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October 11, 1965

STATEMENT OF SENATOR MIKE MANSFIELD (D., MONTANA)

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Mr. President:

It is possible, as some have contended, that Friday's vote was rendered meaningless by its unanimity. Insofar as the Majority Leader is concerned, he prefers to believe that the Senate does not deliberately engage in meaningless gestures. On Friday, the Senate was provided with an opportunity to get off this issue of 14-B by a simple tabling motion. The Senate chose not to put it aside. And it chose not to do so by unanimous vote.

The Majority Leader takes Friday's vote at face value. Insofar as the Majority Leader is concerned, therefore, that vote was, in no sense, without meaning. On the contrary, it has been immensely helpful and the Leadership is most appreciative.

In all frankness, if the motion to table had carried on last Friday, the Majority Leader was prepared to recommend immediately that the Senate pass over this issue for the session. On the other hand, if the motion to table had been defeated by a slim majority, the Senate would have remained in a difficult predicament. The Majority Leader would have been hard-pressed to decide whether the margin against tabling warranted an effort to invoke cloture on a simple procedural question of whether the Senate would take up H.R. 77.

But the vote on Friday was such as to resolve all doubts on the matter insofar as the Majority Leader was concerned. Indeed, when unanimity against tabling was indicated in the early stages of the tally, the Majority Leader drew from his pocket a cloture petition. The petition had been prepared in advance but was unsigned because, I confess, that until that moment I did not quite know what to do with it. Once the vote began to be recorded,

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however, it was clear what had to be done with it. The petition was circulated among the members while the vote was in process and, before the tally was complete, the requisite signatures had been obtained.

It was possible, therefore, for the Majority Leader to move without waste of time at the conclusion of the tally to give substance to the overwhelming, indeed, unanimously indicated inclination of the Senate, as expressed in the vote against the motion to table.

The Senate, in effect, had said -- indeed the Minority Leader did say it -- that it did not want to leave this issue. So, in accommodation, the Majority Leader offered the petition for cloture. He offered it, in the first place, to make sure that he had heard correctly and, secondly, to act on the Senate's indicated wish in the only procedural way which is believed practical at this time.

The nature of the predicament and the need for a cloture motion become clear in the light of the proceedings on the floor during the last two weeks. Ten days is a lavish and wasteful expenditure of the Senate's limited floor time on any simple procedural question. Indeed, during this session of Congress many complex pieces of legislation have been completely disposed of in a fraction of that time. The Voting Rights Act of 1965, for example, was both novel and controversial; yet the motion to proceed to its consideration was passed by the Senate in less than a minute. Similar swift treatment was given to the procedural question of taking up the proposed Constitutional Amendments on Reapportionment and on Presidential Inability. The same is true for Appalachia, Poverty and Aid to Education, to name but a few. That is part of the background for the vote which is about to be taken. Here is the rest.

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On October 1, ten days ago, the Majority Leader moved that the Senate turn to consideration of H.R. 77. It was an entirely orderly and routine procedural motion. The bill, itself, had passed the House. It had been considered at length by the appropriate Senate Committee and reported favorably. It had been on the Legislative Calendar for a month. What was there to debate on the question of taking up this measure? Whether it was too late in the session for a major and controversial issue of this kind? Whether the Senate should take up some other bill first? Whether the Senate should adjourn? These, indeed, would have been legitimate matters to discuss in an orderly fashion prior to a vote on the motion to take up H.R. 77; an hour or so might have reasonably been consumed in the process. But these matters were not discussed at all, except as they were mentioned by the Majority Leader on Monday. On the contrary, a long and continuing tirade on the evils which would attend the repeal of 14-B was launched even though the Senate had not yet decided to consider H.R. 77.

I submit that that is not useful and pointed debate. That is an unconscionable delay on a procedural question for the purpose of obfuscating the issue of substance. If it is not a filibuster, it is, to say the least, a pre-filibuster.

And so, on October 5, five days ago, the Leadership indicated its concern to the Senate over the delay in reaching a decision on the simple procedural question of taking up 14-B. At that time, the Senate was asked, via the tabling motion, to give the Leadership some guidance as to its wish on the sole question of taking up 14-B. The Majority Leader was at great pains to point out that what was involved was in no way a test of sentiment on the issue of 14-B itself.

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Therefore, on Friday, the distinguished Minority Leader whose own position against repeal of 14-B is no secret, urged defeat of the tabling motion, so that the matter would not be put aside. And the Majority Leader, whose own position in favor of repeal of 14-B is no secret, urged defeat of the motion to table so that the matter could be moved forward in an orderly fashion. The Senate responded magnificently to the appeal of the joint Leadership.

In the vote which is about to be taken, the Senate will be able to make clear that it does not toy, as some have suggested, with the hopes of millions of Americans who are members of the great labor unions of the nation. The Senate can make clear that, regardless of how it may feel on the issue of 14-B itself, it does not make light of their sincere petition by dabbling in parliamentary parlor games. The Senate can make clear that Labor is entitled to a fair and decent consideration of an issue of great importance in labor-management relations duly and properly brought before the Senate, even as corporations are, even as the aged and the poverty-stricken are, even as immigrants are and even as racial minorities are.

The Senate can make this clear, in the only way that it can be made clear at the present time, in the judgment of the Majority Leader, by voting to invoke cloture on the simple procedural motion of taking up H.R. 77.

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I stress again that this vote will not, any more than the motion to table on Friday, bind anyone for or against repeal of 14-B. What it will do -- and let there be no doubt -- is to determine whether or not the Senate means to get down to business on the issue of 14-B itself or to pass over it. On the basis of the performance of the past days, the Majority Leader, in all frankness, sees no other rational way at this time in which this point can be nailed down except via the path of cloture on the single issue of whether or not to proceed to consider H.R. 77.

So, Mr. President, at one o'clock, thanks to Rule 22, and the cooperation of the distinguished Minority Leader on Friday, a significant moment of truth will have arrived for the Senate.



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Senate

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of H.R. 77, to repeal section 14(b) of the National Labor Relations Act, as amended.

Mr. MANSFIELD. Mr. President, on October 1, I sent the following telegram to all Democratic Senators:

Active consideration of 14(b) has commenced. Procedural difficulties anticipated. Votes at any time. All Members should be available henceforth for quorum calls and votes.

Mr. President, this has been my request to all Democratic Senators. Because of extraordinary circumstances I told two Senators who called me that, in my opinion, they need not return to the city on Monday, but that from then on they should be here.

Mr. President, I am sending today a second telegram to all Members on the Democratic side of the aisle, urging them to remain in the Senate or to return here, as the case may be, to cancel engagements and plans, in order to be available for quorum calls or votes, until the present situation is clarified.

Mr. President, the leadership has certain responsibilities for maintaining an orderly legislative program during the sessions of the Senate. It also has some responsibility for bringing the session to an orderly close. I should like, therefore, to set forth certain observations on the situation which confronts the Senate with respect to 14(b). It is necessary to do so in order to provide some understanding of the leadership's predicament.

Insofar as the administration is concerned in this matter of 14(b), its position is clear. President Johnson upholds fully the Democratic Party platform of 1964 which calls for the repeal of section 14(b). He has asked the Congress again and again to repeal section 14(b). He has expressed approval of the House passage of H.R. 77 to repeal section 14(b). He would like to see the Senate act to repeal section 14(b). He stands ready now to sign a bill for the repeal of 14(b).

In short, we know where the President stands on 14(b). We know where the House stands. What remains to be determined is where the Senate stands.

So the responsibility for what transpires with respect to 14(b), at this point, rests solely with the Senate. The President understands the constitutional demarcation as between the responsibility of the Senate and the responsibility of the executive branch. He has honored it in the past. He will honor it in this situation.

I would hope and expect that the Senate will be equally mindful of it. I would hope that Members will recognize and accept fully the responsibility which that demarcation lodges in the Senate at this time with respect to 14(b).

Speaking for myself, let me say that as a Senator of the United States from Montana, which I am before all else, I am satisfied that section 14(b) should be repealed. The issues of 14(b) have been thoroughly examined in the House, in the appropriate Senate committee and in the press. H.R. 77, as properly reported by a Senate committee, has been on the calendar for a month. I am ready to vote for repeal. I am ready to vote for repeal now, today, or at any time a vote can be had.

In all frankness, I see no point or need for a prolonged discussion of this matter on the Senate floor. But as majority leader, I know very well that others do not see the matter in quite the same light. Some, indeed, would like to talk the question of 14(b) to death. Let us be under no illusions as to what we are about. Call it educational debate. Call it prolonged discussion. Call it a filibuster. Whatever it is called, the facts are the same. The opposition to repeal 14(b) is such and the rules of the Senate are such, that a final disposition of 14(b) can be delayed for weeks or months. It can be so delayed unless, not a simple majority but a preponderant majority of the Senate decides otherwise. That is the reality and there is no point in blinking at it.

Ten-hour sessions; twelve-hour sessions; twenty-four-hour sessions will not change the reality. There are no short cuts which will change it. There are no procedural tricks which will change it. Only the presence of Members and their votes will change it.

The leadership can state flatly, therefore, that there will be no mock trial of this question by physical endurance. There will be no pajama sessions of the Senate. The leadership did not resort to those exercises in futility during the civil rights debate, the voting rights bill, the reapportionment bill, the Telstar debate, or during any of a number of other controversies which have come before the Senate in recent years. It will not resort to them on this issue.

In the first place the leadership will not subject a Senate of extraordinary dedication such as this one has been to that sort of meaningless and demeaning ordeal, at the end of 9 months of extremely fruitful work for the benefit of the entire Nation. In the second place the leadership, which seeks passage of repeal of 14(b) as soon as it is possible will not, in that fashion, aid further the proponents of delay. For that, in the end, in what a trial by physical endurance will do.

The leadership will proceed in an orderly fashion in an effort to steer the Senate out of this predicament. As usual, however, the leadership can only propose; in the end it is the Senate which will dispose.

The leadership, for example, proposed the other day when it asked the Senate to proceed at once to the consideration of repeal of 14(b)—a procedural proposition which is normally concluded on the floor of the Senate in a matter of seconds. Some Members were prepared so to proceed. Others were not. And the leadership is still waiting for the Senate to dispose of this simple procedural matter. I say that not in criticism but merely to point up the reality of the predicament. Obviously, it is not so simple a matter of whether the Senate is prepared to decide to repeal or not to repeal section 14(b). That there is more involved here is clearly indicated by this continuing delay. There are other currents running in the Senate in addition to this issue. There is the question of whether or not another time would be more appropriate for a consideration of 14(b). There is the question of the relative weight to be given this issue of 14(b) among many issues. And there is the question of adjournment of the 1st of two sessions of the 89th Congress.

It is through these and others currents, as well as through the fundamental clash of for repeal and against repeal of 14(b) that the leadership is seeking the course which accords with the Senate's desires.

The leadership has its own estimate of these desires, but it is not enough in a predicament of this complexity. The leadership feels the need to test these various Senate currents in votes and asks for the Senate's cooperation to the end that these tests may be forthcoming without further aimless delay.

Accordingly, the leadership hereby serves notice that on this Friday it will move for a vote in the Senate in an entirely orderly although somewhat unusual fashion. The motion which the leadership will offer at that time will not be debatable. It will be a move to table the leadership's own pending motion to take up 14(b) and the leadership will then vote against the tabling motion it offers.

The leadership is under no illusion that this course will resolve the matter. It will be satisfied if it unravels the outer strings. It is hopeful only that the vote will be an honest expression of the attitudes of Members on the motion offered and, hence, provide some measure of guidance as to the direction in which the Senate, as a whole, desires to move.

All Members on both sides of the aisle are now on notice of the leadership's intentions. I would hope and expect that Members will be present not only for the vote on Friday but for all quorum calls during the next few days to the end that the debate on the pending question may proceed without delay. And may I say, in this connection and in all frankness, that the presence or absence of Members is in itself to some extent indicative of the Senate's desires.

All Members on this side of the aisle, without exception, have already been notified by wire to anticipate quorum calls and votes during this week and beyond. I reiterate that special notice at this time. I would urge all Democratic Members to stay in this city, to return to it if they are away and to cancel travel plans until further notice.

The leadership is hopeful of the concurrence of the minority leader in seeking to bring the Senate in no later than 11 a.m. for the balance of the week. That will facilitate the clearance of other matters of business. It will also serve to accommodate Senators—most of whom, I believe, are on his side of the aisle who wish to address themselves to this critical pending question, not of the issue of repeal of 14(b) itself but of whether or not to proceed to consider it.

In closing, I can only say that I have been asked countless times in recent days, by Members and by the press, these questions: When will the Senate adjourn? And, what will happen to 14(b)? As a Senator from Montana, I have no difficulty in answering these questions for myself. I should like to see 14(b) repealed and the sooner the better. And I should like to see the Senate adjourn, thereafter, and the sooner the better.

But as majority leader, I am constrained to point out that insofar as the Senate as a whole is concerned only the Senate as a whole can answer.