floor, and that the measure will be returned to the Senate.

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

Mr. DIRKSEN. I believe, therefore, that we serve every good purpose best by following that advice, by sending the proposal to the committee. Then, in due course, we can let this bag of confusion return to the Senate, if it must.

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

Mr. DIRKSEN. I will yield, but I wish to add one comment.

It was said by my colleague that we would be operating under Senate rules, which would be the death of this proposal, and this would be the coup d' grace.

I do not believe a word of it.

When in good faith the majority leader gives that assurance to the Senate, if for any reason those honorable efforts were to be obstructed I believe it would be like falling off a log to get two-thirds of the Senators to vote for cloture. I would sign a cloture petition, because I think that would be a breach of faith, if, after reasonable debate and all of that honorable effort, we failed to come to grips with the issue which is involved.

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

Mr. DIRKSEN. I yield.

Mr. CLARK. Does the Senator really believe that if the measure came to the Senate from the Committee on Rules and Administration, as I am sure it would, for I am sure every Member of this body shares the Senator's high regard for the majority leader—certainly I do—we could get 67 votes in favor of a cloture petition?

The Senator is not that naive, is he?

Mr. DIRKSEN. It has been written, "O ye of little faith." [Laughter.]

I have more faith than the Senator from Pennsylvania.

Mr. President, I am ready for the Senate to adjourn. We are not going to vote.

SEVERAL SENATORS. Vote! Vote!

Mr. MANSFIELD. Mr. President, I do not think we should vote tonight, because there are some Members of the Senate who are unaware of what was going to occur. I think their rights should be protected.

Mr. RUSSELL. Mr. President, I certainly do not wish to vote tonight. I should like to have an opportunity to reflect on some of the threats which have been made this afternoon. We may determine to let this go on, or to undertake to deal with it now. We may feel it ought to be committed. I am not prepared to vote this afternoon. I should like to protect myself.

COMMITTEE SERVICE

Mr. MANSFIELD. Mr. President, I wonder if it would be possible at this time to move once again that the committee appointments referred to the Senate by the Democratic steering committee be taken up for approval.

Mr. CLARK. Mr. President, reserving the right to object, with deep regret I do object.

RECESS

Mr. MANSFIELD. Mr. President, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 28 minutes p.m.) the Senate took a recess until tomorrow, Wednesday, January 11, 1961, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 10, 1960:

IN THE NAVY

Rear Adm. Edward C. Kenney, Medical Corps, U.S. Navy, to be Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years.

Rear Adm. Leonidas D. Coates, Jr., U.S. Navy, to be Chief of Naval Research in the Department of the Navy for a term of 3 years.

The following-named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

William E. Ellis
Charles K. Duncan
William S. Post, Jr.
John A. Tyree, Jr.
Harry Smith
Frederick L. Ashworth
John B. Colwell
George H. Miller
Bernard F. Roeder
Benedict J. Semmes, Jr.
Thomas R. Kurtz, Jr.
Charles T. Booth II
Bernard A. Clarey
Hazlett P. Weatherwax
William I. Martin
John L. Chew
Samuel B. Frankel
John W. Gannon
William T. Nelson
Forsyth Massey
Edward A. Wright
John S. McCain, Jr.
Edwin B. Hooper
Louis J. Kirn
Henry A. Renken
Ralph C. Johnson
Morris A. Hirsch

MEDICAL CORPS

Cecil D. Riggs
Langdon C. Newman

SUPPLY CORPS

Herschel J. Goldberg

CHAPLAIN CORPS

Joseph F. Dreith

CIVIL ENGINEER CORPS

William C. G. Church

DENTAL CORPS

Eric G. F. Pollard

The following-named officers of the Naval Reserve for temporary promotion to the grade of rear admiral subject to qualification therefore as provided by law:

LINE

Leonard S. Bailey
William C. Hughes
Robert H. Barnum
Thomas J. Killian
Harry R. Canady
Eric C. Lambart
Ralph G. Coburn, Jr.
William M. McCloy
Robert W. Copeland
Leslie L. Reid
James D. Hardy
Carl E. Watson
Harry H. Hess

MEDICAL CORPS

Paul W. Greeley
Raymond T. Holden
Donald E. Hale
Hugh Warren

SUPPLY CORPS

Edward J. Costello, Jr.
Edgar H. Reeder
Harold W. Torgerson

DENTAL CORPS

Alton K. Fisher
Samuel S. Wald

The following-named officers of the Naval Reserve for permanent promotion to the grade of rear admiral:

LINE

Louis A. Gillies
Wharton E. Larned

SUPPLY CORPS

Levi J. Roberts

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

August Larson
Frederick L. Wieseman
Richard C. Mangrum
Victor H. Krulak

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Henry W. Buse, Jr.
William J. Van Ryzin
Herman Nickerson, Jr.
Raymond L. Murray

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Walter A. Churchill

Vice Adm. Lorenzo S. Sabin, Jr., U.S. Navy, to have the grade of vice admiral on the retired list pursuant to title 10, United States Code, section 5233.

Having designated, under the provisions of title 10, United States Code, section 5231, the following-named officers for commands and other duties determined by the President to be within the contemplation of said section, I nominate them for appointment to the grade of vice admiral while so serving:

*Vice Adm. Edward N. Parker, U.S. Navy.

*Vice Adm. William F. Raborn, Jr., U.S. Navy.

*Vice Adm. John McN. Taylor, U.S. Navy.

Rear Adm. Claude V. Ricketts, U.S. Navy.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 3962:

TO BE LIEUTENANT GENERAL

Lt. Gen. Robert Frederick Sink, O16907, Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in rank as follows:

Maj. Gen. Andrew Pick O'Meara, O18062, U.S. Army, in the rank of lieutenant general.

Maj. Gen. Paul Wyatt Caraway, O17659, U.S. Army, in the rank of lieutenant general.

Maj. Gen. Barksdale Hamlett, O18143, Army of the United States (brigadier general, U.S. Army), in the rank of lieutenant general.

Maj. Gen. Verdi Beethoven Barnes, O17198, U.S. Army, in the rank of lieutenant general.

Lt. Col. Alfred Frederick Ahner, O2018089, Adjutant General's Corps, Army National Guard of the United States, for appointment as a Reserve commissioned officer of the Army to the grade of brigadier general under the provisions of title 10, United States Code, section 593(a).

IN THE AIR FORCE

Lt. Gen. Joseph H. Atkinson, 90A (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general, under the provisions of section 8962, title 10 of the United States Code.

The officers named herein for appointment as Reserve commissioned officers in the U.S. Air Force under the provisions of sections 8351 and 8392, title 10 of the United States Code:

TO BE MAJOR GENERALS

Brig. Gen. Joe C. Moffitt, AO419945, Colorado Air National Guard.

Brig. Gen. Charles H. DuBois, Jr., AO429378, Missouri Air National Guard.

TO BE BRIGADIER GENERALS

Col. Leslie C. Smith, AO661245, California Air National Guard.

Col. Emmanuel Schifani, AO663100, New Mexico Air National Guard.

Col. Edward G. Johnson, AO421750, Oklahoma Air National Guard.

Col. Enoch B. Stephenson, Jr., AO727573, Tennessee Air National Guard.

Col. Frank W. Frost, AO395495, Washington Air National Guard.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officers for promotion from class 2 to class 1:

Byron E. Blankinship, of Oregon.
Samuel D. Boykin, of Maryland.
C. Vaughan Ferguson, Jr., of New York.
Ernest H. Fisk, of Ohio.
Henry H. Ford, of Florida.
Richard B. Freund, of Illinois.
Miss Constance R. Harvey, of Maryland.
Allen B. Moreland, of Florida.
R. Smith Simpson, of Virginia.

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*Indicates ad interim appointment issued.