December 29, 1962

Memo to Senator
cc Bill
Pat

From John

This is a reminder regarding a meeting with President Kennedy to discuss Rule XXII, and the broader question of civil rights legislation in the 88th Congress. It was your feeling that perhaps prior to this meeting you might want to personally feel out the White House attitude on this question. The objective of the meeting would be to get some specifics regarding an employment bill, possibly a school desegregation bill, and the State of the Union Message. Also, to enlist some tacit support for the Rule XXII fight. Probably Hart, Clark, Douglas, and others might accompany you on this meeting with the President. This meeting would probably have to occur during the week of January 7-11.

December 29, 1962

Memo to Senator

cc Bill

From John

This is to remind you of the need for appointment of two Midwestern Senators and one Western Senator to the Steering Committee. As you recall, you discussed this with Senator Clark at lunch last Friday.

This should be discussed with Senator Mansfield either on the phone or in person next week. As suggested by Senator Clark, the appointment of Douglas and Symington would help give Midwest Senators the representation they deserve. Also, the appointment of Mrs. Neuberger would be of help to her in 1964 and also give the West one additional Senator. Senator Holland has ~~already~~ apparently indicated he would be willing to resign from the committee. The addition of these three liberals would give the liberals a one-man edge on the committee when it meets in January. Also, the changes can be defended geographically and on the basis of past precedents.

Senate organization

December 29, 1962

Memo to Senator
cc Bill
Pat

From John

This is a reminder that you will want to have a meeting with the Vice President to discuss Rule XXII. Accompanying you on this meeting will be Senators Dodd, Engle, Hart. The objective will be to get his attitude on how he would rule on a motion, based on Article I, Section V of the Constitution, that the majority of the Senate shall determine the rules of its proceedings. Such a meeting should probably occur on Monday or Tuesday, January 7 or 8.

What projects could you use

YCC

Civil + Admit – contempt –

Prohibit discrimination in employment

in fed agencies, contract, etc.

any form of discrimination in which

Fed govt is involved

Att 4
December 1962

DEMOCRATIC POLICY COMMITTEE

Mansfield, Chairman *
Humphrey, Whip *
Smathers, Secretary
o Bartlett *
o Engle *
o Hart *
Hayden
Hill
Kerr
Magnuson *
Pastore *
Russell

5 Pacific or Mountain State Senators (Mansfield, Bartlett, Engle, Hayden, Magnuson)
2 Midwestern Senators (Humphrey, Hart)
4 Southern Senators (Smathers, Hill, Kerr, Russell)
1 Northeastern Senator (Pastore)

*7 Liberal senators
o Voting Status uncertain. Sometimes they vote; other times not.

OFFICE OF SENATOR CLARK

TO John Stewart

FROM BEN READ

FOR INFO x
FOLLOW UP
RETURN
FILE

December 18, 1962

STAFF MEMORANDUM TO SENATOR CLARK

SENATE DEMOCRATIC STEERING COMMITTEE: RECOMMENDATIONS FOR FAIRER REPRESENTATION

The present membership, geographic and liberal-conservative breakdown of the Senate Democratic Steering Committee (following Senator Chavez's death) is as follows:

Membership:

1. Mansfield (Chairman)
2. Humphrey (Whip)
3. Smathers (Secretary)
4. Bible
5. Clark
6. Dodd
7. Ellender
8. Hayden
9. Holland
10. Johnston
11. McClellan
12. Pastore
13. Robertson
14. Russell
15. Williams (N.J.)

Geography*: Seven from South (Smathers, Ellender, Holland, Johnston, McClellan, Robertson and Russell) out of 23 Southern Senators representing all 13 Southern States (1 Senator for 1.8 States)

Four from Northeast (Clark, Dodd, Pastore and Williams) out of 13 Northeastern Senators representing 9 of the 12 Northeastern States (1 Senator for 2.2 States with Democratic representation)

Three from Pacific and Mountain States (Bible, Hayden and Mansfield) out of 17 Western Senators representing 12 of the 13 Western States (1 Senator for 5.7 States with Democratic representation)

One from the Midwest (Humphrey) out of 14 Senators representing 9 of the 12 Mid-Western States (1 Senator for 9 States with Democratic representation)

Liberal-* Conservative: Nine conservative members (Smathers, Bible, Ellender, Hayden, Holland, Johnston, McClellan, Robertson, and Russell) out of 27 conservative Democrats in the Senate.

Six liberal members (Mansfield, Humphrey, Clark, Dodd, Pastore, and Williams) out of 40 liberal Democratic Senators.

Recommendations: To correct the obvious imbalances in the present Steering Committee (Southern and conservative over-representation, Mid-western and Pacific under-representation), I suggest you advocate the following changes on the Committee (which would enlarge its membership to 17) --

*See P.3 for explanation of grouping of States and Democratic Senators

--continued--

1. Resignation of Southern Senator. A Southern Senator offered to resign in January of 1961. I believe it was Holland. He would be the logical one to retire since Florida has two Senators on the Committee.

2. Appointment of Two Midwestern Senators. Senator Douglas would appear entitled to it on the basis of seniority and is willing to serve. Senator Mansfield has favored his appointment. Symington might be another good appointee.*

3. Appointment of One Western Senator. No Far Western State is represented on the Committee. Mrs. Neuberger might be a good choice, and it could help her reelection campaign.*

Adopting these changes would almost equalize the present geographic imbalances on the Committee, so that each member from each area would represent not less than two and not more than three States with Democratic representation in the Senate. It would give the Committee a nine to eight liberal over conservative edge, which is fully justified in view of the liberal Democratic strength in the Senate today (See p.3).

There is precedent for a Steering Committee which numbers 17. Conference Committee minutes on January 2, 1951, state that "several years ago, when the Democratic membership was large, the Steering Committee consisted of 17 Senators".

*(No Freshman or Policy Committee members have been suggested).

BHR:hh

PACIFIC AND 13 MOUNTAIN STATES (Hawaii, Alaska, Wash., Ore., Calif., Ida., Nev., Mont., Wyo., Utah, Colo.**, Ariz., N.M.)	12 MIDWESTERN STATES (N.D., S.D., Neb.**, Kans**, Minn., Mich., Ia.**, Mo., Wisc., Ill. Ind., Ohio)	13 SOUTHERN STATES (Tex., Okla., Ark., La., Miss., Ala., Fla., Ga., S.C., N.C., Va., Tenn., Ky.)	12 NORTHEASTERN STATES (Me., N.H., Ver.**, Mass., R.D., Conn., N.Y.**, Pa., N.J., Del.**, Md., W.Va.)
Anderson*	Bayh*	Byrd (Va.)	Brewster*
Bartlett*	Burdick*	Eastland	Byrd (W.Va.)
Bible	Hart*	Ellender	Clark*
Cannon	Hartke*	Ervin	Dodd*
Church*	Humphrey*	Fulbright	Douglas*
Engle*	Lausche	Gore*	Kennedy*
Gruening*	Long(Mo.)	Hill	McIntyre
Hayden	McCarthy*	Holland	Muskie*
Inouye*	McGovern*	Johnston	Pastore*
Jackson*	McNamara*	Kefauver*	Pell*
Magnuson*	Nelson*	Kerr	Randolph*
Mansfield*	Proxmire*	Long (La.)	Ribicoff*
McGee	Symington*	McClellan	Williams*
Metcalf*	Young *	Monroney*	
Morse*		Robertson	
Moss*		Russell	
Neuberger*		Smathers	
		Sparkman	
		Stennis	
		Talmadge	
		Thurmond	
		Yarborough*	
17 Senators from 12 States. 3 on Steering Committee (1 per 5.7 States)	14 Senators 1 on Steering Comm. (1 per 9 States)	23 Senators 7 on Steering (1 per 1.8 Sts.)	13 Senators 4 on Steering Comm. (1 per 2.25 States)

*Liberal (40 Senators)
**No Democratic Senator

[1963 ?]

EXPLANATION OF AMENDMENTS TO S. 537 TO BE OFFERED BY SENATOR CLARK

Amendment #1

This amendment would repeal that provision of the Legislative Reorganization Act of 1946 which allows a single Senator to prevent all Senate standing committees and subcommittees from meeting or holding hearings during Senate sessions.

No single Senator should have the power to block all meetings of the 16 standing committees of the Senate and the 76 presently organized subcommittees of those standing committees. This power has too often been used solely for the purpose of delaying and impeding the progress of essential legislation to the floor of the Senate.

More than one-fourth of the members of the Senate, those who sit on the Appropriations Committee, are presently authorized to sit in order to conduct the business of that committee whether the Senate is in session or not. This power exists by virtue of an order adopted by unanimous consent on February 11, 1963, granting that authority to the Appropriations Committee for the remainder of this session. Other committees have to ask permission each time they wish to meet or hold hearings during Senate sessions. Permission is often refused.

This amendment would leave the question of whether a standing committee or subcommittee should meet or hold hearings during Senate sessions to the will of the majority of the members of the committee or subcommittee concerned, and not to the discretion of any single Senator.

Amendment #2

This amendment to the Legislative Reorganization Act of 1946 would provide a procedure for the more expeditious handling of appropriations measures by the Congress. Under the proposed procedure, the chairmen of the Committees on Appropriations of the Senate and of the House of Representatives are to apportion revenue bills equally between the two Houses, so that no bill need be introduced in more than one House of Congress. Hearings would be conducted jointly by the Committees on Appropriations of the two Houses, or by subcommittees of those committees.

Amendment #3

This amendment to the Legislative Reorganization Act of 1946 would establish a "bill of rights" for Senate standing committees. It would permit a majority of members of any standing committee of the Senate (1) to convene meetings of the committee; (2) to consider any matter within the jurisdiction of the committee; and (3) to end committee debate on a given measure by moving the previous question.

It is widely recognized that in some, although certainly not all, of the standing committees of the Senate, the will of the majority can be and often is thwarted with impunity. This propocal would guarantee the uniform application of democratic procedures in the 16 Senate standing committees, and permit committee members to expedite action on important measures when a majority of them are ready to act.

# # #

88th Congress
1st Session

S. 537

IN THE SENATE OF THE UNITED STATES

A M E N D M E N T

Intended to be proposed by Mr. CLARK to the bill (S.537) to amend the Legislative Reorganization Act of 1946 to provide for more effective evaluation of the fiscal requirements of the executive agencies of the Government of the United States,

viz: On page 12, after line 8, insert the following new section:

Sec. 4. Section 134 (c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190B (b)), is amended to read as follows:

"(b) No standing committee of the House, except the Committee on Rules, shall sit, without special leave, while the House is in session."

(2)

88th CONGRESS
1st Session

S. 537

IN THE SENATE OF THE UNITED STATES

A M E N D M E N T

Intended to be proposed by Mr. CLARK to the bill (S. 537) to amend the Legislative Reorganization Act of 1946 to provide for more effective evaluation of the fiscal requirements of the executive agencies of the Government of the United States,

viz: On page 12, after line 8, insert the following new section:

Sec. 4. Section 133 of the Legislative Reorganization Act of 1946 (relating to committee procedure) is amended by adding at the end thereof the following new subsection:

"(g) In each session of the Congress one-half of the bills making appropriations of the revenue for the support of the Government shall be introduced in the House of Representatives, and one-half of such bills shall be introduced in the Senate. The chairmen of the Committees on Appropriations of the Senate and of the House of Representatives shall determine by agreement which of such bills shall be introduced in each House. No such bill shall be introduced in more than one House of the Congress. Hearings upon each bill ~~shall~~ may be conducted jointly by the Committees on Appropriations of the two Houses, or by subcommittees of those committees. A member of the Committee on Appropriations of the House in which any such bill was introduced shall preside at all joint hearings upon that bill."

88th CONGRESS
1st Session

S. 537

IN THE SENATE OF THE UNITED STATES

A M E N D M E N T

Intended to be proposed by Mr. CLARK to the bill (S. 537) to amend the Legislative Reorganization Act of 1946 to provide for more effective evaluation of the fiscal requirements of the executive agencies of the Government of the United States,

viz: On page 12, after line 8, insert the following new section:

Sec. 4. Section 134 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190b (b)), enacted by the Congress in the exercise of the rulemaking power of the Senate and the House of Representatives, is amended by adding at the end thereof the following new subsections, which shall be applicable with respect to the Senate only:

"c) Each standing committee of the Senate shall meet at such time as it may prescribe by rule, upon the call of the chairman thereof, and at such other time as may be fixed by written notice signed by a majority of the members of the committee and filed with the committee clerk.

"(d) The business to be considered at any meeting of a standing committee of the Senate shall be determined in accordance with its rules, and any other measure, motion, or matter within the jurisdiction of the committee shall be considered at such meeting that a majority of the members of the committee indicate their desire to consider by votes or by presentation of written notice filed with the committee clerk.

"(e) Whenever any measure, motion, or other matter pending before a standing committee of the Senate has received consideration in executive session or sessions of the committee for a total of not less than five hours, any Senator may move the previous question with respect thereto. When such a motion is made and seconded, or a petition signed by a majority of the

committee is presented to the chairman, and a quorum is present, it shall be submitted immediately to the committee by the chairman, and shall be determined without debate by yea-and-nay vote. A previous question may be asked and ordered with respect to one or more pending measures, motions, or matters, and may embrace one or more pending amendments to any pending measure, motion, or matter described therein and final action by the committee on the pending bill or resolution. If the previous question is so ordered as to any measure, motion, or matter, that measure, motion, or matter shall be presented immediately to the committee for determination. Each member of the committee desiring to be heard on one or more of the measures, motions, or other matters on which the previous question has been ordered shall be allowed to speak thereon for a total of thirty minutes."

[1963?]

MEMORANDUM ON COMPOSITION OF DEMOCRATIC STEERING COMMITTEE AND SUGGESTED PRINCIPLES FOR STATUS OF LEGISLATIVE COMMITTEES AND FILLING OF VACANCIES

---

1. COMPOSITION OF STEERING COMMITTEE

The Democratic Conference in 1961, and again in 1963 approved a statement by Majority Leader Mansfield that the composition of the Steering Committee should reflect both the geographical distribution and ideology of the Democratic members of the Senate.

It is believed that a large majority of Democratic Senators would want the Steering Committee to reflect as accurately as possible the Democratic representation in the Senate of each major geographical area of the country and the sizeable majority of all Democratic Senators who intend, on the whole, to support the program of the leader of the Democratic Party, President Kennedy.

There are presently 15 members of the Committee, and there is one vacancy due to death. Among the fifteen are the three Party leaders, two of whom serve ex officio but do have voting rights. Seven of the 15 members come from the South, including both Senators from Florida. Two members come from the Mountain States and the Far West, 1 from the Southwest, 1 from the Middle West, 3 from the Atlantic Seaboard north of the Mason-Dixon Line.

It is suggested that the Committee be expanded to at least 17 members, as it was in the period immediately after World War II when the Democratic majority in the Senate was not as large as it is today; that one of the 7 Southern Senators resign, and that the 3 vacancies then be filled by 2 Senators from the Middle West and one from the Far West or Mountain States. Alternatively, if a resignation were considered inappropriate, the Committee could be enlarged to 19 members, with 2 new Senators from the Far West and 3 from the Mid West.

Either action suggested would give the Committee a fair geographical and ideological balance which the Democratic Conference and the leadership aim to achieve.

2. STATUS OF LEGISLATIVE COMMITTEES

There is a principle established by the leadership several years ago that every Democratic Senator is entitled to one major committee appointment and that no Democratic Senator should have more than two such committees unless and until every Democratic Senator has two major committee appointments. This rule has been evaded by the device of treating as minor committees those which are actually major. Government Operations, Space and the Joint Atomic Energy Committee are improperly treated as minor committees. Rules is improperly treated as a major committee. As a result a number of Senators have three major committee assignments; some of them serve, in addition, on the Policy and Steering Committees, and one of them serves on both the Policy and Steering Committee.

-More-

It is suggested that Space, Government Operations and Joint Atomic Energy be classified as major committees and that Rules be classified as a minor committee.

THERE SHOULD BE NO GRANDFATHER CLAUSE PERMITTING SENATORS TO CONTINUE TO SERVE ON THREE MAJOR COMMITTEES AS THUS RECLASSIFIED.

3. SIZE OF LEGISLATIVE COMMITTEES AND PARTY RATIOS ON COMMITTEES

There are presently 67 Democrats and 33 Republicans serving in the Senate. The size and allocation of Senators to legislative committees should be changed to reflect this fact. Every legislative committee should have a ratio of 2 Democrats for every Republican. If objections are raised to committees having an even number of members, viz., 10, 12, 14 or 16, etc., then the ratio should be, wherever possible, 10-5, 14-7, etc. It may be necessary, as a practical matter, to have a number of committees with a different ratio, such as those with 11-6 ratios at present changing to 12-5 or other ratios, as long as the overall seat distribution fairly reflected the 67-33 ratio of the Senate. But the major Committees to which the Kennedy program would be referred:

Appropriations, Armed Services, Finance and Foreign Relations should all have a ratio of 2-1 or more.

4. PRINCIPLES IN FILLING COMMITTEE VACANCIES

It is important to note that seniority is sometimes disregarded in filling committee vacancies, the most recent cases being the new assignments to Foreign Relations and Judiciary in 1961. Seniority is, of course, an easy way out of difficult problems and, in doubtful and controversial cases, is a useful guide line. However, ideology, geographical distribution, interest in the subject matter and capacity to perform should all be given appropriate consideration. It seems particularly important that the key committees mentioned above should be strengthened by the addition of Senators who will vigorously support the leadership in its efforts to support the President.

****

ADA legislative newsletter

David Cohen
Legislative Representative

Issue Number 4
February 26, 1963

First Session
88th Congress

(Every two weeks we summarize events in Congress as an information service to assist you in national affairs activities. We include brief analyses of legislative proposals together with factors of timing and politics as we see them. Subscription rate, $5 per year.)

* SENATE
* HOUSE
  Rules Committee
  Appropriations Committee
  Banking and Currency Committee
  Education and Labor Committee
  Foreign Affairs Committee
  Ways and Means Committee

Now, almost two months old, the 88th Congress is ready to take on its legislative chores. Both the House and the Senate have completed the work of setting up their committees. Because of the extraordinary power inherent in the committee system in both Houses, the make-up of these committees is more likely to determine the ultimate fate of legislation than final floor debate or vote. Because of the importance and complexity of Congressional committee structure, this Newsletter is devoted to an analysis of the efforts to reform the committee system as well as an examination of the composition of major committees insofar as it will affect liberal legislative issues. (For further background see Legislative Newsletter numbers 1 and 2.)

SENATE

Senator Joseph Clark, with the active support of Senator Paul Douglas, took on the fight to make the Senate more responsive to Presidential leadership, and therefore more receptive to the Administration's program. By offering on the floor of the Senate resolutions to enlarge the Senate Finance, Appropriations and Foreign Relations Committees, Senator Clark in a brilliantly reasoned series of speeches embarrassingly exposed the non-Democratic

structure of the "greatest deliberative body in the world. The intent of the Senator's resolutions simply was to make these important Senate committees more representative of the total Senate, giving pro-Administration liberal Democrats their equitable representation on them. The effect of this effort, which Senator Clark recognized as doomed to failure because of the strength of the very power structure he was attacking, would have been to increase support for the Administration's programs in Congress--a cause to which reasonable men would assume all Administration Democrats would enthusiastically rally. The final vote of 68-17 on the Finance Committee and 70-12 on the Appropriations Committee demonstrates the fallacy of any such assumption. Because of the lopsided vote on Finance and Appropriations, Senator Clark, for tactical reasons, withdrew his resolution on the Foreign Relations Committee.

Senator Clark's gallant battle, though largely ignored or misinterpreted by the press, represents, despite the lopsided vote against it, a major breakthrough of the cult of secrecy which goes by the name of Senatorial courtesy, and will undoubtedly at least give heart to future champions of Democracy in the Congress. As Senator Clark himself pointed out, time was on his side. The tide of history is running against the Southern conservatives.

The Clark resolutions served as the spring board for a remarkably detailed and devastatingly accurate attack on what the Senator described as the "Senate establishment." The "establishment," made up of the leadership of both parties and those Senate Chairmen and members who have a vested interest in the status quo, maintain, he charged, a set of rules, procedures and committee organization ideally designed to thwart rather than aid the Administration's legislative program. His comments demonstrated that the ratio of Democrats to Republicans on the Finance, Appropriations and Foreign Relations Committees as arranged by the Majority Leader Mansfield and Minority Leader Dirksen, negated the effectiveness of the Democratic liberal majority. Clark further contended individual committee assignments made by the Democratic Steering Committee, which has the responsibility of assigning Democratic Senators to legislative committees, were neither completely consistent with a rule of seniority nor reflective of the ideological or geographic make-up of the Democratic Party.

The Democratic Steering Committee, which itself is elected by all Democratic members of the Senate meeting in caucus, includes nine conservatives and six liberals. All sections of the country except the South, which has seven members, are under-represented. The conservatives are assured control of the Steering Committee since two of the three Western representatives are conservative despite the fact that a majority of Western Democratic Senators are liberal.

To break conservative control of the Committee Senator Clark and Senator Clinton Anderson attempted in the Democratic caucus to increase the Steering Committee's size so as to make it more representative of the total Demo-

cratic Senate membership, where liberals out-number the conservatives by a considerable margin. Led by Majority Leader Mansfield, the Democratic caucus rejected this move. The Steering Committee majority therefore set committee assignments within the ratio limits agreed upon by the Majority and Minority Leaders, and made the individual committee assignments as they saw fit.

Two questions therefore deserve examination:

1. What was the background in setting the ratios for the Finance, Appropriations and Foreign Relations Committees.

2. What criteria did the Steering Committee use in assigning non-freshmen Democratic Senators to different committees.

Why did Senator Mansfield, an Administration supporter, agree to Committee ratios that aid the conservative coalition particularly in the Finance Committee? Since the Administration would not have been displeased if the Finance Committee was enlarged to reflect more properly the increased number of Democratic liberals, Mansfield's behavior requires further explanation.

Of necessity, any attempt to liberalize the Finance Committee had to encounter vast difficulties because of the President's failure to provide leadership in the Rule XXII fight. His refusal to support modification of Rule XXII resulted in his "lobbying from weakness" when it was learned that the President would look favorably on an increase in the Finance Committee membership. If the President had supported reform of Rule XXII there is no doubt the effort would have succeeded and the prestige and power of the Southern bloc appreciably diminished.

The conservative coalition, determined not to lose control of the Finance Committee, used the Rule XXII fight to maintain their command. Senator Russell was reported to have agreed to oppose any change in the size of the Finance Committee and in return Senator Dirksen agreed to oppose any modification in Rule XXII. Given the circumstances, Senator Mansfield accepted what he calls the "politics of arithmetic." This merely means that Senators Dirksen and Russell, respectively, assured Mansfield that 33 Republicans (the GOP Senate total) and 18 Southern Democrats would oppose Finance Committee enlargement. Russell undoubtedly was correct. But the basis of Dirksen's assurances were shattered when Senator Javits announced that he had made no commitments to vote against the increase of any Senate committee. As is evidenced by their votes, other Republican liberals were similarly uncommitted.

Senator Clark did not accept the "politics of arithmetic." He had a purpose in fighting for an increase in the following three committees:

1. Finance Committee- As the Committee now stands, a majority is opposed to the President's tax cut and reform program. This situation permits Chairman Harry Byrd to use dilatory tactics which could postpone and diminish the economic benefits of a tax cut. Adding liberal Democrats to the Committee would have helped the liberals build support for the Administration program.

2. Appropriations Committee- Adoption of the Clark resolution would have resulted in Senator Javits continuing his membership on the Appropriations Committee. Javits was the only Republican to lose a committee post because of the increased Democratic majority. The Appropriations Committee, closely divided between liberals and conservatives, needs liberals because it serves as an "appeals board" from the fiscally conservative House Appropriations Committee. Since the Senate Committee usually increases the House appropriation, a compromise is agreed upon in Conference Committee and is usually higher than the House appropriation. The more liberal the Senate Appropriations Committee is the more bargaining power it will have in Conference Committee.

3. Foreign Relations Committee- On many issues, overwhelming support for the President's foreign policy does not now exist. The Clark resolution was designed to gain support for the President's foreign policy. Moreover, in past years thoughtful constructive criticism had been the hallmark of the Senate Foreign Relations Committee. Adding two Democrats and Republicans each would have added at least three proponents of a responsible foreign policy to the committee.

Senator Clark's resolutions aimed at more than just changing committee ratios. He intended to undo the pattern that emerged from the Steering Committee's assignments of non-freshman Democratic Senators to committees of their choice. Twenty-two non-freshman Senators applied for service on committees other than those assigned to them in the last Congress. Of the eight Senators who voted against cloture (opposing the limitation of debate on Rule XXII) seven received their first choice and the eighth received nothing. Of the fourteen Senators who supported cloture, five received their committee choice. However, only one received his first choice; three received their second choice; one received his third choice, nine received nothing.

Conclusion: Senator Mansfield's capitulation to Senators Dirksen and Russell, in setting committee ratios, cannot help but hurt the President's major domestic programs and provide less support for his foreign policy than it actually has in the total Senate.

Senator Clark has led a valiant first fight that he has promised will continue until it is won. He has documented that a conservative minority of the Democratic Party, without opposition from its Majority Leader, has the effective power to decide committee ratios and membership and thereby impede liberal legislation. Clark's reform resolutions attempted to weave together a liberal coalition of Democrats and Republicans against the opposition of the leadership

of both parties. Senator Clark revealed that the only way the Administration, and the Senate Democratic leadership, can redeem their campaign promises is to exercise leadership on all major issues before the Senate including those above all that challenge encrusted conservative power.

HOUSE

Rules Committee

The power and personnel of the Rules Committee has not changed, remaining at five Northern Democrats, five Southern Democrats and five Republicans. This Committee continues to have the power to prevent the House from considering legislation, merely because a majority of the Committee is so inclined, as in the case of civil rights and aid to elementary and secondary school legislation. Another negative power which the Committee can exercise is through its refusal to grant a rule on House Conference Committee reports. Legislation adopted by both Houses almost invariably have differences which must be compromised in a Senate and House Conference Committee. Rules Committee Chairman Howard Smith often can prevent and delay, particularly at the end of a session, the House from considering Conference Committee reports. Only by re-enacting the 21-Day rule and adopting the 7-Day rule (whereby a Conference report can be brought to the floor for vote if the Rules Committee has not acted after seven days) can the House membership be freed from the tyranny of the Rules Committee.

Appropriations Committee

The House Appropriations Committee, which appropriates monies for all government expenditures, has long been the bastion of fiscal conservatives. Due to deaths, retirement and election results, the Committee has five new Democratic members, all of whom have a liberal voting record in the last Congress. The addition of the five new Democratic members means that the Appropriations Committee has a net gain of two liberals.

The addition of two liberals does not mean, however, that the Committee is under liberal domination. This fifty-member Committee (30 Democrats and 20 Republicans) has 19 Republican conservatives on it. Although the Republicans have three new members on the Committee, in each instance an ultra conservative replaced another ultra conservative. The fiscal conservatives in both parties still control the Committee.

Furthermore, the Committee structure allows its subcommittees considerable influence, which, in the areas of liberal concern, is dominated by the conservatives. Otto Passman (D-La.), an opponent of foreign aid and strong subcommittee Chairman, chairs the subcommittee that appropriates foreign aid funds. His suspicions of the foreign aid program are well known. Conservatives dominate the subcommittee that considers appropriations for the Arms Control and Disarmament Agency, USIA and the Commission on Civil Rights. Only the subcommittee that considers appropriations for the Labor and Health

Education and Welfare Departments has a liberal majority. Unfortunately, the subcommittee's liberal orientation is somewhat negated by the Committee's overall conservatism.

Banking and Currency Committee

The Banking and Currency Committee will consider legislation on mass transportation and the creation of an Urban Affairs Department. The committee continues to have a liberal majority since five of six new Democrats added to the Committee support the Administration completely. In addition, Charles Weltner from Atlanta, who replaced a racist, stated that his philosophy of government was "closer to President Kennedy's than that of Senator Harry Byrd."

Unfortunately, prospects for House approval of the Urban Affairs Department remain dim. Perhaps the Banking and Currency Committee will have more success in enacting mass transit legislation.

Education and Labor Committee

The most important item the Education and Labor Committee will consider this session is aid to education legislation. The Committee remains under liberal influence, as four of its five new Democratic members are Administration supporters. The new Republican members are all conservative, but since they are replacing conservatives their presence does not affect the liberal majority.

Sadly, support for aid to elementary and secondary education will--if past practice follows--be killed by the Rules Committee.

Foreign Affairs Committee

The significant change in the Foreign Affairs Committee comes from the Republican side. Six new Republicans have been added to the Committee. Five oppose foreign aid. However, their opposition to foreign aid will not change the Committee's overall support of foreign aid. More importantly, the addition of these five Republicans demonstrates the Republican House leadership strategy of irresponsible, politically motivated criticism of the President's foreign policy.

Ways and Means Committee

Chairman Wilbur Mills exercises great influence over this committee and will largely shape the tax bill. This committee will also consider Medical Care for the Aged legislation which has the support of the Committee's two new additional Democrats, Congressmen Bass (Tenn.) and Jennings (Va.). Whether a majority of the Committee supports Medicare is still unknown. We may not learn the answer for some time since Administration strategy appears to wait until 1964 on Medicare, although the President has submitted his message on it to Congress.

Handful of Powerful Men Control Senate

1963?

BY JAMES McCARTNEY

Exclusive to The Times from the Chicago Daily News

WASHINGTON—A handful of powerful men — men who reward their friends and punish their enemies—stands astride the U.S. Senate, controlling every major action.

Though small in terms of numbers, the group can stop any major item of legislation.

It can rig committees to kill bills.

It can control the destinies of senators.

It can, and has, blocked major portions of President Kennedy's programs, often while paying lip-service to them.

But, by and large, it is a secret group, operating behind the scenes — content with its power and achievements, not anxious for the spotlight.

Clark's Picture

That is a picture painted by Sen. Joseph Clark (D-Pa.) in a rare public laundering of the Senate's dirty linen last week on the Senate floor.

Clark called it an examination of "the Senate establishment" — his phrase for the inner, ruling group.

It was based on meticulous research as to who is "in" and who is "out," who really has power, who is only a figurehead.

Stretched over a three-day period, Clark's documentation was probably the most authoritative public insight in recent years into the Senate's role in national politics. No senator rose to challenge Clark's thesis.

Clark named no names, but aides pieced together the basic power structure of the Senate, and he told how it works.

Only a Spokesman

Who is the most important single figure?

It is not Sen. Mike Mansfield (D-Mont.), the majority leader. In fact, in spite of his title, Mansfield does not even rate as one of "The Establishment." He is only a spokesman for it.

The most powerful single figure is Sen. Richard Russell (D-Ga.), the veteran legislator who is chairman of the armed services committee.

Who is No. 2? Probably Sen. Everett Dirksen (R-Ill.), the minority leader.

Clark referred to Dirksen as "the champion of the Republican establishment."

He said that Republicans, even though they are outnumbered two to one in the Senate, still play a vital role.

Clark's Opinion

Democratic and Republican members of the "The Establishment," he said, work together to control key committees to slow down or defeat "the major progressive proposals of the President."

Said Clark in summary:

"The Senate establishment . . . is almost the antithesis of democracy. It is not selected by any democratic process. It appears to be quite unresponsive to the caucuses of the two parties, be they Republican or Democratic.

"It is what might be called a self-perpetuating oligarchy with mild, but only mild, overtones of plutocracy."

A basic part of Clark's picture is the familiar picture of Southerners achieving power because of seniority—becoming chairman of important committees because, inevitably, they stay in the Senate longer than others.

Control of Favors

As he put it, the Southerners "exercise virtual control over the distribution of favors, including committee assignments and other prerequisites of office."

Russell

They also, he said, "determine who shall be selected to posts of leadership in this body."

But Clark added many a new facet to the picture not commonly recognized.

For one thing, he pointed out that seniority doesn't always rule. Seniority is the rule when it helps "The Establishment," according to Clark, and it is often overlooked when it doesn't.

Major Committees

Clark provided figures showing how Southerners dominate important committees. There are 23 Democratic senators from the South, he said, including the 11 states of the Old Confederacy plus Oklahoma and Arkansas. That is 34% of the 67-man Democratic bloc. But they dominate the major committees, the committees of importance.

Clark's essential thesis is that "The Establishment" in the Senate represents conservative forces that are unresponsive to the actual trend of election returns in recent years.

He believes that elections have sent substantial numbers of "liberal" Democrats to the Senate, particularly since 1958—but that they have been deprived by the conservative "establishment" of any power.

Not Kennedy Congress

"A large majority of the Democratic senators in the 88th Congress are progressive," says Clark. "A majority of them support the Democratic platform of 1960. But it is not a Kennedy Congress and it is not going to be a Kennedy Congress . . . because the oligarchical Senate establishment is opposed to the program of the President."

Who actually is in "The Establishment?"

Researchers for Clark say there are differences of opinion on this, but they list the following Democrats and Republicans.

In addition to Sen. Russell, among Democrats they list: Sens. George Smathers of Florida; Carl Hayden of Arizona; John McClellan of Arkansas; Allen Ellender of Louisiana; John Stennis of Mississippi, and Lister Hill of Alabama.

They say that Sen. Harry Byrd, the long-time champion of conservatism from Virginia, is no longer effective.

Not on the List

It is worth noting that neither of the top two formal Democratic leaders in the Senate—Mansfield or Hubert Humphrey of Minnesota—made the list.

Among Republicans in addition to Sen. Driksen in "The Establishment" Clark's aides listed: Sens. Carl Curtis of Nebraska; Norris Cotton of New Hampshire and Bourke Hickenlooper of Iowa.

There are also two men on the list described as "members" of "The Establishment" who are not senators — Robert Baker, secretary to the Democratic majority, and Mark Trice, his Republican counterpart. Clark believes both Baker and Trice are more influential in the Senate than the majority of senators.

Man Who Wants to Try Democracy

Feb. 25, 1963.

By JAMES RESTON
Special to The New York Times.

WASHINGTON, Feb. 23 — One of the most attractive things about Washington is that every once in a while somebody stands right up and tells the truth, just to see what will happen.

Take Joe Clark. He's a Senator from Pennsylvania. As such, he's supposed to accept the rules of the club, respect the leaders of the Senate establishment, and defend the Senate as "the greatest deliberative body in the world."

But not Joe. He got right up in the Senate the other day and attacked the whole system. He even suggested that the Democrats in the Senate ought to introduce a little democracy into their proceedings, and what he said about "the establishment" was even more daring.

Liberals Gain

"The Senate establishment, as I see it," said Joe, "is almost the antithesis of democracy. It is not selected by any democratic process. It appears to be quite unresponsive to the caucuses of the two parties, be they Republican or Democratic. It is what might be called a self-perpetuating oligarchy with mild, but only mild, overtones of plutocracy."

Of course, this is very largely true and it helps explain why President Kennedy won a victory in the Senate races last November but hasn't got anything out of the Senate since.

The facts are clear enough. In the last election, the Democrats increased their liberal wing in the Senate — Nelson of Wisconsin, McGovern of South Dakota, Bayh of Indiana, Kennedy of Massachusetts—and now outnumber the Republicans, 68 to 32.

This was a net gain of four Democrats and Clark had the original idea that the liberal gains should be reflected in the Democratic Steering Committee, which has the immense power of recommending committee assignments for all Democratic members of the Senate.

Clark Ignores Rules of Club to Attack Senate Establishment

In 1961, and again at the start of the present 88th Congress in January, the Democratic members of the Senate, meeting in conference, approved a statement by the Senate Democratic leader, Senator Mike Mansfield, that "the composition of the Democratic Steering Committee should reflect both the geographical distribution and the ideological views of the Democratic members of the Senate."

This, however, was not done. Clark estimates that there are 28 conservative Democrats and 40 liberal Democrats in the Senate, and that Northern and Western Democratic Senators outnumber Southern Democratic Senators. But seven of the 15 members of the powerful Steering Committee are Southerners, and with the addition of two conservative Democratic members from elsewhere, the conservatives dominate the Steering Committee, 9-6.

Vote Failed

Efforts to change this situation failed in a vote of all the Democratic Senators, and "they failed largely, I think," said Clark, "because the leadership announced against it and spoke against it in conference and threw the full impact of its undoubted moral authority against what, to me at least, seems to be this badly needed reform."

It is not hard to analyze why the liberal Democratic leaders, Mansfield and Humphrey, rejected the reform. Seven of the nine conservatives on the Steering Committee are also chairmen of other key Senate committees:

Senator Bible of Nevada, is chairman of the District of Columbia Committee; Senator Ellender of Louisiana, Agriculture and Forestry; Senator Hayden of Arizona, appropriations; Senator Johnston of South Carolina, Post Office and Civil Service; Senator McClellan of Arkansas, Government Operations; Senator Robertson of Virginia, Banking and Currency; and Senator Russell of Georgia, Armed Services. The other two conservatives on the Steering Committee are Smathers and Holland, both of Florida.

Clark didn't want to kick any of these eminent gentlemen off the Steering Committee; he just wanted to make the committe larger to get a better break for the Northern liberals. But he was voted down and he's still growling.

Studied Assignments

He even went so far as to look into the committee assignments recommended by the Steering Committee, and came up with these interesting statistics: Of eight non-freshman Senators who voted against changing the present filibuster rule in the Senate, six were assigned to the Senate Committee of their first choice, but of the 14 non-freshman Senators who voted to liberalize the filibuster rule, only one got the committee of his choice.

Of course, Clark didn't say that the conservatives were being rewarded by the Steering Committee or the liberals punished, but all the same, he thought the figures were interesting enough to go into the Congressional Record.

This is what adds spice to the Capital — somebody always fighting for lost causes. Politics was first defined as "the art of preventing people from minding their own business," and then as "the art of forcing people to decide things they didn't understand." Joe Clark is less cynical: He persists in thinking that democracy should have a chance, even in the Democratic party in the Senate.

The New York Times

ADOLPH S. OCHS, Publisher 1896-1935

PUBLISHED EVERY DAY IN THE YEAR BY THE NEW YORK TIMES COMP

ARTHUR HAYS SULZBERGER *Chairman of the Board*
ORVIL E. DRYFOOS *President and Publisher*
AMORY H. BRADFORD, *Vice President* HARDING F. BANCROFT *Secretary*
FRANCIS A. COX, *Treasurer*

Mar. 2, 1963

The Tyranny of the Minority

Those who dismiss as a capricious and meaningless waste of time the losing fight by Senator Joseph S. Clark of Pennsylvania to alter the size of and representation on committees of the Senate miss the point of a profoundly serious conflict. The real issue is not who will serve on which committees, and how they will be chosen, but rather whether the Senate — and the Congress as a whole — can be forced out of the path of obsolescence to which it is stubbornly adhering.

Essentially, the issue is this: The Congressional committee structure as it has evolved over the last half century and more has inverted one of the basic concepts of democratic government — from rule of the majority to rule by a minority. This is a palpable fact of Congressional life today; it is not simply a slogan of liberal soreheads.

Command of the legislative progress is in control of, comparatively speaking, a handful of legislators on the individual major committees of the House and Senate. More often than not, command is wielded not even by this small group but by the individual chairmen themselves.

The chairmen and/or the clique of committee seniors whom they control—usually a bipartisan clique—can and do withhold from floor consideration bills of which they personally disapprove. The devices for this arbitrary action are manifold: a chairman can simply pocket a bill referred to him and not bring it before his committee; he can kill it by the tactics of delay; he can kill it, or emasculate it, by the choice of witnesses brought in to testify on it. There are no really effective means of forcing a reluctant committee to act.

These chairmen and their cliques are fortified in their intransigence by the rule of seniority, and most of them in a Democratic Congress come from the safe and conservative districts of the South. In terms of Senator Clark's indictment they represent the Establishment. And in terms of the Kennedy Administration, they represent the real as opposed to the titular opposition.

The question is not merely whether individual items on the Kennedy program will or will not be enacted by this Congress. The greater question is whether President Kennedy — or any President —can have his program submitted to the *whole* Congress to be tested fairly and expeditiously in the scales of majority rule.

The bicameral system was deliberately designed to check the tyranny of the majority. It was never designed to foster the tyranny of a minority. But this tyranny has been established through the evolution of the committee structure, and there it rests today, a wasting, corroding growth on our system of government.

Congressional Report

Prepared in Washington by the
National Committee for an Effective Congress
Mailing Address: 10 East 39th St., New York 16, N. Y.

Vol. 12 - No. 1 March 14, 1963

CLAMOR FOR REFORM RESULTS FROM NEW RESPONSIBILITIES AND MEMBERSHIP OF CONGRESS

Last year Congress found it almost impossible to finish its business. This year, Congress found it almost impossible to get started. The Senate did not even organize its committees until the end of February.

The first weeks of a new Congress are the traditional season of Congressional discontent. It is the time when the existing order of Congressional power seeks and usually receives confirmation from the rank and file. But it is also the only time when the newer, less established members may challenge the "establishment" -- the only time when there is any degree of fluidity in the power structure.

This year the season was accompanied by a rising public chorus questioning the structure and function of Congress, with the suggestion echoed within Congress itself that some basic reforms are in order.

This clamor has been occasioned by two historical developments in the years since the Legislative Reorganization Act of 1946: - a significant change in the problems confronting Congress, and a significant change in the membership of Congress.

1) It has become commonplace to speak of the tremendous increase in the magnitude and cost of governmental activities -- of the fact that Congress must analyze and appropriate for $100 billions of expenditures annually. But the increased scope and complexity of Congressional responsibility is not simply a matter of dollars and cents or the numbers of government employees. The underlying reality is that this national forum of local representatives must deal with problems that are essentially global -- and are even being extended beyond the earth.

Needed are more Congressional study and thought, better organization of Congressional time and staff resources, greater access to the information in executive departments and more candor in its provision, and less preoccupation with the personal problems of individual constituents and even with campaigning for re-election. But the trends seem to be in opposite directions.

Congress is not handling its work-load. Its performance is sporadic at best -- involving reaction and over-reaction to headlines and crisis, but insignificant attention or accomplishment on a day-to-day basis.

These conditions are susceptible to improvement -- and probably will be improved. But it does not help, either in understanding or correcting them, to blame them alone for the failures of the New Frontier to achieve its goals. If Administration spokesmen are understandably reluctant to complain of a lack of Presidential persuasiveness, or if labor and liberal groups are reluctant to admit that voter interest in their legislative proposals is less than passionate, it may be tempting to use Congress as their whipping boy. But it is neither enlightening nor constructive.

2) The changes in Congressional membership over the past decade have rendered the present power structure within both parties in both Houses of Congress quite unrepresentative.

The caliber of Senate and House members has improved markedly in the years since Joe McCarthy and Pat McCarran. The new political generation in Congress -- as in the Administration -- is younger, better educated, more world-minded; and it has a greater sense of historical challenge and of its own responsibility. But the newer members have not yet acquired the seniority to match their numbers. They are frustrated and restless under leaders in both parties who are geared to earlier problems and antiquated procedures. Only Senate Majority Leader Mike Mansfield is of the post-war political generation. Dirksen and Halleck began their Congressional careers in the thirties; McCormack began his in the twenties.

The changes in membership have also produced significant shifts in the geographical and ideological bases of Congressional power. Among Senate Democrats, for example, the increase in numbers from 47 in the 83rd Congress to 67 in the 88th has been accomplished almost entirely in the mid and far west (the number of southern Democrats actually declined.) Whatever their quality, these new Democrats have different needs and different interests than the old -- needs and interests which are not adequately reflected in a party power structure still dominated by senior members who happen to be from other areas. Among the Republicans, on the other hand, the new balance of needs and interests is not the result of victories, but of attrition in the same mid and far western states. Republicans from the metropolitan northeast now constitute a greater percentage of their party's total. Yet this change is not reflected in their leadership, either. Parallel situations have arisen among the Democrats and Republicans in the House.

These two general changes are reflected in the recent suggestions for Congressional reform:

-- Members of the academic community, supported by some Congressmen, are urging modernization of the institution of Congress itself. They suggest modification of the seniority system, creation of more joint committees, the holding of joint Senate and House hearings on vital issues, and time saving devices such as electrical voting.

-- Many of the younger members of Congress, supported by outside interest groups, have been trying to achieve changes in the power structure of Congress which would give them greater representation. These have included the formation of the Democratic Study Group in the House of Representatives, the enlargement and liberalization of the House Rules Committee, and the recent successful revolt by the "Young Turks" in the Republican Conference in the House. Attempted unsuccessfully have been a strengthening of the Senate's cloture rule, the enlargement and liberalization of the Senate Democratic Steering Committee and enlargement and liberalization of the Senate Finance Committee.

The two types of reform overlap considerably. Congress is a self-organizing, self-policing and very human body of politicians. No reform, whether in the structure of Congress or in the way its present power is distributed, has any chance of accomplishment unless the Congressmen themselves equate such reform with their own interests. Neither the blueprints of the professors nor the power plays of particular blocs can succeed unless they accord with those interests.

The issue of institutional reform has begun to crystalize in Congress for the first time since 1946. So far almost the only open voices have been from the liberal side -- witness this year's resolutions for the drafting of a new legislative reorganization act (introduced by Joseph Clark and Clifford Case in the Senate and by Henry Reuss and John Lindsay in the House). However, such efforts will not be successful unless joined by conservatives. They will not even enlist the support of all liberals.

Another effort supported by Congressmen Chet Holifield (D., Calif.) and Thomas B. Curtis (R., Mo.) may succeed in creating the necessary consensus. These seasoned men are not interested in public relations forays, but in sound analytical study and broad Congressional acceptance of suggested reforms. They know that the leadership will not risk launching any reorganization procedure unless there is reasonable prospect for acceptance; and they are trying to secure financial backing for an objective, but politically sophisticated assessment of what might actually be accomplished. There are hopeful signs that this program may soon be under way.

STRUGGLES FOR POWER CHARACTERIZE OPENING OF NEW CONGRESS

In contrast to the delicacy with which institutional reform was broached this year, all sides came out slugging in the battles for control of the existing instruments of power. Fighting was unusually heavy. Three of these struggles were particularly noteworthy. It is characteristic that they took place within the parties rather than between them.

Liberal Democrats Seize New Bastions in House

After their party's sweep in the 1958 election had almost doubled the numbers of northern and western Democrats in the House, President Eisenhower vetoed many of their bills and throttled others with the threat of veto. They had a feeling that their own leadership was not leading -- and, by the end of 1959, many of them were saying, "If we don't get something done, we're going to get licked next year." It was this mood that prompted the formation of the Democratic Study Group at that time. This well-led and well-staffed organization, though subject to the usual centripetal tendencies of liberals, constituted a formidable new element in the power structure of the House, and has had great impact on its operations ever since.

In 1961, the DSG forced the enlargement and liberalization of the powerful Rules Committee for the life of the 87th Congress -- breaking the stranglehold of the conservative coalition and permitting much Kennedy Administration legislation to reach the floor.

This year the DSG leaders were determined to accomplish more. They set out to make the Rules Committee enlargement permanent; and they aimed at increasing liberal strength in at least one other vital Congressional power-center -- the Ways and Means Committee. The importance of the latter lies not only in its control over tax, trade, medicare and other key legislation, but in the fact that its Democratic members constitute their party's committee on committees -- with power of decision on the committee assignments which are the life-blood of Congressional careers.

In order to achieve these goals, it was necessary for the DSG to limit its objectives -- specifically to eschew efforts at obtaining the 21-day rule for which labor and other organizations were strongly urging that they fight. Some of these groups had been so insistent that a fight be made on the 21-day rule that they said in advance that a fight for anything less would be a "sham."

Still, the permanent enlargement of the Rules Committee was achieved -- and will be very difficult to undo. Also, two Administration supporters were added to the Ways and Means Committee in a stunning upset of leadership strategy; and this had an important additional consequence in the filling of all five coveted vacancies on the powerful Appropriations Committee by northern and western liberals.

"Young Turk" Republicans Shake Halleck Power

The more lively and intelligent Republicans have been irked with Halleck's leadership for some time. Many blamed its do-nothing, dull and essentially defeatist character for the failure of their party in the 1962 elections; and they were frustrated by his invariable efforts to smother any constructiveness on their part. Halleck is not a McCormack,and he certainly is not a Rayburn. He does not know how to lead a variegated party and blend its disparities into a whole of great organizational strength. Halleck tends to equate a difference of opinion with a threat to his own power, and he wields that power in order to suppress any differences.

The overthrow of Mr. Halleck was not on the agenda of the Republican "Young Turks" this year. Instead, they planned a "demonstration" which would shake his power and put him on notice that they wanted a different style of leadership in the 88th Congress. And their "demonstration" was executed with a cool secrecy and technical skill which won the admiration of many Democrats.

What they did was to run Representative Gerald R. Ford of Michigan for the post of Chairman of the Republican Conference, and to elect him at the Republican caucus on January eighth. The post had been occupied by a colorless and inactive Halleck minion, Representative Charles B. Hoeven of Iowa.

The great majority of Republicans, including Halleck himself, did not learn of this plan until only two days earlier -- some not until a few hours before the caucus began. In the short time available, Halleck did his best to choke it off. Who told what to whom in order to produce the victory for Ford has not been revealed in print; but it is known that the rebellion had the active and well-communicated blessing of some powerful figures in the Republican hierarchy. For the moment, Ford's 86-78 victory over Hoeven speaks for itself. And, if there is any doubt as to what it says, Mr. Hoeven does not share it. His view is that "they're going after Mr. Halleck and Mr. Arends (the Republican Whip) in due time."

Meanwhile, Ford's Chairmanship of the Conference is providing an umbrella for operations which the activists could not have undertaken before they had a "piece" of the leadership. Most important among these is the work of the Minority Staffing Sub-Committee, which is pushing very hard for increased Republican staffing on Congressional committees.

The unseating of Hoeven was linked with another event that has important implications for future Republican posture. Twenty-eight Republicans wound up supporting the enlargement of the Rules Committee. It is reliably reported that about another fifty might have done so had the Democrats been able to offer a compromise that would have involved acceptance of the Republican request for equal time in floor debate on conference reports and a promise to discuss their staffing complaints at some later date. There was, in fact, some discussion of such a compromise between Democratic

and Republican leaders in the few hours between the end of the Republican caucus and the opening of the Congressional session the next day. However, McCormack and the Democratic Study Group did not want to alter their strategy at that late point for fear it would raise a possibility of the debate getting out of control -- and a probability of losing the southern votes they had already lined up.

Nevertheless, these developments may be harbingers of future cooperation between the liberal Democrats and the "Young Turk" Republicans on ultimate Congressional reorganization.

Senate Liberals Dramatize Issue of Party Control But Fail To Score Against "Establishment"

The northern and western Senate Democrats, greatly augmented by the class of 1958 and in the two subsequent elections, have been much less aggressive than their House counterparts. One reason is that in the Senate, a smaller and more intimate body than the House, operations are more personal and relaxed. Partly, it is because the new Democrats in the Senate were not as immediately under the electoral gun as were their House colleagues.

Nevertheless, the pressures have been building and this year they began to produce eruptions.

The protracted battle for and against filibustering could have been ended weeks earlier with the same result -- a stand-off in which the liberals gained some votes over previous years, but failed to accomplish any change in the rule.

A more urgent, because more personal, concern of the liberal Democrats came to light in the furor over the size of the Steering Committee, and, later, over the way it had parceled out committee assignments. The Steering Committee has 15 members, seven of them (almost 50%) are southerners. Yet the southerners, who were about half of the total Democratic membership in the Senate ten years ago, now constitute only 30% of the total. Senators Joseph Clark of Pennsylvania and Clinton Anderson of New Mexico introduced motions in the Democratic caucus to increase the size of the Steering Committee and to add northern and western members. These moves were opposed as reflecting upon the integrity and fairness of the present members of the committee, and they were overwhelmingly defeated -- by a majority which included most of the northerners and westerners themselves (many of whom were in sympathy with the rebels).

Subsequently, in the distribution of new committee assignments by the Steering Committee, certain of the members who had voted for enlargement of the committee, or who had supported the anti-filibuster move, did not get what they had asked for.

Two weeks ago, in an unprecedented -- and to many Senators astonishing -- move, Clark rose on the floor of the Senate to discuss these intra-party matters. He charged that the Senate is controlled by a bi-partisan coalition of southern Democrats and Republican conservatives who make up the Senate's "establishment." This "establishment," he said, controls the citadel of the Senate, and the Democratic key to the citadel is the party's Steering Committee. He charged specifically that this committee had discriminated against northern and western liberal Senators -- specifically including some who are up for re-election in 1964, who face very tough races, and who would have been greatly helped in connection with these races had they gotten the committees they asked for.

The bitterness of the feeling behind this attack, which was joined by Senators Douglas and Morse, was indicated when Douglas exploded "Sometimes, in my sardonic moments, I wonder whether this is also part of the plan to discredit the party, to defeat the Senators from the north and west, who otherwise might threaten the supremacy of the bi-partisan alliance." It also reflected another concern now current among some of the western Democrats who face elections in 1964. They are fearful that Democratic party preoccupation with President Kennedy's re-election, particularly in the event of a highly expensive campaign against Governor Nelson Rockefeller, would mean that the effort and money available for Senate campaigns would be concentrated in states with many electoral votes -- and that they, whose states have only a few electoral votes, will be substantially neglected.

The Senate winced at the Clark-Douglas-Morse demonstrations on the floor, and Majority Leader Mansfield openly regretted that they were "washing dirty Democratic linen in public." Underlying his embarrassment was the fact that more than a question of fairer representation for northern and western Democrats is involved. To some degree, the success of major Administration legislation depends on who serves on what committees. Mansfield is committed to advancing this legislation, but he is also committed to following Senate precedents and to maintaining the authority of the leadership structure which he heads.

Clark's protests culminated in efforts on the floor to enlarge the Finance and Appropriations Committees in order to increase liberal representation on them. These failed, too; but they were backed by votes of 17 and 12 Senators, respectively -- an impressive demonstration of open discontent.

POLITICAL SUCCESS DEPENDENT UPON KNOW-HOW AS WELL AS NUMBERS

These three rebellions illustrate some important points about political, and particularly Congressional, operations.

In the period, during the 50's, when the liberals had no hope of exercising predominant power in the Congress, foredoomed demonstrations for lost causes may have been a suitable tactic -- at least for airing their views and their grievances. But, today, when the liberals are numerous enough to have real influence and power, this tactic can be self-defeating.

In the House, the Democratic Study Group and the insurgent Republicans picked their targets to assure maximum support for their efforts, avoided going for what they could not win, organized carefully -- and won what they went for. The insurgent Democrats in the Senate failed to do any of these things. They are going to have to learn to do them. And, since these different styles of operation may be more a matter of personalities than of deliberate adaptation to circumstances, they may have to learn under different leaders.

The liberals now have the makings of a very strong bloc in the Senate. Realistic analysis of the political prospects indicates that they could lose many seats in the next election. They might also hold their own or even gain a little. What happens may depend very largely upon the political sophistication with which they operate during the next 18 months -- on whether they can duplicate under Senate conditions the effectiveness and coordination achieved in the House by the members of the DSG. It may depend also upon whether Majority Leader Mansfield is skillful enough to meet them half way and to avert the possibility of the kind of schism that would result if he does not.

On December 27, 1962, the National Committee for an Effective Congress released to the press a special report which had been prepared for the Committee's Advisory Board. It dealt with the results of the 1962 election, the composition of Congress, the metamorphosis of the South, and the role of the President vis-a-vis history. Coverage was widespread both here and abroad. Here are two samples of the stories that appeared.

The Washington Post
THURSDAY, DECEMBER 27, 1962.

Kennedy Must Show Firm Hand To Win in Congress, Study Finds

By Richard L. Lyons
Staff Reporter

President Kennedy can score legislative breakthroughs next year if he acts quickly with firm leadership, the National Committee for an Effective Congress said yesterday.

The Committee is a nonpartisan private group interested chiefly in the election of internationally minded congressmen. Assessing congressional prospects in light of the Cuban crisis and the elections, the Committee said the President's "consummate handling" of missiles in Cuba has given him a "second honeymoon."

How long it lasts will depend on what the President does in the first few weeks of the session, the Committee said, because any major legislative project must be enacted or well started in the nonelection year of 1963.

What is needed, the Committee said, is for the President to translate the bold executive decisions he took in the Cuban crisis into "imaginative and skillful use of the arts of persuasion of both the public and Congress—arts which President Kennedy has not yet practiced to a notable degree."

"History may roar in the skies outside," the Committee said, "but its voice is barely a whisper in the congressional lobby. It is the President who must make history heard—by becoming its spokesman."

The Committee offered a list of tough problems which it said require "ingenious solutions and painful attention, in contrast to the bold command decision." It included the "ailing" economy, taxes, automation and chronic unemployment, education, urban explosion and the "sterility of many of our foreign economic and political efforts."

If the President were running only against Republicans, the Committee said, he might be well advised to hold onto the ball and do nothing. But he "also is racing against the march of history. He must keep scoring just to maintain our relative position."

The Committee suggested that the Administration take a lesson from enactment of the foreign trade bill last session, in contrast to its defeat in other more partisan fights. The trade bill, it said, was handled by a specially qualified staff, was argued at the grass roots level and was developed in Congress on its merits, not by promises or threats.

"The result was not a partisan victory but a legislative triumph," said the Committee.

As for the new Congress, the Committee called the election a victory for younger, forward-looking men in both parties. It suggested that election of moderate Republican governors in big states and the probability that Republicans must run with a moderate presidential candidate in 1964 may cause the GOP to stake out positive legislative positions, rather than merely to oppose. In this case, the Committee said, the legislative result might be effective compromise "with credit going to both parties."

The New York Times Western Edition
THURSDAY, DECEMBER 27, 1962.

Survey of New Congress Finds Kennedy Stronger

Non-Partisan Political Group Sees Shift in 'Tone and Chemistry' Greater Than Numerical Change Indicates

By CABELL PHILLIPS
Special to The New York Times.

WASHINGTON, Dec. 26 The 88th Congress should be more receptive to President Kennedy's legislative program than its predecessor, the National Committee for an Effective Congress predicted today in its annual preview of the forthcoming session.

The non-partisan political action group declared the elections last November altered the "tone and chemistry" of the new Congress more significantly than the slight numerical shift in party alignment indicated. The group's report said that a number of older and more conservative members of both parties had been retired and younger men with a generally more progressive viewpoint had been elected.

In the Senate, the report noted, the Democrats "not only increased their numbers, but experienced a marked infusion of vigor and talent" in the four new senators they elected. At least three of the four replaced Republicans of a distinctively conservative philosophy.

In the House, where the Administration met its major frustrations last year and where the Democrats suffered a net loss of two seats, the committee found that "the situation has also improved on balance."

"The defeat of a number of Southern conservatives and the shifting of seats from the South to the West has resulted in a net movement of the Democratic center of gravity away from the conservative coalition," the report said. "The relative strength of the liberals within the Democratic caucus is thus substantially increased."

At the same time, it was noted, there has been a similar, though slight, net shift in the Republican delegation toward the moderate wing and toward youth.

A further factor in the Republican shift, the report declared, is the relatively progressive coloration of the Republican winners in the governorship contests in Michigan, Ohio and Pennsylvania. With Gov. Nelson A. Rockfeller in New York, it said, these state leaders are expected to exert a moderate and progressive influence on Republicans generally, which, in turn, will be felt by those in Congress.

The report argued that the "improved climate" in the new Congress was not so much a testimonial of faith in the Kennedy program itself as a growing awareness of national needs in both domestic and foreign programs. If the President is prepared to push programs that meet these needs, the report said, he can expect a more hospitable reception from Democrats and Republicans alike.

"In the last Congress," the committee noted, "it often seemed that the President was trying to maneuver for political position on issues rather than for accomplishment.

"If the Republicans, or any significant group of them, should begin staking out alternative positions of their own on important issues rather than merely nay-saying, the legislative result might be effective compromise, with credit going to both parties." It went on to say that the Republican metropolitan wing was expected to "attempt to mount positive initiatives and try to separate themselves" from the prevailing image.

The committee believes that Republican gains in the South this year, coupled with those of other recent elections, indicate a profound change in the region's political complexion, but not necessarily to the advantage of the Republicans.

"Change has been simmering in the South for a long time," the report said. "It is not a changing of the guard, but of the chemistry of the body politic. Entirely new ingredients have been introduced as the traditional agrarian, feudal way of life gives way to industrial capitalism."

In Congressional districts all across Dixie, the committee found, the Democratic party is "repositioning itself politically —often accompanied by tremendous internal convulsions." It added: "The Harry Byrd type of Democrat is a dying breed."

"The Republicans for their part are bidding for the support of the conservative and states' rights elements. With enough bad luck and bad judgment (they) may inherit the Bourbon image—but they will not inherit the reality.

"It is clear that the Southern political inheritance will go to whichever party comes closest to expressing the emerging hopes and interests of the awakened region."

The chairman of the National Committee for an Effective Congress is Sidney Scheuerer of New York. The chairman of its advisory board and the principal author of its report is Maurice Rosenblatt of Washington. Among the members of its board of directors are Professor Arthur Schlesinger Sr., Harvard historian: Professor Hans Morgenthau of the University of Chicago; Telford Taylor, the New York lawyer, and Hannah Arendt, the author.

The committee is non-partisan, but liberal in its politics. In the last election it gave direct financial support to eight Democratic and three Republican candidates for the Senate, and to 19 Democratic and 10 Republican candidates for the house.

AL ULLMAN
2D DISTRICT, OREGON

COMMITTEE ON
WAYS AND MEANS

Congress of the United States

House of Representatives

Washington, D. C.

9 PM Monday

John,

I got stuck in my office so I couldn't get over as soon as I thought I was going to.

The attached memo from LRS is a complete investigation of the problem of Senate ~~xxxxx~~ legislative amendments to Apprpriations bills. The man at LRS knows the exact nature of the present problem so at ~~xxxxx~~ pg. 5 he begins with the discussion of the "particular question at issue." I haven't nailed it down absolutely yet, but as far as I can tell such a ~~le~~legislative amendment would not have to go to the Committee of the Whole House. (seepg. 4)

The best to way to handle the problem would seem to be number (1). Normally such ~~unanimous~~ consent requests are approved ~~xx~~ late in the day when there are few people on the floor and they go through automatically with a rap of the gavel. In this particular bill there are 2 other legislative amendments (i.e. Fulbright on Phillipines and one other) which should make excellent "cover" for the APW clause.

Other possibilities but which seem doubtful to me:

1. special rule from Rules Committee -- Rules is always difficult
2. just trying to slip it through. Once the conference report was made the

AL ULLMAN
2D DISTRICT, OREGON

COMMITTEE ON
WAYS AND MEANS

Congress of the United States
House of Representatives
Washington, D. C.

business of the House it would be too late for any point of order. ---- It would seem to me that such an idea would be pipedreaming.

I am having LRS send me extra copies of this memorandum on the possibility that you might want other Senators or groups to see it. They are going to retype the first page so that our name will only be used on a cover page which I can take off.

When you have a chance tomorrow morning I wish you'd call me, so we could compare notes. I have already laid the groundwork for letters and contacts to be made with the House conferees as soon as the Senate passes the supplemental appropriations bill.

Larry Horwitz

THE LIBRARY OF CONGRESS

WASHINGTON 25, D.C.

LEGISLATIVE REFERENCE SERVICE

April 26, 1963

To: Honorable Al Ullman
Attn: Mr. Horwitz

From: American Law Division

Subject: Senate Legislative Amendments to House Appropriation Bill - Handling in the House

Reference is made to your request for information on the procedure for handling in the House, Senate legislative amendments to House Appropriation bills. The following report will consider this subject with reference to an amendment making appropriated funds available during the fiscal year following the fiscal year for which the funds are initially appropriated (such an amendment is held to be legislation - see Cannon's Precedents of the House of Representatives, Vol. VII, sec. 1272. The reason that such amendments are considered legislation is that they amend the permanent law requiring unobligated balances of appropriated funds to be returned to the Treasury at the end of the fiscal year, see 31 U.S.C. 701.

Senate Legislative Amendments to House Appropriation Bills

House bills with Senate amendments are sent to the Speaker's table for disposition (Rule XXIV, sec. 2).

The procedure to be followed depends in part upon the type and number of the amendments.

If the only Senate amendment is a legislative amendment which can be considered and disposed of by the House, without the necessity of a conference, it is possible that a motion for unanimous consent (Cannon's, Precedents of the House of Representatives, Vol. VI, sec. 732) or suspension of the rules (supra, Vol. VIII, sec. 3425) might be made for immediate consideration of the amendment. However, a general rule cannot be stated in this respect, particularly if the amendment is one that under the House Rules would be required to be considered in Committee of the Whole first, (See House Rule XX, sec. 1). Each instance would require reference to the House Parliamentarians.

Bills (or amendments) requiring consideration in the Committee of the Whole include propositions involving taxes and revenues, "all proceedings touching appropriations of money, or bills making appropriations of money or property", etc. (House Rule XXIII, sec. 3).

A House bill returned with Senate amendments involving a new matter of appropriation, whether with or without a request for a conference, is usually referred directly to a standing committee, (supra, Vol. VI, sec. 731), and on being reported therefrom is referred directly to the Committee of the Whole (Hinds, Precedents of the House of Representatives, Vol. IV, sections 3094, 3095, 3108-3110).

General appropriation bills with Senate amendments reported back to the House from the Committee on Appropriations are privileged and are subject to motions authorized by the Committee (Cannon's, supra, Vol. VIII, sec. 3187).

Thus, where the only amendment to the House appropriation bill is a Senate legislative amendment and it is desired to secure House concurrence without the necessity of a conference, the practice is to refer the bill (probably) to the House Appropriations Committee for reporting back to the Committee of the Whole. It might be possible to secure immediate consideration by the House of such an amendment by taking the bill from the Speaker's table by unanimous consent or suspension of the rules, but the facts in each such situation would have to be separately considered.

If the House appropriation bill contains other Senate amendments as well as a legislative one, the following procedures could be considered:

At the start, if the foregoing facts exist, it is assumed that a conference will take place. Several decisions will then have to be made. Will the House concur in the legislative amendment and disagree as to the other Senate amendments? Or, will it authorize its managers to agree to such amendment in conference, as required by Rule XX, sec. 2 (see also Rule XXI, sec. 2)?

The usual procedure depends upon the nature of the Senate amendments. If the amendments do not require consideration in the Committee of the Whole (Hinds, supra, Vol. V, sec. 6589), the Speaker, usually at the request of the chairman of the proper committee, "lays the bill with amendments before the House" (Cannon's, Procedure in the House of Representatives, p. 115).

Still need to make distinction over but there doesn't seem to be a "Committee of the Whole House" problem — so see p85

However, where the amendments are such as require consideration in the Committee of the Whole, they are referred to the Committee having jurisdiction which then considers and reports back to the House the bill and amendments, which go to the calendar and are considered in the Committee of the Whole (supra, p. 117). Usually, the general practice is to ask for unanimous consent to take the bill with amendments from the table and send it to conference, but if any member objects, it is then referred to the appropriate committee by the Speaker (ibid.).

A similar procedure would evolve under a motion to suspend the rules to take a bill from the Speaker's table and send it to conference (supra, p. 118). If the motion is lost, the bill and amendments automatically go the standing committee having jurisdiction (Cannon's, Precedents of the House of Representatives, Vol. VI, sec. 733).

A further possibility is to proceed under a special resolution from the Committee on Rules, under which the bill

and amendments is taken from the Speaker's table and sent to conference (Cannon's, Procedure in the House of Representatives, p. 117).

In respect to the particular question at issue, the House, in the past, has agreed to a unanimous consent request to take an appropriations bill, with Senate amendments, from the Speaker's table and send it to conference with a provision that the managers on the part of the House be given specific authority, as provided by clause 2 of Rule XX, to agree to any Amendment of the Senate providing for an appropriation (Cannon's, Precedents of the House of Representatives, Vol.VII, sec. 1575). It is assumed, although a specific precedent was not found, that the same procedure could be utilized with regard to a motion to suspend the rules.

In the case of the unanimous consent instance cited, the action of the House was apparently considered as fulfilling that portion of Rule XX, clause 2, specifying that specific authority on each amendment be given to the House conferees "by a separate vote on every such amendment." It was also the opinion of the Chair in the case cited that such a procedure would waive a point of order as provided by clause 2 of Rule XX.

Of course, if the bill were sent to the House Appropriations Committee (or other appropriate standing committee) and reported to the Committee of the Whole with a report favoring the Senate legislative provision, and the provision

were adopted, there would be no need for concern in respect to a conference on this point. When considered in the Committee of the Whole, Senate amendments are taken up in their order (Cannon's, Procedure in the House of Representatives, p. 119). When reported from the Committee of the Whole, Senate amendments are usually voted on en bloc and only those amendments are voted on severally on which a separate vote is demanded (supra, p. 120).

Points of order against Senate amendments which fall within the scope of clause 2 of Rule XX are apparently not allowed either when an amendment is voted on in the House or when a unanimous consent agreement is proposed to send a bill to conference with such Senate amendments included (see footnotes to House Rule XX, clause 2, and Cannon's, supra, p. 136).

A point of order can be raised should the House managers report a conference report violating Rule XX, clause 2 (ibid.).

It is also possible for a special order from the Rules Committee to include a provision directing House managers to agree to a Senate amendment included within Rule XX, clause 2 (Cannon's, Precedents of the House of Representatives, Vol. VII, sec. 1577). In such an instance, a point of order cannot be raised against the conference report (ibid.).

Thus, where there are several Senate amendments to

a House appropriations bill, including a legislative amendment, the procedures for handling them might be as follows:

(1) A unanimous consent request to send the bill and amendments to conference including a provision that the House managers agree to Senate amendments included within House Rule XX, clause 2.

(2) Possibly, a motion to suspend the rules and send the bill and amendments to conference with a similar proviso as regards Senate amendments included within Rule XX, clause 2.

(3) Reference of the bill to an appropriate standing committee and a favorable report from the committee on the particular Senate amendments, plus the adoption of such amendments by the Committee of the Whole and the House (this, of course, eliminates the need for a conference).

(4) Sending of the bill and amendments to conference under a special order with a provision directing the House managers to agree to Senate amendments included in clause 2, Rule XX.

These would seem to be the methods that could be utilized. It should be noted, however, that it is not certain that the procedures under (1), (2) and (4) would always be available in every instance where a Senate amendment would

normally, under the rules, have to be considered in Committee of the Whole.

Robert L. Tienken
Legislative Attorney

COPY hhh

April 20, 1963

The Honorable Mike Mansfield
United States Senate
Washington 25, D. C.

Dear Mike:

Attached is a copy of a letter to Senator Fulbright. Certain portions of it may be of interest to you.

The release by the Committee of the O'Donnell testimony exploded like a bomb in Minnesota. One news story reads "Humphrey Accepts Bribe of $500". Other stories read "Humphrey Paid $500 to Introduce Bill". Regrettably, the Committee did not tell that Humphrey had received not one nickel, nor did the Committee state that Mr. O'Donnell had at no time seen Senator Humphrey. Nor did the Committee point out that the bill Senator Humphrey introduced was supported by the Administration, praised by President Kennedy, and requested by the distinguished former Philippine Ambassador Carlos Romulo.

Between the activities of F.D.R., Jr., in West Virginia in 1960 and the Foreign Relations Committee in 1963, I am suffering from a couple of open wounds. I don't see how this really helps maintain one's political strength. Frankly, it is outrageous and I am thoroughly disgusted with the whole thing.

Anyway, I wanted you to see what I had written, also some excerpts from the Congressional Quarterly which I am attaching.

Sincerely yours,

Hubert H. Humphrey

COPY hw

April 20, 1963

The Honorable J. W. Fulbright
Chairman, Committee on Foreign Relations
United States Senate
Washington 25, D. C.

Dear Mr. Chairman:

I wish to be recorded in favor of S. J. Res. 60, also the International Coffee Agreement. I also urge that the Committee make available for public distribution the confidential Committee print "Economic Impact of Arms Control Agreements". It is time that this document be declassified. It has no material of secret or confidential nature within its pages. I am of the opinion that the interest in the publication is primarily due to the fact that it is labeled confidential.

In reference to the Philippine War Damage Claims Act of 1962, I call to the attention of the Committee that the Act as passed and signed by the President had the active support of the Administration and was heralded by the President as an important contribution to the improvement of relations between our two countries. It should be further noted that all claims under the Act as passed must first have the approval of a U.S. Foreign Claims Commission - a U.S. government agency.

If the Congress were to reverse itself on this issue and make the payment directly to the Philippine Government, it should do this recognizing that in the past there have been many charges of corruption concerning the Philippine Government. I do not know if these charges are true, but all of us have heard them. Under present law relating to Philippine war damage claims, monies are made available to individuals after such claims have been approved and established before the U.S. Foreign Claims Commission. It appears to me that despite the activities of Mr. O'Donnell and the fees that he has alleged to receive, the chance of an individual receiving compensation for war damages is much more likely under the present Act than under a direct payment by the Government of the United States to the Government of the Philippines.

COPY

I will be interested in seeing whether or not the State Department, which so vigorously supported S. 2380 and H.R. 11721, which passed the Congress and was signed by the President, now changes its position. I will also be interested in seeing how they rationalize the change of position if such a change should occur.

It would be well for the Committee to review the testimony of the then Assistant Secretary of State Mr. Harriman, who testified in behalf of the State Department and the Administration. I also would call to the attention of the Committee, before any further action is taken, the statement of President Kennedy when he signed the bill H.R. 11721. I would also ask the Committee to read the many editorials of support for the direct payment to individuals of the war claims - editorials in the New York Times, the Washington Post, and a host of other newspapers.

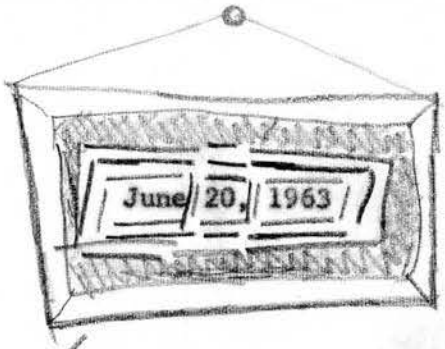
Very frankly, despite Mr. O'Donnell's activities, the legislation which passed seems to be sound and proper. I have no apologies for having sponsored it in the Senate, but I would be somewhat concerned over a direct payment of this sum of money to the Philippine Government in light of many General Accounting Office reports on U.S. funds made available to the Government of the Philippines. I would suggest that the General Accounting Office be consulted before direct payment to the Government of the Philippines was made. Or at least the Committee should be aware of certain secret and confidential reports of the GAO on foreign aid and military assistance to the Philippines.

A copy of this letter is being made available to Senator Mansfield. I do not ask that it be made a part of the record. However, I do give you my proxy to report favorably S. J. Res. 60, the International Coffee Agreement, and the release of the confidential Committee print on the "Economic Impact of Arms Control Agreements". I also wish to be recorded in favor of the nominations of George C. McGhee, Roger Hilsman, Jr., Brewster H. Morris, David Elliott Bell, Edwin M. Martin, Walter M. Kotschnig.

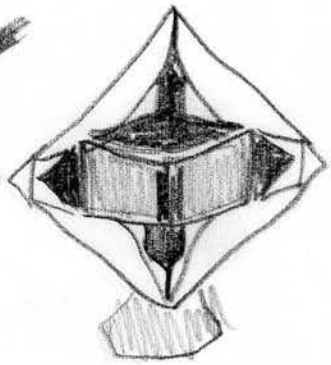
Sincerely yours,

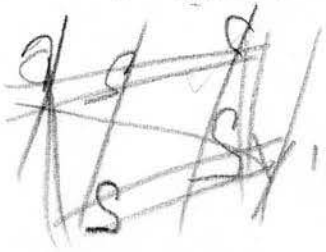
Hubert H. Humphrey

cc: Senator Mansfield



TO: Tom Cheatham
Jerry Schaller
Julius Cahn
Norman Sherman
John Stewart
Eiler Ravnholt
Neal Peterson
Win Griffith
John Rielly





FROM: Bill

We are calling a meeting with Senator Humphrey to discuss a proposed major project for the Senator and his staff and associates for Thursday morning, 10:00 a.m., June 27th, Room 1313. I hope that you can be present.

June 19, 1963

Memo to: Senator
cc: Eiler
John S.
Neal

From: Bill

Subject: Programmed Learning Project

Objective of the Project:

A development of a major effort involving the University of Minnesota, industry, and the federal government in the use of programmed learning, or teaching machines, for 1) rapidly upgrading the technical assistance program in Latin America; 2) rapidly upgrading the Negro training program in the United States.

Resources:

1) The University, particularly Dr. Jerry Shephard of Electrical Engineering, and President O. Meredith Wilson, is extremely anxious to work with us and with industry in the development of the cooperative effort to greatly increase the federally-supported research and development work in the Twin Cities. It also happens that President Wilson is a specialist on Latin American affairs and that the University is very probably going to get a very substantial grant from one of the large foundations to establish a Latin American areas program at the University. Presently the University has contracts with the Peace Corps for training their people and expects to expand this. It may well windup being the central Peace Corps training center for Latin America. Also at the University is a specialist in the field of programmed learning by the name of Neal at the College of Education. Bryce Crawford, Dean of the Graduate School at the University of Minnesota, is sitting in on the meetings with Shephard and the President and is another key man.

2) Litton Industries: Tom Cheatham, Vice President of Litton for research and engineering has now moved to Washington to establish his base. He has earlier (1961) attempted to interest AID and the Peace Corps in going forward with a program of programmed instruction and integrated communications, particularly with respect to Mexico. He had cabinet level talks with the Mexican government and found a great deal of enthusiasm, but he was never able to get any more than enthusiasm out of his discussions with our government. In short, as in so many cases, nothing ever happened. I found out by chance that he had done this when we were coming back from Minneapolis. He is ready and willing to put the entire resources of his company to

work with us and the University for the development of this project. Any development and production work that would be carried on by Litton would be done in Minnesota.

3) Other resources: Eugene Galanter, Chairman of the Department of Psychology, University of Washington at Seattle, has been working with us on this concept for the last 18 months and has made a trip to the Dominican Republic to propose the use of programmed instruction in rapidly upgrading the Dominican's political understanding. He is closely in contact with Professor Skinner at Harvard University, who is the daddy of the "machine teaching" concept.

4) Humphrey staff: Eiler Ravnholt, who has been studying this programmed instruction matter for some months, and has established liaison with industry and government, could be the lead man or project manager on this project. This would be after July 21st when he has completed work on the book of selections on school integration. He would be prepared to devote full time except for his Senate library duties.

We have the Subcommittee on Reorganization which will be looking for a project when the FDA hearings are completed, under Julie Cahn. We have John Rielly with his expertise on Latin America, and Neal Peterson with his liaison with the Department of Defense and AID Research and Development. We have John Stewart with his assignment on the Education bill, with particular reference to the vocational education program for Negroes. We have Win Griffith and Norman Sherman for the development of articles, and PR on the project as it begins to move. Finally, not on the Humphrey staff but closely allied with us is Jerry Schaller, who has the liaison we need with NASA, where some important by-products of a project of this kind might be developed and financed.

Timing:

We have already opened broad talks on industry-government-university cooperation with the University authorities, including President Wilson, on July 10th and July 20th (when we are going to have you and Joe Karth join in the discussions). Cheatham, representing Litton, is involved in all of these discussions.

Until Eiler Ravnholt has shaken free of the school integration project about July 21st, I would propose that I hold on to the direction of the project through the "summit meeting" with you, Karth, and Wilson, and that Eiler would thereafter take over.

We should try to move fast enough to take advantage of the national tide of interest which will be developing over the problem of the realities of economic opportunity for presently unqualified and untrained Negroes.

I would like to suggest that we kick this off on Thursday morning at 10:00 a.m. on June 27th. I suggest a conference with your staff (including John Stewart, John Rielly, Eiler, Neal, Win and Norman Sherman) and also including Tom Cheatham, Jerry Schaller and Julie Cahn.

Method of Operation:

1) The establishment of a project committee -- commencing with those invited to the conference on the 27th and expanding out to include the University people.

2) Establishment of area responsibilities and deadlines: These would be worked out at and after the conference on the 27th. The idea would be that each staff member would have a specific part of the program to develop, to be coordinated and fed into a central clearing house with Eiler Ravnholt. Thus, Julie might initiate a complete Subcommittee survey of what is now going on here in this country and in other countries in the field of programmed learning -- what companies are involved in it, what educational systems, and what experiments are being conducted by various groups in the universities and in private enterprise. Rielly could ferret out from the AID maze all those individuals who have any even peripheral responsibilities for training programs. John could find out and contact those individuals in the Administration who will be working on Negro education projects. Eiler could directly contact the individuals at the University who will be assigned to work with us on the project. Jerry Schaller could be asked to see what money might be scared up out of NASA to finance some program learning projects for NASA. Win and Norman could be working with what material Eiler and Julie will develop some stimulating and provocative articles. Neal would work closely with Tom Cheatham and try to scare-up Defense Department contracts for the development of programmed learning.

3) Getting the University to create a mechanism within the University to concentrate effort in this field: There is already underway in Electrical Engineering a science information center which is Shepard's brain child, and there is a man on the staff who is deeply interested in programmed learning. What is required as a formal apparatus with which we can work on this specific project.

4) Getting Litton to assign some personnel and funding as risk capital in a development with the University.

5) Getting Sargent Shriver and Dave Bell committed to support a pilot project, using some AID procurement and Peace Corps personnel in one country to make a breakthrough on illiteracy and simple manual training, or some rather radical improvement in health habits, or whatever may be the most urgent priority.

6) Possibility of a special appropriation for a programmed learning center grant at the University.

7) Possibility of a special appropriation for the District of Columbia or for some other metropolitan area for a pilot program in the rapid upgrading of Negro education and training, perhaps along the lines of the successful experimentation of the Britannica schools.

Summary:

All of the ingredients are here for a successful Humphrey project -- resources of a great university and a major corporation, the fact that we are to a great extent breaking new ground, the fact that we are bumping up against problems of employing people (Latin American campesinos and Negro-American slum dwellers) who are practically non-employable in the 20th century technology, and a problem which obviously cannot be solved by conventional means.

The project ties directly into other Humphrey interests -- a dissemination of public health measures in underdeveloped countries, the possible use of soft currencies under Public Law 480, the stimulation to technical assistance in the underdeveloped countries, and the development of genuine (as against merely legal) opportunities for the employment of Negroes.

Finally, if we are successful, we could take out another major area of human need in which Senator Humphrey is the recognized leader, the University of Minnesota could become the great national or international center in the field of programmed learning, and industry in Minnesota would receive a tremendous stimulant from such a development.

United States Senate

MEMORANDUM

7/9/63

John —

Here is the memo I called you about.

Harry

July 8, 1963

M E M O R A N D U M

The filibuster which is expected to develop over the civil rights program in the late summer or early fall poses a serious threat, not only to the floor business of the Senate, but to the business of its standing committees as well. This is true because of section 134(c) of the Legislative Reorganization Act of 1946, which provides that no standing committee of the Senate may sit while the Senate is in session without "special leave."

Normally, leave is granted under unanimous consent procedure. See Watkins & Riddick, Senate Procedure, p. 144. This is the route followed by the Appropriations Committee, which obtains leave early in each session to continue to sit throughout the entire session whether the Senate is in session or not . Other committees, however, are forced to obtain unanimous consent generally on a day-to-day basis.

Senator Thurmond has already acted to block unanimous consent to permit the Commerce Committee to sit during sessions, and it must be presumed that this power will be used to prevent any standing committee from obtaining unanimous consent to sit during a filibuster.

Leave to sit during sessions may also be obtained, however, by majority vote. The trouble with this route is that such a motion, although privileged, is debatable, by virtue of an advisory ruling by Vice President Barkley, April 6, 1949. See Watkins & Riddick, supra.

Should the Senate's standing committees -- with the single exception of the Appropriations Committee -- be forced to close up shop in August or September because of round-the-clock filibuster, the forward motion of a number of extremely important bills which are wholly unrelated to civil rights would be halted. A list of bills which might be arrested in committee by a late August or September filibuster, would probably include:

(MORE)

1. Tax Reform - Tax Cut
2. Medical Care for the Aged (S.880)
3. Hill-Burton Act Extension (S.894)
4. River Basin Planning (S.1111)
5. Unemployment Compensation Reform (S.1542)
6. Railroad Retirement Amendments (S.729)
7. Juvenile Delinquency Act Extension
8. Inter-American Development Bank
9. Social Security Amendments Expansion and Revision (S.1357)
10. Mental Health -- Vocational Rehabilitation (S.968)
11. National Service Corps (S.1321)
12. Peace Corps Expansion
13. Food and Drug Amendments (S.553)
14. Foreign Aid Authorization (S.1276)

Obviously, much of this legislation is of great importance to senators who might well oppose cloture of a civil rights debate.

Therefore, perhaps it might be well if a debatable motion were to be made fairly soon for permission for all of the Senate's standing committees to sit through the end of the session, whether the Senate itself is in session or not. This might have the effect of forcing the filibuster. But a filibuster on this procedural issue might be easier to break than a filibuster on the substantive civil rights issue; at any rate, much less would be at atake for the opponents of the motion.

# # #

OFFICE OF SENATOR CLARK

TO John

FROM HARRY SCHWARTZ

FOR INFO X
FOLLOW UP
RETURN
FILE

[July 14, 1963]

FOR RELEASE AFTER 12 NOON
SUNDAY, JULY 14, 1963.

Following is the text of "YOUR SENATORS' REPORT", a program done jointly by Senator Joseph S. Clark, (D.Pa.) and Senator Hugh Scott, (R.Pa.) for broadcast on 15 television and 42 radio stations in Pennsylvania.

GUEST: Thruston B. Morton
United States Senator from Kentucky

ANNOUNCER: Your Senators' Report. From the Nation's Capital we present another Report to the People of Pennsylvania. This unique series of award-winning programs, done in the public service, is brought to you by Senator Joseph S. Clark, Democrat, and Senator Hugh Scott, Republican. To open today's program, here is Senator Scott.

CLARK: I'd like to comment on that and then get Thruston's reaction. In my opinion, the Southerners will refuse to allow any committees to sit while the Senate is in session, once the civil rights legislation hits the Floor. And this will automatically stop all committee hearings on many a bill. I recommend to the Democrat leadership -- and I hope Senator Dirksen will go along -- that before that time comes, there should be a motion sponsored by the Majority and the Minority Leader to permit all committees of the Senate to sit -- even though the Senate is in session -- so long as civil rights legislation is on the Floor because we'll be coming in at 8 in the morning or 10 in the morning and sitting 'till 10 at night and maybe going around the clock. And if the automatic objection of one Senator to a Committee sitting while the Senate is in session is to prevail the way it does now, we might just as well forget about any other legislation.

SCOTT: I'd like to comment very briefly that I understand Senator Thurmond takes the position that he will not permit committees to sit -- even the Commerce Committee he's on. Even if he's talking when noon arrives and the Senate convenes, he will move to shut himself off.

CLARK: But he has no such right because under the rules...

SCOTT: He'll try to do it.

CLARK: No. You see, under the rule, the motion to permit the committee to sit is debatable, but is determined by majority vote. One Senator can't cut it off. So, if you're prepared to go through with a motion to let all committees sit while civil rights is under control, you can pass that and then Thurmond...

SCOTT: Unless the rules are changed, the present situation is that if you are sitting in a committee and you don't have permission to sit during the session of the Senate, the motion of any Senator, that the Senate is now in session, is enough to put an end to that hearing.

CLARK: No, but you misunderstand me. If the Senate gives permission to sit, then Thurmond can't do anything about it and it can give the right to sit.

SCOTT: Senator Dirksen and Senator Mansfield, as you know, have co-sponsored 6/7ths of the President's civil rights package. What further he will do I am not in a position to say.

CLARK: Let's hear from our guest for a change.

MORTON: The motion -- no matter who sponsors it but what you're talking about would be a majority vote but would be in substance a change in rules, would it not?

CLARK: For the pendency of this particular bill...

MORTON: ... for this particular bill. And bringing that up before the Senate is debatable?

CLARK: Yes.

MORTON: And this could indeed precipitate a filibuster which might be equal or even exceed a filibuster on the substance of a civil rights bill itself.

CLARK: I'll bet we could get cloture in 48 hours on that, not on the other.

MORTON: I don't think you'd get it in 48 hours, but you might get cloture on that and I think that probably you've got an idea there that is worth pursuing. I certainly would support it.

CLARK: Thanks, pal.

SCOTT: You've got a vote here too, Joe. What I'd like to ask

12/27/63

CONGRESS DEFERS REFORMING ITSELF

Objection by Russell Blocks Debate on Joint Study

By CABELL PHILLIPS
Special to The New York Times

WASHINGTON, Dec. 26 — Among the important items of unfinished business that Congress is putting over until next year is that of reforming its own rules of administration and procedure.

Many critics, both in and out of Congress, contend that Congress's methods of doing business, which have not been modernized in a century, are too cumbersome.

In the view of these critics, Congress's year-long session and its debatable record of accomplishment during 1963 are fresh evidence of a need for reform.

A resolution aimed at reform was sponsored this session by Senator Joseph S. Clark, Democrat of Pennsylvania, and Senator Clifford P. Case, Republican of New Jersey. Its consideration on the floor was blocked early this month by the lone objection of Senator Richard B. Russell, Democrat of Georgia.

Ironically, such instances of one-man or minority control of the legislative process are among the conditions that proponents of reform most want to correct.

Introduced in January

The Clark resolution was introduced last January. In sharply revised form it was reported out by the Senate Rules Committee in October and endorsed in November by the Democratic Policy Committee.

But when the Majority Leader, Mike Mansfield of Montana, attempted to bring it up on the Senate floor, the objection of Senator Russell was sufficient to prevent debate.

The measure can be rescheduled on the regular calendar next year if the leadership is so disposed, but there is no certainty that this will be done. Any attempt to tamper with the delicate and complex parliamentary machinery of Congress is viewed with suspicion by many of its most influential members.

The Clark-Case measure was only one of several such proposals offered in both houses during the year. It was, however, one of the most comprehensive, and also the only one to clear the initial hurdle of committee approval.

Committee's Version

As reported out by the Senate Rules Committee it called for the creation of a bipartisan committee, composed of an equal number of members from the House and Senate, to study and make recommendations "on the organization and operation of the Congress . . . enabling it better to meet its responsibilities under the Constitution."

The committee had almost entirely rewritten the original proposal. The panel specifically exempted from the study "the rules, parliamentary procedures, practices or precedents of either house of Congress, or the consideration of any matter on the floor."

This surgery by the committee greatly disappointed Senator Clark and other backers of reform. They declared that the action exempted the main target of any reform effort—rules and parliamentary procedures—and left for study only such peripheral subjects as relationships between the two houses, the structure and staffing of committees, Congressional control of Government spending and improvement of the Legislative Reference Service.

The Main Complaint

The rules and parliamentary procedures of the two houses are a complex and arcane code that has been built up without substantial modification or systematization in more than a hundred years.

Upon it have been built such well established customs and practices as the seniority system, the power structure of the committee chairmen, the right of unlimited debate in the Senate, and a host of parliamentary devices such as unanimous consent which, in the hands of a determined minority, can be used to impede the work of Congress as well as to speed it.

What the advocates of form complain of most bitterly is that these rules and parliamentary

Goldwater Ac Of Using Pr

Continued From Page 1, Co

the Senate, he made conci tion and compromise his g ing principles. He has never lowed differences on partic legislation, including civil rig bills, to damage his friendsh with key Southern legislat

Therefore, it has gener been agreed that, as the D ocratic standard-bearer r year, he could hold many affected Democrats in the So and rightward-leaning in pendents in the North might have preferred Mr. G water to President Kennedy.

It was regarded as signific that Senator Goldwater ch the foreign aid bill and Pr dent Johnson's intervention the battle as the ground which to open his drive to cover the lead he enjoyed o other potential candidates fore Mr. Kennedy's assassi tion. For it was on this is that the House Republicans a a large group of conservat Southern Democrats struck alliance in the last week.

After four days of intric maneuvering and acrimoni debate, the House passed $3 billion foreign aid bill Tuesday morning, 189 to By this action, it finally ki a provision prohibiting the port-Import Bank from giv credit guarantees on wh sales to the Soviet Union private American traders.

Twice before the final v the House supported this b President Johnson insisted its removal, calling it an fringement of his right to dir foreign policy. Only two publicans joined 187 Democr in killing the ban. Twenty-f Democrats lined up with Republicans to support

"I deeply resent the Pr dent's attempt to play poli with Christmas by stamped votes on the highly questiona foreign aid bill during the h days," Senator Goldwater s today.

"Most Americans, I am su are opposed to the amount has demanded and even mor am sure, are opposed to the of their tax dollars to guaran the sale of wheat to the Sov Union," he said.

Charges 'Arm-Twisting'

"The arm-twisting of Sen members to bring them i town to do nothing but rubb stamp the Executive's dema is rash and altogether out order," he went on. "The Ho of Representatives was s jected to a similar tactic wh probably succeeded only beca it came on Christmas Eve."

Senator Goldwater said th if his recovery permitted, would be on hand Monday

---

ally unassailable preprogat of the committee chairman.

Senator Clark, who has b the most aggressive propone of Congressional reform, a introduced early in the sess a number of proposals aim at specific aspects of Sen procedure.

One proposal would enforc rule of germaneness in Sen debate for a limited number hours each day. Another wo give committees greater la tude to meet while the Sen is in session. Under pres rules a single objection can p vent a committee from condu ing business beyond the n hour.

Another of Senator Clar proposals would establish "committee bill of rights," ducing the arbitrary power chairmen to control their co mittees' agendas and meeti times.

None of these measures past the Senate Rules Comm tee.

Another area of Congr sional reform that receiv much attention but no act during the year was that conflict of interest.

Most members of Congr maintain business or professi al ties in their home distri and are often in a position favor their personal intere through their votes or other tivities in Congress. Rules law and custom in this area extremely vague.

Income Disclosure Sought

New York's two Senato Jacob K. Javits and Kenn B. Keating, Republicans, w among those who took the l in attempting to write a p lic-disclosure provision into Senate rules. This would quire each member, at the ginning of a session, to ma public the amount and sour of his outside income.

drastic remedies are being tried. Here's how some of them have worked.

What France Is Out to Get. A trained reporter, with long experience in reporting news from Paris, analyzes the *political* aims back of de Gaulle's insistence that France *must be* a nuclear power.

Earliest Man on Earth. The exciting story of the discovery of "Zinj," now dated by science as *one and a half million years* older than Peking Man. Read how a woman first spotted this closest known relative of Adam.

Can Congress Stop the Race to the Moon? A Digest editor asks, "How did we get into this costly program?"—and indicates some ways we can *get out of* a 30-billion-dollar program which is a waste of taxpayer's money and of scientific manpower.

Book Section. $5.95 Book Condensed: My Darling Clementine. This is the story of Lady Churchill, wife of Sir Winston. It shows why he says, after 55 years of marriage: "I could never have succeeded without her."

Let's Stop Financing Socialism in Latin America! "Why is private capital *leaving* Latin America?" asks Sen. John G. Tower . . . And he shows how U.S. aid helps Latin governments *take over* private industries and suggests 4 steps we must take to stop this betrayal of the generosity of the U.S. public.

READER'S DIGEST can be relied upon to help keep you informed. In a country where each individual's opinion counts, *that* is important.

27 other rewarding articles and lively features in January Reader's Digest *—on sale today!*

CHALLENGING. That's the word for the daily crossword puzzle in The New York Times. Frustrating, too, when a three-letter word for "Marble: Dial," for example, evades your recollection. But take heart, tomorrow's may be easier. Maybe.

the House and Senate, to study and make recommendations "on the organization and operation of the Congress . . . enabling it better to meet its responsibilities under the Constitution."

The committee had almost entirely rewritten the original proposal. The panel specifically exempted from the study "the rules, parliamentary procedures, practices or precedents of either house of Congress, or the consideration of any matter on the floor."

This surgery by the committee greatly disappointed Senator Clark and other backers of reform. They declared that the action exempted the main target of any reform effort—rules and parliamentary procedures—and left for study only such peripheral subjects as relationships between the two houses, the structure and staffing of committees, Congressional control of Government spending and improvement of the Legislative Reference Service.

The Main Complaint

The rules and parliamentary procedures of the two houses are a complex and arcane code that has been built up without substantial modification or systematization in more than a hundred years.

Upon it have been built such well established customs and practices as the seniority system, the power structure of the committee chairmen, the right of unlimited debate in the Senate, and a host of parliamentary devices such as unanimous consent which, in the hands of a determined minority, can be used to impede the work of Congress as well as to speed it.

What the advocates of form complain of most bitterly is that these rules and parliamentary devices are often used, as they put it, not so much to defeat legislation as to defeat the legislative process itself. As Senator Case said in connection with the blocking of his and Senator Clark's resolution:

"It is not a question of how Senators will vote. The issue is whether we shall vote, whether we shall be permitted to vote."

Monroney's View

Senator A. S. Mike Monroney, Democrat of Oklahoma, argued that if the resolution authorized the proposed committee to delve into the really sensitive areas of Senate procedure, such as the rule protecting the right of filibusters, then the resolution was doomed to certain defeat. He strongly urged consideration of the committee measure.

His counsel carried particular weight because he was co-author of the Legislative Reorganization Act of 1947, which succeeded in overhaulinng the Congressional committee structure.

Senator Clark and his colleagues agreed reluctantly that the truncated version of their measure was better than none at all. But Senator Russell's objection prevented even that version from being taken up.

A number of House measures also called for a joint study of reform, but these failed even to get routine committee consideration. They were referred to the House Rules Committee and there pigeonholed—a virtual the most aggressive proponent of Congressional reform, also introduced early in the session a number of proposals aimed at specific aspects of Senate procedure.

One proposal would enforce a rule of germaneness in Senate debate for a limited number of hours each day. Another would give committees greater latitude to meet while the Senate is in session. Under present rules a single objection can prevent a committee from conducting business beyond the noon hour.

Another of Senator Clark's proposals would establish a "committee bill of rights," reducing the arbitrary power of chairmen to control their committees' agendas and meeting times.

None of these measures got past the Senate Rules Committee.

Another area of Congressional reform that received much attention but no action during the year was that of conflict of interest.

Most members of Congress maintain business or professional ties in their home districts and are often in a position to favor their personal interests through their votes or other activities in Congress. Rules of law and custom in this area are extremely vague.

Income Disclosure Sought

New York's two Senators, Jacob K. Javits and Kenneth B. Keating, Republicans, were among those who took the lead in attempting to write a public-disclosure provision into the Senate rules. This would require each member, at the beginning of a session, to make public the amount and sources of his outside income.

The proposal received no serious consideration. It was derided, in fact, by the Minority Leader, Everett McKinley Dirksen of Illinois, as an attempt to force "second class citizenship" on Senators.

The reform group has made some converts during the year, most notably Senator Monroney. And a number of members who do not associate themselves with the reformers nevertheless agree with them that the public "image" of Congress has been deteriorating for a number of years.

The record of the present session, and in particular the extraordinary performance during the last week, has convinced these legislators that "something has to be done" to improve the efficiency and the reputation of Congress.

There will be renewed effort by Senator Clark and others to get consideration for their proposals next year. But most observers agree that little will be accomplished without strong pressure from the press and the public.

Woman Gets Housing Post

Mrs. Laila L. Long of Jamaica, Queens, has been appointed assistant to Dr. Frank S. Horne, the consultant to human relations to the city's Housing and Redevelopment Board. Mrs. Long was formerly executive director of the New York City Commission to the United Nations. Her salary will be $10,000 a year in her new post.

APP

Continu

complia
rules.
Each
port o
wheat,
The
has be
of a F
House
cent w
Governi
loans t
The Ad
present
ing of
mercial
Three
the Ho
defeat
to allov
antee
in the
foreign
rider is
by the
A Sc
can w
first be
ber afte
a $500
Canada
said th
that th
an ext
By e
lomats
to Ame
ministr
exporte
represe
formall
ness to
In di
Russian
the wh
the So
loaded
men. T
fore, t
that a
taken
and di
this w
price.
With
mitted
Americ
Russia
ing no
for sh
in jeop
way o
of mos
each si

3 Men Of Fr

HOP
(AP)—
today
railme
five o
bankm
Two
Letts,
East, I
29, of
to Mer
fair co
The
of Wi
leased
injurie
The
single
freight
in this
ship.
The
the 28
Railroa
and de

OFFICE OF SENATOR CLARK

TO John Stewart

FROM HARRY SCHWARTZ

FOR INFO
FOLLOW UP
RETURN
FILE

I just got word from Grinstein who seems to think he might get Scoop to take Anderson's place. Seems unlikely, but I guess he knows what he's doing.

[1964?]

Dear --- --

At the first meeting of the Democratic Conference in the 89th Congress, we propose to offer a resolution to expand the size of the Senate Democratic Steering Committee from 15 to 19 members, by adding 4 new members, 2 to come from Midwestern states, 1 from a Western state, and 1 from an Eastern state.

Because of the important role which the Steering Committee plays as the committee on committees of the Democratic Conference, we believe that the interests of all Democratic Senators can best be served only if the geographical composition of the Steering Committee is fairly representative of the geographical composition of the Democratic Conference.

Regrettably, this has not been the case in the past. As of the close of the 88th Congress, the Steering Committee was made up of 7 Senators from Southern States, 3 from Eastern states, 3 from Western states, and only 1 from a Midwestern state (not counting the ~~presently vacant ex officio seat of the Whip~~ Vice President-elect).

We believe that our proposal will meet with the approval of the great majority of Democratic Senators, and we earnestly solicit your support for it.

In addition, we intend to seek clarification of a matter relating to the operations of the Democratic Policy Committee. Although it has been established that the members of the Calendar Committee are by virtue of their offices also members of the Policy Committee, and have on occasion voted as such, confusion has existed as to their right to vote on all matters before the Policy Committee. We believe that the members of the Calendar Committee are entitled to full voting rights in the Policy Committee. Accordingly we shall propose that the Democratic Conference give formal confirmation to these rights. In this matter also, we would like to have your support.

Copies of the resolutions which we propose to offer are enclosed for your information.

Sincerely,

[redacted]

Whereas the Senate Democratic Steering Committee performs a function of the highest importance in serving as the committee on committees of the Senate Democratic Conference;

and Whereas the geographical composition of the Steering Committee has not been fairly representative of the geographical composition of the Democratic Conference, being made up of 7 Senators from Southern states, 3 from Eastern states, 3 from Western states, and only 1 from a Midwestern state, not counting the ex officio seat of the Whip, to be vacated by the Vice President elect;

RESOLVED that the membership of the Senate Democratic Steering Committee be expanded from 15 to 19, by the addition of 4 new members, 2 from Midwestern States, 1 from a Western state, and 1 from an Eastern state.

RESOLVED that the members of the Calendar Committee are by virtue of their offices also full members of the Senate Democratic [redacted] Policy Committee with full voting rights in the Policy Committee.

[1964]

Suggested Agenda for December 28 Meeting of Senators Clark, Hart and Humphrey

I. Rule XXII Fight: There appear to be about 38 senators in favor of majority cloture; about 57 who favor three-fifths cloture. (See Att. 1). Mansfield has stated that he will let the rules fight run its course when Congress convenes. The big problem will be to overcome the Southern filibuster which will take place against any change in rule 22.

Suggested Procedure. The three-fifths proposal and substitute Humphrey-Kuchel amendment calling for majority cloture should be filed with appropriate notices on January 9, and made the pending business on January 10, as at the opening of the 87th Congress. To get maximum strength behind the move to end the filibuster, experience would indicate that the debate be allowed to run for two or three weeks. At the appropriate time a motion should be made, based squarely on the Constitutional right of each house to "determine the rules of its proceedings" (Art. I, Sec. 5), that the Senate proceed to vote on the merits of the rules change proposals at a time certain without further debate. Presumably a point of order would be made, and it will be then up to LBJ to rule on the point or submit it to the Senate. The key vote might come on this question if it is put to the Senate. If the Senate votes against the point of order, debate on an appeal can be cut off by a motion to table. Hopefully the rules change could then be voted on. If LBJ rules in favor of the point of order it might well kill the chances of a change since it would be hard to reverse the ruling of the chair, and appeal could be debated endlessly.

Questions.

1. Should Mansfield be urged to let the debate run for two weeks?

2. Should the Vice-President be urged to overrule the point of order, or in the alternate, to submit it to the Senate? By whom? (A brief will be ready by January 7).

3. Should Mansfield and Dirksen be urged to sponsor the three-fifths proposal as they did in September 1961, or should Anderson (and possibly Morton) be the chief sponsors again?

Midwest Conference of Reps

4. To get peak strength on the procedural motion to stop debate should an earlier vote by tabling or otherwise be sought on majority cloture which appears to have insufficient backing for adoption?

5. Would it be useful to meet with the new Democratic Senators or others listed as doubtful on the attached lists?

6. Is a liberal caucus prior to January 9 desirable to "line up the troops" and give added publicity to the rules fight? Would a press conference by a few senators be as good?

7. Should the President be apprised of the hopeful prospects for Rule 22 change and urged - a - to support such change, or - b - not to undercut it or to let LBJ undercut it?

II. Steering Committee. For the reasons set forth in the memo attached (Att. 2), backing for these immediate changes in the Democratic Steering Committee are recommended:

(1) The resignation of one Southern Senator -- Holland;
(2) the appointment of two Mid-Western Senators -- Douglas and perhaps Symington; and
(3) the appointment of one Western Senator -- Mrs. Neuberger might be a good choice.

These changes can be defended geographically and would give the liberals a one-man edge on the Committee when it meets in January. The importance of this can be readily appreciated when you look at the many new Democratic seats due to the 2:1 (67:33) party edge in the Senate. The new appointees will determine the liberal or conservative nature of the Banking and Currency, Judiciary (!) and possibly one or two other committees for the next two years.

Questions: Should the above recommendations or others concerning the Steering Committee be made to Senator Mansfield before January 9? By whom? Does the Steering Committee have final authority to decide the size and party composition of the Standing Committees?

III. Committee Bids and Appointments: The present and projected composition of each of the standing committees, known bids for committee assignments, and suggestions that certain new Senators be encouraged to put in for certain committees -- are set out in Att. 3.

IV. Policy Committee. The present geographic representation of the members of the Democratic Policy Committee (only Pastore from the 12 Northeastern States) and the uncertain voting powers of the Committee's three most recent "members" (Hart, Engle and Bartlett) leaves much to be desired. (Att. 4). Since the Committee has a liberal majority and has been clearing most important legislation without significant delay, it would seem unnecessary to contest its composition at present. Would it be possible to clarify the voting status of Senators Hart, Bartlett and Engle to assure their full participation in the committee's decisions?

V. Senate Democratic Campaign Committee. Sixteen liberal Democratic members of the Class of '58 will be coming up for reelection in 1964. What will be the composition of the Senate Democratic Campaign Committee? Does Smathers want to be chairman again? Who should be encouraged to take the chairmanship? By whom?

VI. Civil Rights.
A. Visit with the President? A number of talks with Administration people familiar with civil rights affairs indicate that the President intends to ask the 88th Congress for only two bills: (1) the/6th grade literacy test measure, which was defeated last year and has only like warm civil rights support; (2) a two year extension of the Civil Rights Commission which expires next September. Most people feel the Commission has completed its main reporting job and its extension without a substantial broadening of functions would accomplish little.

The civil rights groups have reached accord as to their legislative priorities in 1963-64. They want, first and foremost, action on the Clark-Celler school desegregation bill. This is also the recommendation of the Civil Rights Commission. Some feel that the present snail's pace of desegregation is sure to lead to increased further violence unless the process is expedited and put on a planned basis. Litigation in this area is extremely costly and the chances of successful government intervention very slight. The second priority is FEPC legislation and improvements to existing legislation are being drafted with CRC assistance. The Commission staff feel that the President is wide open to damaging criticism by his opponent in 1964 for the lack of real progress of the Equal Job Opportunity Committee. Negro unemployment rates have been more than double white rates since 1960.

The Education and Manpower and Employment Subcommittees of Labor and Public Welfare are available for hearings on school desegregation and FEPC.

Questions. Should Senators Clark, Humphrey and Hart (and Douglas, if he will go strong) and/or others seek an appointment with the President to discuss the need for a civil rights legislative program in the coming Congress? Should the President be urged to include in the State of the Union message general language endorsing Congressional review of these problems?

B. Bipartisan Senate Civil Rights Group. Is there any point in continuing the bipartisan Senate meetings on civil rights Douglas, Clark and Hart have been holding with Javits, Kuchel, Keating, Scott and Case? Douglas thinks there is. Hart thinks not. If they are to be continued, should Engle and Pete Williams other members be brought in to help them in to help them in 1964?

VII. Democratic Caucus on January 9. Should backing be sought for the Clark proposal that the Conference go on record in support of the principle that a majority of the Senate conferees be sympathetic to the measure passed by the Senate, if a point of order is raised? Mansfield promised to check sentiment on this in 1961 but did not do so. Should other moves be made in conference?

VIII. Committee on the Organization of the Congress. Can broad Congressional reform be attempted in the 88th Congress, along the lines suggested in S.Cong Res. 96 (attached), which is based on the LaFollette-Monroney experience? Is such reform possible for the Senate alone? Can it be done by leadership action in appointing a special committee? Will such a move interfere with the rule XXII fight?

IX. Individual Standing Committee Rules Reform. A draft set of rules for Banking and Currency is attachment 5. Should such reform be attempted in other committees where there may be a liberal majority and a conservative chairman?

X. MISC.

Youth Conservation Corps (Domestic Peace Corps)
Disarmament (Possiblity of action on the Hart resolution and forum to be used) (Introduction of other measures in this field)

December 26, 1962 Att 1

MAJORITY CLOTURE

FOR	AGAINST
AIKEN	ALLOTT
BAYH	ANDERSON
BEALL	BARTLETT?
DOGGS?	BENNETT
BREWSTER	BIBLE
HH BURDICK?	BYRD, VA.
CASE	BYRD, W.VA.
CLARK	CARLSON
DODD	CHURCH?
DOMINICK?	COOPER
DOUGLAS	COTTON
ENGLE	CURTIS
FONG?	DIRKSEN
HART	EASTLAND
HUMPHREY	ELLENDER
INOUYE?	ERVIN
JAVITS	FULBRIGHT
KEATING	GOLDWATER
KENNEDY	GORE
KUCHEL	GRUENING?
LONG (MO.)?	HARRIS?
MACHUSON	HAYDEN
MC CARTHY	HICKENLOOPER
MC GOVERN?	HILL
MC NAMARA	HOLLAND
METCALF?	HRUSKA
MORSE	JACKSON?
MOSS	JOHNSTON
NELSON?	JORDAN (N.C.)
NEUBERGER	JORDAN (IDA.)
PASTORE	KEFAUVER
PELL?	KERR
PROXMIRE	LAUSCHE
RIBICOFF	LONG (LA.)
SCOTT	MANSFIELD?
SMITHSON	MC CLELLAN
WILLIAMS (N.J.)	MC GEE
MUSKIE	MC INTYRE
(38)	MEACHEM
	MILLER
	MONRONEY
	MORTON
	MUNDT
Kuchel HH	PEARSON
	PROUTY?
	RANDOLPH?
	ROBERTSON
	RUSSELL
	SALTONSTALL?
	SIMPSON
	SPARKMAN
	STENNIS
	TALMADGE
	THURMOND
	TOWER
	WILLIAMS (DEL)
	YARBOROUGH
	YOUNG (N.D.)
HH-	YOUNG (O.)?
	(42)

THREE-FIFTHS CLOTURE

HH sel ?

FOR	AGAINST
? AIKEN	BENNETT
ALLOTT	BIBLE
ANDERSON	BYRD, VA.
BARTLETT? ✓	BYRD, W. VA.
BAYH ✓	CARLSON
BEALL	COTTON
? DOGGS	CURTIS
BREWSTER ✓?	EASTLAND
~~BURDICK~~	ELLENDER
*CANNON	ERVIN
CASE	FULBRIGHT
*CHURCH	GOLDWATER
CLARK	GORE
COOPER	HAYDEN
DIRKSEN	HICKENLOOPER
DODD	HILL
DOMINICK	HOLLAND
DOUGLAS	HRUSKA
ENGLE	JOHNSTON
FONG	JORDAN (N.C.)
GRUENING	JORDAN (IDA.)
HART	KEFAUVER?
HH HARRIS? ✓	KERR
HUMPHREY	LONG (LA.)
HH- INOUYE? ✓	MC CLELLAN
JACKSON	MC GEE
JAVITS	MEACHEM
KEATING	MILLER?
KENNEDY	MONRONEY
KUCHEL	MUNDT
LAUSCHE	PEARSON?
LONG (MO.)	ROBERTSON
MACHUSON	RUSSELL
MC CARTHY	SIMPSON
MC GOVERN	SPARKMAN
HH- MC INTYRE? + Bennie Boulton	STENNIS
MC NAMARA	TALMADGE
MANSFIELD	THURMOND
METCALF	TOWER
MORSE	WILLIAMS (DEL)
MORTON	YARBOROUGH
MOSS	YOUNG (N.D.)
MUSKIE	(43)
NELSON	
NEUBERGER	
PASTORE	
PELL	
? PROUTY	
PROXMIRE	
RANDOLPH	
RIBICOFF	
? SALTONSTALL?	
SCOTT	
SMITH	
SMITHSON	
WILLIAMS (N.J.)	
YOUNG (O.)	
(37)	

*Probably not in favor of procedural motion to end Southern filibuster against a change in Rule 22. Support for such a motion by Aiken, Dogge, Prouty, Saltonstall and other would probably be contingent on a lengthy dilatory debate by the Southerners.

D
R
A
F
T

AH5

Rule 1 - Convening of Meetings. The Committee shall meet regularly at 10:00 a.m. on the (first and third) (second and fourth) _____ of each month. Special meetings
(day of week)
may be called by the Chairman or by a majority of the Committee members upon written notice to the Clerk of the Committee. The Clerk shall give at least 24 hours advance notice and meeting time, place and agenda to every member.

Rule 2 - Quorums. A majority of the Committee or any Subcommittee shall constitute a quorum sufficient for the conduct of business at executive sessions. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses and the taking of testimony at hearings.

Rule 3 - Presiding Officer. The Chairman of the Committee or Subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at meetings.

Rule 4 - Subcommittees. Matters referred to the Committee shall be considered initially by the full Committee or by such subcommittees as the Chairman, with the approval of the Committee, shall designate. Additional subcommittees may be established by vote of a majority of the members of the Committee. Party membership on each subcommittee shall be proportionate to party membership on the full committee. When subcommittees have been established to consider legislative measures in certain subject areas, such measures shall be referred automatically to such subcommittees as soon as received by the full Committee. (MORE)

Jurisdictional disputes between subcommittees shall be decided promptly by the full committee. Each subcommittee is subject to these rules and any limitations imposed by the full committee, is authorized (a) to hold and report hearings, (b) to sit and act during the sessions, recesses, and adjourned periods of the Senate, (c) to require by subpoena or otherwise the attendance of witnesses and the production of documentary evidence and (d) to make such expenditures as authorized by the full committee. Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the committee may withdraw the measure from such subcommittee and take such action on it as a majority of the members may determine.

Rule 5 - Agenda and Voting at Meetings. The business to be considered at any meeting of the committee or a subcommittee shall be designated by its Chairman and any other measure, motion or matter substantive or procedural within the jurisdiction of the committee or a subcommittee shall be considered at such meeting and in such order as a majority of the members of such committee indicate by their votes or by presentation of written notice filed with the Clerk. Voting by proxy shall be permitted on the committee and such subcommittee.

Rule 6 - Investigations. No investigation unrelated to pending legislation shall be initiated by the committee or any subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

Rule 7 - Right to Counsel. Any witness subpoened to a public or

(MORE)

executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

Rule 8 - Amendment of Rules. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Att. #2

December 18, 1962

DRAFT MEMORANDUM TO SENATOR CLARK

SENATE DEMOCRATIC STEERING COMMITTEE: RECOMMENDATIONS FOR FAIRER REPRESENTATION

The present membership, geographic and liberal-conservative breakdown of the Senate Democratic Steering Committee (following Senator Chavez's death) is as follows:

Membership:

1. Mansfield (Chairman)
2. Humphrey (Whip)
3. Smathers (Secretary)
4. Bible
5. Clark
6. Dodd
7. Ellender
8. Hayden
9. Holland
10. Johnston
11. McClellan
12. Pastore
13. Robertson
14. Russell
15. Williams (N.J.)

Geography*:

Seven from South (Smathers, Ellender, Holland, Johnston, McClellan, Robertson and Russell) out of 23 Southern Senators representing all 13 Southern States (1 Senator for 1.8 States)

Four from Northeast (Clark, Dodd, Pastore and Williams) out of 13 Northeastern Senators representing 9 of the 12 Northeastern States (1 Senator for 2.2 States with Democratic representation)

Three from Pacific and Mountain States (Bible, Hayden and Mansfield) out of 17 Western Senators representing 12 of the 13 Western States (1 Senator for 5.7 States with Democratic representation)

One from the Midwest (Humphrey) out of 14 Senators representing 9 of the 12 Mid-Western States (1 Senator for 9 States with Democratic representation)

Liberal-* Conservative

Nine conservative members (Smathers, Bible, Ellender, Hayden, Holland, Johnston, McClellan, Robertson, and Russell) out of 27 conservative Democrats in the Senate.

Six liberal members (Mansfield, Humphrey, Clark, Dodd, Pastore, and Williams) out of 40 liberal Democratic Senators.

Recommendations: To correct the obvious imbalances in the present Steering Committee (Southern and conservative over-representation, Mid-western and Pacific under-representation), I suggest you advocate the following changes on the Committee (which would enlarge its membership to 17) --

*See P.3 for explanation of grouping of States and Democratic Senators

--continued--

1. Resignation of Southern Senator. A Southern Senator offered to resign in January of 1961. I believe it was Holland. He would be the logical one to retire since Florida has two Senators on the Committee.

2. Appointment of Two Midwestern Senators. Senator Douglas would appear entitled to it on the basis of seniority and is willing to serve. Senator Mansfield has favored his appointment. Symington might be another good appointee.*

3. Appointment of One Western Senator. No Far Western State is represented on the Committee. Mrs. Neuberger might be a good choice, and it could help her reelection campaign.*

Adopting these changes would almost equalize the present geographic imbalances on the Committee, so that each member from each area would represent not less than two and not more than three States with Democratic representation in the Senate. It would give the Committee a nine to eight liberal over conservative edge, which is fully justified in view of the liberal Democratic strength in the Senate today (See p.3).

There is precedent for a Steering Committee which numbers 17. Conference Committee minutes on January 2, 1951, state that "several years ago, when the Democratic membership was large, the Steering Committee consisted of 17 Senators".

*(No Freshman or Policy Committee members have been suggested).

RMW:hh

PACIFIC AND 13 MOUNTAIN STATES (Hawaii, Alaska, Wash., Ore., Calif., Ida., Nev., Mont., Wyo., Utah, Colo.**, Ariz., N.M.)	12 MIDWESTERN STATES (N.D., S.D., Neb.**, Kans.**, Minn., Mich., Ia.**, Mo., Wisc., Ill. Ind., Ohio)	13 SOUTHERN STATES (Tex., Okla., Ark., La., Miss., Ala., Fla., Ga., S.C., N.C., Va., Tenn., Ky.)	12 NORTHEASTERN STATES (Me., N.H., Ver.**, Mass., R.I., Conn., N.Y.**, Pa., N.J., Del.**, Md., W.Va.)
Anderson*	Bayh*	Byrd (Va.)	Brewster*
Bartlett*	Burdick*	Eastland	Byrd (W.Va.)
Bible	Hart*	Ellender	Clark*
Cannon	Hartke*	Ervin	Dodd*
Church*	Humphrey*	Fulbright	Douglas*
Engle*	Lausche	Gore*	Kennedy*
Gruening*	Long(Mo.)	Hill	McIntyre
Hayden	McCarthy*	Holland	Muskie*
Inouye*	McGovern*	Johnston	Pastore*
Jackson*	McNamara*	Kefauver*	Pell*
Magnuson*	Nelson*	Kerr	Randolph*
Mansfield*	Proxmire*	Long (La.)	Ribicoff*
McGee	Symington*	McClellan	Williams*
Metcalf*	Young *I	Monroney*	
Morse*		Robertson	
Moss*		Russell	
Neuberger*		Smathers	
		Sparkman	
		Stennis	
		Talmadge	
		Thurmond	
		Yarborough*	
17 Senators from 12 States. 3 on Steering Committee (1 per 5.7 States)	14 Senators 1 on Steering Comm. (1 per 9 States)	23 Senators 7 on Steering (1 per 1.8 Sts.)	13 Senators 4 on Steering Comm. (1 per 2.25 States)

*Liberal (40 Senators)
**No Democratic Senator

att. 3

Committee Bids and Appointments

	Present Party Ratio	Proposed Ratio	Vacancies (Requests/Assignments)	Known Bids by Seniority	Lib. vs Conserv	Democ Papers by Geography	Senators who might be encouraged to bid. Questions & Notes
Aero & Space	10D-5R	10D-5R	0D-1R		7-7	4S, 3W, 2HW, 1NE	
Agriculture	11D-6R	12D-5R	1(6S)D-0R			6S, 4HW, 1W	
Appropriations	17D-10R	18D-9R	2D-0R	1. Yarborough 2. Engle, Hart & Hollings	11-12	9S, 4W, 1HW, 1NE	All Senators applying say that appointment would help them in 1964 elections
Armed Services	11D-6R	12D-5R	1D-0R	Young(O)		5S, 4W, 1HW, 1NE	
Banking & Curr.	9D-6R	10D-5R	2D-1R	.	7-4	2S, 3HW, 1W, 3NE	Encourage bids by new liberal senators Bayh & Brewster
Commerce	11D-6R	12D-5R	1D-0R	Ribicoff		4S, 4W, 2HW, 1NE	
D.C.	4D-3R						
Finance	11D-6R	12-5	1D-0R	1. Proxmire 2. Ribicoff	5-11	7S, 1W, 3HW	
Foreign Relations	11D-6R	12-5	1D-1R	1. Smathers 2. Clark 3. Yarborough 4. Mansfield 5. Pell	8-7 (internationalist vs anti-IV)	4S, 3HW, 3W, 1NE	Why is Dworshak being encouraged to bid? He and Smathers would make majority of 9-8 against the Admin on many measures.
Govt Op	6-3	6-3	0-0	Ribicoff			
Interior	11D-6R	12-5	4D-0R	Nelson		11W, 2HW	
Judiciary	9-6	10-5	2D-0R	Young(O)	6-6-1	5S, 2HW, 1NE	Encourage Bayh, Brewster to Bid.
L & PW	10-5	10-5	1D-0R		10-4	2S, 2HW, 5W	
Post & CS	6-3	1(6)D-2				4S, 1NE	
Pub. Works	11-6	12-5	4D-0R			1S, 1HW, 2NW, 4W	
Rules	6-3	6-3	1D			1S, 3W, 1NE	
Aging	McNamara or Smathers						

DEMOCRATIC POLICY COMMITTEE

Mansfield, Chairman *
Humphrey, Whip *
Smathers, Secretary
○ Bartlett *
○ Engle *
○ Hart *
Hayden
Hill
Kerr
Magnuson *
Pastore *
Russell

5 Pacific or Mountain State Senators (Mansfield, Bartlett, Engle, Hayden, Magnuson)
2 Midwestern Senators (Humphrey, Hart)
4 Southern Senators (Smathers, Hill, Kerr, Russell)
1 Northeastern Senator (Pastore)

*7 Liberal senators
○ Voting Status uncertain. Sometimes they vote, sometimes not.

Notes

Cloture, Continuing Rules and the Constitution

Filibusters, session after session, have highlighted the United States Senate's rules for limiting debate. Under the now-famous cloture rule, debate on a motion, even on a motion to revise the cloture rule itself, can be limited only upon consensus (two-thirds) of the senators present and voting. By another — more far-reaching though less-famous — Senate rule, the rules of the Senate continue automatically from Congress to Congress. The author of this Note compares the wisdom of consensus with majority rule as a procedure for limiting debate and then considers whether the Constitution compels either. He concludes that cloture by consensus or majority rule is simply a matter of Senate choice; that since the Constitution requires neither, the Senate is free to make that choice; but that one Senate cannot bind succeeding Senates to its choice — a continuing Senate rule which limits the revision of the rules is void.

Monticello, January 17, 1810

Dear Sir:

I observe that the House of Representatives are sensible of the ill effects of the long speeches in their House on their proceedings. But they have a worse effect in the disgust they excite among the people, and the disposition they are producing to transfer their confidence from the Legislature to the executive branch, which would sap our Constitution. . . .

Ever affectionately yours.
Thomas Jefferson[1]

I. INTRODUCTION

In the past half-century, perhaps no subject has been more a source of frustration to the United States Senate than the controversy over its own rules. The years since 1917, the date cloture was adopted by the Senate, have seen at least five major encounters within that body,[2] consuming hundreds of hours, thousands

1. Letter From Thomas Jefferson to John Eppes, Jan. 17, 1810, in 95 CONG. REC. 2265 (1949). Recent criticisms to the same effect are gathered in 105 CONG. REC. 129–32 (1959); 103 CONG. REC. 17–24 (1957).

2. See 105 CONG. REC. 8–494 (1959); 103 CONG. REC. 9–214 (1957); 99 CONG. REC. 108–232 (1953); 95 CONG. REC. 1583–2724 (1949); 55 CONG. REC. 3–45 (1917).

of pages of print, and eliciting a wide range of philosophic and pragmatic arguments, noteworthy as much for their passion as for their profundity. In each conflict the specific concern was the problem of unlimited debate; but underlying the immediate issue was a basic disagreement as to the permissible method by which the Senate may adopt a new rule limiting debate.[3]

Senate debate is not totally unlimitable. Senate Rule XXII — the now-famous cloture rule — provides

> (2) . . . [A]t any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, . . . is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and . . . submit to the Senate by a yea-and-nay vote the question:
>
> "Is it the sense of the Senate that the debate shall be brought to a close?"
>
> And if that question be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter . . . shall be the unfinished business to the exclusion of all other business until disposed of.
>
> Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate . . . .[4]

---

3. See *Hearings Before the Senate Committee on Rules and Administration*, 82d Cong., 1st Sess. (1951) [hereinafter cited as *Hearings*]; Shuman, *Senate Rules and the Civil Rights Bill: A Case Study*, 51 AM. POL. SCI. REV. 955, 957–61 (1957).

4. Senate Committee on Rules and Administration, *Senate Manual*, S. Doc. No. 1, 88th Cong., 1st Sess. Rule XXII (1963) [hereinafter cited as *1963 Senate Manual*]. Cloture, and its predecessor, the motion for the previous question, see 1 HAYNES, THE SENATE OF THE UNITED STATES 392–96 (1938); MASON, MANUAL OF LEGISLATIVE PROCEDURE 241–46 (1953), has had a long and turbulent history. The motion for the previous question apparently originated in the British House of Commons in 1604. See 105 CONG. REC. 307 (1959). During the 17th century it was successfully employed 491 times by that body in order to shut off debate and bring the pending matter to a vote. *Ibid.* The previous question was adopted by both houses of Congress in 1789. See BURDETTE, FILIBUSTERING IN THE SENATE 219–20 (1940); GALLOWAY, LIMITATION OF DEBATE IN THE UNITED STATES SENATE 6 (1951); 1 HAYNES, *op. cit. supra* at 392. Through its use, debate could be closed by majority vote. While the motion was itself debatable, the presiding officer had unappealable power to demand relevance in debate. See 105 CONG. REC. 307–08 (1959). The motion was omitted from the Senate rules in 1806, but until 1828 the presiding officer retained the absolute power to rule speakers out of order for using speech as a dilatory tactic. *Ibid.* In 1828 the Senate made such a ruling by the chair appealable to the Senate body. 4 CONG. DEB. 278–341 (1828). In 1872 the Vice-President ruled that the presiding officer had no power to require a Senator to surrender the floor because of irrelevancy in debate. CONG. GLOBE, 42d Cong., 2d Sess. 1293–94 (1872); HAYNES, *op. cit. supra* at 423–24.

Thus, the Senate abandoned its last effective control over debate.

> In the 45 years that followed,
> filibustering . . . assumed astounding proportions . . . . In the last two decades of the nineteenth century storms of obstruction . . . swept the chamber . . . . Parliamentary tactics to overcome obstruction proved to be hopeless and ineffectual . . . . The power of the Senate lay not in votes but in sturdy tongues and iron wills. The premium rested not upon ability and statesmanship but on effrontery and audacity.

BURDETTE, *op. cit. supra* at 79–80.

Finally, on March 8, 1917, following the filibuster of the Armed Ship Bill, see 54 CONG. REC. 4272–73, 4719–5020 (1917); BURDETTE, *op. cit. supra* at 115–23, the Senate adopted a cloture rule which provided a method for shutting off debate by two-thirds vote of the present and voting members. 55 CONG. REC. 19–45 (1917). In the succeeding 32 years, cloture under this rule was successful in 4 of 21 attempts. See GALLOWAY, *op. cit. supra* at 26 (1951). The utility of the rule was diminished when, on August 2, 1948, Senator Vandenberg, acting in the capacity of President pro tempore of the Senate, ruled that the cloture provision was inapplicable to a motion to consider a measure, 94 CONG. REC. 9602–04 (1948) (Senator Vandenberg, however, did favor amending the cloture rule so as to make it applicable to motions to take up a measure, 95 CONG. REC. 2227 (1949)), which is a debatable motion under general parliamentary rules, see MASON, *op. cit. supra* at 79–84. Thus, a filibuster could still be successfully waged, without fear of cloture, where the sponsor of a bill attempted to bring that bill to the Senate floor and make it the present business of the Senate.

Disturbed by this limitation and by the general ineffectiveness of the rule, the opponents of unlimited debate attempted to amend the cloture rule in 1949. See 95 CONG. REC. 1606–2724 (1949). The result was a compromise which made the cloture rule applicable to motions to take up a measure, but which expressly made cloture unavailable to limit debate on motions to revise the rules. Senate Committee on Rules and Administration, *Senate Manual*, S. DOC. NO. 5, 82d Cong., 1st Sess. 26–27 Rule XXII (1951) [hereinafter cited as *1951 Senate Manual*]. This amendment made it practically impossible to defeat a filibuster designed to prevent a change in the cloture rule itself. The 1949 revision further provided that two-thirds of the members duly chosen and sworn — a "constitutional two-thirds" — would be required to invoke cloture. *Ibid.* As thus amended, the rule was even less effective as a device for limiting debate than its predecessor; if the "constitutional two-thirds" requirement had been in effect before 1949, only three of the 22 cloture attempts would have been successful. Under the 1917 rule (two-thirds present and voting), cloture succeeded four times: Treaty of Versailles, 78 to 16 vote (1919); World Court, 68 to 26 vote (1926); Branch Banking, 65 to 18 vote (1917); Bureau of Customs and Bureau of Prohibition, 55 to 27 vote (1927). Under a "constitutional two-thirds" requirement, 64 affirmative votes would have been necessary.

In 1959, the final significant change in the cloture rule was adopted. 105 CONG. REC. 10–11 (1959). The effect of this revision was (1) to allow cloture upon two-thirds vote of the members present and voting; (2) to permit the cloture motion to be utilized to limit debate on motions to revise the rules; (3) to provide that the rules of the Senate shall continue from one Senate to the next Senate unless changed in accordance with the present rules. *1963 Senate Manual* Rule XXXII(2). At present, therefore, the cloture rule closely resembles the 1917 version, with two exceptions: It is applicable to motions to take up a measure, and the rules recognize that changes in the rules can be accomplished only within the procedure dictated by the existing rules.

Cloture under this rule has proven difficult, and the advocates of unlimited debate have fought off numerous attempts to change the rule to make it available upon majority, or even three-fifths, vote.[5] The extent to which the present Rule XXII assures unlimited debate depends, however, upon the validity of one proposition: that the rules of the Senate are binding upon each succeeding body at and from the moment of its inception.[6] If they are not, the present Rule XXXII, which provides that "the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules,"[7] is useless verbiage, for any future Senate interested in changing the rules could simply disregard that requirement,[8] shut off debate by majority vote, and adopt a new cloture provision also by majority vote.

The proposition that the rules are automatically binding — that they are "continuing rules" — has been frequently challenged in the past half-century on the ground that each Senate has the constitutional right to make its rules anew.[9] The critics of unlimited debate have also maintained that the provision requiring two-thirds vote in order to obtain cloture violates a constitutional requirement of majority rule in the Senate.[10] The objectives of this Note are to determine first whether the Constitution requires the Senate to function either by consensus or by majority vote; then, assuming that legislation by majority vote or by consensus is a matter of legislative choice, whether succeeding Senates are bound by the choice of their predecessors.

5. See, *e.g.*, 105 CONG. REC. 8–494 (1959); 99 CONG. REC. 108–232 (1953).

6. See, *e.g.*, 103 CONG. REC. 31–43 (1957) (brief placed in the *Record* by Senator Knowland); 99 CONG. REC. 108 (1953) (remarks of Senator Taft).

7. *1963 Senate Manual* Rule XXXII(2).

8. See 105 CONG. REC. 490 (1959) (remarks of Senator Morse).

9. "[E]ach House may determine the Rules of its Proceedings . . . ." U.S. CONST. art. I, § 5. While the term "each House" has never been judicially defined, it seems clear that it refers not only to both houses of Congress, but also to each succeeding Congress. See United States v. Ballin, 144 U.S. 1 (1892); 103 CONG. REC. 25 (1957) (brief prepared by Senator Douglas). It is this clause which critics contend is violated by the "continuing rules" theory. See 103 CONG. REC. 13 (1957) (brief prepared by Senator Douglas); 99 CONG. REC. 220 (1953) (remarks of Senator Humphrey); 99 CONG. REC. 185 (1953) (brief placed in the *Record* by Senator Lehman); 55 CONG. REC. 9–11 (1917) (remarks of Senator Walsh).

10. This argument appears to have been first advanced by Walter Reuther in *Hearings* 148–50.

II. CONSENSUS V. MAJORITY RULE

A. A Wiser Choice?

Critics ascribe various legislative evils to the practice of unlimited debate. First, an obvious effect of the filibuster,[11] the creature of unlimited debate, is to prevent the enactment of important legislation that has been the object of the filibuster. Civil rights bills are only the most recent example of legislation so defeated; treaties, public welfare and conservation legislation, and war emergency legislation are among the other victims of the filibuster.[12] Equally undesirable, it has been asserted, is the tendency of the very threat of a filibuster to prevent even the introduction of controversial resolutions into the Senate mill, or to cause those bills to be substantially "watered down" before introduction.[13] Somewhat less obvious, but equally significant, is the fact that time consumed in filibusters may prevent the consideration and enactment of other important, if less controversial legislation; it has been estimated that the time lost in a dozen of the more famous filibusters of the 19th and 20th centuries was 364 days.[14] Finally, in addition to the frustration, delay, and waste occasioned by the filibuster, its critics assert that use of the device results in a tarnishing of the senatorial "image": "A body which cannot govern itself will not long hold the respect of the people who have chosen it to govern the country,"[15] for, to the electorate, "to vote without debating is perilous, but to debate and never vote is imbecile."[16]

---

11. [A] name originally given to the buccaneers. The term . . . was revived in America to designate those adventurers who, after the termination of the war between Mexico and the United States, organized expeditions within the United States to take part in West Indian and Central American revolutions . . . . In the United States it is colloquially applied to legislators who practice obstruction.

9 Encyclopedia Brittanica 235 (1949). For an authoritative history of the filibuster, see Burdette, *op. cit. supra* note 4. See also 1 Haynes, *op. cit. supra* note 4, at 392–427; Rogers, The American Senate 161–91 (1926); Myers, *Limitation of Debate in the United States Senate*, 23 Temp. L.Q. 1 (1949).

12. See Galloway, *op. cit. supra* note 4, at 20–25; 95 Cong. Rec. 130–31 (1949) (remarks of Senator Morse).

13. *Hearings* 150 (brief submitted by Walter Reuther); see 105 Cong. Rec. 326 (1959) (remarks of Senator Case); *id.* at 330 (remarks of Senator Douglas); *id.* at 305 (remarks of Senator Javits).

14. Galloway, *op. cit. supra* note 4, at 20–23; see 95 Cong. Rec. 2131–37 (1949) (remarks of Senator Pepper).

15. 95 Cong. Rec. 2265 (1949) (remarks of Senator O'Mahoney).

16. Lodge, *Obstruction in the Senate*, 157 North Am. Rev. 523, 527 (1893).

The proponents of unlimited debate forcefully assert that the present cloture rule is a desirable method of guaranteeing some degree of senatorial unanimity on important legislation; it assures that a relatively small body of men, representing a significant social, economic, or political interest or area, can prevent enactment of legislation that is fundamentally offensive to that interest or area.[17] This approach to the legislative process — "government by consensus" — may be justifiable on the ground that it will prevent that "tyranny of the majority" which some have considered to be potentially the fatal defect of the American republic.[18]

But while consensus is obviously desirable, that that consideration should always be decisive is by no means clear. Experience, for example, might indicate that during periods of national crisis, the principle of majority rule is warranted. Distinctions between the kinds of legislation for which majority rule and consensus rule are desirable might even be possible. The very availability of each alternative might, in fact, have a desirable effect in limiting abuses that might otherwise result from unqualified acceptance of either alternative. A minority, for example, would be well-advised to use the right of unlimited debate only to oppose those resolutions that it considered fundamentally offensive to its interests, rather than as a device to prevent enactment of any legislation it disliked; injudicious use of the right might result in the majority's restricting freedom of debate. That the availability of both rules would prevent abuse of a rule providing a procedure for limiting debate by majority vote is more difficult to argue, however, for the minority would theoretically be unable to adopt a consensus rule even if the majority did abuse the procedure for limiting debate. Yet this objection assumes that elected representatives are mere opportunists; moreover, it fails to acknowledge sufficiently the adverse public reaction that would presumably accompany any extensive and protracted abuse of a rule for limiting debate by majority vote, and the restraining effect that fear of the adverse reaction would have.

The other benefits of unlimited debate are similarly open to question. The importance of maintaining the Senate as a "great deliberative body" is probably exaggerated, partly because there has been a significant shift in policy making from the legislative

17. See WILSON, CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES 121 (1908); *Hearings* 253 (quoting former Vice President Stevenson); Lippman, *A Critique of Congress*, Newsweek, Jan. 20, 1964, p. 20.

18. See, *e.g.*, 1 DETOCQUEVILLE, DEMOCRACY IN AMERICA 235–51 (Reeve transl. 1838); 105 CONG. REC. 149–53 (1959) (remarks of Senator Talmadge).

to the executive branch, and partly because Senate debate probably has no substantial effect on the members of that body — the arguments for and against important legislation are typically well-known before the proposal reaches the Senate floor. Likewise, with the mass communication network of the present day, unlimited debate is probably not necessary either to call public attention to important issues or to educate the electorate.

Therefore, while the objective of this Note is not to demonstrate that the practice of unlimited debate is without justification, it is suggested that different Senates may, if given the opportunity, rationally reach different conclusions as to whether a consensus rule or a majority rule is preferable. The threshold question, however, in determining whether the Senate has that opportunity, is whether the Constitution requires either alternative.

B. What the Constitution Requires

There is substantial evidence, both in circumstances surrounding the constitutional convention and in the Constitution itself, that majority rule was the preference of the nation's founders. The delegates to the convention recognized that the requirement of two-thirds vote for important legislation was a significant weakness of the Articles of Confederation;[19] they selected the principle of majority rule to govern the convention itself.[20] Of more significance is the fact that the convention twice rejected proposals that two-thirds vote be required for enactment of specific types of congressional legislation.[21] The Constitution as finally drafted is further indication of the preference for majority rule, for it provides that a majority, rather than two-thirds of the members, as was proposed in the convention,[22] should constitute a quorum for doing business.[23]

Most frequently advanced as evidence that majority rule is demanded by the Constitution is the enumeration in that document of five areas in which more than majority vote is required

19. Arts. of Confed. arts. IX, X (1777); see 1 Elliot, Debates 127–39 (1836); Prescott, Drafting the Federal Constitution 425 (1941); The Federalist No. 22 (Hamilton).

20. See Farrand, Framing the Constitution of the United States 5 (1913).

21. On August 29, 1787, the convention rejected a motion to subject legislation concerning interstate and foreign commerce to two-thirds vote. A two-thirds requirement for legislation relating to navigation was defeated on September 15, 1787. 5 Elliot, Debates 489–92, 552 (1836).

22. See Prescott, *op. cit. supra* note 19, at 424–27.

23. U.S. Const. art. I, § 5.

to obtain senatorial action: impeachments;[24] expulsion of congressmen;[25] overriding of presidential veto;[26] ratification of treaties;[27] and initiation by Congress of proposals to amend the Constitution.[28] Advocates of the majority-rule theory contend that "when a document, as carefully drafted and considered as was the Constitution, enumerates particular exceptions to a general rule, it must be concluded that no other exceptions were intended to be made."[29] Such a construction, they argue, is consistent with the judicial doctrine that "exemptions made in such detail preclude their enlargement by implication."[30] This argument, however, is not dispositive of whether majority rule is constitutionally required, for the Constitution does not spell out a "general rule" to which the five enumerated areas are "exceptions." Even avoiding that objection, the further question remains whether the exemptions have been made in "such detail" to "preclude their enlargement by implication"; such a question should be resolved analytically on an *ad hoc* basis by evaluating the nature of the exceptions and by comparing them with the scope of the legislative scheme to which they are exceptions.

Majority rule does not need to be proven constitutionally demanded, however, to reject the senatorial consensus theory as a constitutional requirement, for it is at least clear that the framers of the Constitution rejected the latter proposition.[31] Thus, assuming that the Constitution does not require majority rule, the choice between the two alternatives is not one to be made by recourse to the Constitution; rather, it becomes, under traditional constitutional theory, a matter of legislative choice. The Senate, therefore, has the power to determine whether it will function under rules that insure consensus or under the principle of majority vote. Once that power has been exercised, an inquiry must be directed to the extent to which such action is binding on successive bodies, and the methods by which those bodies may change the rule previously selected.

24. U.S. CONST. art. I, § 3.
25. U.S. CONST. art. I, § 5.
26. U.S. CONST. art. I, § 7.
27. U.S. CONST. art. II, § 2.
28. U.S. CONST. art. V.
29. *Hearings* 149 (brief submitted by Walter Reuther).
30. *Cf.* Addison v. Holly Hill Co., 322 U.S. 607, 617 (1944). See also Continental Cas. Co. v. United States, 314 U.S. 527, 533 (1942).
31. See notes 19–23 *supra* and accompanying text.

III. EFFECT OF A LEGISLATIVE CHOICE

A. The "Continuing Body" Theory

Those who have sought to prevent change in the cloture rule argue that because the Senate is a continuing body, the Senate rules continue automatically from session to session; changes in the rules can therefore be accomplished only within the procedure prescribed by the existing rules.[32] This rationale was seemingly recognized by the Senate in 1959 when it adopted Rule XXXII, providing for the continuance of rules.[33] Although such automatic continuance does prevent a parliamentary vacuum at the commencement of each new Senate,[34] the reasons advanced to sustain the procedure are not convincing. The major premise of the argument, the theory that the Senate is a continuing body,[35] is defended on several grounds: First, it is argued that the Constitution demands this conclusion because, by providing that "two-thirds of the membership of the Senate be in office at all times, and . . . that a majority of the Senate shall constitute a quorum to do business, it is apparent that the Senate was intended to be and is a continuing body."[36] This argument is unpersuasive, however, for the intent of the constitutional framers, in providing for two-thirds carryover of Senate membership, was to guarantee some degree of continuity in governmental policy

32. See authorities cited note 6 *supra*.

33. See note 4 *supra*.

34. It has been argued that if the rules did not carry over, two difficulties would confront each new Senate: (1) there would be no rules to govern the proceedings of the Senate in adopting new rules; (2) controversies as to which rules should be adopted, for example cloture by majority or two-thirds vote, would prevent adoption of any rules and the Senate would become a "parliamentary jungle." Yet the House of Representatives adopts its rules anew at the commencement of each new session — a resolution is offered for the adoption of new rules, often phrased in terms of the rules of the preceding Congress. *E.g.*, 99 Cong. Rec. 15–24 (1953); see Galloway, Legislative Procedure in Congress 15 (1955). During the period preceding adoption, the House operates under general rules of parliamentary procedure, under which debate can always be closed by a call for the previous question. *E.g.*, 99 Cong. Rec. 24 (1953). Even where there is controversy as to the rules, debate does not appear to reduce the House to a "jungle." See, *e.g.*, 97 Cong. Rec. 9 (1951); 95 Cong. Rec. 10 (1949).

35. See 103 Cong. Rec. 212–13 (1957) (brief placed in the *Record* by Senator Daniel); 52 Cong. Rec. 3793 (1915) (remarks of Senator Root); Cong. Globe, 26th Cong., 2d Sess. 240 (1841) (remarks of Senator Buchanan); Beard, American Government and Politics 109 (1931); Cushing, Law and Practice of Legislative Assemblies 104 (1907); 1 Haynes, *op. cit. supra* note 4, at 341.

36. 103 Cong. Rec. 212 (1957) (brief placed in the *Record* by Senator Daniel).

and responsibility;[37] in none of the debates during or after the constitutional convention was there any suggestion that a purpose of the carryover provision was to insure continuance of parliamentary rules. Nor does continuance of the rules appear essential in order to accomplish the continuity in policy and responsibility that the carryover clause was designed to encourage. Similarly, the purpose of the majority quorum provision has been misinterpreted. Its objective was to remedy one of the more troublesome defects of the Articles of Confederation — the requirement of two-thirds approval of important legislation.[38] Thus, the quorum clause does not support the continuing body theory, and in fact, it reflects a preference for majority rule; it is therefore a strange bedfellow to those who defend the two-thirds cloture rule on the ground that that rule is consistent with a constitutional preference for consensus action on legislation.

Supreme Court — as well as some state court[39] — decisions have also been advanced as support for the continuing body theory. In *McGrain v. Daugherty*,[40] a leading example, the Supreme Court considered the legality of a warrant issued by the Senate for attachment of a person who ignored a subpoena from a Senate committee. In holding the warrant valid, the Court considered the question whether the case had become moot because the warrant was issued by a committee of the previous Congress. The Court concluded that "the committee may be continued or revived [by the succeeding Senate] now by motion to that effect . . . . This being so, and the Senate being a continuing body, the case cannot be said to have become moot in the ordinary

37. See SCHULZ, CREATION OF THE SENATE 4–18 (1937); THE FEDERALIST Nos. 62, 63 (Hamilton).

38. See authorities cited note 19 *supra*.

39. Two state decisions have referred to the United States Senate as a continuing body. Robertson v. Smith, 109 Ind. 79, 123, 10 N.E. 582, 603 (1887); State *ex rel.* Werts v. Rogers, 56 N.J.L. 480, 622, 28 Atl. 726, 760 (1894). Such statements are obviously not controlling, nor under the circumstances of those cases can they be given great weight as the considered conclusions of state courts. In *Robertson* the court did not assess the merits of the continuing body argument; rather, it assumed the validity of the theory and decided that it was inapplicable to that state's legislature because, unlike the Senate, a sufficient number of that state's lawmakers did not carry over to the succeeding legislature. Nor did the court in *Rogers* assess the merits of the theory; it merely concluded that even though, like the United States Senate, two-thirds of New Jersey's lawmakers carried over, there was nothing to indicate that the framers of the New Jersey Constitution intended the legislature to be a "continuing body."

For a description of parliamentary methods in state legislatures, see generally DODDS, PROCEDURE IN STATE LEGISLATURES (1918).

40. 273 U.S. 135 (1927).

sense."[41] While the Court did state that the Senate is a continuing body, that factor was clearly not essential to the result. The decision was premised on the possibility of revival, which led the Court to conclude only that the case was not moot; the Court did not decide that a committee may continue automatically beyond the life of the expired Senate.[42] Even assuming the Court did so decide, that holding would not, of course, be dispositive of whether the Senate is a continuing body for all purposes. Moreover, if the Court in *McGrain* had held otherwise, the investigatory power of Congress would have been impaired, for any person could then ignore with impunity any subpoena issued near the expiration of a congressional session. No similarly compelling reason demands the acceptance of the continuing body theory with reference to the Senate rules.[43]

Finally, it is contended that long-continued acquiescence by the Senate "definitely points to the acceptance of the theory that the Senate is a continuing body."[44] Since its organization, the custom of the Senate has been to begin operation of each Congress without readopting its rules. The practice was never questioned until 1917 when, at the opening of the 65th Congress, Senator Walsh of Montana offered a resolution squarely raising the issue whether the rules are continuous.[45] The question was not voted

41. *Id.* at 182.

42. Sinclair v. United States, 279 U.S. 263 (1928), has been considered a direct holding by the Court that the Senate is a continuing body. 105 CONG. REC. 109, 111 (1959) (remarks of Senator Robertson). *Sinclair* involved the validity of the conviction of petitioner for refusal to answer questions before a Senate committee. The committee investigation had been authorized by two resolutions of the Senate of the 67th Congress. S. Res. 282, 67th Cong., 2d Sess., 62 CONG. REC. 6097 (1922); S. Res. 294, 67th Cong., 2d Sess., 62 CONG. REC. 8140 (1922). A third resolution, S. Res. 434, 67th Cong., 4th Sess., 64 CONG. REC. 3048 (1923), adopted before the end of the 67th Congress, stated that the investigation authorized by the two previous resolutions should be continued until the end of the 68th Congress. Petitioner argued that the last resolution was of no force and effect because the committee expired with the Congress. 279 U.S. at 273. Senator Robertson, however, apparently misread the decision, for although the issue of whether the Senate is a continuing body was raised by the facts and argued before the Court, it was never discussed in the opinion. The portion of the decision quoted by the Senator as support for "a direct holding" concerns the validity of a resolution incorrectly identifying a previous resolution.

43. This rationale is equally applicable to the *Sinclair* case. See note 42 *supra*.

44. 103 CONG. REC. 212 (1957) (brief placed in the *Record* by Senator Daniel).

45.

> Resolved: That until further ordered the rules in force at the close of the sixty-fourth Congress be adopted as the rules of the Senate, with

on, however, for the Senate agreed almost unanimously to adopt a two-thirds cloture rule.[46] Having obtained the rule he desired, Senator Walsh withdrew his resolution. In 1953[47] and 1957[48] the issue was again raised, but a vote was avoided on both occasions. Whatever meaningful acceptance there has been of the theory occurred in 1959 when the Senate adopted the provision that the rules shall continue automatically to the succeeding Senate.[49] Even this "acquiescence" can scarcely be taken as evidence of the validity of the theory, however, because the critics of unlimited debate were more concerned in 1959 with obtaining an improved cloture rule than with opposing the inclusion of a rule that they contended would have no binding effect on future Senates in any event.[50]

Indeed, it may be persuasively argued that the continuing body theory has not been accepted by the Senate at all, for that body indicates indirectly in many ways that it is not truly continuing. With reference to the introduction of bills,[51] election of officers,[52] election of committee members,[53] consideration of treaties,[54] and submission and consideration of nominations,[55] the

the exception of Rule XXII thereof.
55 CONG. REC. 9 (1917).

46. 55 CONG. REC. 19–45 (1917) (76 to 3 vote). The cloture rule adopted was introduced by Senator Martin. 55 CONG. REC. 19 (1917).

47. 99 CONG. REC. 108–234 (1953).

48. 103 CONG. REC. 12–214 (1957).

49. *1963 Senate Manual* Rule XXXII(2). While the Senate did operate under continuing rules from 1789 to 1917 without protest, that "acceptance" of the continuing body theory seems to have been uncritical. Not until 1917 did the Senate undertake to consider that theory on its merits. *Cf.* 99 CONG. REC. 188–89 (1953) (brief placed in the *Record* by Senator Lehman). See also note 4 *supra*.

50. See 105 CONG. REC. 490 (1959) (remarks of Senator Morse).

51. *1963 Senate Manual* Rule XXXII; see 103 CONG. REC. 27 n.8 (1957); 99 CONG. REC. 183 (1953).

52. The old officers carry over until new ones are elected, for the sake of convenience. The same situation exists in the House of Representatives, which does not operate under continuing rules. See 103 CONG. REC. 28–29 (1957) (brief submitted by Senator Douglas).

53. *1963 Senate Manual* Rule XXV. The old members retain their seats until new members are elected. See 99 CONG. REC. 184 (1953).

54.

> [A]ll proceedings on treaties shall terminate with the Congress, and they shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon.

1963 Senate Manual Rule XXXVII(2).

55.

> Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session

operations of the Senate start afresh with each new Congress. Further, the Senate has twice determined that it was not bound by procedural resolutions of previous legislatures. In 1841 the Senate voted to dismiss the Senate printer appointed by the previous Senate in accordance with a joint resolution authorizing each house of Congress to choose the printer for the next succeeding house.[56] In voting to dismiss, the Senate presumably was unimpressed by the continuing body argument advanced by Senators Allen and Buchanan.[57] Again, in 1876 the Senate seemingly rejected the continuing body theory when it decided that the joint rules of the House and Senate, adopted by the first Congress, were not binding upon the then-present Senate, unless that body adopted them anew.[58] In light of past and present Senate practices, therefore, it is difficult to conclude that the Senate has acquiesced in the continuing body proposition; in every respect, in fact, except with reference to its rules, it appears to have considered itself a noncontinuous body.

The most fundamental objection to the statement that the Senate is a continuing body, however, is that it is meaningless. It is merely another way of expressing the fact that two-thirds of the Senators carry over; it has no other significance:

> The argument for the carryover of the rules seems to come down to this: Because two-thirds of the Senators carry over, the Senate is a continuous body; because the Senate is a continuous body, the rules carry over. Striking the words "continuous body" out of this formula, the argument comes down to this: Since two-thirds of the Senators carry over, the rules carry over. But this is a patent nonsequitur. It assumes that the carryover . . . always carries over a majority in favor of the rules.[59]

The objection to the formula is even more fundamental. Even assuming that a majority of the surviving Senators favor the rules, there is still no logical relation between the two statements in the formula; the fact that two-thirds of the membership carries over furnishes no basis for concluding anything about the rules.[60]

without being again made to the Senate by the President . . . .
1963 Senate Manual Rule XXXVIII(6).

56. CONG. GLOBE, 26th Cong., 2d Sess. 236–40 (1841); see 103 CONG. REC. 26 (1957) (brief prepared by Senator Douglas); 99 CONG. REC. 187 (1953) (brief placed in the *Record* by Senator Lehman); BURDETTE, *op. cit. supra* note 4, at 21–22.

57. CONG. GLOBE, 26th Cong., 2d Sess. 240 (1841).

58. 4 CONG. REC. 517–20 (1876); see 99 CONG. REC. 187 (1953) (brief placed in the *Record* by Senator Lehman).

59. 103 CONG. REC. 29 (1957) (brief prepared by Senator Douglas).

60. See 105 CONG. REC. 138–39 (1959).

Thus, the rationale offered in support of the continuing rules theory is vulnerable on every ground. Clearly, the Constitution cannot be said to require its acceptance, nor is there any evidence that continuing rules are essential for the attainment of the constitutional objective of continuity in policy and responsibility. Court decisions offer no meaningful support because none has considered the question on the merits. The acquiescence theory is not supported by Senate history, nor, if it were, would the theory be compelling — acquiescence presupposes the right of nonacquiescence.

B. Limitations on the "Continuing Rules" Theory

Assuming, however, that the Constitution requires or tradition permits the Senate to treat itself as continuing with reference to its rules, the question arises as to what, if any, limitations may be placed on the ability of a succeeding body to change those rules. That one legislative body cannot bind its successor irrevocably to its enactments is well settled.[61] Probably none would disagree that the doctrine is as applicable for legislative rules as for substantive laws. Critics of the present cloture rule contend that this doctrine is violated by the present rules[62] — because the rules can only be changed under procedures prescribed in the existing rules and because a two-thirds vote is required in order to end a filibuster on a motion to change the rules, it is practically impossible to change the cloture rule. Yet this argument misses the real issue, for the present rule has not made the Senate rules irrevocable; Rule XXII has only made it difficult to change the rules — "to admit that difficulty exists in changing the rules . . . is to admit that the rules are revocable."[63] Thus, the precise issue is not whether a legislative body can pass irrepealable laws, but what limitations, if any, one legislature may place on the ability of its successor to change those enactments. For example, may one legislature stipulate that one or more of its enactments may be repealed or amended only by two-thirds vote; may that body require that its parliamentary rules shall continue until unanimously rejected; may one Senate provide that its successor can limit debate on a motion to adopt new rules only by two-thirds vote?

61. *E.g.*, Toomer v. Witsell, 334 U.S. 385, 393 n.19 (1948); Reichelderfer v. Quinn, 287 U.S. 315, 318 (1932); Newton v. Commissioners of Mahoning County, 100 U.S. 548, 559 (1879); 55 Cong. Rec. 10–11 (1917) (remarks of Senator Walsh); Cooley, Constitutional Limitations 146–47 (1890).

62. See authorities cited note 9 *supra*.

63. 103 Cong. Rec. 212 (1957) (brief placed in the *Record* by Senator Daniel).

While there is no direct authority in the United States on the question of legislative limitations,[64] both the Supreme Court and scholars are apparently of the view that "if a legislature could in any degree bind its successors, the result would be an erosion of power which over the years would render later legislatures helpless in the face of the past."[65] To prevent such "erosion of power," the Court has concluded that "every succeeding legislature possesses the same jurisdiction and power with respect to them as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality."[66] The wisdom of this conclusion becomes obvious when the alternative is considered. If a succeeding body were bound by previous provisions for changing the rules, a prior legislature might specify that cloture was inapplicable to motions to change the rules and that such motions could be adopted only by unanimous consent, thus, as a practical matter, assuring the permanence of the rule itself. Such a procedure not only could result in the Senate being stymied by inefficient rules, but it would also appear to conflict with the intent of the constitutional framers that the question of legislation by consensus or by majority vote be left to congressional discretion. Moreover, it seems anomalous to suggest that the framers chose not to give a constitutional permanence to either the consensus theory or the majority rule theory but yet intended that a single legislative body could accomplish that same result.

Any legislative body, therefore, may properly ignore any provision that attempts to dictate the procedure to be followed in amending or repealing antecedent legislation or in changing its own parliamentary rules. In considering changes in its rules, the body would operate under whatever parliamentary rules it has provided for itself, or, in the absence of such rules, under general rules of parliamentary procedure. This rationale would allow the rules to continue insofar as they dictate the proper procedure in considering legislation; they would be inapplicable, however, to

64. The Parliament of the Union of South Africa has been similarly troubled by the question of the binding effect of legislative enactments on subsequent legislatures with reference to its substantive laws. See Marshall, Parliamentary Sovereignty and the Commonwealth 139–248 (1957); *cf.* Mitchell, *Sovereignty of Parliament — Yet Again*, 79 Law Q. Rev. 196, 208–15 (1963).

65. 99 Cong. Rec. 182 (1953) (brief placed in the *Record* by Senator Lehman); see authorities cited note 61 *supra*.

66. Newton v. Commissioners of Mahoning County, 100 U.S. 548, 559 (1879).

the extent that they prescribed, without the consent of the Senate, procedures for changing the rules. Whatever advantages flow from permanent rules regarding the substantive legislative process would thus be retained,[67] while the possibility that the body would find itself restricted by abusive or inefficient rules would be avoided.

CONCLUSION

During the past half-century, the Senate membership has frequently disagreed on whether it ought to allow, in its deliberations, unlimited debate, two-thirds cloture, three-fifths cloture, or cloture by majority vote. This Note has not attempted to determine which rule is preferable; rather the objective has been to resolve two issues which have frequently troubled the Senate in choosing between the alternatives: whether the Constitution compels the Senate to operate under rules that insure consensus or under the principle of majority vote — if it does compel either alternative, then, short of constitutional amendment, the question of the wiser alternative is irrelevant; and whether, if the Constitution does not dictate the choice, a Senate may specify the procedure by which a succeeding body shall make the choice.

An analysis of events surrounding the constitutional convention and of the constitutional provisions concerning the Senate leads to the conclusion that the Constitution clearly does not require consensus and probably does not demand that the Senate operate only under the principle of majority vote — the decision is a matter of legislative choice. As to the latter issue, prescriptions by previous Senates of procedures for changing the rules cannot be persuasively defended by reference to the "continuing body" theory. At the least, it seems clear that constitutional theory demands that the continuing rules be considered void insofar as they limit or control the ability of a succeeding body to change the rules.

67. If, for example, on the commencement of a new Senate there was no dissatisfaction with the rules, the Senate could affirmatively, or by acquiescence, acknowledge that the old rules were binding even as to attempts to change the rules. If, on the other hand, a majority of members were dissatisfied with any rule, they could provide that the old rules would be inapplicable to any motion to change the rules during that Congress. This would avoid the dilemma previously facing critics of the rules: if they attacked the "continuing rules" at the commencement of the session, important legislation might be delayed; if the attack on the rules were delayed until the legislation had been considered they might have "acquiesced" in the existing rules. See generally 99 CONG. REC. 180–81 (1953) (brief submitted by Senator Lehman).

[1964?]

Memo to the Vice President-elect

From John Stewart

Re: Meeting with Joe Rauh and Clarence Mitchell

1. Role of Civil Rights Commission. Clarence recommended strongly that the Civil Rights Commission be used as the principal coordinating mechanism within the Federal government. He should be advised that we could not accept this recommendation because (1) the President could not acquiesce in executive departments and executive policies come under the direct suprevision of a body outside the executive branch, like the Commission; and (2) to the extent that such a role would inhibit the Commission's freedom of action, the Commission would find such an assignment undesirable.

Positive Use of Commission. You can, however, assure Clarence that we contemplate using resources of the Commission fully. Also that you intervened personally to secure the appointment of Bill Taylor as Staff Director.

2. Title VI regulations. Here I suggest that you indicate to Clarence and Joe that until the President creates the Council and appoints you as Chairman, you are not in a position to intervene directly in the formulation of Title VI regulations. There will also be a special working group established on Title VI problems. But you are glad to be kept advised of the status of these matters until the President makes his decision as to a coordinating mechanism and you are inaugurated, etc.

3. Personnel for Coordinating Operation. Clarence and Joe have recommended Roger Wilkins for the principal job in this operation. My judgment is that Roger is just a little too young to swing the kind of weight that will be needed for the top man. He is, however, excellent and would be a definite positive addition to the coordinating staff.

Max has suggested the name of George Weaver as a possibility. You might want to get the reaction of Joe and Clarence to this suggestion.

4. Rule XXII. Here Joe needs to be informed that your position as Vice President will not guarantee them the type of ruling to win the Rule XXII fight. I have told all the staff people that they should assume nothing in how you would rule if the matter carried over until after the Inauguration.

COPY

RESOLVED that the Anderson-Morton and Douglas-Kuchel resolutions (properly designated) shall be referred to the Committee on Rules and Administration which shall make its report on said resolutions and on any other proposed amendments to Rule XXII to the Senate not later than _____. The resolution reported by the Committee shall become the pending business one day after the Committee's report is made to the Senate and if no resolution containing an amendment to Rule XXII is reported favorably by the Committee, the Anderson-Morton resolution (properly designated) shall become the pending business and any such resolution shall be considered by the Senate under such rules and procedures as would have applied at the opening of Congress prior to the transaction of any business.

OFFICE OF SENATOR CLARK

TO Legislative Assistant
Office of Senator Humphrey
rm. 1313

FROM HARRY SCHWARTZ

FOR INFO ✓
FOLLOW UP
RETURN
FILE

[1964?]

CLARK STATEMENT ON S. 111 AND PROPOSED SUPPLEMENTING AMENDMENT

In its present form, S. Res. 111 would permit standing committees to sit without special leave while the Senate is in session only during the early part of the morning hour, before the pending business is taken up.

S. Res. 111 does not come into play unless there is a morning hour. But as Senators know, there generally are no morning hours during filibusters, since the practice is for the Senate to recess from day to day.

Therefore S. Res. 111 is of least help when help is most needed -- to permit the Senate's standing committees to function while the progress of legislation on the floor is deadlocked by filibuster.

Unless S. Res. 111 can be strengthened, the protracted debate on the civil rights bill which will soon begin will paralyze every one of the Senate's standing committees. This consequence can be avoided if the amendments to S. Res. 111 which I have offered are adopted.

* * *

CLARK SUPPLEMENTING AMENDMENT TO S. RES. 111

Strike out the quotation marks after the word "earlier" on line 7 and insert:

"A motion for leave for a standing committee to sit while the Senate is in session shall be a privileged motion and shall not be debatable."

The sole purpose of this amendment is to restore the practice originally contemplated by the authors of the La Follette-Monroney Reorganization Act of 1946.

Senator Monroney testified in the Senate Rules Committee hearings on S. Res. 111 that it was intended that standing committees could obtain special leave to sit while the Senate was in session by a majority vote of the Senate taken without debate. It was never intended that the objection of any one Senator could keep committees from sitting.

However, on April 6, 1949, in an advisory opinion, the Chair stated that a motion for leave to sit would be debatable. This ruling makes it possible for an objecting Senator to delay decision on the issue by protracted debate until the time has passed during which a committee desired to meet. This amendment would overturn that advisory ruling, and thus make it possible for the Senate to move ahead with its legislative program in spite of the filibuster.

CLARK AMENDMENT TO S. RES. 111

Strike out paragraph 5 and in lieu thereof insert:

"5. No standing committee shall sit without special leave while the Senate is in session during any time when debate is controlled by a rule of germaneness."

This amendment couples the rule restricting committee meetings while the Senate is in session to the new Pastore rule requiring germaneness in debate.

It would free all Senators from committee obligations for the three hours each day when germane debate is transpiring on the floor, but would permit Senators to continue their committee work when non-germane discussion is taking place. Of course, committees could still be permitted to sit at any time by unanimous consent.

Stewart

legislative newsletter

David Cohen
Legislative Representative

Issue Number 1
January 17, 1964

Second Session
88th Congress

(Approximately every two weeks we summarize events in Congress as an information service to assist you in national affairs activities. We include brief analyses of legislative proposals together with factors of timing and politics as we see them. Subscription rate, $5 per year.)

SENATE RULES REFORM

Senator Joseph Clark's (D., Pa.) lengthy and persistent fight for Senate rules reform has begun to make small progress: the Senate is at last considering a mild rules change. During the week of January 20th the Senate is expected to vote on a rule compelling germaneness in legislative debate. This rule, if enacted, will in a small way help expedite Senate decisions once legislation reaches the floor.

What is more significant than the germaneness rule is to analyze the politics surrounding its consideration. The politics of the germaneness rule provides an insight into how the Senate operates. It demonstrates the perpetual weakness of Majority Leader Mansfield's (D., Mont.) leadership. It reveals the power held by Senator Richard Russell (D., Ga.). It brings to public view Minority Leader Dirksen's (R., Ill.) alliance with Senator Russell to maintain the status quo in Senate rules, even on the most minor charges. (Last year the Dirksen-Russell alliance on Senate rules was in full view. Senator Russell agreed to oppose any change in the size of the Finance Committee in order to maintain the conservative stranglehold. In return, Senator Dirksen agreed to oppose any modification in Rule 22, the filibuster rule.)

Pastore Resolution

Senator John Pastore (D., R.I.) is the principal sponsor of the germaneness resolution before the Senate. Pastore has the support of Senator Mansfield. The Pastore resolution compels germaneness for 3 hours each calendar day following the morning hour. (The morning hour usually lasts from one to two hours each legislative day, ending around 2 P.M. In this period Senators introduce bills, file reports, insert matters into the Congressional Record, request permission for their committees to meet while the Senate is in session, and deliver short speeches. The morning hour's business is not related directly to the pending or unfinished Senate business.) Under the Pastore rule, once the 3 hours of germaneness ends, the Senate may return to its habit of non-germaneness.

Clark Resolution

Senator Clark's resolution, co-sponsored by Senator Hugh Scott (R., Pa.), will be offered as a substitute to the Pastore resolution. It permits the Senate to invoke

germaneness for the duration of the legislative debate. The motion to invoke germaneness is non-debatable.

The Senate faces three choices: maintain the status quo and satisfy the conservative Republican-Southern Democratic coalition; have three hours of germaneness daily and support the Pastore-Mansfield change; or require germaneness for the duration of the legislative debate, and support the Clark-Scott change.

Politics of Germaneness

There are major differences between the Pastore and Clark resolutions that will affect how the Senate decides major issues. The Pastore resolution helps expedite short legislative debate: non-controversial bills that will be decided in less than 3 hours. By concentrating germane discussion in the 2 P.M. to 5 P.M. period, the Pastore resolution will allow Senators to have freer evenings. The Pastore resolution is really a rules change for the Senators' individual convenience.

In contrast, the Clark resolution has value since the effect of it will be to shorten lengthy debates, and - most important - wear down filibusters, without preventing debate on the substantive issues before the Senate. Under the Clark resolution the advantage that the Senate rules give to the Southern filibusterers would be somewhat diminished. Under the Pastore resolution, the Southerners would still retain all the advantages of the rules, since it is easy to be germane for three hours.

More important, what has been largely unnoticed in filibusters is that the Southerners are often aided by their non-filibustering sympathizers. What will often happen during a filibuster is that a non-filibustering Senator will get the floor and deliver a lengthy speech on why the U.S. should renounce the test ban treaty, why the poor cause unemployment, or some other matter on which the Goldwater wing of the Republican Party chooses to sound off. These long speeches, lengthened by leading questions from other Senators, allow the Southerners to rest and refurbish their strength for more filibustering.

Under the Clark resolution, these Southern sympathizers would be silenced. It would be easier to wear down a filibuster. One would therefore expect Senator Mansfield to support the Clark resolution as a useful tool for the Majority Leader, since it would provide him with increased authority to enable the Senate to at least reach decisions and prevent paralysis. To the contrary, Senator Mansfield is expected to support tabling the Clark resolution. (Approval of the Clark resolution is not necessary to winning the Senate civil rights fight for a strong bill. Strong leadership that kept the Senate in round-the-clock session could wear down the Southerners.)

In short, Mansfield again has shown his reluctance to tangle with the Russell-Dirsen alliance. Senator Russell, through his chief lieutenant Senator Herman Talmadge (D., Ga.), has threatened to filibuster the Clark motion. The Southerners, of course, see the implications of the Clark resolution, and Senator Talmadge is reported to have referred to it derisively as "germaneness in perpetuity."

As ADA National Chairman John Roche said in presenting the ADA domestic legislative program to the press: "Congress needs a major overhaul so that it can reach legislative decisions. A Congress that specializes in anti-legislation forfeits respect and confidence. By its self-inflicted paralysis, this Congress has corrupted the legislative process which is essential to the successful working of our constitutional system."

Senator Mansfield ignores the corruption of the legislative process by his constant concessions to the Dirksen-Russell forces in advance of Senate consideration of

rules changes. (One must recall that at the beginning of the 88th Congress Senator Mansfield supported the Dirksen-Russell position on the filibuster rule. Senator Mansfield opposed the right of the Senate, at the start of a new Congress, to close debate in order to vote on a rules change. This key vote effectively denied the Senate its right to determine its own rules. The Southerners then proceeded to filibuster to death modification of the filibuster rule.) The mere threat of a Southern filibuster prevents Senate consideration of important rules changes.

A Southern filibuster on germaneness would again dramatize the extremeness of the Southern position. In the past the power of the filibuster has been that it was confined to civil rights issues. By extending the filibuster to other issues, the Southerners will ultimately reduce their own influence by their increasing obstruction.

Conclusion

The Clark resolution undoubtedly will be tabled. The Pastore resolution may very well pass, since the Southerners do not appear to be strongly resisting it. The attempt will be made by the opponents of Congressional reform to equate approval of the Pastore resolution with Congressional reform. Although the Pastore resolution is an improvement over the status quo, Congressional reform must not be equated with a mere rules change, particularly since the Pastore resolution does not improve the Senate's chances of voting upon substantive legislation.

The need for a "major overhaul" in Congress is greater than ever. Modifying the filibuster rule, allowing the Congress to vote on major legislative programs proposed by the President, and changing the seniority rules, however, must await the start of the 89th Congress.

* * * * * * * * * * * *

Please enter/renew my subscription to the Legislative Newsletter for 1964.
I enclose my check for $5.00.

Name _

Street _

City _ Zone _ _ _ _ _ State _ _ _ _ _ _ _ _

(Please make checks payable to Legislative Newsletter, and mail to ADA,
1341 Connecticut Avenue, N.W., Washington 6, D. C.)

MEMORANDUM

January 8, 1964.

TO: SENATOR MIKE MANSFIELD, MAJORITY LEADER

FROM: SENATOR JOSEPH S. CLARK

RE: SUGGESTED PROCEDURE TO EXPEDITE SENATE BUSINESS

On the calendar are two Senate resolutions:

S. Res. 111, sponsored by Senator Church and others, dealing with the right of Senate legislative committees to sit while the Senate is in session; and S. Res. 89, by Senator Pastore and others, dealing with the subject of germaneness.

It is recommended that these resolutions be called up promptly by the leadership, amended as indicated below, and passed.

Passage of these resolutions should make it possible to expedite significantly Senate business during the coming session.

S. RES. 111 PERMITTING COMMITTEES TO SIT WHILE THE SENATE IS IN SESSION

At present, as a practical matter, Senate legislative committees can sit while the Senate is in session only by unanimous consent, which is often refused. The Appropriations Committee is an exception, since it is usually given unanimous consent at the start of each session to sit throughout the session whether the Senate is meeting or not.

The Church resolution would permit all legislative committees to sit while the Senate is in session during the morning hour but not thereafter.

It is recommended that this resolution be amended to permit the legislative committees, including the Appropriations Committee to sit while the Senate is in session except when a rule of germaneness (later discussed) is in effect.

Thus, the important committee work needed to bring to the floor the legislative program of the President and the

leadership for the Second Session of the Eighty-eighth Congress could be substantially expedited. Committees could complete their work in the first three or four months of the session, report their bills to the calendar and make it possible to dispose of them in time to permit Congress to adjourn before the Republican National Convention on July 13.

By excepting the brief periods when a germaneness rule is in effect, the desirability of having Senators on the floor when legislation is being seriously debated would be recognized.

S. RES. 89 ESTABLISHING A RULE OF GERMANENESS

The Pastore resolution would establish a rule of germaneness for three hours each day after the morning hour. While this would be a measurable improvement on the present rather chaotic status of floor debate, with which all Senators are familiar, it could be still further improved.

It is recommended that the Pastore resolution be amended to authorize the leadership or the floor manager of a bill to invoke a rule of germaneness to continue until that bill is disposed of. This rule could, of course, always be lifted temporarily by unanimous consent.

Thus, the many hours traditionally wasted through irrelevant discussions on the floor could be eliminated and floor action expedited. Ample opportunity would be given for extraneous and irrelevant speeches and colloquys during periods when the leadership or floor manager was not under pressure to dispose promptly of the pending business.

Objection raised to invoking a rule of germaneness should be disposed of by vote without debate.

CONCLUSION

It is believed that these two changes are feasible since resolutions dealing with their subject matter are already on the calendar, having been favorably reported by the Committee on Rules and Administration. If the leadership would support the suggested amendments it should be possible to adopt the resolutions promptly. There is ample time to do this in the opening weeks of the session before either civil rights or the tax bill reach the floor. If a filibuster should develop, its strength could be promptly tested by a cloture petition.

John St

MEMORANDUM

January 8, 1964.

TO: SENATOR MIKE MANSFIELD, MAJORITY LEADER

FROM: SENATOR JOSEPH S. CLARK

RE: SUGGESTED PROCEDURE TO EXPEDITE SENATE BUSINESS

On the calendar are two Senate resolutions:

S. Res. 111, sponsored by Senator Church and others, dealing with the right of Senate legislative committees to sit while the Senate is in session; and S. Res. 89, by Senator Pastore and others, dealing with the subject of germaneness.

It is recommended that these resolutions be called up promptly by the leadership, amended as indicated below, and passed.

Passage of these resolutions should make it possible to expedite significantly Senate business during the coming session.

S. RES. 111 PERMITTING COMMITTEES TO SIT WHILE THE SENATE IS IN SESSION

At present, as a practical matter, Senate legislative committees can sit while the Senate is in session only by unanimous consent, which is often refused. The Appropriations Committee is an exception, since it is usually given unanimous consent at the start of each session to sit throughout the session whether the Senate is meeting or not.

The Church resolution would permit all legislative committees to sit while the Senate is in session during the morning hour but not thereafter.

It is recommended that this resolution be amended to permit the legislative committees, including the Appropriations Committee to sit while the Senate is in session except when a rule of germaneness (later discussed) is in effect.

Thus, the important committee work needed to bring to the floor the legislative program of the President and the

leadership for the Second Session of the Eighty-eighth Congress could be substantially expedited. Committees could complete their work in the first three or four months of the session, report their bills to the calendar and make it possible to dispose of them in time to permit Congress to adjourn before the Republican National Convention on July 13.

By excepting the brief periods when a germaneness rule is in effect, the desirability of having Senators on the floor when legislation is being seriously debated would be recognized.

S. RES. 89 ESTABLISHING A RULE OF GERMANENESS

The Pastore resolution would establish a rule of germaneness for three hours each day after the morning hour. While this would be a measurable improvement on the present rather chaotic status of floor debate, with which all Senators are familiar, it could be still further improved.

It is recommended that the Pastore resolution be amended to authorize the leadership or the floor manager of a bill to invoke a rule of germaneness to continue until that bill is disposed of. This rule could, of course, always be lifted temporarily by unanimous consent.

Thus, the many hours traditionally wasted through irrelevant discussions on the floor could be eliminated and floor action expedited. Ample opportunity would be given for extraneous and irrelevant speeches and colloquys during periods when the leadership or floor manager was not under pressure to dispose promptly of the pending business.

Objection raised to invoking a rule of germaneness should be disposed of by vote without debate.

CONCLUSION

It is believed that these two changes are feasible since resolutions dealing with their subject matter are already on the calendar, having been favorably reported by the Committee on Rules and Administration. If the leadership would support the suggested amendments it should be possible to adopt the resolutions promptly. There is ample time to do this in the opening weeks of the session before either civil rights or the tax bill reach the floor. If a filibuster should develop, its strength could be promptly tested by a cloture petition.

MEMORANDUM

January 24, 1964

TO: SENATOR HUMPHREY
FROM: JOSEPH S. CLARK
RE: Permission for Committees to Sit While the Senate is in Session

You will recall that last year you and the Majority Leader agreed that it would be extremely important to secure permission for all standing committees to sit during the anticipated civil rights filibuster. Although I still think that blanket permission to sit would be the best solution, the availability of Senator Church's S. Con. Res. 111 on the Senate Calendar presents an opportunity for working out what I believe to be a good compromise.

In its present form, the Church Resolution would add the following paragraph to Rule XXV of the Standing Rules of the Senate:

> "5. No standing committee shall sit without special leave while the Senate is in session after (1) the conclusion of the morning hour, or (2) the Senate has proceeded to the consideration of unfinished business whichever is earlier."

This would permit committees to sit during the Morning Hour. But this would not help during the filibuster, since the Senate normally recesses from day to day and there are no Morning Hours.

But if the language of the Church resolution could be modified somewhat, it could be converted into a satisfactory compromise solution. The following language, or some reasonable equivalent, would have to be offered as an amendment in the nature of a substitute for the above paragraph:

> "5. No standing committee shall sit without special leave while the Senate is in session during any time when debate is controlled by a rule of germaneness."

This would suspend committee action for the three hours each day that the new Pastore rule was in effect, but it would permit committees to sit the rest of the time.

Obviously the prospects of such an amendment would be greatly enhanced if you and the Majority Leader could persuade Senator Church to accept it. I have no particular pride of authorship in it, and would be happy to see it offered as a leadership proposal -- particularly since that would give it far greater general acceptability.

In view of the present pace of the Finance Committee, little

time remains to make provision for securing committees the right to sit. It seems to me that this matter must be taken care of before the tax bill reaches the floor, which I understand may happen as early as Friday.

M E M O R A N D U M

January 24, 1964

TO: SENATOR HUMPHREY
FROM: JOSEPH S. CLARK
RE: Permission for Committees to Sit While the Senate is in Session

You will recall that last year you and the Majority Leader agreed that it would be extremely important to secure permission for all standing committees to sit during the anticipated civil rights filibuster. Although I still think that blanket permission to sit would be the best solution, the availability of Senator Church's S. Con. Res. 111 on the Senate Calendar presents an opportunity for working out what I believe to be a good compromise.

In its present form, the Church Resolution would add the following paragraph to Rule XXV of the Standing Rules of the Senate:

> "5. No standing committee shall sit without special leave while the Senate is in session after (1) the conclusion of the morning hour, or (2) the Senate has proceeded to the consideration of unfinished business whichever is earlier."

This would permit committees to sit during the Morning Hour. But this would not help during the filibuster, since the Senate normally recesses from day to day and there are no Morning Hours.

But if the language of the Church resolution could be modified somewhat, it could be converted into a satisfactory compromise solution. The following language, or some reasonable equivalent, would have to be offered as an amendment in the nature of a substitute for the above paragraph:

> "5. No standing committee shall sit without special leave while the Senate is in session during any time when debate is controlled by a rule of germaneness."

This would suspend committee action for the three hours each day that the new Pastore rule was in effect, but it would permit committees to sit the rest of the time.

Obviously the prospects of such an amendment would be greatly enhanced if you and the Majority Leader could persuade Senator Church to accept it. I have no particular pride of authorship in it, and would be happy to see it offered as a leadership proposal -- particularly since that would give it far greater general acceptability.

In view of the present pace of the Finance Committee, little

time remains to make provision for securing committees the right to sit. It seems to me that this matter must be taken care of before the tax bill reaches the floor, which I understand may happen as early as Friday.

BROOKINGS RESEARCH REPORT NO. 20

Improving Congressional Control of Administration

*Congress spends a great deal of time supervising administration of the federal government, but its control system often appears to be faulty in concept and erratic in application. Today, it is in danger of defeating its own ends by regulating in too much detail, limiting executive discretion, and interfering with the decisions of the President and administrative officials under his supervision. Some see in aggressive congressional action a threat to the constitutional balance of power. A new Brookings book—*CONGRESSIONAL CONTROL OF ADMINISTRATION, *by* JOSEPH P. HARRIS*—analyzes various legislative controls and how they might be improved. Some highlights of the book are presented in this report. (Copyright 1964 by The Brookings Institution)**

Modern democracies face the problem of keeping administrative officials under public scrutiny without hampering administrative flexibility and discretion. In this age of the "administrative state," great power and immense sums of money are entrusted to public officials. Prescription of the purposes and programs administered by these officials is the function of the legislature; responsibility for seeing that they are carried out is primarily the function of the chief executive. But in practice separation of powers is not complete, and, in the United States, Congress also bears some responsibility for seeing that programs are faithfully and effectively carried out.

Properly devised and applied, this "legislative control of administration" can do much to secure effective and economical administration, to hold officials accountable for their actions, and to safeguard the liberties of the citizenry. Whether, in fact, the controls applied by Congress to the Federal Executive branch make sufficient contribution to these ends has been increasingly questioned in recent years.

* The findings and conclusions are those of the author and do not purport to represent the views of the Brookings Institution, its trustees, officers, or other staff members.

Control of Executive Organization and Procedures

Congress has tended increasingly, when enacting statutes authorizing activities of departments, to prescribe details of internal organization, procedures, and work methods. But in doing so it has sometimes impaired rather than improved administrative performance. Statutes creating bureaus within executive departments or granting authority directly to subordinate officers weaken the authority and responsibility of department heads. Statutes requiring executive decisions of one agency to be approved by another divide responsibility, often with mischievous results. Authorizing programs for only one or two years at a time may also inhibit effective administration.

Congress passes such detailed legislation not always because it fears executives may decide matters unwisely, but sometimes because it seeks to sustain the appearance, if not the reality, of being in control. Unfortunately, provisions that the legislature thought simple to execute often become cumbersome and expensive.

The tendency of Congress to prescribe procedure and method is clearly seen in civil service legislation. Congress does have responsibility to determine basic personnel policies, but it does not need to enact restrictive details on such matters as promotions, investigation, training, and veteran preference as it does—frequently by rider on other legislation. The application of policies can be left to the President, the Civil Service Commission, and the responsible department heads.

Control through the Appropriations Process

The power of the purse is the cornerstone of legislative control of the executive in most democratic countries. In the United States, the appropriations process is the principal means used by Congress to control both finance and other aspects of administration. Large committees and numerous subcommittees of both the Senate and the House of Representatives hold lengthy annual hearings on the departmental requests for funds included in the President's budget. Departmental officials are thoroughly quizzed over their use of the past year's funds and are required to defend their new requests in detail.

The appropriations subcommittees have often become bogged down in their efforts to control administrative details and specific expenditures. But in recent years they have tended to devote more attention to departmental policy and programs. It would be a further improvement if Congress could, without losing control of individual programs, organize itself to pay more attention to over-all budgetary policy and its impact on the national economy.

Congress annually acts on some twenty regular appropriation bills, several supplemental and deficiency appropriations, indefinite appropriations paid out of earmarked revenues, special appropriations under statutes, permanent appropriations, and authorizations for loans or expenditures paid out of

designated funds without appropriations (usually known as "back-door-financing"). Funds may be voted available for a designated period, or available until expended. Congress often authorizes unobligated balances, as well as funds obligated, but not spent, to be carried over to subsequent years—a practice for which Congress has been strongly criticized, since it sometimes results in huge carry-overs of spending authority.

The appropriation acts of Congress are highly voluminous, containing not only the votes of funds for the major programs and activities of the government, but also legislative authorizations of specific activities, regulatory provisions, and various restrictions and limitations. In the last two decades Congress has substantially reduced the number of items in appropriation acts, which gives the departments increased flexibility, and enables the appropriation subcommittees to devote more attention to program plans and objectives rather than expenditure details. The appropriation limitations and restrictions, often in the form of riders, create serious difficulties for administrators, often in ways not anticipated by Congress. Many restrictions have been adopted to correct reported administrative abuses, but once written into law, they tend to remain after they are needed. Although some method of control over administrative conduct is essential, there are valid objections to frequent use of appropriations restrictions for this purpose. When rigid rulings are applied to widely varying situations, the effect may be unworkable or damaging to the administration. Internal administrative controls exercised by executive officers and staff agencies in day-to-day operations are preferable to legislative limitations in appropriation acts.

The committee reports that accompany appropriation bills to the floor often contain criticisms of department activities, directives with respect to future policies, and "understandings" between the committee and the department as to how certain matters are to be handled. Although this material does not officially have the force of law, it is heeded by administrators almost as much as if it did. To ignore such indications of legislative intent, even though they may emanate only from a subcommittee chairman and are never considered by the whole house, is to invite punitive restrictions, reductions next year, and perhaps a hostile investigation in the meantime.

The House of Representatives sometimes debates appropriation bills at some length. Because the Appropriations Committee usually does not release bills and reports until just before they are taken up, the debate often focuses on individual items of interest to various members and fails to inform the House or the country about the broader issues.

The Senate's role is largely delegated to its Appropriations Committee and subcommittees. However, the Senate is traditionally the more liberal body and serves as a "court of appeals," often restoring, at least in part, funds eliminated by the House. The Senate is also more likely than the House to increase the President's requests. Bills reported out by the Appropriations Committee are usually approved quickly by the whole Senate and sent to conference.

The conference committee wields a great power over final decisions on appropriation bills. Both chambers anticipate its action—the House characteristically voting more drastic reductions than otherwise, and the Senate voting liberal increases over the House. The conference committee generally compromises on a midway figure. There is always great pressure to reach agreement promptly since appropriation bills are usually passed just before the start of the fiscal year for which funding is needed. More and more frequently in recent years, however, the appropriations committees have been so dilatory that Congress has been unable to pass the bills until well into the fiscal year, leaving the departments in great uncertainty. The situation is conducive to hasty action rather than careful deliberation.

From beginning to end, little attention is paid to the budget as a whole. The legislation that authorizes expenditure programs, which in many respects is more important in terms of the budget than appropriations legislation, is dispersed for consideration among practically all committees. The revenue budget is considered apart from the expenditure budget.

The administration is not held definitely responsible for its fiscal policies and the public is not informed. Congress, not having weighed relative needs of each program and the general financial position of the government, lacks a sound basis for allocating available resources in the national interest.

An Agenda for Budget Reform

The tremendous size of the federal budget and its importance to the national economy, the imperative need for wise management of federal finance, and the widely recognized weaknesses of the present system, will force, sooner or later, reconsideration of the entire budgetary system. A joint legislative-executive commission with representation of outstanding citizens, patterned after the Hoover Commission, should be established to consider such problems as:

1. Simplification and improvement of the budget process in the Executive branch, bringing budgeting into closer relation with program planning, accounting control, and performance evaluation.
2. Whether a separate capital or investment budget should be adopted, and if so, under what policies and limitations.
3. Whether long-term budgeting should be used for public works and permanent structures, particularly where advance planning and continuity are needed and long-range forecasting are useful.
4. Whether the budget should be placed on a basis of annual accrued expenditures.
5. Whether a consolidated appropriation act should be adopted. If a consolidated bill is to be of value, the appropriations committee must review the budget as a whole and revise subcommittee recommendations thoroughly.
6. Establishment of more effective controls over the authorization of new programs. Responsibility is now hopelessly divided among various legislative committees.
7. Methods to encourage consideration of the budget as a whole, including the relation of proposed expenditures to revenues and economic conditions and relative needs of major programs throughout the government.
8. Better coordination of the work of the appropriations and the finance (taxation) committees.
9. Whether the staffs of the appropriations committees should be increased and whether a special congressional budget staff should be created.
10. Whether the President should be granted the item veto as a safeguard against waste of public works or defense funds on unjustified projects.
11. Establishing closer, informal working relations in budgetary matters between the Executive and Congress, which would provide committees with more information on department programs and the reasons behind presidential budget decisions.
12. Establishing more effective control over finance of government corporations and business enterprises of the government.

Congressional Control through the Audit

One of the potentially strongest means of legislative control is a regular audit of financial transactions, especially expenditures of executive departments. This means is not being fully utilized by Congress. Today's auditing system—as carried out by the General Accounting Office, which was established by the Budget and Accounting Act of 1921—violates two of four generally accepted principles.

The first principle—independence of the auditor from the Executive and responsibility to the legislature—is substantially met. This function is performed by the GAO, which is headed by the Comptroller General, who is responsible to Congress.

The second principle—the auditor should not pre-audit, or take part in decisions which he audits—is violated. The Comptroller General has the power to interpret the statutes and to make final determination of all legal questions relating to the expenditure of public funds, subject only to review and being overruled by the higher federal courts. In addition, he "settles" the department accounts, and hence may disallow expenditures that he regards as unauthorized or contrary to law or his interpretation of law. The executive departments naturally tend to consult him about any new activities, programs, or expenditures before they are undertaken lest they later be faced with disallowance of expenditures. As a result, the Comptroller General takes a part in department decisions which he later audits, and his advice to the departments amounts to a pre-audit of their activities and expenditures. This tends to limit the discretion of the departments (and broaden the discretion of the Comptroller General) over many aspects of

program and procedures which the departments should control if they are to be held responsible. It also denies the Congress a subsequent truly independent audit.

The third principle—comprehensiveness, intensity, and promptness—is met in part. The Comptroller General digs both widely and deeply, sometimes getting into policy matters that should not be the business of the auditor at all. Reports are made, but often after a considerable time has elapsed and at intermittent intervals. Prompt reports on a fiscal year basis would be preferable.

The fourth principle—adequate legislative organization and procedures for supervising the auditor and acting on audit reports—is not met. Separate committees and individual members use the Comptroller General's staff for sometimes capricious purposes. There is no focal point of responsibility in either house for receiving and following up on his reports.

Congress has not looked with favor on proposals to strip the Comptroller General of his accounting and executive functions, for it regards him as its agent and ally in the conflict between the executive and legislative branches. As a result, Congress is deprived of the independent audit it needs to hold the executive departments accountable for the Comptroller General actually settles accounts, the executive agencies do not.

The legislative audit which is intended to enable Congress to exercise control over the expenditures of the departments differs fundamentally from that of the British Parliament, and also from the legislative audit found in a number of American states. In Great Britain, parliamentary control of expenditure is exercised by a Public Accounts Committee of the House of Commons, which receives, examines, and reports on the audits conducted by the Comptroller and Auditor General, an independent officer responsible to Parliament. He has no authority to disallow expenditures of the departments or to determine their legality, but can only report his findings and observations to Parliament. The Public Accounts Committee gives its attention primarily to expenditures and financial practices that are regarded by the Auditor General as wasteful or uneconomic. It carefully refrains from partisan attacks on the departments, and by long tradition its chairman is taken from the opposition party.

Legislative Veto

In the 1930's Congress experimented with a new form of control over the Executive branch—the legislative veto. President Hoover was given authority to reorganize executive departments and agencies (previously considered a legislative function), subject to the proviso that reorganization orders must be submitted to Congress sixty days before going into effect, and could be set aside by resolution of either house. Somewhat similar legislation has been in effect most of the time since, with variations as to the scope of the authority, whether vote of one house or two and what kind of

majority was required to set aside a presidential plan. This device has enabled the President and Congress to work together on executive reorganization, a subject especially suited to its use. Unfortunately, Congress has converted the device to other subjects for which it is not equally suited.

Many laws now require a President or the departments to give Congress advance notice before taking certain actions, and authorize Congress to veto them. This has applied to such diverse matters as deportation of aliens, disposal of surplus property, and the conclusion of international agreements on nuclear materials. A tighter form of legislative control gives the veto not to the whole Congress or one of its houses, but to specified House and Senate committees. This is commonly applied to construction projects or to proposed abandonment of military facilities. An even more extreme attempt has been to require the Executive branch to secure the positive agreement of the specified committees. This form of control was resisted by President Truman and President Eisenhower and is not so common now as it was several years ago. However, increasing requirements of "advance notice," with or without provisions for a committee veto, achieve much the same purpose. Given the numerous ways in which committees can enforce their will on executive agencies, this provides opportunities for individual congressmen to dictate the details of executive action.

The President should strongly resist such congressional encroachments on executive functions. He may do this by use of his veto power and by forcing a decision on the constitutionality of the committee veto before it is firmly established in practice.

Control by Investigation

Investigation as a technique of legislative oversight has greatly increased since World War II. Many investigations, even some that were highly partisan, have led to corrections of administrative abuses, but others have produced meager results.

Congressional oversight of administration is exercised by all standing committees with many areas of overlapping jurisdiction. The splintering of responsibility reduces the effectiveness of investigation and often permits departments to play one committee against another. Departments, in turn, are subjected to conflicting directives as well as excessive demands for information.

The possibility of investigation does act as a deterrent to improper action, but it also tends to cause timidness about putting innovations into effect. Investigations place a burden on departmental officers who must put aside their other duties and give almost full time to gathering information and appearing before a committee. Congress should institute more preliminary inquiries before full scale investigations are undertaken, and conduct more informal inquiries in executive session.

Investigations of administration need to be more effectively controlled by

each house, not only to prevent misuse, but to assure that inquiries are fairly controlled.

Only Congress can bring about the reforms in the investigation process that are most needed through the exercise of restraint and the establishment of more effective internal controls to keep investigations within bounds. Persons in charge should have expert knowledge of the subject and the necessary time. One solution is to provide for greater use of nonpartisan investigations. In addition, the President should be authorized, as is the governor of New York under the Moreland Act, to institute inquiries when there are charges against public officers. He would then be responsible for appointing competent persons who would command public respect to conduct inquiries under his auspices.

Conclusion

A joint committee of Congress or a joint legislative-executive commission is needed to re-examine the essential objectives and operative principles of legislative control of administration. Such a group should look closely at the various forms of control being used, and their salutary or adverse effect on executive action and responsibility. Such an inquiry could lead not only to greater understanding of legislative and administrative problems but also to increasing cooperation between the Executive branch and Congress—to the end of strengthening legislative oversight where it is needed and reducing unnecessarily hampering controls. This cooperation is essential if the federal government is to perform the tasks modern society places upon it.

United States Senate

MEMORANDUM

March 9, 1964

MEMO TO: HUBERT H. HUMPHREY
FROM: JOSEPH S. CLARK
RE: PERMISSION FOR COMMITTEES TO SIT DURING FILIBUSTER

Attached are 4 copies of draft resolution and memo on floor procedure.

Memorandum on Procedure for Resolution to Permit Committees to Sit While the Senate is in Session

Steps

1. Put in resolution and ask for immediate consideration. If there is objection it will have to lie over one legislative day.

2. Adjourn the Senate that day to ensure that there will be a new legislative day the next day with a Morning Hour; do not recess.

3. Next Morning Hour, call for the regular order under Rule VII.

4. If a motion is made to refer the resolution to the Rules Committee, move to table the motion.

Supporting Brief (See Record, October 3, 1963; especially, Page 17673):

Under the ruling of the Chair of October 3, 1963, a motion involving the meeting of a (single) committee for several days would be treated like any other resolution as far as procedure is concerned. "If objection is heard to its immediate consideration, the resolution goes over for one day and would be laid down the next legislative day after the conclusion of the morning business. If not disposed of by 2 o'clock, it would go to the Calendar when there is unfinished business subject to be brought up later on motion."

"...It would lie over one day; and if the Senate adjourned, then on the next day that the Senate met, the resolution would come up, under rule VII, for consideration by the Senate . . . ." A motion to refer the Resolution to the Committee on Rules and Administration would be in order at that time. The resolution would be debatable when it was called up on the following day, and the motion to refer to committee would be debatable.

If a Senator can get the floor, a motion to table the motion to refer to committee probably would be in order (See Watkins and Riddick, p. 571), and would not be debatable.

88th
2d

CLARK

RESOLUTION

RESOLVED, That notwithstanding the provisions of subsection 134 (c) of the Legislative Reorganization Act and the provisions of Rule XXV of the Standing Rules of the Senate, each standing committee of the Senate, including any subcommittee of any such committee, is authorized to sit while the Senate is in session and the bill entitled "An Act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes" (H. R. 7152, 88th Congress) is the pending business, or any motion to proceed to the consideration of such bill is the pending business, of the Senate.

Memorandum on Procedure for Resolution to Permit Committees to Sit While the Senate is in Session

Steps

1. Put in resolution and ask for immediate consideration. If there is objection it will have to lie over one legislative day.

2. Adjourn the Senate that day to ensure that there will be a new legislative day the next day with a Morning Hour; do not recess.

3. Next Morning Hour, call for the regular order under Rule VII.

4. If a motion is made to refer the resolution to the Rules Committee, move to table the motion.

Supporting Brief (See Record, October 3, 1963; especially, Page 17673):

Under the ruling of the Chair of October 3, 1963, a motion involving the meeting of a (single) committee for several days would be treated like any other resolution as far as procedure is concerned. "If objection is heard to its immediate consideration, the resolution goes over for one day and would be laid down the next legislative day after the conclusion of the morning business. If not disposed of by 2 o'clock, it would go to the Calendar when there is unfinished business subject to be brought up later on motion."

"...It would lie over one day; and if the Senate adjourned, then on the next day that the Senate met, the resolution would come up, under rule VII, for consideration by the Senate . . . ." A motion to refer the Resolution to the Committee on Rules and Administration would be in order at that time. The resolution would be debatable when it was called up on the following day, and the motion to refer to committee would be debatable.

If a Senator can get the floor, a motion to table the motion to refer to committee probably would be in order (See Watkins and Riddick, p. 571), and would not be debatable.

Americans for Democratic Action
1341 Connecticut Avenue, N.W.
Washington, D. C., 20036

National Board Meeting
Gramercy Inn Hotel
March 14-15, 1964

CONGRESSIONAL REFORM
A Program For National and Local Action

I. INTRODUCTION

The past twenty years have demonstrated in increasing sharpness the need to change the rules of both the U. S. Senate and the House of Representatives in order to make possible a Congress that can function efficiently. The record shows that in many areas the U.S. Congress has failed to function at all. It is tragic that under existing House and Senate rules and customs as few as one or two men can prevent decision making in our national life.

The House Rules Committee may be the most extreme example of the use of House rules to delay and obstruct legislation. By the use of his power and the rules, the Chairman of the House Rules Committee is able to delay consideration of bills until either they are killed by adjournment or modified beyond recognition in order to achieve any motion.

In the Senate -- the "greatest debating club" in the world -- the right of free uninhibited debate which in responsible hands could be a blessing, in irresponsible hands has become a tool to immobilize and even prevent action on legislation.

For example, it has been possible for one man to prevent an important proposal like medicare to come to a vote in the House of Representatives. It may indeed be true that the tools to break this kind of roadblock exist even under today's rules but the fact remains that it has been possible under the existing rules for one man to prevent action on an important social issue and indeed a major Administration proposal. If, as has sometimes been charged, "the establishment" is only using the rules as an excuse to hide their unwillingness to act on certain pieces of legislation, then this too is a reason why the rules should be changed to prevent such phony "failure" on the part of Congress to meet its responsibilities.

II. HISTORY

(Still to be written.)

III. THE PROBLEM

There are two serious problems faced in Congress. The first is the inability to achieve congressional action on important measures such as civil rights, medicare, Federal aid to education, etc.

The second major problem is the inability of the Administration to achieve a vote on its major proposals.

Closely tied to these criticisms of the operations of Congress is the seniority system of selecting committee chairmen, the enormous power in the hands of the House Rules Committee, the failure of the party caucuses to exercise leadership, and the strange fact that the Democratic majorities on important committees in both Houses of Congress generally fail to reflect liberal strength in these Houses.

The issue of congressional reform should not be put in the context of diminishing congressional power relative to Executive or Administration power. In fact, the power of Congress seen as an effective instrument of government and holding the respect of the people will be greatly increased if it is not possible for one man to stand in the way of a major social program, or a few men to bottle up the most important Administration measures, or for a few willful Senators from the South to prevent a majority of the Senate from making a decision of civil rights. On the other hand, the Administration should certainly have the right to have Congress vote on its most important measures and not be frustrated therefore in developing overall programs for the betterment of the nation.

The following section has been divided for the purpose of presentation in two parts, the first dealing with the House of Representatives and the second with the Senate. While many of their reforms are similar, the problems are frequently different. Our principal purpose is to present an overall program applicable to the work of Congress which will achieve an efficient government and a Congress responsive to the needs of the people.

IV. HOUSE OF REPRESENTATIVES

A. House Rule Changes

1. 21-Day Rule for Reporting Legislation. This reform would require the House Rules Committee to report out any bill within 21 days if requested to do so by the Committee Chairman. The Speaker of the House would be required to recognize and place on the calendar such bills.

2. 7-Day Conference Report Rule. This would give the House Rules Committee seven days to send a bill to conference after it has been passed by both the Senate and the House. Otherwise the House could, by majority vote, order the bill sent to conference.

3. Conference Committee Membership. The Speaker appoints the members of the Conference Committee. Under this reform he should be required to appoint to the Committee a substantial majority of members who had supported the legislation.

4. Discharge Petition. We propose a reduction of the number of signatures required on a discharge petition from 218 to 150. This was the procedure from 1924 to 1935. In this period only 13 petitions were filed.

5. Committee Meetings. Committee chairmen have the authority to call committee meetings. We propose, however, that in the event the chairman refuses to call a meeting a majority of the committee members can by petition force a meeting.

6. Committee Meetings and Agendas. We propose that a majority of the committee members shall have the authority to determine the agendas of the committee meetings and the right to determine the items of legislation to be considered and voted upon.

7. Temporary Chairmen. In the event of the disability of a committee chairman the temporary chairman shall be selected by the Speaker.

8. Subcommittees. The majority of the committee shall determine the various subcommittees to be established and the ground rules under which they shall operate.

9. Administration Proposals. We propose that the Administration be given the authority to designate which of its proposals are major. When such proposals are so designated (as major) the committees and the Rules Committee shall be required to report them out for a vote by the full House within six months of their presentation. But the committees shall have the right to make negative recommendations.

10. Staffing. Provisions should be made for adequate staffing for the minority party members of the House committees.

B. Party Rules Changes

1. Selection of Rules Committee Members. Democratic members of the Rules Committee are nominated by the House Ways and Means Committee. We propose that they be selected by the Speaker subject to veto by the caucus.

2. Selection of Committee Chairmen. The caucus should initially nominate three choices for committee chairmen. The Speaker may select one of the three choices.

3. Selection of Committee Members. Committee members should continue to be selected by the members of the Ways and Means Committee, but shall be subject to

approval by the caucuses of the parties. It is worth noting in this connection that the most important committees in the House -- Ways and Means, Rules, and Appropriations -- have failed to reflect the liberal majority in the Democratic caucus. It is for this reason that the Democratic caucus should be given real power in the selection of committee members.

V. SENATE

A. Senate Rules Changes

1. Rule XXII and Filibusters. Rule XXII should be changed so that after adequate debate a motion supported by 51 members of the Senate can terminate the filibuster. We must support provisions for adequate debate in the Senate, but this is not the same thing as the willful use of a filibuster to prevent the majority of the members of the Senate from coming to a decision. The right to extensive debate has always been guaranteed by the liberal proposals to curb filibusters.

2. Selection of Committee Chairmen. Committee chairmen should be selected by a majority of the members of the majority party on each committee. This will make possible effective party leadership for the handling of measures.

3. Committee Meeting Agendas. A majority of the committee members shall have the power to determine the agendas of the committee meetings and the legislation to be voted upon.

4. Administration Proposals. Committees shall be required to report out, with recommendations, legislation requested by the Administration and marked as "major." This will make possible the ending of some of the roadblocks used effectively in Congress.

5. Staffing Problems. The minority members of the various committees should have, by right, adequate staffing to represent their viewpoint.

B. Party Rule Changes

1. Selection of Committee Members. The Senate Committees of the parties that select committee members should be enlarged and should continue to select members of the committees. Their decision, however, should be subject to effective control by the majority party caucus.

VI. ACTION

A. National

1. National Office should prepare materials for use in campaigns, i.e.,

pamphlets, press releases, speakers, radio, and T.V.

2. Effort should be made to create a "Leadership Conference" for Congressional Reform. The principal purpose should be the involvement of other organizations. The labor movement will be especially interested.

3. Prepare "model" questionnaire.

4. Establish working liaison with congressional leaders.

5. Explore possibility of national conference.

B. Local.

1. Create local "Leadership Conference" with special emphasis on labor.

2. Approach candidates to give pledge to support "reform."

3. Stimulate public information programs in press, radio-T.V.

4. Speakers bureau.

5. Distribute pamphlets.

6. Explore possibility of conference.

ADA legislative newsletter

David Cohen
Legislative Representative

Second Session
88th Congress

Issue Number 10
May 8, 1964

(Approximately every two weeks we summarize events in Congress as an information service to assist you in national affairs activities. We include brief analyses of legislative proposals together with factors of timing and politics as we see them. Subscription rate is $5 per year.)

SENATE RULES REFORM

As the filibuster approaches its second month, Senator Humphrey has appropriately dubbed the United Senate "the forum of frustration." Apart from the spectacle of a minority of seventeen southern Senators determined to frustrate the will of the overwhelming majority, the filibuster provides an insight into other aspects of the arbitrary abuse of power by obstructive committee chairmen. One excellent example is provided by the refusal of the Chairman of the Senate Banking and Currency Committee to hold committee meetings. This sit-down strike by Chairman Robertson (D-Va.) has effectively blocked a major Administration proposal designed to protect consumer rights.

Robertson's Roadblock

For many years Senator Douglas, diligently and passionately, has advocated his Truth-in-Lending proposal. So effective has Senator Douglas been, that President Johnson has endorsed Truth-in-Lending as a major legislative priority in his recent consumer message to Congress. But it was the earlier work of Senator Douglas that has made this proposal a legislative possibility -- provided the Senate Banking and Currency Committee can convene for a working meeting!

During the filibuster the problem of holding a committee meeting is difficult. Under Senate rules one Senator can object to a committee hearing while the Senate is in session. Such objection usually occurs only during filibusters and paralyzes the Senate since it is in session for long hours. Even if Senator Clark's reform permitting Senate committees to meet while the Senate is in session were adopted, Senator Robertson could still prevent the Banking and Currency Committee from meeting.

Senator Robertson does not exercise such arbitrary power in a vacuum. The vested interests, which Robertson dutifully serves, are determined to kill the Truth-in-Lending bill in Committee. The reason is simple. Money lenders and credit sellers strongly oppose Truth-in-Lending. Senator Doublas's and the Administration's proposal merely calls for bringing some honesty into the business of borrowing money. It requires money lenders and credit sellers to disclose to the consumer the full cost of using credit. If enacted into law, the borrower would fully know the cost of credit in writing before he completes his transaction. This written statement would include

the total amount of his finance charges expressed as a simple annual rate of the unpaid balance. For example, a one year $500.00 loan payable in equal monthly installments would require the lender to tell the borrower what the finance charge is. If the finance charge is $30.00, then the interest rate is 12% rather than the lower figures for an interest rate which lending institutions usually advertise.

Simply put, the Douglas proposal guarantees to the borrower knowledge of the full price of his credit -- not only the dollar cost of the item bought but the interest or finance rate. In short, the Truth-in-Lending bill allows the consumer to compare simply and accurately the cost of alternative credit plans and to shop as wisely for credit as he does for other items in the family budget.

The money lending and credit selling interests, through Senator Robertson, currently exercise the veto power over the fate of Truth-in-Lending legislation. But the history of Truth-in-Lending justifies at a minimum fairer treatment. The bill was approved in mid-February by the appropriate subcommittee of the Senate Banking and Currency Committee. This action occurred after several years of hearings, including out of town hearings in major cities throughout the nation. The next logical step in the legislative process should be executive sessions of the full Banking and Currency Committee to decide whether to approve or vote down Truth-in-Lending legislation.

Senator Douglas has constantly requested a meeting of the full Banking and Currency Committee. After much delay Senator Robertson agreed to hold one meeting in late March. The meeting was scheduled for 9:30 A.M. That day the Senate convened at 10:00 A.M. Since committees may not meet while the Senate is in session, at maximum there was only a half hour for a committee meeting to discuss the bill. Naturally, it was impossible to finish the discussion in this brief period. Robertson has refused to permit any other meetings of the Committee.

The Administration also supports Senator Douglas's efforts to get a committee meeting. Mrs. Esther Peterson, Special Assistant to President Johnson for Consumer Affairs, communicated in writing to every member of the Senate Banking and Currency Committee urging support for the Truth-in-Lending. Mrs. Peterson also wrote to Robertson urging him to hold a committee meeting. This activity by the White House indicates their seriousness in pursuing enactment of the Truth-in-Lending bill this year.

Robertson stands unmoved. He believes that if a full committee had the opportunity to vote on the bill it would approve it. Once reported to the Senate, the Senate would approve it.

Robertson believes in delay for another reason. By delaying Truth-in-Lending in Committee, he effectively prevents hearings from being held in the House. The longer he delays in the Senate, the less likelihood there is of getting the House to also consider Truth-in-Lending. The appropriate House Subcommittee is reluctant to begin hearings on Truth-in-Lending unless the Senate Banking and Currency Committee approves it. Therefore the longer Robertson delays in the Senate the longer the delay in the House. Even if the House Banking and Currency Committee eventually approves Truth-in-Lending, Judge Smith can easily delay the House Rules Committee granting a rule to Truth-in-Lending in the 88th Congress.

The legislative process would have to start all over again. Meanwhile the tremendous pressure exerted by the lending institutions increases against Truth-in-Lending. Even if Robertson ultimately cannot delay the Senate from approving the bill, he will have effectively prevented the House from voting upon it and the Congress from enacting it.

Rules Reform

The need to guarantee a basic bill of rights for Congressional committees is readily apparent. The obstacles that Truth-in-Lending must overcome illustrate the results of arbitrary power constantly abused by committee chairmen. A change is necessary in the present rules of the Senate to result in limiting the powers of obstructive chairmen.

Under the present rules, chairmen of Congressional committees have the authority to prevent meetings from convening. Committee chairmen can prevent items from being placed on the agenda. They can delay and prevent votes on legislation.

Moreover the case study of this fight shows the need to modify the rules to at least encourage the choice of committee chairmen on the basis of ability and their willing= ness to act in a responsible manner, and not merely by the accident of seniority.

The proposals for Congressional reform adopted at the March 15th ADA Board meeting are particularly pertinent. Specifically there should be a committee bill of rights for committee members. The chairman of the committee should be responsible to a majority of the members pf his committee.

1. Committee chairmen should be elected by a vote of a majority of the majority party on each committee. The powers of the chairman to be arbitrary would thereby be severely limited.

2. Another necessary protection to protect majority rule will allow a majority of the full committee members from both parties to call committee meetings, if the Chairman refuses to call one.

3. A majority of the committee members from both parties should also have the authority to determine the agenda of committee meetings and the legislative items to be considered and voted upon.

4. Finally, major Administration proposals such as Truth-in-Lending should be required to come to a vote in the full Senate within six months of their presentation if they have not been reported out by an appropriate committee.

In no way does this six-months limitation preclude the right of the legislative branch to make a negative judgment about Administration proposals. The bill could be reported out of the committee unfavorably, but at least there would be a courtesy consideration of the program of the President of the United States.

The side effects of the filibuster reveal additional devices besides the filibuster to kill liberal legislation. The lack of fair play in committee prevents those who support an honest disclosure of the true interest and finance rate from having a Senate committee even consider such legislation, let alone vote upon it.

1341 CONNECTICUT AVENUE NORTHWEST
WASHINGTON, D. C. 20036 DECATUR 2-7754

AMERICANS FOR DEMOCRATIC ACTION

CONGRESSIONAL REFORM

A MANUAL DISCUSSING

RULES CHANGES NEEDED TO MAKE CONGRESS

AN EFFECTIVE, DEMOCRATIC LEGISLATIVE BODY

MAY 1964

Americans for Democratic Action
May, 1964

INTRODUCTION

More than 50 years ago a surge of Wilsonian Democrats and Insurgent Republicans sounded a battle cry against the entrenched systems of leadership and devised a series of Congressional reforms that made the legislature more responsive to the needs of its time.

Today we confront a national legislative system that revels in its apathy, delights in its dilatory tactics and flaunts its resemblance to a monstrous obstacle course.

The system has torn the flesh from programs of social reform and offered a prop of power to those legislators who find comfort in the mores and customs of the 19th century.

It has exploited the will of a majority and frustrated the men who attempt to truly represent the voters who have chosen them.

"If the people really want to restore Congress's power to vote and make it the greatest legislative body in the world -- as some members of Congress like to characterize it -- we will need tremendous efforts from outside Congress, as well as to persist on our own within Congress."

Senator Clifford Case (R-N.J.)

"The central defect of the modern Congress is that it permits a minority determined on inaction to frustrate the will of the majority which desires to act. All the majority wants to do is to work the will of the people it represents. Minority obstructionism has merely reinforced that Congressional lag which gets us into trouble.

...Congress today...exercises negative and unjust powers to which the governed, the people of the United States, have never consented. And it exercises this negative power at a time when it should be doing just the opposite: acting positively to solve the complex and difficult problems of our time. The heart of the trouble is that the power is exercised by minority, not majority, rule."

Senator Joseph S. Clark (D-Pa.)

"The United States House of Representatives does not fairly represent the American people today. Such unfair representation exists because of the methods used by House Democrats to organize their side of the standing committees. Only by adopting necessary reforms in January 1965 will the House of Representatives restore fair representation to the American people."

Congressman Richard Bolling (D-Mo.)

"Congress must regain its independent greatness. It must enact reforms that eliminate those roadblocks to action that perpetrate minority rule."

Congressman Henry Reuss (D-Wis.)

Congress and Representative Government

Every two years the United States witnesses a political confrontation between issues and men. All members of the U. S. House of Representatives and one-third of the U. S. Senate return to their constituencies, beat out their accomplishments and pledge themselves to the support of the issues that will make the homefolks happy.

This process of campaigning should produce a body of men whose legislative actions reflect the articulated concerns of the American people. Even with the exclusion of one-party districts where partisan campaigning is non-existent, the level of issue discussion that takes place every-other-November might be expected to result in a responsive Congress, a group of Representatives and Senators who are aware of the needs of the citizens who elected them.

But leaf through the pages of the Congressional Record during any recent Congressional session. See if you can find a pattern of legislative debate that expresses the will of a rapidly urbanizing nation.

Look at the roster of bills that come to the floor of either house of Congress. Are these, indeed, the crucial issues of the '60's? Congressmen and Senators finally vote on a package of proposals that has little resemblance to the national party platforms. It may contain the vague, lingering aroma of a program or two sent to Capitol Hill by the President. But even the President of the United States is unable to have the substance of his program discussed by the Congress.

A good number of bills might be considered (and even approved) by the House and the Senate, but the legislative heritage of any recent Congress is a substantive wasteland. There may be a tax bill passed . . . a college construction program approved . . . but the seemingly successful scorecard of the Congress falls far short of meeting the needs of the nation.

The illness is apparent. The past twenty years have demonstrated in increasing clarity the need to change the rules that now bind the U. S. Congress to inactivity, irresponsibility and inefficiency. Congressional reform must be achieved if this country is to meet and solve its problems.

The System . . . Does it Work?

The rules that now govern Congress - the rules that account for the tremendous power of the House Rules Committee, the deaf and dumb attitude of the Senate Judiciary Committee, unlimited debate in the Senate, and the seniority system which determines chairmanship of committees - are not to be found in the heritage of the founding fathers nor in the prescriptions of the Constitution. The rules are made by the House and the Senate for themselves . . . and can be changed (as they have in the past) at the opening of a new session.

These rules, determining the structure of government by committee, have been the tradition of the U. S. Congress. They were devised to give the 20 standing committees of the House and the 16 standing Senate committees the responsibility for presenting the full assemblage with an expert digestion of proposed legislation.

Because of the size of the Congressional bodies and the diverse interests represented within the membership, legislation cannot be written on the floor of either the Senate or the House. The bill that finds its way to discussion by the entire body rarely is accorded liberalizing provisions. Hence the measure under consideration (as reported to the floor through the committee hierarchy) usually is the substance of any legislation approved by the whole house. A strong civil rights bill reported out of committee maintains its essence through House debate. Conversely, a weak tax bill, approved by the parent committee, also receives the nod.

It is within the hands of the chairmen and the membership of the committees to determine the effectiveness of Congress. It has been said that Congressional politics is, in reality, committee politics. A national political conversation stands gagged by the present committee structure.

Bills are introduced . . . but the fate of needed legislation now pending before Congress is dark. Look at these measures and their current status:

Taxes: A majority of conservative Congressmen on the House Ways and Means Committee and the Senate Finance Committee vetoed liberalizing segments of the tax bill and retained the protections for vested interests. Thus members of both houses of the Congress were able to vote only on a completely watered-down measure and were not able to express a view on those tax proposals that would improve the economic life of our lower income citizens.

Education: In 1960 an aid to public elementary and secondary bill was approved by the Senate that included teachers salaries and school construction. The Senate Bill called for an allocation of funds based on need by State (This is called the equalizind principle) which would give poorer States more dollars per school age child than it would allocate to more prosperous ones. Since more limited legislation (calling only for construction grants without the equalizing formula) was approved by the House, the Conference Committee procedure that requires working cut a compromise between the two versions gave Rules Committee Chairman Howard Smith of Virginia an opportunity to squash the entire program. Refusing to grant a rule that would send the measure to the conference committee, Smith delayed the joint discussion until the 86th Congress adjourned. This delay automatically killed the pending legislation.

The Rules Committee itself strangled an aid program for public elementary and secondary schools in the 87th Congress. In this instance the Senate approved a strong bill - one that included aid to public elementary and secondary schools as well as special funds for teachers salaries. A similar measure was written and approved by the House Labor and Education Committee, but was not granted a rule by the Rules group. Attempting to get around the Committee's 8-7 adverse vote, Congressman Frank Thompson of the Labor and Education Committee used the Calendar Wednesday procedure to obtain floor consideration. The 24-hour debate limitation imposed by the Calendar Wednesday rule did not give the House enough leeway to consider the measure or to work out changes in its provisions. Aid to public schools was thereby defeated.

Welfare: Wars on poverty may be devised in the White House and unanimously supported by Cabinet members . . . but based on past experience the Congressional future for the program seems queasy.

Past programs, calling for expansion of coverage and increased payments within the Social Security program as well as legislation outlining federal standards for unemployment compensation, have been vetoes by the conservative Senate Finance Committee and the House Ways and Means Committee. Such legislation would have an immediate impact in alleviating the plight of many poverty stricken citizens. Refusing to report measures to the floor, the two committees have effectively emasculated needed progress in these areas.

Strong popular support for medical care legislation has meant little to the conservatives controlling the two committees. Although a hospital care program under social security may one day be passed for senior citizens, the committee members have managed to whittle the measure to a shadow of its earlier dimensions.

A 1949 proposal by President Truman calling for comprehensive health insurance for all citizens was siphoned into a 1959 Forand Bill that included only senior citizens as its beneficiaries. The present King-Anderson measure has removed surgical benefits from its parent proposal and contains only out-patient diagnostic, hospital and nursing care provisions.

Unless the composition of the House Ways and Means Committee and the Senate Finance Committee is changed, little hope is seen for the passage of any significant social welfare legislation.

Migrant Labor: An important crew registration bill - one that will take the first step toward regulation of migratory labor exploitation - was passed by the Senate. The measure is bottled up in the House Rules Committee by the illustrious Chairman of the "stop-light" committee.

Civil Rights: On November 19, 1963, a civil rights bill, written and approved by the House Judiciary Committee, was reported to the Rules Committee for a rule scheduling House debate. Determined that the House would consider the measure, a rare coalition of liberals and conservatives started a drive for a discharge petition - a method that could pry the bill from Chairman Smith's grasp. Only at the end of January 1964, when the last of 218 signatures needed for the petition were about to be supplied by conservatives who rarely sign discharge petitions, did Smith report the bill to the floor. House approval of the measure was

frustrated for more than two months - a delay of absolute uselessness - by the will of a single man.

Since jurisdiction for much of civil rights legislation lies in the Senate Judiciary Committee, chaired by Senator James Eastland of Mississippi, the Senate has been unable to consider any legislation on its own initiative. Senator Eastland's tyrannical methods have stymied the other members of the Judiciary Committee, a majority of whom favor strong and effective civil rights legislation.

When a civil rights bill is sent to the Senate after House passage, the infamous filibuster - unlimited debate - greets it. Limitation of debate comes only when two-thirds of those Senators present and voting impose cloture.

The "free speech" protections for unlimited debate achieve ridiculous proportions when a few men in the Senate can prevent the entire body from reaching a decision.

IMMIGRATION AND CITIZENSHIP: Congressmen Michael Feighan (D-Ohio), Chairman of the House Judiciary Subcommittee on Immigration, and Senator Eastland, Chairman of the Senate Judiciary Committee, are both opposed to new immigration regulations and are committed to retaining the iniquitous national origins system - the McCarran-Walter Act. The power of both Feighan and Eastland to avoid hearings on proposed bills has undermined the revised immigration program, strongly supported by Presidents Kennedy and Johnson. Their arbitrary behavior has prevented any consideration of this program by the Congress.

CONSUMER LEGISLATION: The Truth in Lending bill (calling for full disclosure to the consumer of the cost of credit) has received support from a wide base within the country. Extensive hearings have been held on the measure in the nation's major cities. The measure, supported by the President, was cleared by a subcommittee of the Senate Banking and Currency Committee. But the widespread attention given the proposed legislation has had little effect on Senator Robertson of Virginia, Chairman of the full Banking and Currency Committee.

Fearing the Committee will approve the bill, Robertson has refused to call meetings of his committee. Under present rules the members of the committee have no way of considering the legislation and resolving the issue.

District Home Rule

Legislation granting home rule to the District of Columbia - the only U. S. city governed (indeed rules) by Congress - has been approved by the Senate on five separate occasions. Presidents Kennedy and Johnson have supported Home Rule enthusiastically and both the Republican and Democratic platforms call for its enactment. The Senate has approved home rule on five separate occassions.

But the Chairman of the House District Committee, Congressman McMillan (D-S.C.) has denied the residents of the District first class citizenship by refusing to let the House District Committee discuss Home Rule legislation. He

holds on to his immense power over the District and acts as both Mayor and City Council to it as he subjects the needs of the city to his bigoted whim. There is little doubt that the House District Committee and the full House of Representatives would support Home Rule if given an opportunity to vote on the issue.

Foreign Aid

Committee chairmen can mutilate legislative proposals by delaying and pigeon-holing tactics, but arbitrary chairmen can also axe needed measure by severely cutting their funds.

Sitting as chairman of the Subcommittee on Foreign Operations of the House Approriations Committee is Congressman Otto Passman (D-La.), a man committed in principle to severe limitation of foreign aid expenditures for ec - onomic development. Cutting funds from the foreign aid appropriation by one billion dollars does not faze Mr. Passman, although it harms American foreign policy.

Because the structure of the House Appropriations Committee delegates great power to the chairmen of subcommittees, Passman's position blocks the will of 22 of the 30 Democrats on the full House Appropriations Committee who support a strong foreign aid program and oppose the subcommittee chairman's views.

Arms Control and Disarmament Agency

Last year the Arms Controll and Disarmament Agency requested a $30 million appropriation over two years; the Senate and House each appropriated fund for the Agency in the neighborhood of $20 million for two years.

Because there were some small differences between the House and Senate versions of the measure, a conference committee was set up to work out a compromise. Under present rules, the members of the conference committee are under no obligation to reflect the majority decision of either house in their quest for "compromise."

The conferees approved a $7½ million appropriation for only one year - a program substantially less than the stipend okayed by both bodies of the Congress. The pressures exerted by Senator John McClellan (D_Ark) within the conference Committee left the Agency without sufficient funds to develop research projects directed toward effective, enforced arms control and disarmament measures and the easing of world tensions.

Congress: A Hill of Obstacles

While the country cries out for leadership and searches for solutions to the continuing crises of the '60's, the Congress of the United States has used its energies and brainpower to perpetuate a program of anti-legislation. The Congress has proven itself to be powerful enough to devise methods to paralyze action . . . but pleads impotency when called upon to move.

Unless action is taken to assure rules changes when the 89th Congress convenes in January 1965, a system of bondage and irresponsibility (with its blind acceptance of feudal seniority rules) will continue.

Rules: Abuse Not Use

Originally envisioned to fill the stop-light function of regulating the flow of legislation to the House of Representatives, the House Rules Committee has become an obstacle course with a tradition and power that dangles the nation's future before it.

The will of a single man - the Chairman of the Rules Committee -- is rarely broken and he, in effect, acts as king of the lower house.

It is a luxury for the House of Representatives to debate measures opposed by the Chairman of the Rules Committee. The procedural rules available to the membership that allow a measure opposed by the Rules chief or his committee to be brought to the floor, are really fictional substitutes for regulated debate. The process of calling legislation on Calendar Wednesday limits debate to 24 hours and excludes consideration of legitimately controversial issues. The 24-hour time limit is further pared by use of procedural tricks (i.e., frequent quorum calls) by opponents of the measure.

The procedural stipulations to suspend the rules are even more limiting. Two-thirds of the House must initially agree to call for the suspension and if this expansive agreement is obtained, the House is given only one hour to consider the legislation.

The discharge petition regulation stipulates that 218 members of the House - an absolute majority - must affix their signatures to the prying procedure. This method requires more votes than are normally needed to pass a piece of legislation in the regular transaction of House business.

The Senate, frustrated by conservative committee chairmen and haunted by the threat of a filibuster, has-little chance to consider the substance of legislative proposals opposed by the controlling minority (or, as Senator Joseph S. Clark has called it, The Establishment). A few men effectively manipulate the majority party machinery and exclude their intra-party opposition through organization of the committee framework.

The threat of a filibuster hangs over Senate debate. A Senate colloquy, between two champions of rules reform, Senators Joseph S. Clark (D-Pa.) and Paul Douglas (D_Ill.) demonstrates the power wielded by the Southern minority through its threat to filibuster:

> "Mr. Douglas. Does not this indicate that a filibuster does <u>not</u> have to be exercised in order to be effective?

'Mr. Clark, I think the saying is that we in the Senate legislate under the shadow of a filibuster which rarely comes out of the shade."

"Mr. Douglas. In other words, the threat of filibuster can be, and frequently is, as effective as a filibuster itself, either in forcing a compromise which the majority would not want to agree to, or in defeating a proposal."

The entrenched procedures in both Houses of the U.S. Congress have thrown a wrench into the mechanical wheels of federal government, gumming up the internal functioning of the legislative branch.

A Congress that refuses to represent the citizens - refuses to consider the expressed interests of the voters - abandons its functions to the other two branches of the system. By its self-inflicted paralysis, Congress has corrupted the legislative process which is essential to the constitutional principle of checks and balances.

Continually complaining about the heavy hand of the President, Congressmen and Senators themselves have created the necessity for a Chief Executive to devise and employ all possible tactics to get legislation considered. A President's program always deserves critical scrutiny . . . but scrutiny by majority rule with discussion by a representative group of legislators within the committee structure.

A Program

A more effective Congress requires changes in two general areas of procedure. One represents the rules under which the two houses operate - reforms that may be considered by the House and the Senate only on their opening days. The second involves a problem area most applicable to the Democratic Party - the party caucus procedure that determines the method of selecting committee chairmen and committee members.

Reform through rules changes and by democratizing the party caucus are essential. Both reform should be viewed as part of a total program of congressional reform.

House of Representatives

Rules Changes

1. Twenty-One Day Rule for Reporting Legislation - This rule reform would stipulate that after a bill is approved by a committee and sent to the Rules Committee for scheduling floor debate, the chairman of the bill's parent committee (or the senior committee member favoring the bill if the chairman opposes it) may request that the Rules Committee report out the measure within 21 days. After the Rules Committee report is made, the Speaker of the House would be required to recognize and place such bills on the calendar. This procedure would give further opportunity for House consideration of measures approved by committees who have spent time and thought in hearings and debate.

The 21-day rule was instituted in 1949 and worked successfully in the House through 1951. At that time, the entrance of new Republican conservative strength in the House created a coalition with the Southern Democrats and brought about the repeal of the democratizing procedure.

2. Seven-Day Conference Report Rule - A procedure affecting accommodation between different versions of legislation passed by the House and the Senate would give the House Rules Committee a time limit of seven days to send the bill to the joint conference. If the Rules Committee failed to act, the House by majority vote could order the bill sent to conference.

This reform would give both the House and Senate a legitimate opportunity to resolve differences between their measures.

3. Conference Committee Membership - Instead of leaving the composition of the conference committee delegation to happenchance, this procedure would require that the Speaker of the House appoint to the conference committee a majority of members who supported the legislation. This method would limit the possibility of frustrating approval of legislation at a crucial procedural step.

4. Discharge Petition - Lowering the number of signatures required on discharge petition from 218 to 150 would give an opportunity (when all other methods are not availabe) to bring to the floor a measure supported by a substantial number of congressmen. The reduction in signatures diminishes the ability of the Rules Committee Chairman, or any other Chairman to obstruct legislation. From 1924 to 1935 when the discharge petition required 50 signatures, only 13 petitions were filed. On the basis of this past experience it is evident that the discharge petition will be utilized only when all methods within the committee structure fail.

a. Meetings - In the event the chairman of a committee refuses to call a meeting, this procedure provides a method by which majority of the committee members could hold a meeting.

b. Agendas - A majority of the committee members would have the authority to determine the agendas of the committee meetings and the right to determine the items of legislation to be considered and voted upon.

c. Temporary Chairmen - In the event of the disability of a committee chairmen, the Speaker would select a temporary chairman to allow continued deliberations of the committee.

d. Subcommittees - The majority of the committee would determine the various subcommittees to be established and the ground rules under which they would operate.

e. Staffing - Provision would be made to assure adequate staffing for the minority party members of the committees.

6. Administration Proposals - The Administration would be given the authority to designate its major proposals out of its entire program. The committees and the Rules Committee would be required to report out these major programs for a vote by the full House within six months of their presentation. Still safeguarding the right of the legislature to make a negative judgment about Executive recommendations, this procedure provides for at least courtesy consideration of the program of the President of the United States.

Party Rules Changes in the House

The most important committees in the House - Ways and Means, Rules, and Appropriations - fail to reflect the liberal majority of the Democratic caucus. The Republican insist on conservative representation on these powerful committees: out of a total of 35 Republicans on Appropriations, Rules and Ways an Means only one is a liberal. Hence the conservative and reactionary Democrats team up with conservative and reactionary Republicans to perpetuate their outmoded ideas. The following reforms of Democratic Party rules would give the Democratic House members in their caucus real power in the selection of committee members:

1. Selection of Rules Committee Members - Instead of the House Ways and Means Committee nominating Democratic members of the Rules Committee, they would be selected by the Speaker subject to veto by the caucus.

2. Selection ofCommittee Chairmen - The caucus would initially nominate three choices for committee chairman and the Speaker would select one of the three choices. Although the caucus might consider seniority a valid factor in its choice of nominees, this system would alleviate complete reliance on the seniority system and take ability into consideration. Committee chairmen would be more responsive to the party's majority viewpoint.

3. Selection of Committee Members - Assignment of committee members would be subject to veto by the caucuses of the parties.

The Senate

Rules Changes

1. Rule XXII - The Filibuster: Still safeguarding provisions for adequate debate in the Senate, this change would stipulate that a motion supported by 51 members of the Senate (a majority) would terminate a filibuster. The proposed modification (cloture now requires support by two-thirds of the Senators present and voting) would maintain the right to extensive debate but would structure the rules to diminish the affect of a threatened filibuster.

2. Administration Proposals: As in the change suggested for the House, this reform would give the Administration the authority to designate its major proposals out of its entire program. The committees would be required to report out these major programs for a vote by the full Senate within six months of their presentation with the right to affirmative or negative judgement.

3. Committee Bill of Rights

a. Chairman: The chairman would be selected by a vote of the members of the majority party on each committee. In this way the chairman would be the acknowledged leader of the committee, not merely handed the job because of the seniority of his service. The tradition of an arbitrary chairman, wielding despotic powers, would be broken.

b. Meetings: In the event the chairman of a committee refuses to call a meeting, this procedure provides a method by which a majority of the committee members could hold a meeting.

c. Agendas: A majority of the committee members would have the authority to determine the agendas of the committee meetings and the right to determine the items of legislation to be considered and voted on.

d. Subcommittees: The majority of the committee would determine the various subcommittees to be established and the ground rules under which they would operate.

e. Temporary Chairmen: In the event of the disability of a committee chairman, the Majority Leader would select a temporary chairman to allow continued deliberations of the committee.

f. Committee Meetings: Senate committees should be permitted to meet while the Senate is in session. Under the current rules one Senator can object to Senate committee meeting once the Senate has begun discussing its pending business. This obstruction to committee meetings unnecessarily blocks an essential part of the legislative process and is often used by filibustering Senators to further undermine majority rule in the Senate.

g. Staffing: Provision would be made to assure adequate staffing for the minority party members of the committee.

unnecessarily blocks an essential part of the legislative process and is often used by filibustering Senators to further undermine majority rule in the Senate.

8. Staffing: Provision would be made to assure adequate staffing for the minority party members of the committee.

Party Rules Changes in the Senate

Selection of Committee Members

The Democratic Steering Committee and the Republican Committee on Committees - the groups that make committee assignments - are non-legislative bodies that can determine the fate of an entire Congressional session.

The Republican Committee reflects the Republican composition in the Senate - the party's liberal contingent, though a minority, is represented on the committee.

The Democratic Committee, however, gives undue influence to the conservatives of the party. The committee includes nine conservatives and six liberals although the Senate Democratic Party is predominantly liberal. Of the 17 members on the committee, seven are from the South while other areas of the country are either underrepresented or misrepresented.

There is real need for a representative Steering Committee - one that can have its decisions subject to control by the Democratic caucus. Recent decisions by the Steering Committee have acted to retain conservative control of key committees by denying senior liberal Senators (particularly those who have voted against The Establishment on Rule 22) the committee assignments of their choice. In one instance seven of eight Southern Senators received their first choice of committee assignments. Of the fourteen Senators who voted to end the filibuster, only five received their committee choice.

Although the Senate Committees of each party would continue to select members of the standing committees, this reform would make these improvements.

1. The Democratic Steering Committee and the Republican Committee on Committees would reflect the composition of their respective parties.

2. The decision of the Steering Committee(and thereby the composition of the standing committee) would be subject to the approval or veto of the party caucuses.

What to do . . . Deadline: January 1965

If the 89th Congress convening in January 1965 is to be effective and make a break in the tradition of reaction and inaction, you must act now!

Congressional rule changes may only be introduced and considered at the start of a new session. Support must be mustered for the reforms before a new Congress meets.

This is an either/or proposition: either the House and Senate vote for rule changes at the beginning of the 89th Congress or the legislative branch of the government continues to frustrate the will of the electorate for two more years.

Only by securing commitment to the proposed changes from Congressional candidates in the November 1964 election, will the effort be effective. CONCERNED CITIZENS MUST MAKE CONGRESSIONAL REFORM AN ISSUE IN ALL NATIONAL LEGISLATIVE CONTESTS.

Support for the Program:

Support for this program must be developed on all levels. It should concentrate on local citizen groups who respond to good government arguments as well as on those organizations and individuals who favor particular pieces of legislation blocked or emasculated by the present Congressional system.

The ineptness of Congress and its absolute refusal to do its job should be a matter of concern to organizations who find similar fault with corruption in local government. Whether or not one agrees with a specific legislative proposal, most citizens want the Congress to fill its constitutional functions. Local organizations such as the League of Women Voters, business and civic groups are usually concerned about greasing the mechanical wheels of government.

Labor, welfare, education, civil rights, and other groups generallly found within the liberal coalition, should give support on the basis of the programs chopped to bits by recent Congresses. The labor movement, through local AFL-CIO Councils or particular unions, should be especially interested in this drive.

Your own evaluation of the community will allow you to determine whether it is feasible to develop a local coordinating group for pushing Congressional reform. The issue, however, must be brought to the attention of the public through all means possible: meetings with prominent speakers, the stimulation of coverage in the press, radio and television, and distribution of materials. Recently published books that deal with the need for reform include:

The Senate Establishment
by Senator Joseph S. Clark; published by Hill and Wang

The Sapless Branch
by Senator Joseph S. Clark; published by Harper and Row

The Critical Decade
by Congressman Henry S. Reuss; published by McGraw-Hill

Obstacle Course on Capitol Hill
by Robert Bendiner; published by McGraw-Hill

Congressional Candidates

Immediately after the primary contests (or as soon as possible) candidates from both parties must be approached with a request for support of the reform program. The attached questionnaires can be sent to the candidates for House and Senate seats and the results of the query published. But unless the community is aware of the importance of the program, neither the candidate nor the public will express interest in the questions.

Congressional Reform is the major program for ADA in 1964

National attention will be focused on the issue through all facilities available to the national office. But the success or failure of the program depends on local planning and interest.

An effective 89th Congress is possible . . . the result in January 1965 is up to you.

An Agenda:

1. Call a meeting of a few people within your ADA chapter who can sit down and evaluate the local situation. Attempt to determine what forces might be for congressional reform and those who will probably be opposed.

2. After the initial meeting, develop an outline of the kind of campaign that would be most successful in your community. You may decide that ADA alone should draw the first public attention to the drive or that a committee of influencial citizens should initially begin the program.

3. Determine whether a leadership conference on congressional reform is organizationally feasible or whether ADA (or a special group) should attempt to contact community organizations on an ad hoc basis.

We would suggest you contact local branches of the following groups - all of them have been interested in some piece of legislation that has been stymied or killed by the present congressional system:

Amalgamated Meat Cutters and Butcher Workmen
American Civil Liberties Union
American Ethical Union
AFL-CIO
American Jewish Committee
American Jewish Congress
American Newspaper Guild
American Veterans Committee
Anti-Defamation League of B'nai B'rith
B'nai B'rith Women
Brotherhood of Sleeping Car Porters
Catholic Interracial Council
Christian Family Movement
Christian Methodist Episcopal Church
Church of the Brethren Service Commission
Citizens' Lobby for Freedom and Fair Play
Congress of Racial Equality
Council for Christian Social Action-United Church of Christ
Hadassah
Hotel, Restaurant Employees & Bartenders International Union
Improved Benevolent & Protective Order of Elks of the World
Industrial Union Department, AFL-CIO
International Ladies Garment Workers Union of America
International Union of Electrical, Radio & Machine Workers
Japanese American Citizens League
Jewish Labor Committee
Jewish War Veterans
Labor Zionist Organization of America

cont.

League of Women Voters
National Alliance of Postal Employees
National Association for the Advancement of Colored People
National Association of Colored Women's Clubs, Inc.
National Association of Negro Business & Professional Women's Clubs, Inc.
National Association Real Estate Brokers, Inc.
National Baptist Convention, USA
National Bar Association
National Catholic Social Action Conference
National Catholic Conference for Interracial Justice
National Community Relations Advisory Council
National Council of Catholic Men
National Council of Catholic Women
National Council of Churches-Commission on Religion and Race
National Council of Jewish Women
National Council of Negro Women
National Farmers Union
National Medical Association
National Newspaper Publishers Association
National Student Christian Federation
National Urban League
Negro American Labor Council
North American Federation of the Third Order of St. Francis
Pioneer Women
Presbyterian Interracial Council
Retail, Wholesale & Department Store Union
Southern Christian Leadership Conference
State, County, Municipal Employees
Student Nonviolent Coordinating Committee
Textile Workers Union of America
Transport Workers Union of America
Union of American Hebrew Congregations
Unitarian Universalist Association-Commission on Religion and Race
Unitarian Universalist Fellowship for Social Justice
United Automobile Workers of America
United Church Women
United Hebrew Trades
United Packinghouse, Food & Allied Workers
United Rubber Workers
United Steelworkers of America
United Synagogue of America
United Transport Service Employees of America
Women's International League for Peace and Freedom
Workers Defense League
Workmen's Circle
Young Women's Christian Association of the U.S.A.

4. List all forms of mass media in the community and devise methods of contacting them. Contact television and radio public affairs shows and interview programs. You may want to invite the program directors of radio and television stations to a meeting or arrange an off-the-record press briefing that would explain the campaign.

Call on editorial staffs for the local newspapers and provide them with copies of material on congressional reform. Encourage a campaign of letters-to-the editor.

Make sure that the mass media are told about all meetings, debates or conferences.

5. Arrange a speakers bureau that will offer a speaker to every conceivable group. (The earlier you begin this speakers bureau, the more likely you are to be scheduled in the regular fall programs of organizations. ORGANIZATIONS ARE USUALLY LOOKING FOR PROGRAM IDEAS!

Try to arrange a public debate between proponents of the reforms and those who oppose them. A debate between two candidates who stand on opposing sides ofthe issue can be particularly effective and newsworthy.

6. Arrange an area-wide or state-wide conference on congressional reform. This meeting may be sponsored by ADA or jointly by other interested organizations. The national ADA office will be glad to help arrange for speakers and information for such a meeting.

7. Try to get all candidates for the U. S.Senate and the U.S. House of Representatives committed to the program. (See the attached questionnaires). Try to get a delegation to call on all candidates personnally. New candidates for office would be especially susceptible to the reforms - you may be offering them a new issue on which to campaign.

Publicize the candidates' meaningful answers to the questionnaire.

8. Offer literature on congressional reform to all community groups. The ADA national office will have information available - feel free to call them if you have any questions.

Remember: This campaign must be waged against an absolute deadline. January 1965 is not far away.

QUESTIONNAIRE TO CANDIDATES FOR THE U. S. HOUSE OF REPRESENTATIVES

1. Will you support a 21-day rule for reporting legislation which would require the House Rules Committee to report out any bill approved by a House committee within 21 days if requested to do so by theCommittee Chairman (or the senior committee member favoring the bill if the Chairman opposes it)? The Speaker of the House would be required to recognize and place such bills on the calendar.

YES_____ NO_____

2. Will you support a 7-day conference report rule that would give the House Rules Committee seven days to send a bill to conference after it has been passed by both the Senate and the House? Otherwise the House could, by majority vote, order the bill sent to conference.

YES_____ NO_____

3. Will you support a rules change permitting the Administration to designate which of its proposals are major, and requiring the committees and the Rules Committee to report these major items out for a vote by the full House within six months of their presentation? (This maintains the right of the committees to make negative recommendations).

YES_____ NO_____

4. Will you support a rules change that reduces the number of signatures required on a discharge petition from 218 to 150?

YES_____ NO_____

5. Will you support a rules change that permits a majority of the committee members to call a meeting by petition if the chairman refuses to call a meeting after a reasonable period?

YES_____ NO_____

6. Will you support a rules change that requires the Speaker to appoint a majority of members who supported the particular legislation to the Conference Committee?

YES_____ NO_____

7. Will you support a rules change that the majority of the Committee shall determine the various subcommittees to be established and the ground rules under which they shall operate?

YES_____ NO_____

8. Will you support a rules change that authorizes a majority of the committee members to determine the agendas of the committee meetings and the right to determine the items of legislation to be considereed and voted on?

YES_____ NO_____

9. Will you support a rules change to have the Speaker select a temporary committee chairman in the event of the disability of the permanent committee chairman?

YES_____ NO_____

cont.
(Questionnaire to Candidates for the U.S. House of Representatives)

10. Will you support a rules change for adequate staffing for the minority party members of the House committees?

YES_____ NO_____

QUESTIONNAIRE TO CANDIDATES FOR U. S. SENATE

1. Do you support a change in Rule XXII so that after adequate and thorough debate a motion supported by 51 members of the Senate can bring the issue to a vote?

YES_____ NO_____

2. Will you support a rules change to select committee chairmen by a majority of the members of the majority party on each committee?

YES_____ NO_____

3. Will you support a rules change permitting the Administration to designate which of its proposals are major and requiring the committees to report out these major items for a vote by the full Senate within six months of their presentation? (This maintains the committees' right to recommend that the Administration's proposal should be defeated.)

YES_____ NO_____

4. Will you support a rules change that permits a majority of the committee members to call a meeting by petition if the chairman refuses to call a meeting after a reasonable period?

YES_____ NO_____

5. Will you support a rules change giving a majority of the committee members the power to determine the agendas of the committee meetings and the legislation to be voted on?

YES_____ NO_____

6. Will you support a rules change that the majority of the Committee shall determine the various subcommittees to be established and the ground rules under which they shall operate?

YES_____ NO_____

7. Will you support a rules change to have the Majority Leader select a temporary committee chairman in the event of the disability of the permanent committee chairman?

YES_____ NO_____

8. Will you support a rules change for adequate staffing for the minority party members of the Senate committees?

YES_____ NO_____

cont.
(Questionnaire to Candidates for U. S. Senate)

9. Will you support a rules change permitting a majority of the Senate to decide whether a Senate legislative committee may sit while the Senate considers its pending business?

YES_____ NO_____

10. Will you support a rules change that requires the Spea er to appoint a majority of members who supported the particular legislation to the Conference Committee?

YES_____ NO_____

11. Will you support proposals in your party caucus to assure that action of the committee that selects members to the legislative committees is responsive to the majority of each party's caucus?

YES_____ NO_____

ADDITIONAL QUESTIONS - DEMOCRATIC CANDIDATES
FOR THE U. S. HOUSE OF REPRESENTATIVES

1. Will you support a motion in the Democratic caucus that Democratic members of the Rules Committee should be selected by the Speaker and subject to veto by the Democratic caucus?

YES_____ NO_____

2. Would you support a motion in the Democratic caucus that the caucus would nominate three choices for committee chairmen and the Speaker would select one of the three choices?

YES_____ NO_____

3. Will you support a motion in the Democratic caucus that will give effective power to the Democratic caucus to approve committee assignments?

YES_____ NO_____

June 20, 1964

SENATE LEGISLATIVE ACTIVITY THROUGH JUNE 19, 1964

Senate Democratic Policy Committee
88th Congress - 2nd Session

The tally sheet so far --

Senate activity . . . . . 2nd Session of 88th Congress

Days in session	119
Hours in session	935:38
Total measures passed	263
Confirmations	31,080
Treaties ratified	6
Public laws	62

Following is a brief review, by subject, of some of the measures acted on, including Presidential recommendations (PR).

AGRICULTURE

Agriculture Act of 1964: Enacted a bill proposing a new 2-year cotton program with producers receiving three different price supports (24, 30, up to 34.5¢ a lb.) and domestic textile mills receiving an 8.5¢ subsidy on purchase of domestic cotton, and a 2-year wheat certificate program with price supports at about $2 a bushel for domestic consumption and $1.55 for export. PL 88-297. (PR)

Food Marketing Commission: Established a 15-member bipartisan Commission on Food Marketing - 5 members from the Senate, 5 from the House, and 5 appointed by the President from outside the Federal Government. The Commission is to investigate and document the changing structure of the marketing system for farm and food products, make recommendations and submit a final report to Congress and the President by July 1, 1965. Authorizes $1.5 million for operational expenses. S. J. Res. 71. PL 88- (PR)

Pesticide Registration: Requires registration and Department of Agriculture approval of pesticides before they can be sold to the public. PL 88-305. (PR)

Rice Transfer: Permits a rice producer permanently withdrawing from rice production to transfer his history without transferring his land. PL 88-261.

APPROPRIATIONS

Approved $289,688,000 to combat mental retardation, for impacted school districts, NDEA scholarships and operation of Mexican farm labor program. PL 88-268. (PR)

Approved $42 million for Department of Labor to pay to States for unemployment compensation for Federal employees and ex-servicemen. PL 88-295. (PR)

Approved $50 million to replenish relief fund for Alaskan earthquake disaster. PL 88-296. (PR)

Approved $1,336,687,143 in deficiency funds for 1964. PL 88-317. (PR)

CIVIL RIGHTS

Civil Rights Act of 1964: Enforces the constitutional right to vote, confers jurisdiction on the U.S. district courts to provide injunctive relief against discrimination in public accommodations, authorizes the Attorney General to institute suits to protect constitutional rights in public facilities and public education, extends the Commission on Civil Rights for 4 years, prevents discrimination in federally assisted programs, and establishes a Commission on Equal Employment Opportunity. HR 7152 P/S amended 6/19. (PR)

COMMERCE & TRANSPORTATION

Coast and Geodetic Survey: Authorizes the appointment of the Director and Deputy Director of the Coast and Geodetic Survey from civilian life, with the restriction that both positions not be filled simultaneously by either officers or civilians. S. 1004 P/S 6/1.

Coast Guard Authorization: Authorizes $93,299,000 for Coast Guard for new ships, helicopters and construction for fiscal 1965. PL 88-281. (PR)

Delaware River Port Authority Compact: Extends the powers of the present Delaware River Port Authority compact to include additional bridges and ferries within the provisions of the compact. PL 88-320.

Federal Airport Extension: Extends the Federal aid to airport program for 3 years, from June 30, 1964 to June 30, 1967. PL 88-280. (PR)

Highway Traffic Safety Compacts: Includes the District of Columbia within the provisions of a 1958 joint resolution authorizing interstate traffic safety compacts. S. 2318 P/S 6/19.

Vessel Construction: Authorized reimbursement for certain vessel construction expenses. HR 82. Conference report filed 5/19.

Withhold Tax - Salaries: Exempts the wages and salary of certain employees of regulated interstate transportation carriers from withholding tax requirements of States and local subdivisions, unless it is the employee's residence. S. 1719 P/S 6/19.

COMMUNICATIONS

Alien Radio Operators: Amends provisions of the Federal Communications Act of 1934 dealing with operators and station licenses to permit the FCC to authorize alien amateur radio operators to operate their amateur radio stations in the U.S., its possessions, and Puerto Rico, provided there is in effect a bilateral agreement between the U.S. and the alien's government on a reciprocal basis. PL 88-313.

Communications Act - Petitions: Requires that petitions for intervention in hearings for a broadcasting license be filed with the Federal Communications Commission within 30 days after publication of the issues in the Federal Register. PL 88-306.

Communications - Nonbroadcast Operations: Authorizes the Federal Communications Commission to grant special temporary authorizations for 60 days in those cases where an application for a special temporary authorization is filed pending filing an application for regular operation. PL 88-307.

DEFENSE & MILITARY

Academy Cadets: Raises authorized strength of cadet corps of U.S. Military and Air Force Academies. PL 88-276.

Military Procurement: Authorizes a total of $16,976,620,000 for the procurement of aircraft, missiles, and naval vessels, and for research, development, test, and evaluation for the Armed Forces for fiscal 1965. PL 88-288. (PR)

Naval Air Station, Pensacola: Approved a resolution commemorating the golden anniversary of the Naval Air Station, Pensacola, Florida, and authorizing the design and manufacture of a galvano in commemoration of this significant event. PL 88-318.

Surplus Cadmium: Authorizes defense stockpile officials to sell 5 million pounds of surplus cadmium, a soft metal needed by the domestic electroplating industry. PL 88-319.

DISTRICT OF COLUMBIA

Commercial Redevelopment: Amends the District of Columbia Redevelopment Act to provide clear legislative authority for the use of the urban renewal process in redevelopment of commercial areas within the District of Columbia, as well as residential areas, to which it is presently restricted. This bill brings the law of the District of Columbia in line with that of other major cities in the country by permitting it to conduct redevelopment activities in commercial as well as residential areas. S. 628 P/S 7/16/63. H. Cal.

EDUCATION

Library Services Act: Amends the Library Services Act to increase Federal aid for expanding public library improvements to urban as well as rural areas and to authorize matching grants for construction of public library services. PL 88-269. (PR)

FEDERAL EMPLOYEES

Federal Employees' Health Benefits: Amends the Federal Employees Health Benefits Act to remove certain inequities and to improve the administration of the Act. PL 88-284.

GENERAL ECONOMY

Alumina and Bauxite: Extends to July 16, 1966, the suspension of duty on alumina when imported for use in producing aluminum, and on bauxite ore and calcined bauxite. HR 9311 P/S amended 6/19.

Aviation Exports: Provides that aircraft engines, propellers, and parts and accessories may be imported into the U.S. for purposes of repair duty free if they are subsequently removed as part of an aircraft departing the U.S. in international air traffic. HR 1608. PL 88-

Coffee: Provides for free importation of soluble or instant coffee by removing the present duty requirements of 3¢ a pound. HR 4198. PL 88-

Copying Shoe Lathes: Continues to June 30, 1966, existing law suspending duty on copying lathes used for making rough or finished shoe lasts. HR 10468. PL 88-

Dependent Children - Care: Extends to June 30, 1967, existing law permitting the responsibility for placement and foster care of dependent children under the program of aid and services to needy families with children to be exercised by a public agency other than the agency which regularly administers this program. HR 9688. PL 88-

Federal Credit Union: Amends the Federal Credit Union Act to allow federal credit unions greater flexibility in their organization and operations. HR 8459. PL 88-

Magnanese Ore: Suspends until June 30, 1967, the import duty on manganese ore, including ferruginous manganese ore, and manfaniferous ore, containing over 10% by weight of manganese. HR 7480. PL 88-

Metal Scrap: Continues to June 30, 1965, the existing suspension of duties on metal waste and scrap, and the existing reduction of duties on copper waste and scrap. HR 10463. PL 88-

National Bank Loans: Amends section 24 of the Federal Reserve Act to liberalize the conditions of loans by national banks on forest tracts. HR 8230. PL 88-

Particleboard - Tariff Classification: Provides a uniform treatment for duty purposes of wood particleboard entered or withdrawn from warehouse for consumption after July 11, 1957, and before August 31, 1963, at the rate of 5% ad valorem if not excluded from classification by reason of any specified processing. HR 8975. PL 88-

(cont'd)

GENERAL ECONOMY - cont'd)

Personal Household Effects: Extends to June 30, 1966 existing provisions of law permitting free importation of personal and household effects brought into the U.S. under Government orders. HR 10465. PL 88-

Tobacco Products - Tariff Regulations: Prevents double taxation of certain tobacco products exported and returned unchanged to the U.S. for delivery to a manufacturer's bonded factory. HR 8268. PL 88-

Wools: Provides for duty-free treatment of Karakul wools and certain other coarse wools imported for use in the manufacture of pressed felt for polishing plate and mirror glass. HR 2652. PL 88-

GENERAL GOVERNMENT

Kennedy Art Center: Renames the National Cultural Center the John F. Kennedy Center for the Performing Arts and authorizes Federal participation in its financing. PL 88-260. (PR)

Metropolitan Planning: Provides for more effective use of Federal loans or grants for urban renewal, open-space projects, construction of hospitals, airports, water supply and distribution facilities, highways, etc., by encouraging better coordinated local review of state and local applications. S. 855 P/S 1/23.

Post Office Leases: Extends to 12/31/66 the authority of the Postmaster General to enter into negotiated leases of real property for periods not exceeding thirty years. HR 9653 P/S amended 6/19.

Puerto Rico: Establishes a Commission to recommend procedures for settlement of political status of Puerto Rico. PL 88-271.

Robert S. Kerr Research Center: Designates the Southwest Regional Water Laboratory of HEW at Ada, Oklahoma as the Robert S. Kerr Water Research Center. H. Con. Res. 189 P/H 3/16/64. P/S 6/19/64.

INDIANS

Displaced Senecas: Authorized $9,126,550 in compensation for New York's Seneca Indians as damages and rehabilitation funds for construction of the Allegheny River dam and reservoir which will flood much of their Allegany reservation. The dam is located at Kinzua, Pa. HR 1794 - in conference.

INTERNATIONAL

Chamizal Treaty - Implementation: Authorizes $44.9 million to implement the Convention on the Chamizal for the acquisition of lands to be transferred to Mexico and to make possible the relocation of the channel of the Rio Grande and other required relocations. PL 88-300. (PR)

Foreign Fishing: Prohibits fishing in territorial waters of the U.S. and certain other areas by persons other than U.S. nationals or inhabitants. PL 88-308.

Foreign Service Annuities: Provides reduced annuities under the Foreign Service retirement program for service which terminated prior to October 16, 1960, to provide an annuity for a surviving widow. Sets the annuity at not less than $2,400. S. 745 P/S 1/28/64.

Inter-American Development Bank: Increased by $50 million U.S. participation in Inter-American Development Bank. PL 88-259. (PR)

International Development Association: Authorized the U.S. Governor of the International Development Association to vote for an overall increase in the resources of the Association. PL 88-310. (PR)

(cont'd)

INTERNATIONAL - cont'd)

Mexican Independence: Provided for the presentation by the U.S. of a statue of Lincoln to Mexico commemorating the anniversary of its independence. S. 944 P/S 2/27/64.

Peace Corps Authorization: Authorizes a fiscal 1965 appropriation of $115 million for Peace Corps activities, thus making it possible for the Corps to finance 14,000 volunteers through the summer of 1965. PL 88-285. (PR)

Sea Level Canal Study: Authorized the President to appoint a 7-member Commission including the Secretary of State, the Secretary of Army, and the Chairman of the U.S. Atomic Energy Commission, to conduct an investigation and study to determine the feasibility of, and the most suitable site for, construction of a sea level canal connecting the Atlantic and Pacific Oceans, and the best means to effect its construction, whether by conventional or nuclear means. Findings to be reported to Congress by 1/31/66. S. 2701 P/S 3/30/64. (PR)

South Pacific Commission: Increases U.S. contribution to operations of the South Pacific Commission, whose jurisdiction includes American Samoa, Guam, and Trust Territories. PL 88-263.

TREATIES:

Austrian Assets Convention: Ratified an agreement providing for the return of certain Austrian property located in the U.S. and vested during World War II by the Alien Property Custodian under the Trading with the Enemy Act, amounting to approximately $450,000. 2/25/64. (PR)

International Sugar Agreement - protocol: Ratified a 2-year extension (to 12/31/65) of the organizational provisions of the International Sugar Agreement of 1958. 1/30/64. (PR)

Lights in the Red Sea Treaty: Ratified an agreement to share the expenses of maintaining two lighthouses on the Red Sea Islands of Abu Ail and Jabal at Tair. 2/25/64. (PR)

North Pacific Fur Seals Convention - protocol: Ratified the protocol amending the interim convention on conservation of North Pacific fur seals. 1/30/64. (PR)

Pollution of Sea Treaty: Ratified amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, to add new categories of ships, both large and small, extended the prohibited zones from 50 to 100 miles, and strengthened the penalty provisions. 2/25/64. (PR)

Radio Regulations: Ratified a partial revision of the radio regulations designed to allocate frequencies in the radio spectrum for satellite communications, space research, navigational satellites, meteorological satellites, telecommand, telemetry, tracking of space vehicles, and amateur radio operations. 2/25/64. (PR)

JUDICIAL

Public Defenders: Provides legal assistance for indigent defendants in criminal cases in U.S. courts. S. 1057 - in conference. (PR)

Sports Bribes: Prohibits any bribery scheme in commerce to influence the outcome of any sporting contest and provides, on conviction, for a $10,000 fine and/or imprisonment up to 5 years. PL 88-316.

NATIONAL ECONOMY

Small Business Act Amendments: Broadened the causal basis of SBA's authority to make loans from its disaster fund to cover all natural disasters. PL 88-264.

(cont'd)

NATIONAL ECONOMY - cont'd)

Small Business Investment Act Amendments: Increases to $700,000 (from $400,000) the amount the Small Business Administration may purchase in capital stock and debentures of small business investment corporations. PL 88-273.

Tax Reduction: Enacted an $11.5 billion tax-reduction for individuals by an average of 20 percent and from 52 percent to 48 percent for corporations when fully effective in 1965. PL 88-272. (PR)

POLITICAL CAMPAIGNS

Suspends application of equal time requirement of FCC to nominees for President and Vice President in 1964. H. J. Res. 247. Conference report submitted in Senate 6/3.

REORGANIZATION

Internal Security: Strengthens security provisions of the National Security Agency. PL 88-290.

Presidential Transition: Authorizes $900,000 for the orderly transition of Executive power between election and inauguration of new President. PL 88-277. (PR)

Reorganization Act: Reinstated the President's authority to submit reorganization plans to Congress through June 30, 1965. HR 3496. PL 88- (PR)

RESOURCE BUILDUP

Cochiti Reservoir: Authorizes approximately 50,000 acre-feet of water from the San Juan-Chama unit of the Colorado River storage project for filling a permanent pool for recreational purposes at Cochiti Reservoir of the Rio Grande Basin. PL 88-293.

Fisheries Research: Promotes State commercial fisheries research and development activities. PL 88-309.

Garrison Diversion Unit: Reduces the proposed irrigated acreage to 250,000 acres for the Garrison Diversion Unit of the Missouri River Basin. S. 178 P/S 2/18/64.

Riverton Reclamation Project, Wyoming: Reauthorizes the Riverton extension unit, Missouri River Basin Project, to include all the Riverton reclamation project except the Muddy Ridge area. PL 88-278.

St. Louis River Dam: Authorizes the Eveleth Taconith Co. of Minnesota to construct a dam on the St. Louis River, Minnesota; authority to terminate if actual construction is not commenced within 5 years and completed within 10 years from date of passage. HR 9934. PL 88-

Water Resources Research: Authorizes up to $20 million a year Federal aid program to land-grant colleges and universities to stimulate and expand water resources research and scientific training program. S. 2 - in conference. (PR)

Whitestone Coulee Unit: Authorizes Federal construction of the Whitestone Coulee Unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Washington, to irrigate some 2,660 acres at a cost of $5,312,000 with $4,338,000 of this amount reimbursable. S. 2447 P/S 3/6/64.

VETERANS

V.A. Home Loans: Authorizes the Veterans Administration to guarantee home loans on a newly constructed dwelling or construction of a dwelling having maturities extending up to 35 years if agreed on between private lenders and borrowers. S. 385 P/S 1/16.

WELFARE

Alaska Earthquake Grants: Authorized grants of up to $23.5 million to provide emergency assistance to the State Government of Alaska and its local government entities as a result of the Alaskan quake on March 27. PL 88-311.

Congressional Review of Federal Grants in Aid: Established a uniform policy and procedure for periodic congressional review of grant-in-aid programs which are designed to assist States and their political subdivisions in meeting recognized national needs. S. 2114 P/S 6/19/64.

Temporary Assistance for Returning U.S. Citizens: Extends to June 30, 1967, the provisions of section 1113(d) of the Social Security Act which authorize temporary assistance to citizens of the U.S. and to dependents if they are identified by the State Department as having returned, or having been brought, from a foreign country because of the destitution of the U.S. citizen or the illness of such citizen or any of his dependents or because of war or threat of war, and if they are without available resources. HR 10466. PL 88-

August 17, 1964

WHITE HOUSE FOLDER

Memorandum: Dirksen-Mansfield reapportionment situation.

From: John Stewart

1. The AFL-CIO has been unable to devise any amendments which could possible satisfy Senator Dirksen. Their suggestions are all long the line of a "sense of the Senate" resolution similar to the McCarthy-Javits proposal: namely, that the Senate hopes the courts will move carefully in this area, etc.

2. A meeting in Senator Mansfield's office on Monday afternoon with Katzenbach, Cox, Mansfield, Clark, Hart, Pastore, McCarthy, etc. failed to produce any new possibilities. The Senators did not accept the Katzenbach-Cox thesis that the Dirksen-Mansfield compromise was "meaningless."

3. Recommendations: I strongly recommend the following course of action.

a. Senator Mansfield go to the floor on Wednesday with the following statement: that the issue is far more controversial than first thought, that the degree of opposition is far deeper than first imagined, that we have tried to find a middle-ground and failed, that serious problems in 27 states would result from passage of the Dirksen-Mansfield compromise, that the President's program must move forward, etc. and that, therefore, I move reluctantly to table the Dirksen-Mansfield compromise.

b. Immediately following the tabling motion by the majority leader, he should offer a "sense of the Senate" resolution--perhaps the McCarthy-Javits proposal, or something similar--so that Senators will be able to cast a positive vote on the same day. This would, I believe, be helpful in lining up support among such Senators as Symington.

c. The majority leader could also pledge that full hearings would be held after the November elections and that the item would be the first business brought up in January.

d. The Senators opposed to the Dirksen-Mansfield compromise are prepared to continue their filibuster after the Convention, if necessary. Therefore, I believe that the issue must be disposed of in some definite fashion. The procedure outlined above seems to offer the best alternatives in the existing circumstances.

WASHINGTON HUMAN RIGHTS PROJECT

604 G Street, S.E.

Washington, D.C. 20003

William L. Higgs
Director

August 17, 1964

SOME OBJECTIONS TO THE DIRKSEN-EASTLAND-STENNIS APPORTIONMENT AMENDMENT

Note: A major objection (or better, a compensating factor) will be discussed on this page. Other objections are listed on the second page.

Article III of the Constitution sets up the federal court system. In general, Congress has fairly full powers to regulate that system except for the original jurisdiction of the Supreme Court. And that jurisdiction clearly extends to all cases where a state is a party--which would include apportionment cases properly analyzed. The 11th Amendment is no bar, since it only prohibits suits against a state by a citizen of a different state, not suits against a state by citizens of that state itself. Many lawyers would raise the objection at this point of sovereign immunity and cite Monaco v. Mississippi; however, such research as time permits indicates that such a principle only applies to money judgments and the like where a state is the subject of affirmative prosecution. Where the citizen is suing to protect himself from an unconstitutional deprivation of his constitutional rights by the state, an entirely different case is presented and sovereign immunit seems to no longer apply--which, again, would include apportionment cases, since they originate from the Equal Protection Clause of the 14th Amendment guaranteeing the citizens of a state certain protections against abuses by their own state. Finally, it appears that sovereign immunity may not apply at all to cases properly within the original jurisdiction of the Supreme Court. The key cases of Hans v. Louisiana, 134 U.S. 1 (1890) is cited as authority for the above propositions. An implicit is that the D.A. may actually speed reapportionment by requiring it of the Supreme Court.

Again, it should be emphasized that the inordinate haste with which the whole apportionment issue has arisen has prevented adequate research into the depths of these crucial questions necessary for legislation of such importance.

SUGGESTED ADDITIONAL OBJECTIONS TO THE DIRKSEN AMENDMENT ON APPORTIONMENT

1. The Dirksen Amendment is an unconstitutional delegation of legislative powers to the courts: Subsection (a) sets up the "public interest" as the standard for the court's action or inaction. This is the legislature's proper standard--not the court's; the court decides cases according to specific legal standards, and not according to the public interest. The same objection goes to the "highly unusual circumstances" exception in subsection (b).

2. The Dirksen Amendment is unconstitutionally vague and therefore void; "Public Interest" and "highly unusual circumstances" can mean anything and frequently do.

3. The standard of the "public interest" is void in that it preempts the standard of the Constitution's Equal Protection Clause. This is therefore in conflict with the Constitution.

4. Subsection (c)'s purporting to allow a stay even after final judgment is a direct interference with the integrity of the Judicial Power of the United States itself as clearly stated in Article III, and it is therefore unconstitutionally void. This is not a permissible exception or regulation of jurisdiction.

5. Moreover, any tampering at all with the courts' stay power is gross interference with the integrity of jurisdiction validly granted and currently existing and is void as an unconstitutional invasion of the separation of powers principle. Also, as long as jurisdiction remains, it can't constitutionally be defeated by disabling the courts from effectuating their judgments.

6. The availability of declaratory judgments is not affected by the DA, therefore there will exist continuing litigation and judgments but they will be unenforceable--until the stay restraint is traumatically released at the beginning of 1966.

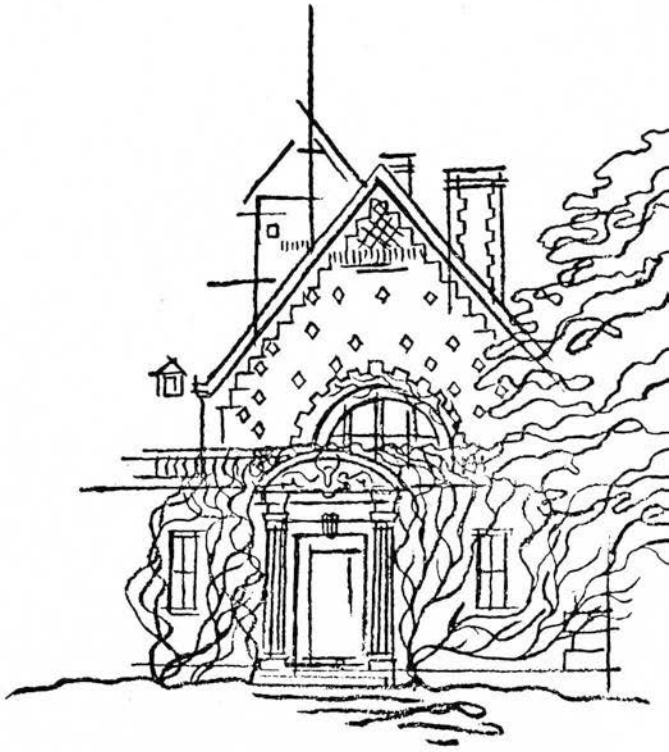
7. The courts will still have the remedy of voiding state legislation as applied to discriminated voters on the ground that such legislation denies them the equal protection of the laws.

8. The DA by its terms does not affect any apportionment that may be directed under a federal statute as contrasted with under the Constitution.

9. The President under the Republican Form of Government Clause has an independent duty to see that a representative government exists regardless of court or Congressional action.

10. The courts' implementation of apportionment of state subdivisions is inconsistently left intact.

Report of the
Twenty-sixth
American Assembly



The Congress and America's Future

Arden House
Harriman, New York
October 29 - November 1, 1964

Background papers were prepared for the Assembly under the editorial supervision of David B. Truman, Dean of Columbia College. They are to be published by Prentice-Hall, Inc., in February, 1965, under the title *The Congress and America's Future*.

PREFACE

These pages contain the recommendations of a group of Americans of diverse pursuits and interests who met at Arden House, Harriman, New York, October 29-November 1, 1964 to review the functions and procedures of the Congress of the United States. The meeting was convened by The American Assembly of Columbia University which conducts policy studies. *The Congress and America's Future* was the twenty-sixth study initiated by the Assembly.

The recommendations were adopted by the Assembly in plenary session after three days of meetings in small discussion groups. As a non-partisan, educational institution, The American Assembly takes no stand on the subjects it presents for public discussion. The same may be said of the Ford Foundation whose generosity made the entire Twenty-sixth American Assembly possible.

FINAL REPORT
of the
TWENTY-SIXTH AMERICAN ASSEMBLY

At the close of their discussions the participants in the Twenty-sixth American Assembly reviewed as a group the following statement. Although there was general agreement on the final report, it is not the practice of The American Assembly for participants to affix their signatures, and it should not be assumed that every participant necessarily subscribes to every recommendation.

We have discussed what steps might be taken to assure the continued vitality and effectiveness of the Congress of the United States. We feel a respect for the values underlying the American system of representative government, in which the legislature is crucial. We desire to see those values perpetuated and reflected in institutions that will protect free men and provide the capacity for effective government.

Many of the problems of the Congress, and many of the criticisms and complaints directed at it, have roots in conditions affecting not only the United States but all representative governments. As these governments have been obliged to meet the problems created by industrialization and urbanization, complicated almost beyond measure by persistent and critical issues of foreign policy, representative bodies have confronted a troublesome situation. The matters that they consider are far

more significant, numerous, and complex than those of their predecessors half a century ago. Little can be done to alter these conditions, but something can be done to improve the capacity of the institutions that must deal with them.

These problems that the Congress shares with other parliamentary bodies are paralleled by others that arise from distinctively American arrangements: the constitutional separation of President and Congress, the decentralizing effects of federalism, and the structure and practices of the House and Senate that frequently reflect long tradition and distinctive styles in our political life. One need not assume fundamental changes of a constitutional character in order to conclude that changes are both desirable and possible of achievement. In meeting these problems we may help to assure a Congress whose role in America's future is vigorous and worthy of the respect of free and intelligent men.

Three specific sets of convictions have guided our deliberations:

1. The distinctive functions of the Congress must be maintained. Congress must retain and strengthen its capacity to bring critical political judgment to bear on the major issues of the day. Congress thus can function more effectively in relation to the increasingly active role of the President and his executive associates in the initiation of legislative proposals. In consequence it will better reflect the broad wisdom available in our total political system.

If the legislature is to perform this basic function, the members of Congress must also continue to handle problems of their individual constituents. Such activities, far from being a handicap to the Congress, provide a sympathetic link between citizens and the bureaucracy. The Congress must also maintain its oversight of the decisions and actions of executive officials. Both service to constituents and oversight of the executive agencies are subject to abuse, but their proper exercise is necessary to the American system.

2. The vigor of the Congress as a legislative body and the effectiveness of our constitutional arrangements require that the Congress warrant and command the confidence and respect of the electorate. A Congress able and equipped to discharge its central functions rationally, expeditiously, and with integrity is essential to the survival of representative government in this country.

3. If the Congress is to perform these functions well, ways must be found to strengthen the elected leadership in the House and Senate—chiefly the Speaker and the floor leaders—and through that leadership to assure that the majority sentiment of the Congress is effectively expressed. Individuals or minorities in the legislature must not be permitted to frustrate the will of a majority, whether in a standing committee or in one or both of the houses.

This conviction is not inconsistent with a due regard to the rights of a minority or in conflict with the continuation and encouragement of expertness in the standing committees. Such competence is essential to the effectiveness of the Congress. But no single committee in either house can be assigned a jurisdiction broad enough to achieve coordinated action in such complex areas as national security policy and national economic policy. If such action is to be achieved in the Congress, it should be accomplished through the central leadership.

In support of these general convictions we recommend:

1. The system of designating chairmen and ranking minority members of the standing committees on the basis of seniority must be modified. There is merit in the seniority principle, provided some choice is offered to the majority and minority parties in each house. We suggest that the choice be made either by the elected leaders in each house or by secret ballot in the caucuses of each party, in either case from among the three senior party members of each committee.

2. No Senator or Representative should be permitted to become or to remain a committee chairman, Speaker, or floor

leader after reaching the age of 70. This provision should not apply to incumbents.

3. Any Representative or Senator should be permitted to retire on full pay after reaching the age of 70, provided that he has had at least 10 years of service in the Congress.

4. The rules of the House should be amended to provide that signature of a discharge petition by 218 members or by 150 members and the Speaker be sufficient to bring any bill out of committee and before the House.

5. In the Senate the majority leader should be authorized to offer a motion designating any bill a major item of legislation. Adoption of this motion would require the committee to which that bill had been assigned to report it to the Senate within 30 calendar days.

6. The Rules Committee of the House must be at all times an instrument of the leadership of the House. To this end the Speaker might be restored to his position as chairman of the Committee. Alternatively, he might be given authority in each Congress to appoint its majority members, including the chairman. At minimum, the Speaker of the House should be empowered to call up a special rule for the consideration of any bill which the Committee on Rules has failed to act for 21 calendar days.

7. The Committee on Rules should have no part in determining whether a bill passed by the House should be sent to conference with the Senate. Agreement to conference and on instructions to conferees should be by majority vote on a privileged motion by the majority leader.

8. Freedom of debate in a legislative body has value, even at the cost of delay, but its abuse in the form of a filibuster exposes the Senate and the government of the United States to ridicule and may dangerously delay action. Such tactics should be restrained so that a majority can act after a dissenting minority has had adequate opportunity to be heard.

The present cloture rule is inadequate for this purpose. At the least the Senate should amend its present rule to provide for the adoption of a cloture petition by three-fifths of those present and voting.

9. At the start of each Congress a simple majority of the Senate should have the power to adopt and amend its rules without prejudice to the concept of the Senate as a continuing body for other purposes.

10. Further to assure majority control of legislation, a majority of the members from each house designated to serve on a conference committee should have indicated by their votes general agreement with the bill as passed by that house.

11. Each chamber should adopt and enforce effective procedures to protect the constitutional and other traditional rights of citizens called before its committees.

12. The growing practice of requiring that administrative agencies obtain permission from or "come into agreement" with committees or subcommittees of the Congress, or their chairmen, before taking action, exceeds the proper bounds of congressional oversight of administration and subverts presidential responsibility. It grants arbitrary power to chairmen of committees or subcommittees that is not subject to account. The practice should be abandoned.

13. Campaign costs are excessive; requirements for reporting on contributions are ineffective; and existing ceilings on expenditures are unrealistic. The consequences too frequently are waste, deception, and corruption. To correct these evils:

a. Time on television and radio stations should be made available by law to candidates for Congress.

b. Ceilings should be raised to realistic levels, but legislation governing campaign contributions and expenditures should provide for full and prompt reporting to an agency designated by Congress responsible for complete disclo-

sure. These reports should be public property, should be locally available, and should cover all receipts and expenditures on behalf of any candidate for the House or Senate in a primary or general election.

c. The income tax laws should be amended to encourage campaign contributions by a larger number of persons, thus reducing candidates' dependence on a small number of large donations.

14. Respect for the government requires respect for its individual officials. Each Senator and Representative and all presidential appointees should be required to report annually their financial interests and the sources of their income.

Furthermore, the number of members of the House and the Senate holding reserve commissions in the military forces while serving in the Congress is a cause for concern. We regard this practice as undesirable and of doubtful constitutionality.

15. The standing committees in their specialized jurisdiction serve the Congress well, but no adequate overview in Congress is taken of such large areas as national security policy and national economic policy. Responsibility for dealing with this difficult problem should lie with the elected leadership, and these leaders should be adequately staffed for this purpose. The executive performance in this area needs to be improved, but much more needs to be done on the legislative side.

16. The Congress should divest itself of direct responsibility for the government of the District of Columbia.

17. We agree with the recent decision of the Congress to increase salaries of Senators and Representatives, and we recommend that salaries, allowances, and staff services be kept at a level commensurate with the dignity and responsibilities of these offices.

18. A majority of participants who considered this report favor a 4-year term for the members of the House of Representatives, with elections in the presidential years.

PARTICIPANTS
THE TWENTY-SIXTH
AMERICAN ASSEMBLY

ARTHUR G. ALTSCHUL
Partner
Goldman, Sachs & Co.
New York

STEPHEN K. BAILEY
Dean
Maxwell School
Syracuse University

MARGARET M. BALL
Dean
Woman's College
Duke University

RICHARD J. BARNET
Co-Director
Institute for Policy Studies
Washington, D.C.

JOSEPH W. BARR
Chairman
Federal Deposit Insurance Corporation
Washington, D.C.

LLOYD M. BENTSEN, JR.
President
Lincoln Liberty Life Insurance Co.
Houston

PHILIP BROUGHTON
Pittsburgh

JOHN ANTHONY BROWN, JR.
Vice President
George Washington University

FRANK CAIZZI
Harriman Scholar
Columbia University

HOLBERT N. CARROLL
Chairman
Department of Political Science
University of Pittsburgh

CLIFFORD P. CASE
United States Senator
New Jersey

JOSEPH S. CLARK
United States Senator,
Pennsylvania

BENJAMIN V. COHEN
Washington, D.C.

EARL COKE
Vice President
Bank of America
San Francisco

WILLIAM T. COLEMAN, JR.
Dilworth, Paxson, Kalish, Kohn & Dilks
Philadelphia

ARTHUR G. COONS
President
Occidental College

JOHN J. CORSON
Professor of Public and International Affairs
Woodrow Wilson School
Princeton University

OVID R. DAVIS
Vice President
The Coca-Cola Company
Atlanta

PHILIP DONHAM
Arthur D. Little Company
Cambridge, Massachusetts

ELEANOR LANSING DULLES
Research Associate
Center for Strategic Studies
Georgetown University

FREDERICK G. DUTTON
Assistant Secretary of State for Congressional Relations
Washington, D.C.

RICHARD F. FENNO, JR.
Professor of Political Science
University of Rochester

ROBERT H. FINCH
Finch, Bell, Duitsman & Margulis
Los Angeles

ROGER FLEMING
Secretary-Treasurer
American Farm Bureau Federation
Washington, D.C.

GEORGE B. GALLOWAY
Legislative Reference Service
Library of Congress
Washington, D.C.

BERNARD L. GLADIEUX
Vice President
Booz, Allen & Hamilton, Inc.
New York

JAMES A. GORRELL
Vorys, Sater, Seymour & Pease
Columbus, Ohio

EDWARD H. HARTE
President
The Corpus Christi Caller Times
Texas

H. FIELD HAVILAND, JR.
Director
Foreign Policy Studies
The Brookings Institution
Washington, D.C.

FRANK HAWKINS
Editor, Editorial Page
Pittsburgh Post-Gazette
Pennsylvania

THOMAS A. HENDERSON
Harriman Scholar
Columbia University

DONALD G. HERZBERG
Executive Director
The Eagleton Institute of Politics
Rutgers University

MERRITT D. HILL
President
J. I. Case Company
Racine

ALLEN C. HOLMES
Jones, Day, Cockley & Reavis
Cleveland

RALPH K. HUITT
Professor of Political Science
University of Wisconsin

SAMUEL P. HUNTINGTON
Professor of Government
Harvard University

EVRON M. KIRKPATRICK
Executive Director
The American Political Science Association
Washington, D.C.

ALLAN B. KLINE
Western Springs, Illinois

JOHN D. LANE
Hedrick & Lane
Washington, D.C.

SOL M. LINOWITZ
Chairman
Xerox Corporation
Rochester, New York

WILLIAM P. McCLURE
McClure & Trotter
Washington, D.C.

DAVID McDONALD
Harriman Scholar
Columbia University

CARL McGOWAN
Judge
U.S. Court of Appeals
Washington, D.C.

MARSHALL McNEIL
Scripps-Howard Newspaper Alliance
Washington, D.C.

ARTHUR MAASS
Professor of Government
Harvard University

DAVID W. MacEACHRON
Director of Program
Council on Foreign Relations, Inc.
New York

HARVEY C. MANSFIELD
Professor of Political Science
Ohio State University

CARL MARCY
Chief of Staff
U.S. Senate Committee on
Foreign Relations
Washington, D.C.

ROGER G. MASTRUDE
Vice President
Foreign Policy Association
New York

ROBERT MOLYNEUX
Newspaper Enterprise
Association
Cleveland

FREDERIC A. MOSHER
Executive Associate
Carnegie Corporation of
New York
New York

EMIL NARICK
Assistant General Counsel
United Steel Workers
of America
Pittsburgh

RICHARD E. NEUSTADT
Professor of Government
Columbia University

N. B. OBBARD
Executive Vice President
United States Steel
Corporation
Pittsburgh

MICHAEL O'LEARY
Assistant Director
Public Affairs Center
Dartmouth College

ALBERT J. ROSENTHAL
Professor of Law
Columbia University

JOHN S. SALOMA, III
Professor of Political Science
Massachusetts Institute of
Technology

HOWARD D. SAMUEL
Assistant President
Amalgamated Clothing
Workers of America
New York

WALLACE S. SAYRE
Professor of Public Law and
Government
Columbia University

WILLIAM V. SHANNON
Editorial Board
The New York Times

ROBERT F. STEADMAN
Director
Committee for Improvement
of Management in
Government C E D
Washington, D.C.

THEODORE
TANNENWALD, JR.
Weil, Gotshal & Manges
New York

A. W. TARKINGTON
President
Continental Oil Company
Houston

DAVID B. TRUMAN
Dean
Columbia College
Columbia University

DAVID A. VALENTI
President
Allied Stores of Michigan
Grand Rapids

FRANKLIN WALLICK
United Auto Workers
Washington, D.C.

FRANCIS O. WILCOX
Dean
School of Advanced
International Studies
The Johns Hopkins University

ABOUT THE AMERICAN ASSEMBLY

The American Assembly was established by Dwight D. Eisenhower at Columbia University in 1950. It holds nonpartisan Assemblies of American leaders and publishes authoritative books to illuminate issues of United States policy.

An affiliate of Columbia, with offices in the Graduate School of Business, the Assembly is a national, educational institution incorporated under the State of New York.

The Assembly seeks to provide information, stimulate discussion and evoke independent conclusions in matters of vital public interest.

American Assembly Sessions

Currently two national programs are initiated each year. Authorities are retained to write background papers presenting essential data and defining the main issues in each subject.

About 60 men and women representing a broad range of experience, competence and American leadership meet for several days to discuss the Assembly topic and consider alternatives for national policy.

All Assemblies follow the same procedure. The background papers are sent to participants in advance of the Assembly. The Assembly meets in small groups for four or five lengthy periods. All groups use the same agenda. At the close of these informal sessions participants adopt in plenary session a final report of findings and recommendations.

Regional, state, and local Assemblies are held in every major area of the United States. A number have already been scheduled, following the national session at Arden House, on *The Congress and America's Future*—with Occidental College, Tulane University, George Washington University,

the University of Oregon, and the United States Air Force Academy.

Assemblies have also been held in Canada, Europe, Asia, Latin America. Over seventy institutions have co-sponsored one or more Assemblies.

American Assembly Books

The background papers for each Assembly program are published in paper and hard cover editions for use by individuals, libraries, businesses, public agencies, non-governmental organizations, educational institutions, discussion and service groups. In this way the deliberations of Assembly sessions are continued and extended.

The background papers for the Twenty-sixth American Assembly will be published under the title, *The Congress and America's Future,* by Prentice-Hall, Inc.

Arden House

Home of The American Assembly and scene of the national sessions is Arden House, which was given to Columbia University in 1950 by W. Averell Harriman. E. Roland Harriman joined his brother in contributing toward adaptation of the property for conference purposes. The buildings and surrounding land, known as the Harriman Campus of Columbia University, are 50 miles north of New York City.

Arden House is a distinguished conference center. It is self-supporting and operates throughout the year for use by organizations with educational objectives. The American Assembly is a tenant of this Columbia University facility only during Assembly sessions.

PRESS RELEASE

Americans for Democratic Action

1341 Connecticut Avenue, N.W., Washington 6, D. C.

DEcatur 2-7754

ADA

Mrs. Page H. Wilson
Director, Public Relations

FOR RELEASE:
SUNDAY A.M.
NOVEMBER 29, 1964

ADA CHARGES CONGRESSIONAL DEMOCRATIC LEADERS TO EFFECT MAJORITY RULE IN CONGRESS -- OTHERWISE LEGISLATION TO BUILD GREAT SOCIETY IMPOSSIBLE.

ADA has called on the House and Senate leaders to press for majority rule in Congress without which legislation to build the Great Society will be impossible.

Major legislative issues should "be decided in the public arena rather than killed behind closed committee doors," John P. Roche, National Chairman of ADA, said in letters sent to Senate Majority Leader Mike Mansfield and House Speaker John McCormack.

Roche, who heads the Department of Politics at Brandeis University, pointed out that the Democratic Platform of 1964 "flatly called for majority rule in Congress."

ADA supported specific changes in procedures in both the House and the Senate. "Implementation of the Democratic Platform requires that Congressional rules be reformed," the letters said, and that the Democratic Party caucuses in both the House and the Senate be made more democratic,

In the Senate, ADA called for these reforms: an end to the overbearing threat of the filibuster, and, instead, a procedure whereby the majority of Senators have the power to end debate after a reasonable period of floor consideration; a rule requiring all debate and amendments to be germane; revision of the rules regarding the discharge motions; the election of committee chairmen at the beginning of each Congress by the majority of the members of the majority party on each committee; election of the Democratic Steering Committee members by the Democratic Senatorial delegation.

In the House, ADA called for three essential rule reforms pertaining to the 21-day rule, the 7-day rule, and a rule which would lower the discharge petition requirement to 150 on bills designated by the Speaker.

Roche's letter to Congressman McCormack also called for the Democratic caucus to enpower the Speaker to nominate House committee chairmen, such nomination to be subject to ratification by the party caucus.

ADA also urged "that committee membership accurately reflect the liberal mandate of the electorate -- particularly on the Appropriations Committee and Ways and Means Committee." Ratios suggested by ADA for these committees were, respectively, 34 Democrats and 16 Republicans, and 18 Democrats and 7 Republicans.

Prof. Roche told both Democratic leaders that ADA counted on their leadership to effect the changes. "The hopes of millions of Americans who will be directly affected by social legislation introduced this year -- and in the years to come -- may well rest on your action this January," he wrote.

(Full texts of Prof. Roche's letters are attached.)

AMERICANS FOR DEMOCRATIC ACTION
1341 Connecticut Avenue, N.W.
Washington, D. C. 20036

November 25, 1964

The Honorable Mike Mansfield
113 Old Senate Office Building
Washington, D.C.

Dear Senator Mansfield:

The 1964 election was a call for the Great Society. The Great Society requires majority rule and democratic procedures in the Senate which will assure that major legislative issues are decided in the public arena rather than being killed behind closed committee doors.

The 1964 Democratic Platform flatly called for majority rule in Congress. It said: "The Congress of the United States should revise its rules and procedures to assure majority rule after reasonable debate and to guarantee that major administrative proposals of the President can be brought to a vote after reasonable consideration in committee."

We count on your leadership to implement the platform. The hopes of millions of Americans who will be directly affected by social legislation introduced this year -- and the years to come -- may well rest on your action this January.

Implementation of the Democratic Platform requires that congressional rules be reformed, and that the Democratic Party caucus in the Senate be made more democratic.

Essential rules reforms are:

1. In order to end the overbearing threat of the filibuster on legislation in the Senate, a majority of Senators (51) should have the power to end debate after a reasonable period of floor consideration. This will create a healthy balance between majority will and minority rights.

2. The Senate should adopt a germaneness rule for all debate and amendments.

3. ADA also calls for measures to assure that all major Administration legislation will be guaranteed consideration in the Senate. To this end ADA supports proposals designed to limit debate of committee discharge motions to a total of eight hours, divided equally between each side. ADA also favors setting a limit of 30 days after a discharge motion has been passed for the bill to be reported on the floor. This will enable effective and efficient dispatch of major legislative matters and allow the program of the President to be considered in full during his term of office.

4. ADA supports measures which assure Congress a check on its own members. This is particularly important in order to counter the rule of seniority which has too long allowed individuals to hamstring Presidential programs with impunity. ADA supports a proposal that will allow committee chairmanships to be chosen at the beginning of each Congress by the majority of the members of the majority party on the committee.

Finally, ADA seeks a major reform in the Senate Democratic Steering Committee, so that the Committee will reflect the political philosophy of the majority of the Democratic Senatorial delegation. Toward this end we propose that the Steering Committee be elected every two years by secret ballot following each congressional election.

We believe these changes will make for a democratic and representative Congress, and that only thus will Congress be able to pass legislation to build the Great Society.

Respectfully yours,

/s/ John P. Roche
National Chairman

AMERICANS FOR DEMOCRATIC ACTION
1341 Connecticut Avenue, N. W.
Washington, D. C. 20036

November 25, 1964

The Honorable John W. McCormack
H206 Capitol Building
Washington, D. C.

Dear Mr. Speaker:

The 1964 election was a call for the Great Society. The Great Society requires majority rule and democratic procedures in the House which will assure that major legislative issues are decided in the public arena rather than being killed behind closed committee doors.

The 1964 Democratic Platform flatly called for majority rule in Congress. It said:

"The Congress of the United States should revise its rules and procedures to assure majority rule after reasonable debate and to guarantee that major administrative proposals of the President can be brought to a vote after reasonable consideration in committee."

We count on your leadership to implement the platform. The hopes of millions of Americans who will directly be affected by social legislation to be introduced this year and the years to come, may well rest on your action this January.

Implementation of the Democratic Platform requires: (1) reforming congressional rules, (2) making the Democratic Party caucus in the House more democratic, and (3) adjusting committee ratios to reflect the appropriate Democratic-Republican make-up in each body.

Essential rules reforms are: A reinstatement of the 21-day rule which will allow for House consideration of all committee-approved legislation, after allowing due time for consideration by the Rules Committee; a 7-day rule which will set a limit on Rules Committee delay in allowing a bill passed by both Houses to go to conference; and a rule which would lower the discharge petition requirement to 150 on bills designated by the Speaker. Each of these changes will assure that major legislation will be considered by the Congress.

In order to make the Democratic Party caucus in the House more democratic, the seniority system, often a major obstacle to the proper functioning of Congress, must be modified. The Democratic caucus should empower the speaker to nominate one person to serve as Committee Chairman for each of the House committees at the opening of each Congress, subject to the ratification of the party caucus by secret ballot.

ADA urges that committee membership accurately reflect the liberal mandate of the electorate -- particularly on the Appropriations Committee and Ways and Means Committee, because these committees will determine the economic resources to be allocated to the building of the Great Society. The ratios which we suggest for these committees are 34 Democrats and 16 Republicans on the Appropriations Committee, and 18 Democrats and 7 Republicans on the Ways and Means Committee.

Democratic members on both the Rules Committee and Ways and Means Committee should be chosen by the Speaker, subject to the ratification of the party caucus by secret ballot.

The current Democratic vacancy on the Rules Committee must be filled by a liberal Democrat, regardless of region.

We believe these changes will make for a democratic and representative Congress, and that only thus will Congress be able to pass legislation to build the Great Society.

Respectfully yours,

John P. Roche
National Chairman

AMERICANS FOR DEMOCRATIC ACTION
1341 Connecticut Avenue, N. W.
Washington, D. C. 20036

National Board Meeting
International Inn, Washington
November 21 and 22, 1964

MINUTES

Saturday, November 21, 1964

The meeting was called to order by National Chairman John P. Roche at 10:00 a.m. The attendance record is attached.

A resolution on Mississippi and Civil Rights was presented. Discussion. M/S to adopt the resolution, and release for publication. Carried. Resolution attached.

Statement on the first anniversary of the death of President John F. Kennedy was presented. After further discussion it was M/S/P to adopt the statement and release it to the press. Statement attached.

Chapter Reports

Mr. Coolidge from Massachusetts ADA reported on the activities of the chapter. The chapter plans to file bills with the legislature on housing, relocation, abolishment of capital punishment, reform of taxes and a bill urging the election of governors and lt. governors at the same time instead of separately. They are also planning a public meeting on Congressional Reform.

Mr. Sayer reported on the activities of the New York ADA. He reported on the chapter's involvement in the primaries, the campaign and the discussion held with the recently elected legislators to discuss the next session. They plan a general meeting on Congressional Reform . . . plan to organize a delegation to Washington when Congress convenes. The membership has reached a peak level and renewals are good.

Mrs. Simon and Mr. Reece reported for the Philadelphia chapter. Many new members coming in . . . they have devised a new kind of fund-raising idea . . . on the political campaign the chapter worked for the Blatt ticket and that all counties in S.E. Pennsylvania voted for the LBJ-HHH ticket. . . reported on the future political needs in Philadelphia.

Mr. Berger reported for the Pittsburgh chapter. He said in the last couple of months they enrolled 35 new members. Considerable interest has been shown in joining ADA. The chapter was active in the Johnson-Humphrey-Blatt campaign and the ADA office was used as headquarters. There were about 50 people working in the office. Of course, they are unhappy that Blatt and Yard lost the election. He said there was a difference between the 1960 and 1964 campaigns. In 1960 the Democratic Party wooed them, but this year they had to fight their way into the campaign. He also reported about the success they have had in getting time on TV and radio to combat the far-right programs that stations carry. The stations now call them and ask for rebuttals of the Manion program. Tapes have been made of the chapter's part in these programs and they are available to other chapters if they desire them.

M/S/P that a summary of Berger's report regarding their experiences and participation in the programs in answering far-right charges, attacks, etc. of Manion and his ilk, be sent to other chapters and communities urging them to also get on their local stations.

Mr. Weinstein reported briefly on New Jersey and said that because of the internal situation, not much had been done during the campaign. However, some work had been done in helping Senator Harrison Williams in his campaign.

Mr. Evans of Cleveland reported the chapter is in a very healthy state. They have good relationship with the local press and TV and radio. They worked in the campaign. The chapter works with the United Freedom Movement.

Mr. Michaels reported for the Detroit chapter. He said that many new members are joining. The ad in the New Republic and New York Times was a very good way to get new members. The chapter worked in the campaign. An ADA member, Mr. A. L. Zwerdling was elected to the Board of Education.

Mr. Schwartzberg of the IVI reported on the activities of the Chicago chapter. He said that Percy wanted the IVI endorsement and even appeared one day with a crew of TV cameras and photographers at the IVI office. However, as the campaign progressed he turned more to the right.

Mr. Taylor spoke for the D. C. chapter. He said the chapter will be working on home rule -- it held a one-day conference -- held a fund-raising theater party -- has been working on an FEPC ordinance. Others who reported on chapter activities were Sidney Dean, Greenwich Village; Henry Waskow, Baltimore; Steven Elbert, Campus ADA; and for California, Joseph Rauh (who recently visited the chapter) and Victor Ferkiss.

Mr. Shull reported on the general activities of the National Office in the campaign. He said that after William Miller (the Republican vice-presidential candidate) attacked ADA, we were thrust into the campaign. He said that the newspapers treated us well and that later in the agenda a fuller report would be given.

Mr. Rosenberg reported on the activities of the Candidate Support Committee. Letters were mailed to people soliciting contributions for candidates, and on the whole, the response was great. Exactly how much was received is not known because some of the contributions asked for went directly to the candidate and not through the National Office.

Mr. David Williams said that we should be proud of the work we have done as ADA's positions came out very well and ADA's platform was widely quoted.

Charges Against Derek Winans, Essex Chapter, New Jersey

Because the party against whom charges were filed by certain members of the Essex County Chapter in New Jersey was not present at the time the item on the agenda came up, it was agreed to postpone the report of the National Executive Committee and its findings and recommendations until the afternoon session.

National Economic Planning Project

Mr. Louis Schwartz spoke on the memorandum (attached) that was distributed in re the proposed National Economic Planning Project. Our last convention adopted a resolution directing this project. Mr. Schwartz said that a group will be organized to implement the resolution and prepare several alternative five-or-ten-year plans with target goals. A discussion followed and further reports will be made as to the progress of this project.

Reorganization of UDA Educational Fund

Mr. Nathan reported on the reorganization of the Union for Democratic Action Educational Fund. He paid tribute to David C. Williams who for years has devoted much time to the UDA. Mr. Williams will continue to work with the UDA. Mr. Nathan reported that the fund-raising aspect of the UDA is being enlarged and they expect to increase the scope and activities of the UDA.

Members-at-Large

A list of over a hundred new members-at-large was presented to the Board for approval. This is not usually done at National Board meetings, it was explained, but since these were new applications, received during the campaign months, and since there is no Executive Committee this month, it was thought best to have these memberships approved at the National Board meeting. It was M/S/P to approve the list of members-at-large.

The meeting recessed for lunch at 12:30 p.m.

After the luncheon, Messrs. Roche and Rauh spoke on how liberals can use the election results to achieve their programs.

The meeting reconvened at 2:30 p.m. Mr. Kassal chaired the meeting which was devoted to further discussion on the remarks of Roche, Hollander, and Rauh. Some of the ideas expressed were: Mobilize our talents to develop new policies and new ideas -- look to the future -- ADA should legislate programs -- Goldwater's defeat is not complete because they have money -- we must continue to fight the right-wingers. The ADA program was not adopted on election day -- we must work toward solving the poverty problem, peace; Viet Nam, and China.

Report on Charges Against Derek Winans

Copies of the findings and recommendations of the special hearing committee on charges against Derek Winans were distributed.

Mr. Hollander described the events which transpired before and after the charges were filed, and the events leading up to the National Board meeting now in session. After the charges were filed against Mr. Winans, the Executive Committee selected a three-man special committee to hear, and make recommendations. The committee held two hearings and held the record open for additional statements and evidence and after the conclusion of that, drafted the report that has been distributed. The Executive Committee received the report last night and accepted the recommendations and conclusions contained in the report.

Mr. Bergheim who acted as chairman of the special committee which heard the charges, said that the conclusions drawn were very serious. All are very unhappy about the recommendations made. Expulsion should not be equated as punishment. The trusteeship recommendation is made because we want the chapter to resume its proper functioning. As long as there are two chapters, Metropolitan and Essex County, the state organization cannot function normally and because of this, the Executive Committee in executive session recommended the postponing of the state convention.

Mr. Winans was given the floor at 3:15 and spoke until 3:25 p.m. He said that he did not see the report before. Further, if the Board members present had not seen the report of the Executive Committee, it is unfair and they should be given more time. The Board should have the opportunity to look at the record. Wants a copy of the record. His counsel should have been invited to appear and the recommendations should have been sent to him.

Mr. Rauh said he favors the adoption of the report. However, in the interest of fairness, he moved that the record be put on the table until Sunday morning at 10:00 a.m. Mr. Rauh's motion was seconded.

Mr. Keyserling moved an amendment to table the report until the next Board meeting.

Vote was taken and Mr. Keyserling's amendment was defeated.

After debate, Mr. Rauh's motion to postpone until Sunday morning at 10:00 a.m. was voted on and adopted unanimously.

Announcement was made that the record would be made available to anyone who wished it.

Treasurer's Report

Mr. Zalles reported on the ADA finances. Copies of the October statement were distributed. The statement showed a deficit of $11,000.00. The past three months have shown a great increase in contributions during the campaign months. He did point out, however, that the chapters have been very delinquent in their quota payments. After discussion it was M/S/P to adopt the report.

National Director's Report

Mr. Shull spoke on plans being made on our "State of the Union" statement. We shall release this at the end of December. We hope to have the statement printed in booklet form and present it at a press conference, as we did with the platform pamphlet to the Democratic Party convention. We also hope to use it as a propaganda piece. December 29th has been selected as the date to release the report.

Plans are also being made to hold a lunch and/or reception on January 6 and invite Senators and Representatives for a presentation of our legislative program to them.

Plans are also being made to hold legislative conferences in chapter areas as well as a few in other areas where ADA does not have existing chapters. These will be carefully chosen. Timing of these conferences will depend on local conditions and the conferences need not necessarily be held early in the year or interfere with other chapter projects.

Mr. Shull continued reporting on the National Office activities. He said many thousands of requests have come from all over the country asking for information and how to establish a chapter. After careful discussion certain areas have been selected as potential areas for organization. Plans have been made to utilize staff members to investigate some of the requests. Mr. Shull is going to Louisiana the coming week to look into a possibility there. He also plans to go to California in early December to attend the California ADA State Conference, and lay the groundwork for a chapter in Los Angeles. Mr. Gans spent a few days in Atlanta to see if an ADA chapter can be formed. Prospects are good. A week or so after the election, Mr. Shull went to Milwaukee and Madison, Wisconsin, and chapters are being formed there. Mr. David Cohen is visiting the mid-west soon, to look into the number of requests for organization that we have received from Indiana, Missouri, and Ohio. The National Office has many members-at-large and contributors in the State of Connecticut. With the help of New York ADA and Massachusetts ADA, we hope to have a functioning chapter in Connecticut.

Mr. Shull said that during the past three months we were inundated with requests for information about ADA. Many of the letters that came in said that they found that no chapter existed in this or that city, there was no way of getting in contact with anyone. Consequently, Mr. Shull said, the staff suggested that since we have members-at-large, or a contact in cities, we should try to establish a series of representatives of ADA in unorganized areas. We would put these representatives on our mailing lists, to receive material that is sent to chapters and Board members and in this way hope to fill a void that exists.

M/S/P that the staff be authorized to find representatives (with officer approval) in these areas.

M/S/P to grant a charter for the State of Illinois Chapter in place of the Chicago IVI chapter.

Trips Abroad

Mr. Lambert reported on the success of the 1964 ADA Trips Abroad. The ADA made a profit of $13,000 which has been shared by National and New York ADA. A brochure describing the trips for 1965 is in the process of being printed. Arrangements have been made for rebates to chapters if the Tripper comes from a chapter.

Mr. Berger said his chapter would like to express its thanks to the National Office for the wonderful and expeditious way in which the National supplies requested material.

Mr. Sayer said on behalf of the New York ADA he wanted to express thanks for the speed in which names of at-large contributors had been sent to New York for follow-up as potential members.

Discussion was held on the literature available in the National Office and updating some of it, and of course, the need for new material and pamphlets.

Book Project

Mrs. Wilson reported on the book project. The book is being called, "The Crossroad Papers -- A look into the American Future." It is to be published in February by W. W. Norton, Inc. from whom we have already received a $2000. advance. The editing and the introduction is being done by Hans J. Morgenthau. Seven thousand copies are being printed. Half are hard cover and the rest in paper back. The hard cover will sell for $5.50 and the paperback for $1.45. Norton is trying to get magazines to buy some of the articles prior to publication. Chapters were urged to promote the book. Copies of the dust jackets were displayed.

Discussion was held on promoting the book.

Membership Drives

Discussion was also held on increasing the membership in ADA. Chapters were urged to work hard on this point. Mr. Shull requested that membership recruitment drives be a year around program.

ADA WORLD

Mr. Smith suggested that more advertising be done in the ADA WORLD. Mr. Shull said that he hoped the Board and chapters would feel free to send in suggestions and criticims of the WORLD, as we want the organ to be useful and attractive.

State of the Union Message

Mr. Arnold Mayer suggested that an effort be made to see President Johnson before our "State of the Union" statement and inform him of our plans. It was agreed that the officers would look into this and whatever steps are necessary.

Since the Sunday morning session was scheduled for 10 a.m., and since one of the items on the agenda was postponed for the Sunday session, and further that this would make it difficult to cover all the items listed for the Sunday morning session, it was M/S/P to reconvene at 9 a.m. for the Sunday session.

Meeting recessed at 5 p.m.

Three policy commission meetings were held Saturday night: Domestic Policy, chaired by Jacob Clayman; Foreign Policy, chaired by Roy Bennett; and Political Policy, chaired by Bentley Kassal. These chairmen will report to the entire body on Sunday.

Sunday, November 22, 1964

The meeting reconvened at 9 a.m.

Mr. Kassal presided. He reported that the Political Policy Commission had two suggested letters -- one to Speaker McCormack and one to Senator Mansfield. Both of these letters deal with congressional reform. Copies of the proposed letters were distributed to the Board. The proposed changes in major rules in the House were discussed. After some suggestions on language, the "discharge petition" section was amended. It was M/S/P to adopt the letter to Speaker McCormack.

The letter to Senator Mansfield was then taken up. Most of it was the same as the McCormack letter with the exception of the specific rules change in the Senate. Several changes and amendments were made in the Mansfield letter and it was M/S/P to adopt as amended. (Letter attached)

The Board members were asked to urge their chapters to start a letter-writing campaign to the Senators and Representatives and to the President, telling them what ADA is striving for.

Report on Charges Against Derek Winans

The hour being 10:00 a.m., the postponed report re the charges against Derek Winans was brought up. M/S to accept report and recommendations in report. (Report attached), Mr. Hollander opened the discussion by reading a memorandum that was sent November 17, 1964 to the following: Mr. Winans, Mr. Gallanter, Mr. Winans' counsel; Mr. Kohn, the counsel for those preferring charges; Mrs. Belle Rosenberg, who preferred the charges; Mr. Samuel Zitter, New Jersey State ADA Chairman; and Bernard Moore, chairman of the Essex County Chapter. The memorandum stated that a report on charges against Derek Winans, Member, Essex County, New Jersey ADA and related matters had been placed on the agenda of the National Board meeting to be held on Saturday, November 21, 1964 at 11:30 a.m. It also stated that a request had been made to place on the National Board agenda the question of postponing the New Jersey State convention; since it is a related item, it will be discussed at approximately the same time.

Mr. Waring, one of Mr. Winans' defenders arose to claim that some of Winans' people had not received this notice. Mr. Shull said that Mr. Gallanter, Winans' counsel, had received the communication because he had referred to it in a communication.

Mr. Waring then moved to table the report until the next Board meeting. The chair ruled it was not proper to table the report until the next Board meeting.

Mr. Rauh suggested that the secretary take as complete minutes as possible. He also wanted the record to show that Mr. Winans was in the room. Mr. Winans announced that he was present.

Mr. Waskow: Substitute motion to the motion on expulsion -- moves to suspend Mr. Winans for three years with the implication that he will be more mature to act as an officer. Mr. Waskow spoke on his motion. He said he wanted to give Mr. Winans another chance. Mr. Winans made errors -- mistakes of youth.

Mr. Robinson: Substitute to Mr. Waskow's substitute -- ADA accept Mr. Winans' proposal to refrain from participation for three years and he should not get himself involved in any publicity. We should treat him as a juvenile.

Prof. Benoit: If Mr. Winans would resign this whole thing would be over.

Mr. Winans: Prefers Mr. Robinson's motion. Says that if he resigns, the report could be made public and this is not what he wants.

At 1 p.m. motion to close debate on substitute motion. Vote taken on whether to close debate on substitute motion. Lost 29-20.

Mr. Rauh urged the support of the Committee's report. Mr. Rosenberg also urged the Board members to support the decision of the Executive Committee.
Mr. Nathan said that he is for the defeat of the substitute motion.

Mr. Taylor: Said he was one of the people who wanted suspension when the matter was discussed at the Executive Committee meeting. Thinks Mr. Winans should be censured severely and suspended.

M/S/P unanimously to close debate.

The motion to suspend for three years was defeated -- 19-35.

After the defeat of Mr. Robinson's motion to suspend Mr. Winans, Mr. Schwartzberg suggested that Mr. Winans be asked whether or not, in the light of his previous statement, he was offering to resign, thereby stopping these proceedings at this point, on condition that this matter thereafter be viewed as an internal matter without publicity from the National Office or the New Jersey ADA, or Mr. Winans, and also that any future application by Mr. Winans for membership would have to be made to the National Board of ADA, and on the further condition that such a future application could not be accepted except by a majority of the National Board. Mr. Winans announced his resignation. Mr. Kassal asked Mr. Winans whether he was tendering his resignation on these terms and conditions. Mr. Winans said that he was. Mr. Rauh moved and Mr. Schwartzberg seconded his motion, that Mr. Winans' resignation be accepted on these terms and conditions, and the motion was duly PASSED.

M/S/P to accept the trusteeship recommended by the Executive Committee.

Mr. Waring said he did not see why there should be a trusteeship in the light of Mr. Winans' resignation.

Mr. Hollander: The trusteeship will be on both chapters -- Metropolitan and Essex County.

It was brought to the attention of the chairman that the second point of the recommendation -- the trusteeship part -- the sentence which reads that the Executive Committee should have the authority to dissolve the trusteeship -- should be changed to read that the National Board will have the authority to dissolve the trusteeship. M/S/P to amend the sentence to read that the National Board will dissolve the trusteeship.

M/S/P point three dealing with the postponement of the New Jersey State ADA convention.

M/S/P thanking the special committee for their work on this problem.

Report of the Foreign Policy Commission
meeting of Saturday night, by Mr. Bennett

A resolution on MLF and security in Central Europe was offered. After discussion it was M/S/P to accept the resolution with certain changes. (attached)

After discussion it was M/S/P to accept the Viet Nam resolution. (attached)

Report of Domestic Policy Commission
meeting of Saturday night, by Mr. Clayman

Mr. Clayman said that a report will be sent to the National Board. One subject deserves discussion: United federal grants to states. Mr. Charles J. Cooper (S.E. Pennsylvania) made a presentation on this question.

Discussion followed. Several members suggested certain issues that we should work on.

Mr. Mayer: Work should be done on minimum wage legislation. This is the most effective way of building up the low income people. The minimum wage should be raised to $2.00, including all workers in interstate commerce, and in this way poverty can be combatted.

Report of the Political Policy Commission
meeting of Saturday night, by Mr. Kassal

He read a proposed statement. (attached) After discussion and corrections, it was M/S/P to adopt the statement to be released to the press. The chairman thanked the commissions for the work they had done.

M/S/P to adjourn. Meeting adjourned at 2:00 p.m.

AMERICANS FOR DEMOCRATIC ACTION
1341 Connecticut Avenue, N. W.
Washington, D. C. 20036

National Board Meeting
International Inn, Washington
November 21 and 22, 1964

ATTENDANCE

Board Members

Edward Andrade
Roy Bennett
Emile Benoit
Daniel M. Berger
Meyer Berger
Melvin L. Bergheim
Mrs. Jane Buchenholz
Jacob Clayman
Albert Sprague Coolidge
John F. Davis
Sidney W. Dean, Jr.
Mrs. June Oppen Degnan
Robert Delson
Leon Despres
Don Edwards
William G. Evans
Marilyn Feitel
Victor Ferkiss
Lewis A. Freeman
Mrs. John French
Jesse Fuchs
Mrs. Elaine Goff
Walter Goldstein
Elinor Goodspeed
Bill Grant
Don Green
Mrs. Violet M. Gunther
Ralph Helstein
Edward D. Hollander
Barry S. Jaynes
Max Kanner
Sumner Kaplan
Frank E. Karelsen
Bentley Kassal
Arthur Katzman
Leon H. Keyserling
Mrs. Philip LeCompte
Mrs. Newman Levy
Ralph Mansfield
Arnold Mayer
Henry Meigs
Stanley Michaels
William Miller
Mrs. Delores Mitchell
Hans Morgenthau
Robert R. Nathan
Mrs. Kay Peven
J. L. Pierson
Mrs. Ralph Pomerance
Neal Potter
Joseph L. Rauh, Jr.
Herbert Robinson
John P. Roche
Marvin Rosenberg
Irving Rosenbloom
Edmond Rovner
Albert H. Sayer
Louis B. Schwartz
Robert J. Schwartz
Hugh Schwartzberg
Eleanor Sickels
Jeanne Simon
L. M. C. Smith
Allen Taylor
William L. Taylor
W. Hale Thompson
Peter Ward
Henry B. Waskow
Sidney Weinstein
David C. Williams
Derek T. Winans
Reginald Zalles
Arnold S. Zander

Staff

David Cohen
Steve Elbert
Curtis Gans
Paul Goodberg
Doris Herron
Susan Ireland
Richard Lambert
Norval D. Reece
Forbes Shepherd
Leon Shull
Olga Tabaka
Page Wilson

Guests

Pearl Bennett
Carla Cohen
Charles J. Cooper
Louise Hollander
Leo Kramer
Mrs. Peter Ward
Fred Waring

AMERICANS FOR DEMOCRATIC ACTION
1341 Connecticut Avenue, N. W.
Washington, D. C. 20036

Adopted at the 13th Annual Convention, May 1960

As Amended by the 1961 and 1963 Conventions

CONSTITUTION AND BY-LAWS OF AMERICANS FOR DEMOCRATIC ACTION

Preamble

Dedicated to democratic principles and the rights of the individual under law, we adopt this Constitution for Americans for Democratic Action. We pledge ourselves to education and political action, in accordance with constitutional democratic principles, on local, state and national levels, and to the support of the progressive objectives of labor unions, of cooperatives and farm organizations, and of other social and economic organizations of the people. We are neither a political party nor a part of any political party and we welcome like-minded independent voters and members of all political parties who subscribe to our principles. Our aim is to provide a medium and a program to unite the liberal and progressive forces of America to promote action for the general welfare locally and nationally.

ARTICLE I

General

Section 1. This organization shall be known as Americans for Democratic Action.

Section 2. Americans for Democratic Action subscribes to the following principles:

(a) We dedicate ourselves, as an organization of progressives, to the achievement of freedom and economic security for all people everywhere, through education and political action.

(b) We believe that rising living standards and lasting peace can be attained by democratic planning, enlargement of fundamental liberties and international cooperation.

(c) We believe that all forms of totalitarianism are incompatible with these objectives. In our crusade for an expanding democracy and against communism, fascism and reaction, we welcome as members of ADA only those whose devotion to the principles of political freedom is unqualified.

ARTICLE II

Membership

Section 1. Any person of any age, religion, color or national origin who accepts in good faith the basic principles of Americans for Democratic Action as set forth in this Constitution may be a member of the organization.

Section 2. No person who is a member or follower of a totalitarian organization or who subscribes to totalitarian political beliefs or who does not in good faith accept the basic principles of Americans for Democratic Action may be a member of the organization.

Section 3. Local and state chapters are empowered, in accordance with Article VII, Sections 4 and 5, to decide any question respecting individual qualifications for membership in such chapters, subject to the other provisions of this Constitution.

Section 4. All members shall be members of the National Organization, functioning through local or state chapters or committees where they exist. Membership-at-large in the national organization will be permitted only in areas where there are no local or state chapters. Membership-at-large in the state chapters will be permitted only in areas where there are no local chapters.

Section 5. No officers or member of Americans for Democratic Action who is an employee of the government of the United States shall participate in decisions or activities related to political management or political campaigns so long as, and to extent that, such participation is prohibited by law.

ARTICLE III

National Convention

Section 1. There shall be an annual National Convention of Americans for Democratic Action which shall determine the policies of the Organization until the next annual convention. The official Call shall be sent to all local and state chapters by the National Board not less than 60 days prior to the date of the Convention.

Section 2. The basis for representation at the National Convention shall be:

(a) All local and state chapters and committees shall be accorded delegates and voting strength on a sliding scale of representation based on membership as determined by the National Board. For the purposes of computing Convention representation, the membership of each local chapter and committee shall be based upon its membership in good standing thirty days prior to the date of the Convention excepting that every active chapter shall have a minimum of two delegates and every committee shall have a minimum of one delegate.

(b) All National Officers and members of the National Board shall be delegates.

(c) The National Board may elect delegates-at-large who shall not comprise more than 10% of the estimated voting strength of the Convention, provided that such delegates-at-large are members of ADA. Local chapters shall be consulted on all delegates-at-large coming from their areas prior to the Convention, as far as practicable.

(d) The National Board shall submit to each chapter and committee at least 45 days prior to the National Convention a draft of the proposed rules for the Convention. The Convention shall adopt its own rules. The National Board shall submit 45 days before the Convention such drafts of platforms for consideration of chapters and committees as it plans to present to the Convention.

Section 3. Each National Convention shall elect a Nominating Committee which shall report nominations to the succeeding National Convention.

ARTICLE IV

Officers, National Board, Executive Committee

Section 1. The officers of the organization shall be a Chairman of the National Board (to be known as the National Chairman), a

Chairman of the Executive Committee, a Treasurer, and an Assistant Treasurer, who shall be elected by the National Convention and hold office until the succeeding National Convention. In addition, the National Board may name one or more vice-chairmen and other such officers from among its members elected by the convention as it deems advisable.

Section 2. There shall be a National Board which shall be the governing body of this organization, between National Conventions, subject to the policies established by the National Convention, and to this Constitution. The National Board shall be composed of the present occupants of the offices of Honorary National Chairman, National Chairman, Chairman of the Executive Committee, and Treasurer, forty members-at-large, five members of the Campus Division (see Article IX, Section 8), one member designated by the National Businessmen's Council of ADA (see Article X), one member from each local chapter having a minimum membership of 50, an additional member from each chapter having a membership of 100, an additional member from each chapter having a membership of 400 or more and an additional member from each chapter having a membership of 1,000 or more, and one member from each state chapter. When past occupants of the offices of Honorary Chairman, National Chairman, Chairman of the Executive Committee, Vice Chairman, Treasurer, and Assistant Treasurer are elected as members of the National Board, they shall not be counted among the 40 at-large members.

Section 3. The members-at-large of the National Board shall be elected by the National Convention and hold office until the succeeding National Convention.

Section 4. Members of the National Board representing chapters shall be elected by their respective local and state chapters.

Section 5. The National Board may, by two-thirds vote of the Board present and voting at a meeting, elect additional members of the Board not to exceed five in number to serve until the next National Convention. Such members shall exercise all rights, privileges and duties of other Board members. Such additional Board members shall be elected only after consultation with the chairman of the chapter in the area where the proposed Board member resides.

Section 6. The National Board shall meet quarterly. The National Board shall also meet at the call of the National Chairman or by petition of any ten members of the Board.

Section 7. The National Board shall have power and authority to designate successors where a vacancy occurs in any office or among the members-at-large of the Board by virtue of death, resignation or otherwise. Such designees shall serve until the next succeeding election and exercise all rights, privileges and duties of the officer or Board member whom he succeeds.

Section 8. The National Board shall elect from its own membship an Executive Committee which shall act on behalf of the Board between meetings. The Executive Committee shall consist of a minimum of eight members and the National Officers. A minimum of four of the Executive Committee members shall be chosen among Board members elected by the several chapters and one member shall be chosen from the five Campus Division members, after nomination by the Campus Division governing body. The Executive Committee shall meet monthly, or at the call of the Chairman.

Section 9. The National Board and the Executive Committee shall adopt their own rules of procedure and shall provide for such special and standing committees as are deemed necessary.

Section 10. The National Board or the Executive Committee, as the National Board shall determine proper, shall have the power to decide all appeals made to it from decisions of local and state chapters which are alleged to violate the provisions of the National Constitution and its decision shall be effective when rendered, except that it may stay execution of the decision pending an appeal to the Annual Convention, notice of which shall be filed with the Chairman within 30 days after the decision is made known to the parties interested.

ARTICLE V

Headquarters and Staff

Section 1. The National Headquarters of Americans for Democratic Action shall be located in Washington, D. C.

Section 2. The National Board shall hire and discharge and fix compensation of the principle employees of Americans for Democratic Action, and shall delegate authority to hire and discharge subordinate employees to the Executive Commirree or appropriate staff executives as the Board shall determine proper.

ARTICLE VI

Finances

Section 1. (a) Annual chapter dues for each individual membership shall be from $3.00 to $10.00 to be fixed by the chapter and to be over and above the required dues to the Naticnal Organization. Annual chapter dues for each combined husband-and-wife membership shall be from $4.50 to $15.00 to be fixed by the chapter and to be over and above the required dues to the National Organization from each combined husband-and-wife membership. The National Board or the Executive Committee shall have power and authority in exceptional circumstances to allow a chapter to set a higher or lower figure if essential to the successful operation of such chapter.

(b) Every chapter shall pay to the National Organization $3.00 in annual national dues for each individual dues-paying chapter member. Every chapter shall pay to the National Organization $4.00 in annual national dues for each combined husband-and-wife chapter membership where such type of membership is desired by the chapter. Upon billing its members for annaul dues, every chapter shall separately itemize the national dues and the amount of the chapter dues as specified above.

Section 2. Each national individual member-at-large shall pay to the National Organization $2.50 in annual dues, and each combined national husband-and-wife membership-at-large shall pay to the National Organization $10.00 in annual dues.

Section 3. At the end of each month, every chapter shall remit to the National Qrganization the $3.00 national dues for each individual chapter member and the $4.00 national dues for each combined husband-and-wife chapter membership received during the month and also remit the name and address of each such individual and husband-and-wife membership to

whom the National Organization shall issue an annual membership card which shall be the only valid membership card in the organization.

Section 4. Effective January 1, 1952, annual dues shall be for the calendar year except that any new member joining between October 1 and December 31 shall pay initial membership dues which shall represent payment in full until December 31 of the following year. Members who have not renewed their current year's dues by April 30 shall be considered in arrears and not entitled to any privileges of membership.

Section 5. Whenever the Executive Committee finds, after consultation with the officers of a chapter, that the chapter has not collected membership dues, the Executive Committee may direct the National Office to collect membership dues directly from members and remit to the chapter their proper portion of the amount collected.

Section 6. Contributing membership may be established at a higher rate, but such memberships shall not confer additional privileges.

Section 7. Additional financial contributions may be solicited from members and others.

Section 8. In addition to the dues to the National Organization specified above, every chapter shall pay to the National Organization a prescribed quota from its income. This quota, based upon such factors as the type and size of the chapter, and the nature and potentiality of the community, shall be determined on an annual basis by negotiation between the individual chapters and a special committee of the National Board, a majority of which Committee shall be National Board members elected by the chapters. Each quota must be approved by the National Board, or an authorized subcommittee thereof, and by the responsible governing body of the local chapter. All chapter quotas due the National Organization shall be on a calendar year basis and chapter quota payments to the National Organization shall be made on a mutually satsifactory pre-arranged schedule with billing by National on the pre-arranged dates for the pre-arranged payments on the chapter quota. Quotas may be reviewed after six months at the request of the governing body of the chapter or of the National Board.

Section 9. The funds of the organization deposited in banks shall be drawn upon only by checks signed by two persons designated by the Board, only one of whom may be a member of the staff.

Section 10. The Board shall provide for an annual audit of the books of the organization by a certified public accountant, and for such interim audits as it may deem desirable.

Section 11. An annual financial statement shall be sent to each Chapter and be open for inspection by the members.

ARTICLE VII

Chapters

Section 1. Local charters shall be granted by the National Board or the Executive Committee where there are not less than 25 members applying and when satisfactory evidence is presented to it that the group seeking the charter accepts in good faith the basic principles of Americans for Democratic Action and is prepared to organize an ADA chapter which will strive to set the pace for, and to

work in cooperation with, the leaders of liberal and progressive thought and action in the community on both local and national issues.

Section 2. State charters may be granted by the National Board or the Executive Committee where the situation in the particular state warrants such a charter. After the granting of the state charter, local charters in that state shall continue to be granted by the National Board and the Executive Committee, but only with the advice and consent of the state organization.

Section 3. The National Organization shall supply all members with all regular publications of the organization.

Section 4. All chapters shall elect their own officers, determine policies on local issues, endorse local candidates (including candidates for Congress) and conduct their own activities in accordance with democratic procedures and the aims, policies and objectives of the National Organization. All local and state chapters shall have power to pass upon qualifications of persons for membership in the local or state chapter respectively under Article II hereof. All chapters shall file copies of their Constitution with the National Board.

Section 5. Local and state chapters shall have power to exclude, suspend or expel any person who does not meet the qualifications for membership set forth in Article II hereof. Any action which may lead to the exclusion of any member shall meet the requirements of democratic procedure and afford full opportunity, at his request, to appear, present evidence and refute accusations. All such actions shall be subject to appeal under procedures set up by the National Board.

Section 6. While it is the intent and desire of ADA to encourage effective chapters in communities for the advancement of the principles and purposes of Americans for Democratic Action, the National Board or the Executive Committee shall have the power to decharter chapters whose membership and program are insufficient to enable the chapter to maintain sustained activity on behalf of ADA's program and principles. The chapter and each member thereof shall be notified of such proposed action and the chapter shall be given an opportunity to be heard before such action is taken. If the dechartering is done by the Executive Committee, the chapter so dechartered may appeal to the National Board.

ARTICLE VIII

Local Committees

Section 1. Local committees may be established in communities where there are no chapters by the National Board or the Executive Committee wherever in the judgment of the Board or the Executive Committee such action would further the principles and programs of ADA. The Board shall adopt regulations governing the operation of such committees.

ARTICLE IX

Campus Division of ADA

Section 1. There shall be established campus chapters of ADA. These chapters and their members shall be governed by Article VII, and other articles of this Constitution except as hereinafter provided.

Section 2. Campus chapters shall affiliate in a Campus Division of the national organization. Student members of ADA otherwise qualified for membership in campus chapters may be members of the Campus Division, even though no campus chapter exists in their area provided, however, that no student may be a member-at-large of the Campus Division unless he is a member of the local or state chapter in his area. The campus Division shall adopt a constitution and by-laws consistent with this Constitution with the approval of the National Board of ADA.

Section 3. Active membership in a Campus chapter shall be open only to members of the faculty, administration and students in colleges and universities who comply with the requirements of the Campus Division Constitution, provided that such students may remain active members for one year following graduation. Campus chapters may permit persons under the age of 25 years who are not qualified for active membership to affiliate with the Campus chapter as associate members who may not vote for or hold chapter office and who may not exceed in number one-third of the active chapter membership.

Section 4. Campus chapters shall be chartered in accordance with the procedures set out in Article VII, Section 1, except that a Campus chapter having a minimum of 10 members may secure a charter if otherwise qualified. In order to remain chartered, a Campus chapter must have a minimum of 15 members after 1 year. Chartering or dechartering of Campus chapters shall be made in consultation with and after the recommendation, within a reasonable time, of the governing body of the Campus Division.

Section 5. Campus chapters are authorized to fix dues in accordance with the provisions of Article VI. However, dues for student members of campus chapters of ADA shall be fixed at a minimum of $1.50 per annum, $1.00 of which shall be remitted to the national organization. Dues for student members of local or state chapters where there is no campus chapter shall be fixed at $1.50 per annum, $1.00 of which shall be remitted to the national organization. Dues for student members-at-large of the national organization shall be fixed at $1.50 per annum. In case of dual membership in a local chapter and a campus chapter, only ADA national dues of the local chapter shall be required.

Section 6. Campus chapters shall operate and be represented as component units of local or state chapters which are chartered within the same jurisdiction. Where campus chapters act as component units, they shall be authorized to determine and promulgate policy on issues solely affecting students and the college or university subject to provisions in the Campus Division Constitution. Where such matters also affect local and state policy, campus chapters shall coordinate their activities with those of the local or state chapters and shall secure the approval of local and state chapters before promulgating policy.

Section 7. Campus chapters operating in areas where there are no local or state chapters shall also have authority to determine the promulgate policy on issues solely affecting students and the college or university, subject to provisions in the Campus Division Constitution. They shall not promulgate policy on other matters nor endorse candidates without securing the approval of the National Board of ADA or the National Executive Committee of ADA.

Section 8. The Campus Division shall be represented by five members of the National Board of ADA, chosen as provided by the Campus Division Constitution. One of these five members shall be nominated by the governing body of the Campus Division to serve as the Campus Division member of ADA National Executive Committee.

ARTICLE X

National Businessmen's Council

Section 1. There may be a National Businessmen's Council of ADA composed of members of ADA engaged in business or in services to business.

Section 2. All members of the National Businessmen's Council shall be members of ADA, and of state and local chapters, where they exist, as provided in Article II, Section 4.

Section 3. The National Businessmen's Council shall establish its own constitution based on the principles of ADA, with the approval of the National Board. The National Businessmen's Council may charter local councils in accordance with such Constitution, with the approval of state and local chapters of ADA where they exist.

Section 4. The National Businessmen's Council shall choose one voting member of the National Board.

ARTICLE XI

Suspension and Revocation of Charter

The National Board is empowered to limit the privilege of or suspend or revoke the charter of any chapter or committee failing to carry out its responsibilities under the Constitution. Where, after formal warning, by mail, a chapter continues to fail to carry out its responsibilities under the Constitution, the Executive Committee may recommend to the National Board suspension or revocation of the charter, the chapter shall receive formal notice of such proposed suspension or revocation and shall have an opportunity to be heard and present evidence and refute accusations. No action shall be taken with respect to any local chapter in any state where a state charter has been granted except after consultation with the state chapter. Any chapter whose charter is suspended or revoked shall have the right to appeal to the next National Convention.

ARTICLE XII

Amendments

Any five chapters or the National Board may initiate an amendment to the Constitution by adopting such amendment and having it published in the official National Organization. If within 60 days, two thirds of the chapters taking action on the question and representing at least 60% of the total membership adopt such amendment and notify the National Office, such amendment shall take affect 10 days thereafter.

The Constitution may also be amended by a majority vote of the delegates present and voting at the National Convention.

OFFICE OF SENATOR CLARK

Dec. 30, 1964

TO John Stewart

FROM HARRY SCHWARTZ

FOR INFO
FOLLOW UP
RETURN
FILE

A copy of this memo was sent to Valeo, who called back and said that it was "very helpful." I doubt that it is getting through to Mansfield, however.

I could have Clark talk to Mansfield about it, but we badger him so much, I am reluctant to do it.

This is a pretty crucial business, and we can make a strong case. Somebody-- maybe HHH-- should talk to the Leader about it.

OFFICE OF SENATOR CLARK

TO John Stewart

FROM HARRY SCHWARTZ

FOR INFO XXXXX
FOLLOW UP
RETURN
FILE

At Clark's suggestion, a copy of this was sent to Frank Valeo.

December 14, 1964

MEMORANDUM

TO: JSC
FROM: HKS
RE: CHANGES IN COMMITTEE RATIOS

I. Need for Ratio Changes

There will be 68 Democratic Senators at the start of the 89th Congress, a net gain of 2 over the total of 66 at the end of the 88th. (The latter figure reflects the loss of Thurmond, which took place prior to adjournment sine die.)

Under Rule XXV, there are 246 slots available on the Senate's standing committees. (See Table "A".) At the close of the 88th Congress, the Democrats held 163 slots, or 66.2%, fairly reflecting our 66-man majority. In the new Congress, we should get 68% of the available slots, or 167.28 slots. Rounded off, this requires a transfer of four slots. (See Table "B".)

Viewed another way, each of the four Republicans who will not return in the 89th Congress (Beall, Mechem, Keating, Goldwater) had two slots on standing committees. There are only two new Republican Senators (Fannin and Murphy). Hence, unless a transfer is made, the Republicans will have four extra slots.

II. Proposal for Ratio Changes

There are five major committees where the ratio is 11:6. (See Table "A".) (In percentages, Democrats have a representation of 64.7%, or 3.3% less than the 68% to which we are entitled.) They are:

Agriculture
Armed Services
Commerce
Finance
Interior

Of this group, the committee which is most crucial for enactment of the President's program, and on which Leadership-Administration supporters are least well represented, is Finance. However, there are no minority vacancies on the Finance Committee, and the most junior Republican is Senator Dirksen.

In view of that, I would suggest this solution:
1. Alter the ratios on the following three committees from 11:6 to 12:5

Armed Services
Commerce
Interior

Each of these has at least one minority vacancy, so no Senator will be forced off a committee.

2. Reduce the size of the Agriculture Committee from 17 members to fifteen members, taking one slot from the Minority and one from the Majority, resulting in a ratio of 10:5. (Agriculture has two Majority vacancies and one Minority vacancy, so no Senator will be displaced.)

3. Enlarge the Finance Committee from 17 members to 19 members, adding the two new members to the Majority, for a ratio of 13:6. (This is 68.4% -- about as close to our true percentage of 68% as you can get.)

Although this proposal would require an amendment of Rule XXV (to transfer two seats from A riculture to Finance)it would not alter the total number of committee slots available, and has the virtue of transferring the four new seats with a minimum of disruption and in a way which would adjust the ratios most fairly. It should be stressed that no Senator would be forced off a committee under this plan.

TABLE "A"

STANDING COMMITTEE SLOTS UNDER RULE XXV*

		APPORTIONMENT AT CLOSE OF 80TH CONGRESS	
	Total	Democrats	Republicans
(a) Space	15	10 :	5
(b) Agriculture**	17	11 :	6
(c) Appropriations	27	18 :	9
(d) Armed Services**	17	11 :	6
(e) Banking and Currency	15	10 :	5
(f) Commerce**	17	11 :	6
(g) District of Columbia**	7	4 :	3
(h) Finance**	17	11 :	6
(i) Foreign Relations	17	12 :	5
(j) Government Operations	15	10 :	5
(k) Interior**	17	11 :	6
(l) Judiciary	15	10 :	5
(m) Labor and Public Welfare	15	10 :	5
(n) Post Office & Civil Service	9	6 :	3
(o) Public Works	17	12 :	5
(p) Rules & Administration	9	6 :	3
	246	163	83

*Joint and Select Committees not included

**Present ratio gives Democrats less than 66 2/3%.

TABLE "B"

		% of Total Committee Slots (246)		Committee Slots Per Party	Net Change
88th Cong.	DEMS. -- 66 --	66%	--	163	
	REPS. -- 34 --	34%	--	83	
89th Cong.	DEMS. -- 68 --	68%	--	167	+4
	REPS. -- 32 --	32%	--	79	-4

OFFICE OF SENATOR CLARK

TO JOHN STEWART

FROM HARRY SCHWARTZ

FOR INFO

FOLLOW UP

RETURN

FILE

FROM THE OFFICE OF
SENATOR JOSEPH S. CLARK (D.PA.)
ROOM 260
SENATE OFFICE BUILDING
WASHINGTON, D.C.

FOR IMMEDIATE RELEASE
THURSDAY, DECEMBER 10, 1964

STATEMENT BY SENATOR JOSEPH S. CLARK (D.PA.)
SUPPORTING SENATOR JOHN O. PASTORE (D.R.I.)
FOR SENATE DEMOCRATIC WHIP

Senator Clark of Pennsylvania today urged his colleagues to elect Senator Pastore of Rhode Island as Assistant Democratic Leader in the Senate.

"John Pastore can be counted on to support the programs and policies of the Democratic Party developed over the past four years of the Democratic National Administration, adopted in our platform in Atlantic City last summer, and enunciated by the President and Vice-President in the successful campaign," Clark stated.

Pennsylvania's Democratic Senator pointed out that "Senator Pastore worked hard and spoke eloquently for the Civil Rights Bill and the Nuclear Test Ban Treaty, and he has always supported medicare. His voting record in the Senate over the years is consistent with the views of the majority of Democratic Senators."

Clark also noted that "there is no one in the Senate leadership representing the large industrial and urban areas of the country where the Democratic Party has its greatest numerical and electoral strength. Moreover, the most difficult domestic problems of the years ahead will be the problems that most affect the great metropolitan centers -- unemployment, urban redevelopment, mass transit and transportation, open space, air and water pollution and a host of others. We should have in the Senate Democratic leadership a man who is familiar with these problems, with the needs of the great urban centers -- and who represents a constituency which supports the Democratic programs to deal with these problems."

Senator Clark concluded that "John Pastore has the experience and qualifications and the ideological and geographic credentials to be an effective and creative Senate Democratic Whip and I will be doing all I can to see that he is elected to that post."

###

CABLE: "UAW DETROIT"

Solidarity House
8000 EAST JEFFERSON AVE.
DETROIT, MICHIGAN 48214
PHONE 926-5000

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-UAW

Rule 22 for all federal Senators

December 9, 1964

Johnst
Fyf

Dear _____:

For more than a decade, the UAW has supported the efforts of Senators of both parties to bring majority rule to the Senate of the United States.

We have taken the position that the Senate of a new Congress has power to fashion its rules at the opening of the new Congress by majority vote unfettered by any restrictive rules of earlier Congresses. Vice-Presidents Barkley and Nixon were of this view and Vice-President-Elect Humphrey many times gave eloquent expression to this same principle.

The effort to vindicate this principle of majority rule in the Senate was made at the opening of the new Congress in 1953 and has been made at the opening of Congress every two years since that time (with the exception of 1955). We now have the most forward looking Senate of this generation, a presiding Vice-President second to none in his devotion to the principle of majority rule and a President who is dedicated to the achievement of the Great Society. Under these circumstances, it would be nothing short of a breach of faith if a determined effort were not made to establish the principle of majority rule when Congress convenes on January 4, 1965.

We recognize that some Senators may have reservations about making the effort at this time. Some may feel that the ability to invoke cloture on the Civil Rights Bill last Spring evidences the workability of the present two-thirds requirement for closing debate. But for years, the filibuster did prevent needed civil rights legislation and even this one cloture came only after months of dilatory debate. We cannot repeat this waste of Senate time and energy every time a major controversial issue is debated in the future.

Others may feel that the filibuster has now become a weapon against such reactionary measures as delay in reapportionment. But the fortress of liberty in America will not be found in anti-democratic means such as the filibuster. Rule 22 is a weapon of the status quo and has been used to weaken bills of all kinds, not just civil rights. Those who seek progress in America are determined to continue the fight for majority rule.

The opening of the 89th Congress is the best opportunity in our time for establishing the principle that the majority of the Senators of a new Congress may act unfettered by the dead hand of the past. We hope you will join in the effort for majority rule on January 4.

Best regards.

Sincerely yours,

Walter P. Reuther, President
INTERNATIONAL UNION, UAW

WPR:mp
oeiu42aflcio

Dictated Friday, December 4, 1964

Americans for Democratic Action

MRS. FRANKLIN D. ROOSEVELT
1947-1962

REINHOLD NIEBUHR
Honorary Chairman

JOHN P. ROCHE
National Chairman

EDWARD D. HOLLANDER
Chairman, Executive Committee

REGINALD H. ZALLES
Treasurer

LEON SHULL
National Director

MRS. JANE J. BUCHENHOLZ
Secretary

Vice Chairmen
SAMUEL H. BEER
EMILE BENOIT
HUBERT H. HUMPHREY
LEON H. KEYSERLING
WAYNE MORSE
ROBERT R. NATHAN
JAMES G. PATTON
JOSEPH L. RAUH, JR.
WALTER P. REUTHER
MARVIN ROSENBERG
MORRIS RUBIN
ARTHUR M. SCHLESINGER, JR.
PAUL SEABURY

1341 Connecticut Ave., N.W., Washington, D. C. 20036 DEcatur 2-7754

December 9, 1964

The Honorable Hubert H. Humphrey
United States Senate
1313 New Senate Office Building
Washington, D. C.

Dear Senator Humphrey:

For your information I am enclosing a memoranda dealing with the significant votes of the six Democratic Senators who have been mentioned for the position of Senate Majority Whip.

Sincerely yours,

Leon Shull

Leon Shull
National Director

Enclosure

LS/am

NATIONAL BOARD

I. W. ABEL
PHILIP ADAMS
EDWARD ANDRADE
JOSEPH A. BEIRNE
ROBERT BENDINER
ROY BENNETT
MEYER BERGER
MELVIN L. BERGHEIM
WILLIAM W. BRILL
JAMES MacG. BURNS
HENRY MILLER BUSCH
JAMES B. CAREY
JOSEPH S. CLARK
JACOB CLAYMAN
ALBERT SPRAGUE COOLIDGE
EDWARD DAVIS
JOHN F. DAVIS
SIDNEY W. DEAN, JR.
MRS. JUNE OPPEN DEGNAN
ROBERT DELSON
LEON DESPRES
DAVID DUBINSKY
DON EDWARDS
AMITAI ETZIONI
JAMES FARMER
VICTOR FERKISS
DONALD M. FRASER
LEWIS A. FREEMAN
MRS. JOHN FRENCH
WM. VICTOR GOLDBERG
WALTER GOLDSTEIN
HENRY B. GONZALEZ
ARTHUR GORSON
MRS. VIOLET M. GUNTHER
RALPH HELSTEIN
BARRY S. JAYNES
MAX KANNER
FRANK E. KARELSEN
BENTLEY KASSAL
ROBERT W. KASTENMEIER
ARTHUR KATZMAN
DOROTHY KENYON
MRS. PHILIP LeCOMPTE
MRS. NEWMAN LEVY
STANLEY LOWELL
LOUIS LUBIN
ABIGAIL MALMGREEN
RALPH MANSFIELD
HENRY MEIGS
STANLEY MICHAELS
WILLIAM P. MILLER
HYMAN MINSKY
HANS J. MORGENTHAU
AMICUS MOST
CONSTANCE BAKER MOTLEY
OTTO MULLINAX
HOWARD H. MURPHY
MRS. KAY PEVEN
PAUL L. PHILLIPS
WALTER M. PHILLIPS
J. L. PIERSON
JAMES PILCHER
MRS. RALPH POMERANCE
NEAL POTTER
HERBERT ROBINSON
IRVING J. ROSENBLOOM
RICHARD G. SACHS
ROLAND M. SAWYER
ALBERT H. SAYER
LEON SCHACHTER
DORE SCHARY
LOUIS B. SCHWARTZ
ROBERT L. SCHWARTZ
HUGH SCHWARTZBERG
ELEANOR M. SICKELS
HENRY F. SILVER
MRS. JEANNE SIMON
L. M. C. SMITH
ARNOLD M. SOLOWAY
R. PETER STRAUS
MRS. SAMUEL SWADESH
ALLEN TAYLOR
WILLIAM L. TAYLOR
W. HALE THOMPSON
MRS. M. E. TILLY
DAVID C. WILLIAMS
FRANKLIN H. WILLIAMS
ARNOLD S. ZANDER
SAMUEL ZITTER

Americans for Democratic Action
1341 Connecticut Avenue, N. W.
Washington, D. C. 20036

December, 1964

VOTING RECORDS OF SENATORS WHO HAVE BEEN SUGGESTED AS CANDIDATE FOR MAJORITY WHIP

This Voting Record deals with the principle liberal-conservative issues faced by 6 Democratic Senators who may be elected to Majority Whip in the 89th Congress. The Voting Record is based on the Senator's total service in the Senate. The issues are divided into the following categories:

The following are the years each of the Senators entered the Senate:

Hart	1959
Long	1949
Monroney	1951
Muskie	1959
Pastore	1951
Smathers	1951

OF TOTAL VOTES CAST, THE NUMBER OF TIMES POTENTIAL WHIP SUPPORTED AND OPPOSED LIBERAL POSITION

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Liberal Position	54	46	71	50	97	36
Opposed Liberal Position	1	72	32	4	5	66

OF TOTAL VOTES CAST, PERCENTAGE OF VOTES POTENTIAL WHIP SUPPORTED AND OPPOSED LIBERAL POSITION

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Liberal Position	98%	39%	69%	93%	95%	35%
Opposed Liberal Position	2	61	31	7	5	65

The chart below shows in percentages how often individual Senators voted "with" and "against" the conservative coalition. The figures are based on Senate roll calls on which the majority of the voting Republicans and the majority of voting Southern Democrats forming a "conservative coalition" opposed the stand taken by the majority of voting Northern Democrats. Figures are based on Congressional Quarterly data and are available only for the 86th, 87th and 88th Congresses.

88th Congress	Hart	Long	Monroney	Muskie	Pastore	Smathers
Conservative Coalition Support	4%	60%	28%	9%	9%	40%
Conservative Coalition Opposition	85	19	69	83	78	30
87th Congress						
Conservative Coalition Support	3%	74%	53%	18%	18%	65%
Conservative Coalition Opposition	88	21	24	68	74	18
86th Congress						
Conservative Coalition Support	3%	53%	28%	13%	16%	62%
Conservative Coalition Opposition	92	42	66	67	77	14

TOTAL NUMBER OF TIMES EACH POTENTIAL SENATE DEMOCRATIC WHIP HAS SUPPORTED AND OPPOSED THE MAJORITY OF THE SENATE DEMOCRATIC PARTY ON ISSUES THAT DIVIDE LIBERALS FROM CONSERVATIVES. THE VOTES ARE BASED ON A SENATOR'S TOTAL SERVICE. (NOTE: THE LIBERAL POSITION IS NOT ALWAYS THE MAJORITY POSITION OF THE SENATE DEMOCRATIC PARTY.)

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Majority Party	46	71	86	45	82	54
Opposed Majority Party	8	46	16	8	19	47

PERCENTAGE OF TIMES EACH POTENTIAL SENATE DEMOCRATIC WHIP HAS SUPPORTED AND OPPOSED THE MAJORITY OF THE SENATE DEMOCRATIC PARTY ON ISSUES THAT DIVIDE LIBERALS FROM CONSERVATIVES. THE VOTES ARE BASED ON A SENATOR'S TOTAL SERVICE. (NOTE: THE LIBERAL POSITION IS NOT ALWAYS THE MAJORITY POSITION OF THE SENATE DEMOCRATIC PARTY.)

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Majority Party	85%	62 %	84%	85%	81%	53%
Opposed Majority Party	15	38	16	15	19	47

NUMBER OF VOTES BY SUBJECT IN WHICH POTENTIAL DEMOCRATIC WHIP SUPPORTED AND OPPOSED LIBERAL POSITION

Civil Rights, Voting Rights and Civil Liberties	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Liberal Position	9	3	9	9	13	2
Opposed Liberal Position	0	12	5	0	1	12
Foreign Policy						
Supported Liberal Position	9	6	15	8	20	10
Opposed Liberal Position	0	16	3	0	0	10
Education						
Supported Liberal Position	3	2	6	4	7	5
Opposed Liberal Position	0	5	1	0	0	1
Welfare and Medicare						
Supported Liberal Position	3	3	5	3	7	4
Opposed Liberal Position	0	5	2	0	0	3

Alleviate Unemployment and Raise Substandard Wages	Hart	Long	Monroney	Muskie	Pastore	Smathers
Supported Liberal Position	9	7	9	9	12	3
Opposed Liberal Position	0	5	2	0	0	9
Urban Affairs						
Supported Liberal Position	6	8	8	3	9	1
Opposed Liberal Position	0	2	1	2	0	6
Majority Rule in the Senate						
Supported Liberal Position	5	0	0	5	6	0
Opposed Liberal Position	0	9	7	0	1	7
Government Regulation and Regulatory Agencies						
Supported Liberal Position	1	2	4	1	4	2
Opposed Liberal Position	0	4	2	0	0	4
Conservation and Resources						
Supported Liberal Position	2	5	7	2	7	4
Opposed Liberal Position	1	6	3	1	2	5
Tax Reform						
Supported Liberal Position	6	3	5	5	6	4
Opposed Liberal Position	0	5	3	1	1	4
Labor						
Supported Liberal Position	1	5	3	1	3	1
Opposed Liberal Position	0	0	0	0	0	2
Immigration*						
Supported Liberal Position		2	0		3	0
Opposed Liberal Position		3	3		0	3

* All major votes occurred before Senators Hart and Muskie entered the Senate.

NUMBER OF TIMES EACH POTENTIAL SENATE DEMOCRATIC WHIP HAS SUPPORTED AND OPPOSED THE MAJORITY OF THE SENATE DEMOCRATIC PARTY, BY CATEGORY, ON ISSUES THAT DIVIDE LIBERALS FROM CONSERVATIVES. THE VOTES ARE BASED ON A SENATOR'S TOTAL SERVICE. (NOTE: THE LIBERAL POSITION IS NOT ALWAYS THE MAJORITY POSITION OF THE SENATE DEMOCRATIC PARTY.)

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Civil Rights, Civil Liberties and Voting Rights						
Supported Majority Party	8	7	11	8	12	5
Opposed Majority Party	1	8	3	1	2	9
Foreign Policy						
Supported Majority Party	7	12	15	7	14	15
Opposed Majority Party	2	10	3	1	6	5
Education						
Supported Majority Party	3	3	7	4	6	5
Opposed Majority Party	0	4	0	0	1	1
Welfare and Medicare						
Supported Majority Party	3	3	5	3	7	4
Opposed Majority Party	0	5	2	0	0	3
Alleviate Unemployment and Raise Substandard Wages						
Supported Majority Party	9	8	9	9	11	4
Opposed Majority Party	0	4	2	0	1	8
Urban Affairs						
Supported Majority Party	6	8	8	3	9	1
Opposed Majority Party	0	2	1	2	0	6
Majority Rule in Senate[1/]						
Supported Majority Party	2	6	4	2	3	4
Opposed Majority Party	2	2	2	2	3	2
Government Regulation and Regulatory Agencies						
Supported Majority Party	1	3	5	1	4	3
Opposed Majority Party	0	3	1	0	0	3

	Hart	Long	Monroney	Muskie	Pastore	Smathers
Conservation and Resources						
Supported Majority Party	3	5	8	3	8	5
Opposed Majority Party	0	6	2	0	1	4
Tax Reform						
Supported Majority Party	3	6	8	4	5	7
Opposed Majority Party	3	2	0	2	2	1
Labor						
Supported Majority Party	1	5	3	1	3	1
Opposed Majority Party	0	0	0	0	0	2
Immigration						
Supported Majority Party		5	3		0	0
Opposed Majority Party		0	0		3	3

1/ Note: In the 1961 vote to refer Rule 22 to Senate Rules Committee, an equal number of voting Democrats and an equal number of paired Democrats, opposed and supported the move. This vote is therefore not counted in this series.

Civil Rights, Voting Rights and Civil Liberties

	Hart	Long	Monroney	Muskie	Pastore	Smathers
June 9, 1964 An amendment was offered to limit coverage of the Equal Employment Opportunities Commission to employers and unions having over 100 employees or members. If this amendment had carried 8 million job holders, otherwise protected, would be unprotected against job discrimination. A vote for tabling the amendment is marked plus; a vote against, minus.	+	-	+	+	+	-
June 10, 1964 A motion to invoke cloture on the Senate civil rights filibuster is marked plus; a vote against, minus.	+	-	+	+	+	-
June 10, 1964 An attempt was made to delete the requirement that non-discrimination in public accomodations would become effective once the Civil Rights Bill was signed into law. The amendment offered to postpone the affective date until November 15, 1965. A vote against the amendment is plus; a vote for, minus.	+	-	+	+	+	-
July 23, 1964 In amending the Economic Opportunity Act of 1964, an attempt was made to restrict the bill sharply by handing governors unprecedented power to veto the Job Corps and Community Action programs in their states. A vote against granting the governor veto power is plus; a vote for, minus.	+	+	+	+	+	+
September 10, 1964 In debating the rider to the Foreign Aid bill which prohibited Federal courts from hearing state reapportionment cases for at least two years an attempt was made to table and thereby kill the anti-reapportionment rider. A vote for tabling is plus; a vote against, minus.	+	-p	-	+	+	-

Civil Rights, Voting Rights and Civil Liberties

	Hart	Long	Monroney	Muskie	Pastore	Smathers
May 9, 1962 An attempt was made to impose cloture on the Administration's Civil Rights bill to outlaw states literacy tests and grant the franchise to citizens having a 6th grade education. A vote for cloture is plus; a vote against, minus.	+	-	-	+	+	-
March 10, 1960 A motion to table Part III to the 1960 Civil Rights Act, enabling the Attorney General to bring civil action to the Federal courts to protect equal rights was successfully moved. A vote against tabling is marked plus, a vote for, minus.	+	-	-	+	+	-
March 24, 1960 The Senate successfully moved to table an amendment to the 1960 Civil Rights Act that called for a speedy administrative system of Federal voting registraars to enable mass enfranchisement in states hostile to Negroes registering to vote. A vote against tabling is plus; a vote for, minus.	+	-	+	+	+	-
July 23, 1959 The Senate agreed to a motion by Senator Long of Louisiana to recommit a bill which would have deleted from the National Defense Education Act that students applying for Federal funds take loyalty oaths. A vote against recommittal is marked plus; a vote for, minus.	+	-	+	+	+	-
August 20, 1958 The Senate attempted to table and thereby kill an amendment that would have prohibited the Supreme Court from barring enforcement of state laws in areas preempted by Federal statutes. The substitute was basically an attack on the Supreme Court. In addition to being an attempt to severely limit Federal authority.	-	+		+		-

	Hart	Long	Monroney	Muskie	Pastore	Smathers
July 24, 1957 The Senate eliminated that part of the 1957 Civil Rights Act which would have provided Part III protection to constitutional rights guaranteed by the Fourteenth Amendment to the Constitution such as equal protection laws. It would have permitted the Attorney General to bring civil action to Federal courts to protect equal rights. A vote for elimination of these protections is marked minus, a vote against, minus.	-	-		+		-
August 2, 1957 The Senate amended the Civil Rights Bill to grant a jury trial in all contempt actions brought to punish for refusal to obey Federal court orders. Prior to the adoption of this amendment, there were no juries in such cases and the U. S. was a party to the suit, and the addition of this amendment resulted in an exception in favor of those who violate court orders with regard to voting rights. A vote against the addition of the jury amendment is marked plus; a vote for, minus.	-	-		-		-
December 2, 1954 The Senate agreed to censure Senator McCarthy. A vote for censure is marked plus; a vote against, minus.	+	+		+		+p
August 12, 1954 The Eisenhower Administration had requested authority to force dissolution of organizations determined to become Communist infiltrated. The Senate was considering the question when the vote was taken on the question of whether to refer the matter to a commission on security. The referral was defeated and the infiltration proviso became a part of an overrall measure to outlaw the Communist Party. A vote for referring to the commission on security is marked plus; a vote against, minus.	+	+		+		-
July 12, 1950 An attempt was made to bring about cloture on FEPC legislation. A vote for cloture is plus; a vote against, minus.	-					

Foreign Policy

	Hart	Long	Monroney	Muskie	Pastore	Smathers
August 11, 1964 After the House resisted major cuts in the Foreign aid appropriation, the Senate cut the authorization by $216 million. A vote against the cut is plus; a vote for, minus.	+	-	+	+	+	-
September 24, 1963 The Senate, requiring a 2/3 vote of those present and voting, approved the Limited Nuclear Test Ban Treaty to outlaw nuclear testing in the atmosphere, underwater and in outer space. A vote for the treaty is marked plus; a vote against, minus.	+	-	+	+	+	+
November 13, 1963 A move was made to charge a flat 2% interest rate on all foreign aid loans. Loans have been made at nominal interest rates below 1%. An identical provision passed the House. If passed by the Senate, the 2% interest rate would increase the Foreign Exchange burden on newly developed countries. A vote against the 2% interest amendment is marked plus; a vote, minus.	+a	-p	+	+	+	+
April 5, 1962 In the U. N. bond issue, a proposed amendment would authorize the U. S. to lend the U. N. only those amounts $25 million which were in fact matched by actual loans from other nations rather than promised loans. The effect of the amendment was to imply that other countries did not honor their pledges. A vote against the amendment is marked plus; a vote for, minus.	+	+p	+	+	+	+
September 18, 1962 An attempt was made to restore "peril point" provisions to the President's Trade Expansion Act. "Peril Point" provisions set limits below which tariffs could not be reduced. If adopted this would have seriously weakened the Trade Expansion Act's fundamental purpose to grant the President more authority in tariff negotiations. A vote a against the peril point" provisions is plus; a vote for, minus.	+p	+	+	+	+	+

Foreign Policy

	Hart	Long	Monroney	Muskie	Pastore	Smathers
May 11, 1961						
The Senate granted the President authority to permit non-military aid to nations other than the Societ Union and Communist China when the President determined such aid was in the interest of U. S. security. A vote to grant the President such authority is marked plus; a vote against, minus.	+	-	+	+a	+	-
August 11, 1960						
The Senate rejected an amendment which would have required annual appropriations by Congress, instead of long term financing for the development loan fund. A vote against the amendment is marked plus; a vote for, minus.	+	+	+	+	+	-
May 2, 1960						
The Senate agreed to an amendment which deleted a provision in the Foreign Aid Program that would authorize the use for economic aid in underdeveloped areas of foreign currencies obtained by the U. S. in selling surplus agricultural commodities. The affect of the amendment was to limit economic aid abroad. A Vote for the amendment is marked minus; a vote against, plus.	+	-	+	A	+	+
July 2, 1959						
An attempt was made to cut the authorization for the Development Loan Fund by $700 million. A vote against the reduction is marked plus; a vote for, minus.	+	-	+	+	+	-
July 22, 1958						
The Senate rejected an amendment to the Trade Agreements Extension Act, whereby a tariff commission ruling in favor of a higher tarriff would prevail inspite of Presidential objections to such a ruling unless both houses of Congress positively supported the amendment. A vote against the amendment and for Presidential authority is marked plus; a vote for the amendment and against Presidential authority, minus		-	+		+	-

Foreign Policy

	Hart	Long	Monroney	Muskie	Pastore	Smathers
June 14, 1957 The Senate rejected a proposal to limit foreign aid for defense support to one year rather than the two years provided in bills reported by the Senate Foreign Relations Committee. A vote against the one year limitation on foreign aid is plus; a vote for, minus.		-	A		+	+
June 14, 1957 The Senate was faced with an amendment to delete the borrowing authority and the revolving character of the proposed Development Loan Fund from the foreign aid bill. A vote against deletion of the borrowing power of the fund is marked plus; a vote for, minus.		-	A		+	+
June 18, 1957 The Senate had approved U. S. participation in the International Atomic Energy Agency which grew out of President Eisenhower's 1953 "atoms for peace" proposal. Senator Bricker attempted to amend the provision to provide that this country make no fissionable material available to the International Agency except specifically authorized by Congress. The affect of the Bricker amendment would be to restrict U. S. participation in the International Atomic Agency. A vote against the Bricker amendment is marked plus; a vote for, minus.		+	A		+	-
July 20, 1956 The Senate rejected an attempt to cut foreign military aid by $400 million. A vote against the rejection is marked plus; a votefor, minus.		-	-		+	-
June 2, 1955 Foreign economic aid is made available on a negotiated part grant-part loan basis. It was proposed to make it a rigid rule that 75% of the funds be put on a loan basis. Such a provision would have greatly handicapped effective administration of the foreign aid program. A vote against the loan requirement is marked plus; a vote for, minus.		-	+		+	+

Foreign Policy

	Hart	Long	Monroney	Muskie	Pastore	Smathers
February 26, 1954 Senator Bricker sought to amend the Constitution by limiting the treaty of the United States and curb the President's authority to enter into executive agreements. A vote against the Bricker amendment is marked plus; a vote for, minus.		-	+		+	-
August 16, 1954 The Senate successfully moved to cut the foreign military aid appropriation by an additional $200 million. A vote against the cut is marked plus; a vote for, minus.		-	-		A	-
June 30, 1953 An amendment to the Foreign Aid bill authorized the President to use up to $50 million in surplus food stuffs to aid friendly nations faced with famine or other critical situations. A vote for such aid is marked plus; a vote against, minus.		-	-		+	-
July 1, 1953 An attempt was made to cut the foreign aid bill by $1 billion. A vote against cutting is marked plus; a vote for, minus.		-	+		+	A
May 28, 1952 The Senate sought to cut foreign aid appropriations by an additional $200 million. A Senate Committee had already cut the appropriation by $1.1 billion. A vote against cutting is marked plus; a vote for, minus.		-	+		+	+
October 2, 1951 Opponents of foreign aid and Point IV program fought to reduce the proposal when first before the Senate. After the bill returned from conference they moved to recommit the bill to conference thereby killing it. A vote against recommittal is marked plus; a vote for, minus.		+	+		+	+

Foreign Policy

	Hart	Long	Monroney	Muskie	Pastore	Smathers
August 3, 1949 A general 10% cut was provided for in the General Appropriations bill. Senate liberals moved to exempt Economic cooperation Administration funds from the overall 10% cut. A vote for the amendment is marked plus; a vote against, minus.		A				
August 3, 1949 Senate liberals sought to exempt Point Four funds from the overall 10% cut in the Genral Appropriations bill. A vote for the amendment is plus; a vote against, minus.		A				
September 15, 1949 Conservatives attempted to retain "peril point" provisions in the Reciprocal Trade Act which was first enacted in the 80th Congress. The Truman Administration opposed retension of "peril points" since it handicapped the President into entering into reciprocal trade agreements. A vote against retaining "peril points" is marked plus; a vote for, minus.		+				

Education

	Hart	Long	Monroney	Muskie	Pastore	Smathers
February 6, 1962 The aid to higher education bill is presented to the Senate, including funds for scholarships for needy students in addition to loans for colleges for construction of academic facilities. An amendment was offered to the Senate to delete the scholarship provisions. A vote against the amendment is marked plus; a vote for, minus.	A	+	+	+	+	+
May 25, 1961 The Senate voted to accept the Administration program of Federal grants to states for construction, operation and maintenance of public schools, including teachers salaries. A vote for final passage is marked plus; a vote against, minus.	+	-	+	+	+	+
February 3, 1960 Senate rejected an amendment to authorize $1.1 billion a year for aid to education, and permit the states to allocate funds for teachers salaries as well as school construction. A vote for the amendment is marked plus; a vote against, minus.	+	-	+	+a	+	A
August 17, 1959 The Senate rejected an effort to eliminate a $50 million college loan fund for construction of classrooms and laboratory facilities. A vote against the amendment is marked plus; a vote for, minus.	+	+	+	+	+	+
August 13, 1958 The Senate rejected an amendment to the National Defense Education Act authorizing annual expenditures of $1 billion for a two year public school construction program. A vote for the amendment is plus; a vote against, minus.		-	-		+	+

Education

	Hart	Long	Monroney	Muskie	Pastore	Smathers
July 30, 1953 It was proposed that funds raised by the Federal government by leasing oil rights in the continental shelf be used for grants to the states for aid to primary, secondary and higher education. Initially the Senate accepted the proposal, but the issue became deadlocked within conference. The principal issue in the Senate then became whether to give up on the Education program. A vote to stand by the Senate position and insist on using Federal funds raised by leasing oil rights for aid to education is marked plus; a vote against using "oil for education" is minus.	-	+		+		+
April 2, 1952 The Senate rejected a proposal to use revenues from off-shore oil for aid to all 48 states for aid to education purposes. A vote for oil for education is marked plus; a vote against, minus.	-	+		+		-

Welfare and Medicare

	Hart	Long	Monroney	Muskie	Pastore	Smathers
September 2, 1964 The Senate adopted an amendment to the Social Security Act providing hospitalization for persons over 65, nursing home benefits, out patient diagnostic service benefits and home health visits financed by Social Security. A vote for Medicare is plus; a vote against, minus.	+	-	+	+	+	-
July 17, 1962 The Senate voted to table a health insurance proposal financed under Social Security similar to the one described above. A vote against tabling is plus; a vote for, minus.	+	-	-	+	+	-
August 23, 1960 An amendment to the Social Security bill providing health insurance benefits financed by the Social Security System for persons over 68 similar to the proposals described above, was defeated. A vote for the amendment is plus; a vote against, minus.	+	-	-	+	+	-
May 28, 1958 The Senate rejected Senator Long's amendment of raising public assistance to the aged, blind and disabled by about $5 per month. A vote for the increase is assistance is marked plus; a vote against, minus.		+	+a		+	+
July 17, 1956 The Senate agreed to permit persons in covered employment who have become permanently and totally disabled to receive Social Security benefits at age 50. A vote for the proposal is plus; a vote against, minus.		+	+		+	+
July 7, 1953 The Senate voted to raise funds from which the Federal government grants assistance to local communities for construction of hospitals. A vote for the increase is marked plus; a vote against, minus.		-	+		+	+

Welfare and Medicare

	Hart	Long	Monroney	Muskie	Pastore	Smathers
March 16, 1951 Legislation authorized Federal grants to states and local communities for the development and maintenance of public health units. A vote for the legislation is plus; a vote against, minus.		+p	+		+	+
August 16, 1949 The Senate voted to turn President Truman's recommendation to create a Department of Welfare. A vote upholding President Truman's creation of the Department of Welfare is plus; a vote against, minus.		-				

Legislation to Alleviate Unemployment and raise substandard Wages

	Hart	Long	Monroney	Muskie	Pastore	Smathers
April 10, 1963 The Youth Employment Act, aimed at reducing youth unemployment by increasing their job skills, established a youth conservation corp. An attempt was made to delete the youth conservation corp and limit the program to just local employment opportunities. A vote against the deletion is marked plus; a vote for, minus.	+	-	-	+	+	+
June 26, 1963 The Senate increased the authorization for the Area Redevelopment Act by $455.5 million over the 1961 ceiling. The authorization provided funds for loans to further industrial and rural redevelopment in economically distressed areas. A vote for final passage is marked plus; a vote against, minus.	+	+	+	+	+	+
March 14, 1961 An attempt was made to require annual refinancing of the ARA program rather than permit long term planning through direct borrowing from the treasury. A vote for the amendment is marked minus; a vote against, plus.	+	+	+	+	+	-
March 16, 1961 The Senate overturned its Finance Committee which would have put the emergency temporary extension of the Unemployment Compensation Act on a basis that would place the burden on employers in each state, rather than spreading it nationwide by "pooling" among the states. The Finance Committee's proposal would have prompted action to reduce benefits in states with high level unemployment. A vote to overturn the Finance Committee is marked plus; a vote against, minus.	+	+	+	+a	+	-

Legislation to Alleviate Unemployment and Raise Substandard Wages

	Hart	Long	Monroney	Muskie	Pastore	Smathers
April 18, 1961 The Senate rejected the substitute minimum wage bill which would have reduced the minimum hourly wage from $1.25 to $1.15, sharply cut back the number of newly covered workers, and hold the minimum for those newly covered workers to $1.00 with no provision for overtime pay. A vote for the substitute is marked minus; a vote against, plus.	+	+	+	+	+	+
May 6, 1960 The Senate approved a scaled-down version of the Area Redevelopment bill which authorized a $251 million for loans and grants to economically depressed rural and industrial communities. A vote for the bill is marked plus; a vote against, minus.	+	-	+	+	+	-
August 18, 1960 Senator Monroney wanted to limit the extension of minimum wage protection to employees and retail&service chains operating in more than one state. A move to table the Monroney amendment meant Senate acceptance of the more liberal coverage. A vote for the motion to table is marked plus; a vote against, minus.	+	+	-	+	+	-
March 23, 1959 The Senate accepted the more extensive Area Redevelopment Act providing for $389.5 million in grants and loans for the redevelopment of rural and industrial areas suffering low income and chronic unemployment. A vote for the bill is marked plus; a vote against, minus.	+	-	+	+	+	-
March 25, 1959 The Senate rejected an amendment which would have extended to July 1, 1960 all the provisions of the 1958 temporary Unemployment Compensation Act. This temporary act furnished Federal loans to the states to extend jobless benefits for a limited period. Failure to extend the act meant that it would expire on July 1, 1959. A vote for extension of the Temporary Unemployment Act is marked plus; a vote against minus.	+	+	+	+	+	-a

Legislation to Alleviate Unemployment and Raise Substandard Wages

	Hart	Long	Monroney	Muskie	Pastore	Smathers
May 13, 1958 The Senate passed an Area Redevelopment Act similar to the act passed in 1959. A vote for final passage is marked plus; a vote against, minus.		A	+		+p	-p
May 27, 1958 An attempt was made to amend the Temporary Unemployment Compensation Act of 1958 to cover additional workers, increase benefits and establish a uniform duration of compensation. A vote for liberalizing unemployment compensation is marked plus; a vote against, minus.		-	A		+	-
July 13, 1954 The Senate considered establishment of a reserve fund to aid states in paying unemployment compensation. A vote was taken on a proposal to require the states to meet certain minimum standards before receiving assistance from the reserve fund. A vote for minimum standards is marked plus; a vote against, minus.		-	+		+	-
August 30, 1949 The principal vote on the 1949 amendments to the Fair Labor Standards Act came with the question of coverage for employees of retail and service establishments with less than 50% of business out of state. The amendment would have prohibited such employees from protection of minimum wage and maximum hour. A vote against the amendment is marked plus; a vote for, minus.		+				

Urban Affairs

	Hart	Long	Monroney	Muskie	Pastore	Smathers
April 4, 1963 The Senate approved aid to mass transit legislation by providing a 3 year program of matching grants to help states and localities provide improved mass transportation facilities and services. A vote for final passage is marked plus; a vote against, minus.	+	+	+	-	+	-a
February 20, 1962 President Kennedy sought to create a Department of Urban Affairs through use of the Reorganization Act. The Reorganization Act is a procedure under which the plan goes into effect automatically unless disapproved by one or both houses of Congress. The Senate Government Operations Committee was considering a motion of disapproval, and this vote was an attempt to take the motion out of the committee, and place it before the full Senate. A successful motion to discharge the committee would have had the effect of the Senate upholding the creation of a Department of Urban Affairs. A vote for the motion to discharge is marked plus; a vote against, minus.	+	-	+	+	+	-
June 28, 1961 The Senate rejected a motion to send urban renewal, slum clearance and housing matters back to conference with instructions to reduce the total funds authorized by $1,6 billion. A vote against reduction is marked plus; a vote for, minus.	+	+	-	+	+	-
June 16, 1960 In a "stop gap" measure finally passed by Congress no public housing or urban renewal fund authorizations were included. An attempt to amend the bill to authorize the construction of 37,000 additional public housing units was made. A vote for this amendment is marked plus; a vote against, minus.	+	-	+	-	+	A

Urban Affairs

	Hart	Long	Monroney	Muskie	Pastore	Smathers
February 5, 1959 The Senate opposed increasing annual authorizations for urban renewal by $100 million for each of four years and permit an increase of $150 million in any year within the total amount authorized. A vote for the increased authorization is marked plus; a vote against, minus.	+	+	+	A	+	-
August 12, 1959 The Senate failed in this attempt to pass the first housing bill over President Eisenhower's veto. Although the funds for increased urban renewal were defeated, the President objected to the size of the urban renewal and public housing authorizations. A vote to override the veto is marked plus; a vote against, minus.	+	+	+	+	+	+
May 24, 1956 The Senate Banking and Currency Committee had recommended the construction of 135,000 low rent public housing units for each of the next four years. A motion is made to substitute the committee recommendation to permit only 35,000 low rent public housing units to be built in each of the next 2 years. A vote for the lower number is marked minus; a vote against the lower number is marked plus.		+a	+		+	-
June 7, 1955 The issue involved is identical to the one occuring on May 24, 1956. A vote against reduction is marked plus; a vote for, minus.		+p	+		+p	-p
June 30, 1951 The Housing Act of 1949 provided for an average of 135,000 units of public housing annually for a five year period. An attempt was made to cut the number of units to 5,000. A vote against the cut is marked plus; a vote, minus.		+	+		+	A

Urban Affairs

March 15, 1950

Hart	Long	Monroney	Muskie	Pastore	Smathers

An attempt was made to delete a section of the housing bill designed to assist the construction of housing for middle income groups by making credit more easily available to co-operatives and other non-profit housing developments. A vote against deletion is marked plus; a vote for, minus.

+					

Majority Rule in the Senate

	Hart	Long	Monroney	Muskie	Pastore	Smathers
January 31, 1963 The leadership of both parties moved to table the question whether the Senate could, at the start of a new Congress, close debate in order to vote on a rules change. The vote to table effectively denied the Senate its right to table its own rules. The Southerners then proceded to filibuster to death modification of the filibuster rule. A vote against tabling is marked plus; a vote for, minus.	+	-	-	+	-	-
February 7, 1963 A majority of the Senate supported ending the filibuster in Rule 22. But the effect of the previously adopted tabling motion required 2/3 of the Senate present and voting to end debate for rules change. Thus the will of the majority was frustrated. A vote to end the filibuster is marked plus; a vote to continue the filibuster, minus.	+	-	-	+	+	-
January 11, 1961 Senate Majority Leader Mansfield opened the 87th Congress with a motion to refer a proposal to revise Rule 22, to curb Senate filibusters, to the Senate Rules Committee. A vote against sending this motion to the Senate Rules Committee is marked plus; a vote for, minus.	+	-	-	+	+	-
January 9, 1959 The Senate tabled the Anderson motion to establish that Senate rules were not in effect until adopted anew by the Senate of a new Congress. The Anderson rule permitted the Senate to revise the filibuster rule without revision being subject to a filibuster. A vote against tabling is marked plus; a vote for, minus.	+	-	-	+	+	-

Majority Rule in the Senate

	Hart	Long	Monroney	Muskie	Pastore	Smathers
January 12, 1959 Senator Douglas moved to curb the effectiveness of the filibuster by permitting cloture by a majority vote after 15 days of debate. A vote for the Douglas amendment is marked plus; a vote against, minus.	+	-	-	+	+	-
January 4, 1957 The vote on this motion establishes the same principle as the vote on January 9, 1959. A vote against tabling is marked plus; a vote for, minus.		-	-		+	-
January 7, 1953 This vote also sought to establish the same principle as occured in the votes in 1957 and 1959. A vote against tabling is marked plus; a vote for tabling is marked minus.		-	-		+	-
March 11, 1949 Vice President Barkley ruled that debate on the motion to consider a rule to end effective filibustering could be cut off by a simple majority vote through the cloture process. The affect of the Barkley ruling made it possible to bring civil rights legislation to a vote on the Senate floor if a majority favored such legislation. The Barkley ruling was defeated on appeal. A vote for the Barkley ruling is marked plus; a vote against, minus.		-				
March 17, 1949 The Senate voted to apply cloture to all business except rules changes by a 2/3 vote of the entire Senate membership, i.e., 64 Senators in a 96 member body and 67 Senators in a 100 member body. This resolution further strengthened the filibuster rule. A vote against the resolution is marked plus; a vote for, minus.		-				

Government Regulation and Regulatory Agencies

	Hart	Long	Monroney	Muskie	Pastore	Smathers
January 19, 1960 The Senate approved an amendment to a bill requiring reports on campaign contributions and candidate spending in primaries by applying it to primaries as well as general elections. A vote for the amendment is marked plus; a vote against, minus.	+	-	+	+	+p	-p
August 15, 1957 The Senate confirmed the appointment of Jerome Kuykendall to a second five year term as chairman of the FPC. Kuykendall demonstrated complete sympathy in his first term with, if not subservience to, the demands of the oil-natural gas and power industries that the FPC is supposed to regulate in the public interest. A vote against the confirmation is marked plus; a vote for, minus.		-	-		+	-
August 2, 1955 All of President's Eisenhower's appointments to the SEC have been from the securities industry which the SEC was established to regulate. With the nomination of Harold Patterson the SEC was left with no one from outside the industry. Those who opposed Patterson's confirmation urged that the public interest member be nominated instead. A vote against confirmation of Patterson is marked plus; a vote for, minus.		-	+		A	+
January 25, 1954 The Senate voted to confirm the appointment of a close friend of Senator McCarthy, Robert Lee, to the FCC. Lee's only experience in communication was in presiding over the right wing facts forum program. A vote against confirmation is marked plus; a vote for, minus.		+	+		+	-
February 18, 1954 This issue occured over the appointment of Albert Beeson to the NLRB. 6 of the committees (Senate Labor) concluded that he had given false testimony on three Points bearing on his continuing relationship with a private corporation by which he had been employed. A vote against confirmation is marked plus; a vote for, minus.		+	+		+	+

Government Regulation and Regulatory Agencies

March 9, 1953	Hart	Long	Monroney	Muskie	Pastore	Smathers
The Senate was voting on the conformation of Albert Cole as Housing Administrator. As a Congressman, Cole for 10 years was one of the leading opponents of decent housing legislation. A vote against Cole is marked plus; a vote for, minus.	-	-			A	-a

Conservation and Resources

	Hart	Long	Monroney	Muskie	Pastore	Smathers
April 8, 1963 An amendment was sought requiring affirmative congressional approval, instead of the traditional congressional veto power, before the President's recomendations on permanent exclusion or inclusion of wilderness lands take effect. The proposal was a legislative attempt to obstruct Executive authority and increase congressinnal log rolling. A vote against the amendment is marked plus; a vote for, minus.	+	-	-	+	+	+
August 17, 1962 The Senate established a private corporation to own and operate the Communications Sattellite System, which the Government largely developed. A vote against this bill is marked plus; a vote for, minus.	-	+	-	-p	-	-p
July 18, 1961 An attempt was made to delete from the Atomic Energy Commission bill authority to spend funds for construction of facilities to utilize energy generated by the Handford reactor for public power protection. A vote against the amendment is plus; a vote for, minus.	+	-	+	+	+	-
August 9, 1957 The Senate authorized a limited program of self-financing for TVA. The bill permitted TVA to finance construction of new power facilities by issuing up to $750 million in revenue bonds. A vote for TVA self-financing is marked plus; a vote against, minus.		+	+		-	A
June 21, 1957 A vote for Federal construction of a high dam at Hells Canyon is marked plus; a vote against, minus.		+	+		+	+

Conservation and Resources

	Hart	Long	Monroney	Muskie	Pastore	Smathers
July 19, 1956 A vote for construction of a Hells Canyon dam is marked plus; a vote against, minus.	-	+		+		-
February 6, 1956 The Senate voted to revoke the Federal Power Commission's authority to regulate the price of natural gas produced for transmission in inter-state pipe lines. A vote against removal of regulation is marked plus; a vote for, minus.	-	-		+		-
July 12, 1954 The Senate set aside prior authorization for a Federal multi-purpose dam and authorized the Washington State Public Power Agency to build a power dam on the Priest Rapids section on the Columbia River. An attempt was made to write in a provision giving public and co-op groups preference over private companies and the purchase of the power produced. A vote for the preference is marked (for co-ops) (and public groups) plus; a vote against, minus.	+	+		A		+
May 5, 1953 A vote to grant off-shore oil deposits to coastal states was approved by the Senate. A vote against such grants is plus; a vote for, minus.	-	+		+		-
June 19, 1952 An attempt was made to cut the funds for effective Federal flood control measures. A vote against cutting the funds is plus; a vote for, minus.	+	+		+		+
March 31, 1950 The Senate approved a bill prohibiting the Federal Power Commission from regulating the price of production on natural gas at its source. Such a non regulation would result in increased rates for consumers if it had not been for President's veto. A vote against passage of the bill is marked plus; a vote for, minus.	-					

Tax Reform

	Hart	Long	Monroney	Muskie	Pastore	Smathers
February 4, 1964 The Senate attempted to retain the regressive 4% dividend credit by allowing tax payers to deduct 4% of their dividend income over $300. A vote against retention of the 4% dividend credit is plus; a vote for, minus.	+	+	+	+	+	+
February 6, 1964 An attempt was made to reduce 27.5% oil depletion allowance on a sliding scale of 15% for companies with gross incomes above $5 million and to 21% for companies with gross incomes between $1 and $5 million and to leave it at 27.5% for companies with incomes under $1 million. A vote for reducing the oil depletion is plus; a vote against, minus.	+	-	-	+	+	-
February 7, 1964 An attempt was made to eliminate the favored and preferential tax treatment allowed profits resulting from stock option plans. Under existing law part of income received from the stock option plans is untaxed. A vote to repeal preferential tax treatment from stock options is plus; a vote against, minus.	+	-	+	+	+	-
August 29, 1962 A withholding tax on income derived from dividends and interest was defeated. A weaker substitute required that corporations and financial institutions report interest and dividends paid each year. A vote for the withholding deletion is marked minus; a vote against, minus.	+	-	-	-	-	-
June 25, 1959 The Senate adopted an amendment to the Excise Extension Act designed to close a loophole and raise additional revenue by repealing the preferential 4% tax credit allowed in dividend income. A vote for the amendment is plus; a vote against, minus.	+	+	+	+a	A	+

Tax Reform

	Hart	Long	Monroney	Muskie	Pastore	Smathers
June 25, 1959 The Senate rejected a similar reduction for oil depletion proposal as the one described above. A vote for the oil depletion reduction is marked plus; a vote against, minus.	+	-	-	+p	+	-
June 30, 1954 The Eisenhower Administration had proposed a general tax revision that included preferential tax treatment for income dividends. Almost all benefits from the dividend proposal would accrue to those individuals with annual incomes over $7,500. A proposal was made to substitute an increase in personal exemptions for the present from $600 to $700. Such an increase would have given relief to all taxpayers with the great bulk of the savings going to lower income groups. A vote for the substitute is marked plus; a vote against, minus.		+	+		+	+
March 13, 1952 As a first step in ending corruption in the Bureau of Internal Revenue, President Truman proposed a plan which would streamline the agency and remove all collectors from patronage and place them under the Civil Service merit system. A vote for reorganization is plus; a vote against, minus.		-	+		+	+

Labor

April 22, 1959	Hart	Long	Monroney	Muskie	Pastore	Smathers
An amendment was offered to secure "equal rights" to union members speaking and voting at meetings. The effect of the amendment was to regulate union meetings and internal procedures and reach beyond the scope of rooting out corruption in labor unions. A vote against the amendment is marked plus; a vote for, minus.	+	+	+	+	+	-
April 24, 1958						
An attempt was made to exempt employer administered pension and welfare plans from the registration and disclosure provisions of the Welfare and Pension Plans disclosure Act. A vote against the employer exemption is marked plus; a vote for, minus.		+	+		+	+
May 29, 1956						
The Senate voted to eliminate the requirement that the Davis-Bacon Act requirement that highway contractors pay a prevailing wage. A vote against the elimination is plus; a vote for, minus.		+p	+		+	-
May 11, 1950						
The reorganization plan recommended by the Hoover Commission of the NLRB was opposed by Taft-Hartley supporters because it would have subordinated the general counsel to the NLRB. A vote for reorganizing the NLRB is marked plus; a vote against, minus.		+				
June 28, 1949						
An attempt was made to eliminate the Anti-Strike Injunction provisions of the Taft-Hartley law. A vote for this amendment is marked plus; a vote against, minus.		+				

Immigration

	Hart	Long	Monroney	Muskie	Pastore	Smathers
July 29, 1953 The Senate Judiciary Committee placed severe restrictions to determining admissability under emergency refugee legislation. An attampt was made to liberalize the definition of "refugee" to enable more Italians to enter the country. A vote for the liberalization is marked plus; a vote against, minus.		-	-		+	-
May 21, 1952 The Senate attempted to offer a liberal substitute to the McCarran-Walter Immigration bill. The attempt failed. A vote for the liberal substitute is marked plus; a vote against, minus.		-	-		+	-
June 27, 1952 The McCarran Immigration bill which placed new barriers in the paths of immigrants and alien residents who want to become American citizens was approved. President Truman vetoed it. A vote to sustain President Truman's veto is marked plus; a vote against, minus.		-	-p		+	-
April 5, 1950 The Senate accepted a more liberalized bill for displaced persons over the bill offered by Senator McCarran. A vote for the substitute is marked plus; a vote against, minus.		+p				
October 15, 1949 After great effort the Senate leadership discharged the Judiciary Committee from considering amendments to the Displaced Persons Act. However the Senate agreed to recommit the bill until January 25, 1950. A vote against the recommittal is marked plus; a vote for, minus.		+				

Thelma + to John S.

United States Senate

MEMORANDUM

Dec. 16th

Bill:

The attached is as nearly an accurate a schedule as I can get. I believe it is correct.

NO Also, do you think it necessary to keep open on Saturday, December 28th?

Usually we have 1 person on the phones and 1 to open mail. This would mean Leila on the mail and ~~Wini~~ on the telephones. They will both be in town if you want to continue our schedule.

TA

Jack on phones

HOLIDAY SCHEDULE

No Vacation Plans

(John Stewart) ✓ Pat C – except [redacted] 26-27
Chuck Phillips
Jim Leutze
✓ Leila
Anne Wright
✓ Debbie
John Watson
Edna
✓ Jan
✓ Bess (9:00-1:00 daily)
Win - leaving 24th
✓ Wini – except for 24-26

On leave	Period
Jane	Dec 18-Dec 30 ✓
Thelma	Dec 19-Dec 30 ✓
Judy	Dec 19-Jan 3 ✓
Norman	Dec 20-Jan 8 – MWA
Sara	Dec 20-Jan 8 – MIDA
Dave Gartner	Dec 20-Jan 6 ✓
Vi	Dec 20-Jan 6 ✓
Pat Gray	Dec 20-Jan 6 ✓
Sandy	Dec 20-Jan 3 ✓
Wini	Dec 24-Dec 26 – 2 days
Pat Caraccia	Dec 26-Dec 30
Helen	Dec 26-Jan 6 ✓
John Rielly	Dec 24-Jan 2 ✓

Wini

John S. - for your info.

SCHEDULE

WEEK OF DECEMBER 16TH	Late Night	Lunch	Saturday
Monday	Jane	Pat C	
Tuesday	Wini	Edna	
Wednesday	Jan	Sandy	
Thursday	Sara	Helen	
Friday	Anne W	Barbara	Debbie
			~~Leila~~
			John W

WEEK OF DECEMBER 23RD			
Monday	Pat C	Bess	
Tuesday		Edna	
Wednesday	HOLIDAY		
Thursday	Jan	Leila	
Friday	Anne W	Wipi	
			Wini
			John W

WEEK OF DECEMBER 30TH			
Monday	Pat C	Bess	
Tuesday		Edna	
Wednesday	HOLIDAY		
Thursday	Debbie	Jane	
Friday	Jan	Wipi	
			Leila
			~~Debbie~~
			Thelma

WEEK OF JANUARY 6TH			
Monday	Jane	Pat C	
Tuesday	Wini	Edna	
Wednesday	Jan	Sandy	
Thursday	Sara	Helen	
Friday	Debbie	Anne	
			Jane
			Sandy

December 16, 1964

MEMORANDUM TO: JOHN STEWART

RE: RULE XXII FIGHT

Anderson probably will put in his three-fifths proposal again at the opening of the session, according to information I had today from his staff. His chief concern seems to be that if he doesn't, the Republicans will, and he is anxious not to let them walk off with his issue. He knows that Javits and Case have said that they will make the fight alone if necessary. What he is really concerned about is that Morton will put in the three-fifths proposal, and call attention to the fact that it used to be the "Anderson-Morton" proposal.

On the Democratic side, both Clark and Hart are disposed to make the fight. Clarence Mitchell and Joe Rauh are pressing hard, and Reuther has sent a very strong letter (see attached). Clark would like to drag matters out from the 4th to the 20th, after which HHH will be in the chair.

December 16, 1964

MEMORANDUM TO: JOHN STEWART

RE: RULE XXII FIGHT

Anderson probably will put in his three-fifths proposal again at the opening of the session, according to information I had today from his staff. His chief concern seems to be that if he doesn't, the Republicans will, and he is anxious not to let them walk off with his issue. He knows that Javits and Case have said that they will make the fight alone if necessary. What he is really concerned about is that Morton will put in the three-fifths proposal, and call attention to the fact that it used to be the "Anderson-Morton" proposal.

On the Democratic side, both Clark and Hart are disposed to make the fight. Clarence Mitchell and Joe Rauh are pressing hard, and Reuther has sent a very strong letter (see attached). Clark would like to drag matters out from the 4th to the 20th, after which HHH will be in the chair.

CABLE: "UAW DETROIT"

UAW

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

Solidarity House
8000 EAST JEFFERSON AVE.
DETROIT, MICHIGAN 48214
PHONE 926-5000

WALTER P. REUTHER.....PRESIDENT
LEONARD WOODCOCK..VICE-PRESIDENT
EMIL MAZEY.....SECRETARY-TREASURER
PAT GREATHOUSE.....VICE-PRESIDENT

December 9, 1964

The Honorable Joseph S. Clark
Senate Office Building
Washington, D. C. 20025

Dear Joe:

For more than a decade, the UAW has supported the efforts of Senators of both parties to bring majority rule to the Senate of the United States.

We have taken the position that the Senate of a new Congress has power to fashion its rules at the opening of the new Congress by majority vote unfettered by any restrictive rules of earlier Congresses. Vice-Presidents Barkley and Nixon were of this view and Vice-President-Elect Humphrey many times gave eloquent expression to this same principle.

The effort to vindicate this principle of majority rule in the Senate was made at the opening of the new Congress in 1953 and has been made at the opening of Congress every two years since that time (with the exception of 1955). We now have the most forward looking Senate of this generation, a presiding Vice-President second to none in his devotion to the principle of majority rule and a President who is dedicated to the achievement of the Great Society. Under these circumstances, it would be nothing short of a breach of faith if a determined effort were not made to establish the principle of majority rule when Congress convenes on January 4, 1965.

We recognize that some Senators may have reservations about making the effort at this time. Some may feel that the ability to invoke cloture on the Civil Rights Bill last Spring evidences the workability of the present two-thirds requirement for closing debate. But for years, the filibuster did prevent needed civil rights legislation and even this one cloture came only after months of dilatory debate. We cannot repeat this waste of Senate time and energy every time a major controversial issue is debated in the future.

Others may feel that the filibuster has now become a weapon against such reactionary measures as delay in reapportionment. But the fortress of liberty in America will not be found in anti-democratic means such as the filibuster. Rule 22 is a weapon of the status quo and has been used to weaken bills of all kinds, not just civil rights. Those who seek progress in America are determined to continue the fight for majority rule.

The opening of the 89th Congress is the best opportunity in our time for establishing the principle that the majority of the Senators of a new Congress may act unfettered by the dead hand of the past. We hope you will join in the effort for majority rule on January 4.

Best regards.

Sincerely yours,

Walter P. Reuther, President
INTERNATIONAL UNION, UAW

WPR:mp
opeiu42aflcio

Dictated Friday, December 4, 1964

"A" - FIRM
"B" - INDIRECT INFORMATION - USUALLY FROM STAFF OR PRESS
"C" - GUESS

12/21/64

DEMOCRATIC CONFERENCE

89th CONGRESS

30
PASTORE 20
MONRONEY 13

(A) ANDERSON LONG	(A) LONG, LA. LONG
(A) BARTLETT LONG (ON FIRST)	(B) MAGNUSON PASTORE
(B) BASS MONRONEY	(C) MANSFIELD MONRONEY OR PASTORE
(C) BAYH UNCOMMITTED (MONRONEY)	(B) McCARTHY MONRONEY (SWITCH TO LONG ON 2ND)
BIBLE PASTORE	(C) McCLELLAN LONG
BREWSTER UNCOMMITTED (PASTORE)	(A) McGEE PASTORE
(A) BURDICK LONG	(A) McGOVERN PASTORE OR MONRONEY
(B) BYRD, VA. LONG	(B) McINTYRE PASTORE
(C) BYRD, W.VA. LONG	(B) McNAMARA PASTORE
CANNON UNCOMMITTED	(A) METCALF PASTORE OR MONRONEY
(B) CHURCH MONRONEY	(A) MONDALE PASTORE
(A) CLARK PASTORE	(A) MONRONEY MONRONEY
(A) DODD PASTORE	(C) MONTOYA LONG
(A) DOUGLAS LONG	(B) MORSE LONG
(C) EASTLAND LONG	(A) MOSS PASTORE OR MONRONEY
(C) ELLENDER LONG	(A) MUSKIE PASTORE
(C) ERVIN LONG	(A) NELSON LONG
(B) FULBRIGHT LONG	(B) NEUBERGER PASTORE
GORE MONRONEY	(A) PASTORE PASTORE
(B) GRUENING PASTORE	(A) PELL PASTORE
(C) HARRIS MONRONEY	(A) PROXMIRE MONRONEY
(A) HART PASTORE	(B) RANDOLPH PASTORE
(C) HARTKE UNCOMMITTED (LONG)	(A) RIBICOFF PASTORE
(B) HAYDEN MONRONEY	(C) ROBERTSON LONG
(C) HILL LONG	(C) RUSSELL LONG
(C) HOLLAND LONG	(C) SMATHERS LONG
(A) INOUYE PASTORE	(C) SPARKMAN LONG
JACKSON MONRONEY	(C) STENNIS LONG
(C) JOHNSTON LONG	(B) SYMINGTON ~~MONRONEY~~ LONG
(C) JORDAN LONG	(C) TALMADGE LONG
(A) KENNEDY, E. PASTORE	(B) TYDINGS MONRONEY
(B) KENNEDY, R. PASTORE	(A) WILLIAMS, N.J. PASTORE
LAUSCHE	(B) YARBOROUGH MONRONEY
(C) LONG, MO. MONRONEY	(C) YOUNG PASTORE OR MONRONEY

February 15, 1965

Memorandum to Charlie Ferris
cc: The Vice President, Max K., Ron Stinnett

From John Stewart

Just a note to inquire whether there have been any developments on the Rule 22 front. We should not let this slide along until March 5th or 6th. What can you suggest specifically that we could do about the Rules Committee before it reports back on the various resolutions? Let's try to get something definitely worked out this week.

February 27, 1965

TO: The Vice President

FROM: Charlie Ferris

SUBJECT: Rule 22 (Cloture)

As you know, a variety of problems will be encountered after the Rule 22 resolutions are reported by the Rules Committee on March 9. This is an initial report setting forth the parliamentary situation and the alternatives available to the Chair when the rules fight gets underway. After some of the basic questions raised herein are determined, I will submit any amplifying outline necessary.

RULES COMMITTEE STAGE

Assuming that our goal is to adopt a modification of Rule 22 to provide for cloture by fewer than the present 2/3, it would be most helpful if we could get a favorable report from the Rules Committee for such a change. The present membership of the Rules Committee is Jordan, Hayden, Clark, Pell, Cannon, Byrd(W. Va.), Curtis, Cooper, and Scott. Assuming that Clark, Pell, Cooper and Scott will continue to favor a 3/5 cloture rule, it is clear that either Cannon or Hayden must be persuaded to switch from his previous position. In all likelihood, success in such an effort will depend upon how far the President desires to intervene in this matter.

Civil rights voting legislation will probably be sent up within a week, and (expecially if it recommends the inclusion of state elections) there is a very great likelihood that cloture will be needed to obtain passage. The President might want to ease the path for this legislation for liberalization of Rule 22 by working on Cannon or Hayden.

The Rules Committee held hearings on Rule 22 resolutions (3/5 and majority cloture on February 23 and has scheduled an additional

hearing on March 1. The hearings are being held by a subcommittee composed of Hayden, Cannon and Cooper. Their report to the full committee will be made by March 3. The Full Committee will make its report on March 9. Whatever is reported will be placed on the Senate Calendar on March 10 and will remain there until a motion to take up is made (traditional perogative of the Majority Leader).

SCHEDULING

Scheduling by the Majority Leader of the rules change will primarily depend upon how much other legislation is awaiting floor action. With Senator Russell in the hospital and Senator Dirksen ailing, the Majority Leader is very receptive to recommendations to delay consideration of the matter until both return. He has, in fact, stated that he will delay it, at Senator Dirksen's request, until Senator Dirksen returns. He has obtained the clearance for this postponement from both Senator Anderson and Senator Javits. If the Committees start bringing out bills in sufficient numbers to keep the Senate busy, the likelihood of additional postponements will be greater. The longer the matter is postponed, the further diminished is the argument based on the perogative to change the rules at the beginning of any Congress.

THE PROCEDURE

The motion to proceed to the consideration of the rules resolution or any other item on the Calendar is debatable.[1/] In all likelihood, the

---

1/ Of course, if the motion to proceed to the consideration of the rules resolution is made during the morning hour, the motion is not debatable and the resolution would become the pending business. However, if this course of action is followed, the resolution would return to the Calendar at the conclusion of the morning hour (2 o'clock, if we convene at noon), if there was unfinished business from the preceding day. In such a case, the unfinished business must automatically be placed down and made the pending business upon the conclusion of the morning hour, and a motion to proceed to the consideration of the resolution would then be required. This problem will not likely arise since the Majority Leader will probably make his motion to take up the resolution after the expiration of the morning hour.

opponents of a rules change will prefer to prevent the resolution from becoming the pending business. An unfavorable report from the Rules Committee would lend some dignity to their delaying tactics on the simple motion to proceed to the consideration of the resolution. In any case, whether the opponents start their filibuster on the motion to take up the resolution or after the resolution becomes the pending business, the procedure outlined below will be the same.

When the issue is joined procedurally, the debate will continue for several days. After this period of time, we can anticipate that Senator Anderson or Javits or Douglas or some other proponent of the rules change will move the Chair to "put the question" to the Senate immediately since debate has proceeded for more than a reasonable period. The opponents of the rules change (probably Senator Russell if he has returned to the Senate by this time) will then raise the point of order that the motion is not in order since the Rules of the Senate do not provide for such a motion which in essence is to move the previous question. Javits will then explain that the Rules of the previous Senate are not binding on this Congress since the Senate has a constitutional right at the beginning of each session to adopt its own rules and under the unanimous consent agreement which sent the rules resolutions to the Rules Committee, this constitutional right was protected.

The framing of the exact language of the point of order; the exact method used to raise it; the timing of the point of order and the characterization of it could take many forms but regardless of the form, the issue would boil down to exactly what has been described above.

THE ALTERNATES AVAILABLE TO THE CHAIR

Once the point of order has been raised, the issue is dropped entirely into your hands as the President of the Senate. There are basically three alternatives available to you:

1.) make a positive ruling on the point of order (either sustaining it or overruling it);

2.) Submit the point of order to the Senate for its determination (with or without an advisory opinion); or

3.) Entertain debate on the point of order for your enlightment for so long as you determine.

1.) The advocates of a rule change of course desire you to choose the first alternative and make a ruling sustaining the point of order. If you ruled that the point of order was well taken and ordered the clerk to put the question to the Senate immediately, the rules fight would come to an abrupt end. Of course, Senator Russell would appeal from your ruling, but Senator Anderson could immediately table the appeal and if the tabling motion carried, the Chair's ruling would be ratified by the Senate.

This procedure is the most neat, clean, and decisive route to take. However, it is also the route mined with the most political dynamite. There is no doubt that the method has never been utilized before when a constitutional question has been raised. The precedents of the Senate clearly show that no Vice President or Presiding Officer in the past has made the ruling on the merits of a constitutional question. There is, however, no prohibition in the Rules or the Constitution against making such a ruling. The fact that no Vice President has done it, does not mean the Vice President cannot do it. However, if you chose to do it, there would be much criticism of your action as "raping the rules", "shattering the Senate's constitutional processes", "deciding a question on Senate procedure which should be done only by Senators", etc. A further consideration, of course, is possible embarassment to the President who in 1963 followed the past precedents of former Vice Presidents and submitted the question to the Senate.

2.) The second alternative sis submitting the point of order to the Senate for its decision. This is the path followed by former Vice Presidents. The effect, of course, of this procedure is to avoid a determination of the question, since submission of the point of order is debatable.

The rendering of an advisory opinion by the Chair would meann absolutely nothing in resolving the question. It merely places the Vice President on record as to how he would vote if given the opportunity.

3.) The third alternative is one that has not been used in the past and for that matter never considered as an alternative by either side. It might afford whatever balance can be obtained between the two positions. You would announce from the Chair the alternatives of action available to you and then request debate on the following questions: Whether or not you should submit the question to the Senate or make a positive ruling and if the latter, what your ruling should be? You could entertain debate

for as long as you considered it beneficial. You could cut off debate at any time by announcing that you had heard sufficient debate and counseling from the Senate and that you were prepared to make your decision. During the 4 or 5 days that you are entertaining debate, your unorthodox, but perfectly permissible and authorized procedure might generate some anxiety in the rules change opponents who might then sit and talk about compromise with Senator Anderson.

However, even if something is not worked out in the interim period while you're "entertaining" debate, you have available to you at the time you make your decision the same alternatives available to you when the point of order was first raised. You can make the positive decision or you can submit the question to the Senate with or without an advisory opinion.

You could make your final determination of how to proceed at this point, after weighing the reaction in the Senate to your position up to then. If, however you determine that you want to go a little further than has been attempted in the past, but not quite so far as to uphold upright the point of order, you could affirmatively rule that the point of order is well taken, namely that the Senate does have a right to determine its rules at the beginning of each Senate and the Chair has the perogative to rule that the question can be ordered put to the Senate immediately after reasonable debate, but that in this case the question is moot since the Senate has acquiesced in its rules for almost three months. You would point out that reference of the resolutions to the Rules Committee, in spite of any declarations or reservations of rights, manifests the acdeptance of the rules of the previous Senate by the Senate. The acquiesence in the Rules of the Senate is accomplished or not at the commencement of each session; no item veto of the rules can be interpreted from the language of the Constitution. Since the Presiding Officer was not President of the Senate at the time of the referral, he can resort only to the Congressional Record for guidance. The resolutions on the majority composition of the Standing Committee as was adopted by the Senate prior to the referral to the Rules Committee; all proceedings up to that time and since have taken place under other rules. Thus, however valid at the beginning of each new Congress, the constitutional argument is moot when raised later in the session since the Senate has proceeded to operate under its rules and thus has accepted its rules for the remainder of the Congress.

These and other reasons for ruling the question moot could be embellished.

This type of a ruling would in effect validate the constitutional argument of the rules change advocates but would uphold the position of the rules change opponents in this Congress. It would put the rules change advocates in a strong bargaining position for the 90th Congress to negotiate a rules change.

SUMMARY

Thus, a determination must be made as to the extent of the effort to obtain a rules change this year. If a strong effort is to be made, pressure should be put on Cannon or Hayden to change his position so that we get a favorable report on the 3/5 Rule.

Secondly, a determination must be made as to how much of a divergence can you afford from President Johnson's position in 1963, when he submitted the Constitutional question to the Senate.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

"Cooperation in the Common Cause of Civil Rights for All"
132 3rd St., S.E., Washington, D. C. 20003 phone 547-3227
New York address: 20 West 40th St. New York 18, phone BRyant 9-1400
ROY WILKINS Chairman ARNOLD ARONSON Secretary

Rule 22

TO: Cooperating Organizations

FROM: Arnold Aronson, Secretary

MEMO: No. 55
March 8, 1965

THE ANTIFILIBUSTER FIGHT SHIFTS TO THE SENATE FLOOR

The drive to curb filibusters goes on despite a temporary setback in the Senate Rules Committee last week. It was a matter for keen disappointment when the Committee, by a vote of 5-to-4, decided not to recommend any change in the present filibuster rule (Rule 22). Its negative report will be made to the Senate on March 9, as required by January's unanimous consent agreement (see MEMO No. 53). Some time after that the issue comes before the Senate. All our efforts in behalf of rules reform must now be directed at the full Senate body.

Leadership Conference Calls For Change

At a hearing just two days before the Committee voted, Roy Wilkins, as Chairman of the Leadership Conference, and Joseph L. Rauh, Jr., as Counsel, made strong pleas for reform, urging the Rules Committee to support the Douglas-Kuchel bi-partisan resolution (S.Res.8) which would permit a constitutional majority of the Senate (51 Senators) to vote cloture after full and fair debate for at least five weeks. Only through such amendment, they argued, can majority rule prevail in the Senate.

A One-Vote Miss

The close vote in the Committee was painful. A switch of a single vote would have sent to the Senate a report recommending a modified version of the Anderson-Morton resolution (S.Res.6) which would reduce from two-thirds to three-fifths the number of Senators needed to close debate. The four Senators who voted in favor of some kind of rules reform were Senators Joseph Clark (D., Pa.), John Sherman Cooper (R., Ky.), Hugh Scott (R., Pa.), and Claiborne Pell (D., R.I.).

The five who voted against any reform were Senators B. Everett Jordan (D., N.C.), chairman of the Rules Committee; Carl Hayden (D., Ariz.), Howard W. Cannon (D., Nev.), Robert C. Byrd (D., W.Va.), and Carl T. Curtis (R., Neb.).

Why Did The Antifilibuster Forces Lose?

One reason for the poor showing was insufficient pressure from the public for a change in Rule 22. In spite of numerous appeals from the Leadership Conference, it appears that only a few of our cooperating organizations sent wires to the Rules Committee in support of the Douglas-Kuchel resolution. We shall have to do a

great deal better if we are to get anywhere in the floor fight. Unless there is a change in Rule 22, we may face, when voting legislation finally comes before the Senate, the same kind of delaying tactic that kept the Civil Rights Act of 1964 pending on the floor for three months.

Wilkins Recalls Last Year's Battle

In his statement, which 43 of our cooperating organizations supported, Mr. Wilkins observed that the passage of the Civil Rights Act last year, in spite of a record filibuster, in no way lessened the need for a change in Rule 22. "The fight against the passage of the Act demonstrated just how hard it is under present Senate rules to pass necessary and urgent legislation when a small minority of the Senate, representing a smaller minority of the Nation's population, is determined to obstruct the will of the body and the majority of the nation's population," he declared. Even when a filibuster does not defeat a bill, he pointed out, it sometimes results in weakening or watering it down, the effects of filibusters on the Civil Rights Act of 1957 and 1960.

Mr. Wilkins called for voting legislations, saying, "The recent revelations at the Civil Rights Commission's Mississippi hearings of the shameful denial of the vote and other abuses (though not new to us) and the disgraceful events in Selma and elsewhere in Alabama cry out for a voting law that will provide an easy, safe and speedy process for registering voters. We expect, and we shall insist upon a Federal law creating Federal registrars at this session ...

"If a proposal for voting legislation sets off a filibuster, so be it. We are prepared to mobilize those forces - chief among them the conscience of America - that made possible the passage of the Civil Rights Act of 1964. But we would prefer to do this with a more enlightened, with a more workable Rule 22. We believe the nation would also prefer this. We believe the Senate would prefer this."

Rauh States The Legal Issue

Mr. Rauh used his testimony to make a legal point. He said, "It is simply this: The Senate, when it takes up the matter of changes in Rule 22 ... has the power to make its decision on what those changes should be, unfettered by any restrictive rules of earlier Congresses." It was his hope that when the question of changing the filibuster rule finally comes before the Senate, that question will not be filibustered. But if a filibuster is tried, he pointed out that the Senate has the right to bring the issue of closing debate to a vote and a simple majority is enough to shut off debate, because, under the unanimous consent agreement, all rights at the opening of Congress are protected.

What Happens Next?

The action of the Senate Rules Committee leaves the situation about where it was at the opening of Congress. The Anderson-Morton and the Douglas-Kuchel proposals will be on the Senate calendar on March 9 and Senator Mansfield will call the matter up for floor action sometime after that.

The obligation upon those of us who want Rule 22 amended is to get to work in earnest. Wires and letters to your Senators urging them to support the Douglas-Kuchel change and to work for Senate consideration of the amendments without delay are as important now as they ever were.

It is not a minute too soon to begin mobilizing your membership. Has your organization adopted a resolution in support of a change in the filibuster rule? Have you forwarded such a resolution to your Senators? We will all be a little closer along to success if you can answer both of those questions yes.

* * * * *

HERE'S HOW TO HELP YOUR MEMBERS LEARN TO USE "TITLE VI"

From time to time this office will distribute government publications we believe will be useful to our cooperating organizations and their memberships. Enclosed with this MEMO, therefore, is a new analysis of Title VI of the Civil Rights Act. Prepared by the U. S. Commission on Civil Rights, it is meant to provide examples of the kinds of Federally-assisted programs that, under Title VI, must be administered without discrimination.

Title VI programs will be the principal subject under discussion at the series of regional conferences the Commission plans to inaugurate, beginning with one in Dallas, Texas on March 25. Besides Texas, this Conference will also draw participants from Oklahoma, Arkansas and New Mexico. It is our hope that this pamphlet will help your regional leaders prepare for this conference and later ones and help alert your members to the kinds of discrimination we must detect and work to end.

For information on how to obtain additional copies of this pamphlet, please write to the U. S. Civil Rights Commission, 1701 Pennsylvania Avenue, N.W., Washington, D. C. 20006.

* * * * *

Aug. 24, 1965

Dear John,

The moment for use of this enlightening document appears to have passed. Thanks for letting me have it.

Best,

Ann

Ann Terry Pincus

John Stennis '63

S-301

TABLE OF CONTENTS

Table of Contents (continued)

I.

INTRODUCTION

The effort to strengthen the anti-filibuster rule at the opening of the Senate of the 88th Congress on January 9, 1963, will be the fifth such attempt in the past decade. We are encouraged to renew the effort to bring about majority rule in the Senate of the United States by the continuously growing support for the principle that the Senate of a new Congress has the right to adopt its own rules unfettered by the rules of earlier Congresses and by the continuously growing recognition of the urgent need to strengthen Rule XXII.

In 1953, when the initial effort of recent times was made to adopt new rules at the opening of the Senate of a new Congress, only 21 Senators supported this effort and opposed Senator Taft's successful motion to table the proposal for new rules.

Four years later, in 1957, twice as many Senators opposed the motion to table as in 1953 (38 so voted and Senators Wiley, Neely and Javits announced their position against the motion to table).

In 1959, a minor change was actually made in Rule XXII at the opening of the Senate of the 86th Congress. While we sought a far more meaningful change in the rule than that actually adopted, the important thing to note here is that those who opposed the meaningful change, as well as those who supported it, recognized that the appropriate moment for dealing with the anti-filibuster rule is at the beginning of a new Congress.

In 1961, the proposal for a change in Rule XXII at the opening of the Senate of a new Congress received greater support than at any previous times. After seven days of discussion, the Majority and Minority Leaders moved to commit the proposals for changing Rule XXII to committee. Despite vigorous arguments concerning the need for action in support of the incoming Administration and despite the

prestige of their offices, only the barest majority (51 to 49) supported the Leaders in sending the proposals to committee (the actual vote for committal was 50 to 46 with Case of South Dakota paired against the committal and Young of Ohio and Kefauver announced against it).

This ever-increasing support for action on Rule XXII at the opening of the Senate of a new Congress -- rising steadily from 21 in 1953 to 49 in 1961 -- reflects a growing feeling that Rule XXII must be changed and that the only time to do it is at the opening of a new Congress. For then, as we make abundantly clear in this Memorandum and Brief (see Point V), a majority of the Senate can determine its rules for the new Congress unfettered by any restrictive rules of earlier Congresses.

Actually, the opening of Congress is the appropriate time to deal with the rules question for an additional reason. There is no legislative business at the opening of Congress with which a lengthy discussion of the rules can interfere. In 1961, for example, after the proposals to change Rule XXII had been sent to committee on January 11th, the Senate only met for 36 hours from then until mid-March. With the decks clear at the opening of Congress, the Senate can determine this significant rules issue without fear that important legislation will be held up. It can truthfully be said that January is the month to solve this problem and, as we show later (in Point IV), it is the only time to solve it.

We turn now to a consideration of why there is need for a rules change (Point II), the reasonableness of the rules change we propose (Point III), the need to make the change at the opening of the Senate of a new Congress (Point IV), the constitutional right to act at that time unfettered by earlier rules (Point V), and the parliamentary procedure whereby majority rule can be accomplished (Point VI).

II.

THE OVERWHELMING SIGNIFICANCE OF THE
STRUGGLE FOR MAJORITY RULE IN THE SENATE

(1) The Issues at Stake on January 9, 1963. The success or failure of the efforts that will be made on the opening day of the Eighty-eighth Congress to end the filibuster and bring majority rule to the Senate may very well determine the outcome of much of the important legislation that will be presented to the new Congress.

For Rule XXII is not only the "gravedigger" of meaningful and effective civil-rights legislation, it is also the threat under which other vital legislation has been defeated, delayed, or compromised to meet the views of the minority.

It would not be too much to say that what is at stake in the fight for reasonable majority rule to be made at the opening of the new Congress is nothing more or less than the dignity of the Senate and its ability to function as a democratic and representative legislative body.

(2) Both Party Platforms Pledge Anti-filibuster Action. Both party platforms recognize that the existing two-thirds cloture rule is unworkable and pledge action to change that rule:

The Republican Platform pledges as follows:

> "We pledge:
> * Our best efforts to change present Rule 22 of the Senate and other appropriate congressional procedures that often make unattainable proper legislative implementation of constitutional guarantees."

The Democratic Platform pledges as follows:

> "In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 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."
>
> * * * * *
>
> "To accomplish these goals will require executive orders, legal actions brought by the Attorney General, legislation, and improved Congressional procedures to safeguard majority rule."

(3) Changing Rule XXII Is the Only Way to Implement Civil Rights Promises of Both Parties. Both parties have pledged meaningful and effective civil rights legislation in the strongest and most unequivocal terms in history. The enactment of these pledges into law depends upon changing Rule XXII, for, as we shall see, the history of the Senate makes it abundantly clear that two-thirds cloture is not possible on meaningful and effective civil rights legislation. Any Senator who supports the pledges of his party platform for civil rights legislation with more than lip service must also support strengthening the anti-filibuster rule, for the outcome of the latter struggle will determine whether those civil rights pledges can be kept.

(4) The Impossible Hurdle of Two-thirds Cloture. The existing Rule XXII permits the closing of debate only after two-thirds of those present and voting have voted affirmatively to close debate.

This two-thirds of those present and voting rule was in effect from 1917 to 1949. From 1949 to 1959, debate could only be closed by two-thirds of the total Senate (not two-thirds of those present and voting) voting affirmatively to close debate. Actually, there is not too much practical difference between the 1949-1959 rule (two-thirds of the total Senate) and the 1917-1949, existing rule (two-thirds of those present and voting). Two-thirds of those present and voting is in practical effect just about as impossible to attain as two-thirds of the total Senate.

Two-thirds cloture, the existing rule, cannot be obtained in those areas where cloture is needed. In all of the eleven cases of attempted cloture on a civil rights bill in the Senate, it has never been possible to secure a two-thirds vote of those present -- although in several cases a heavy majority wanted to proceed to a vote (e.g. 52-32 and 55-33 on FEPC in 1950).

Up until 1957 the strategy of the anti-civil rights forces was to use the filibuster or threat of filibuster to prevent any civil rights legislation whatever from going through. In 1957 this strategy was shifted to emasculating civil rights measures under threat of filibuster and thus avoiding the necessity of an actual filibuster. Thus the 1957 and 1960 civil rights bills were watered down by such threats of filibuster and the impossibility of obtaining two-thirds cloture for a meaningful civil rights bill. In 1957 the House of Representatives passed "Part III" authorizing the Attorney General to institute suits in federal courts to enforce constitutional rights; the Senate deleted Part III from the bill under the threat of filibuster and thus failed to give Congressional support and implementation to the Supreme Court's 1954 desegregation decision. In 1960 the Senate refused to approve the only really significant step being proposed to enforce voting rights -- the appointment of federal registrars; the rejection of the proposed federal registrars was the only way to avoid a filibuster. In both instances the two-thirds rule made it impossible to end the filibuster and the price of any bill was dilution to the point of Southern acceptability.

It is probably not too much to say that the reason that Congress has not enacted legislation supporting and implementing the Supreme Court's desegregation decisions is because such a measure would be relentlessly filibustered and it is not possible to obtain a two-thirds vote to end a filibuster on such a measure. That a majority of Congress favors such action to support the Court, and that majority cloture would bring such action, cannot be doubted. <u>The two-thirds cloture rule, by handcuffing Congress, invites continued disregard of the Supreme Court's desegregation decisions</u>.

(5) <u>The Literacy Test Cloture Vote</u>. Some opponents of majority rule argue that there is no real benefit in changing Rule XXII because

it will not be possible to get 51 Senators to vote for cloture. This argument is, in part, predicated upon the fact that it was not possible to obtain a majority for cloture on the Administration's literacy test bill last year. But this was due largely to the lack of any real drive for the literacy test bill and to the hopelessness of getting the required two-thirds vote. There is every reason to believe that 51 Senators would back cloture on a bill that the Administration, the Senate leadership and the civil rights organizations were vigorously supporting. It might not be amiss, also, to suggest to the opponents of majority rule that if they are so confident that 51 Senators will not support cloture on a civil rights bill, they have nothing to fear in our proposal and, in the interest of democratic procedures, they should allow civil rights legislation to be debated without the overhanging sword inherent in the unattainable two-thirds cloture.

(6) The Communications Satellite Bill Cloture. Strangely enough, while some argue that majority cloture will not do the proponents of civil rights any good, others argue in the exact opposite fashion -- that the Senate does not need a change in Rule XXII in order to stop a filibuster. Those taking this position point to the cloture vote last year on the Communications Satellite Bill and argue that it demonstrates the workability of the present anti-filibuster rule. We disagree. The filibuster is now largely a weapon of sectional interests. The ability to obtain cloture on a bill where no sectional interests are involved is no proof whatever of the ability to obtain cloture where sectional interests violently oppose a bill.

Indeed, it was the Southern Senators who made possible the cloture vote on the Communications Satellite Bill. Some Southerners and their traditional allies actually voted for cloture; others absented themselves -- otherwise cloture would have been badly

defeated. By cooperating to permit cloture on the Satellite bill, the Southern Senators destroyed the last vestige of their so-called "principled" argument against cloture based on the idea of "free speech in the Senate". But the fact remains that there is still no real chance of obtaining the necessary two-thirds to close debate under the existing rule over the opposition of the Southerners and their allies in the Senate. A new Rule XXII is needed and we turn now to an analysis of the proposal we are supporting.

III.

THE PROPOSED NEW ANTI-FILIBUSTER RULE IS A WORKABLE AND REASONABLE COMPROMISE

(1) The Proposed New Rule XXII. Our proposal for a new Rule XXII provides for debate limitation in two ways:

first, by a vote of two-thirds of the Senators present and voting two days after the filing of a petition for limitation by 16 Senators; and

second, by a vote of a majority of the Senators elected (i.e., fifty-one) 15 days after a petition is filed by 16 Senators.

(2) How the Proposal for Majority Rule Would Work.*/ In order that the full meaning of the proposal for majority limitation of debate may be crystal clear, we list the various steps that would be involved:

(i) Since the petition for limitation requires the signatures of 16 Senators, in the absence of an emergency threatening national security, it is clear no petition could be filed before there was some real evidence of a filibuster. Thus 2 to 3 weeks of debate would occur before such a substantial number of Senators would set a limitation procedure in motion.

---

*/ The text is set forth at the opening of Point IV, where the proposed parliamentary procedure is outlined.

(ii) After the petition was filed, there would be 15 additional days of debate before the vote on limitation would be taken. This means a minimum of 4-5 weeks of debate up to that time.

(iii) If 51 votes are then cast for limitation, a minimum of an additional one hundred hours of debate is allowed. If only half of this time is utilized, it would mean at least another week of normal Senate sessions.*/ This adds up to a minimum of 5-6 weeks in all before a final vote on passage of the bill or motion.

(iv) And if extended debate were engaged in on the preliminary motion to bring up a bill (the motion to bring up the civil rights bill of 1957 was debated for 8 days), the 5-6 weeks of debate before a final vote on that motion could be secured, could be followed by extended debate on the bill itself, necessitating a second limitation of debate to reach a vote on final passage of the bill itself. This would add at least another 3 weeks (omitting the waiting period described in (i) above). Thus there would finally have been 8-9 weeks of debate before, by action of a majority of those elected, the Senate eventually reached a vote on the bill.

(3) The Proposed New Rule Is a Workable and Reasonable Compromise. This proposal obviously permits full, fair, and even prolonged debate. It was approved by a majority of the Senate Rules Committee in 1958 (S. Res. 17, 85th Congress). But this proposal not only permits prolonged debate; it also leaves it ultimately within the power of a majority of the whole Senate to reach the crux of the matter, a vote on passage of the measure thus lengthily considered.

---

*/ Our proposed procedure after cloture is voted is far more generous in time than that under which the Communications Satellite Bill was considered after the cloture vote. First, there is a guarantee of 100 hours of debate (fifty for each side). Second, there is a guarantee of a minimum of one hour per Senator. Third, authority is granted for the Senators seeking cloture to specify in their cloture petition that additional time will be available for debate and to set forth more liberal terms for its utilization.

(4) Three-Fifths Cloture is Not Adequate. The arithmetic on three-fifths cloture leaves no doubt that while it is better than the present rule, it would not be a satisfactory cloture rule. Assuming that 96 of the 100 Senators vote on cloture (and votes on civil rights issues may well run that high), three-fifths of those present and voting will be 58 Senators, or 7 more than a majority of the total Senate. The important thing to note is that these 7 additional votes for cloture are the hardest to obtain for they will have to come from Senators whose constituencies are not particularly interested in civil rights issues and may feel that it is more important for their Senator to get favors for their state from the Southern committee chairmen than it is to obtain cloture on a civil rights bill. It is these 7 votes that may very well determine the outcome on cloture. It is not too much to suggest that the difference between majority and three-fifths cloture may spell the difference between cloture and no cloture and, thus, between civil rights legislation and no civil rights legislation.

(5) Conclusion. A democratic society depends upon the ability at some stage to have the legislature get to a vote. The majority rule proposal we make, which provides for full, fair, and even extended debate, protects the interest of the minority to be heard and the right of the majority to decide.

IV.

THERE IS NO ESCAPE FROM THE FILIBUSTER ONCE RULE XXII IS ACCEPTED AT THE OPENING OF CONGRESS

(1) No Escape Hatch after Rule XXII Is Accepted. Once the Senate of the 88th Congress, meeting in January 1963, accepts Rule XXII by action or acquiescence and commences to operate under that rule, there is no way of obtaining majority rule later on in the

session. The only time a new filibuster rule can be adopted is at the opening of the Senate of the new Congress on January 9, 1963. As we demonstrate in Point V of the Memorandum and Brief, at the opening of a new Congress a majority of the Senators present and voting can cut off debate and adopt any filibuster rule for the Senate of the new Congress that the majority desire. But, once the Senate of the Eighty-eighth Congress has accepted Rule XXII by action or acquiescence and has commenced to operate under it, there is no way out.

(2) Rule XXII is Self-perpetuating Except at the Opening of a New Congress. Once Rule XXII has been accepted by the new Congress it can be used as a lethal weapon against changing it; there is no way of obtaining the necessary two-thirds to close debate on a resolution for majority rule once the existing rules are in effect. The suggestion that majority rule can be obtained by bringing a resolution to that effect out of the Rules Committee and passing it on the floor later in the Congress is totally illusory. The same group that makes it impossible to obtain two-thirds cloture on meaningful and effective civil rights legislation makes it impossible to obtain two-thirds cloture on a rules change for the purpose of enacting such meaningful and effective civil rights legislation. Majority rule will either be obtained at the opening of the Senate of the new Congress or it will not be obtained during the new Congress at all.

(3) Experience in Last Six Congresses. That there is no escape from the filibuster if Rule XXII is accepted by the new Congress is shown by what happened in the last six Congresses.

In the 82nd and 83rd Congresses, a change in Rule XXII was favorably reported to the Senate by the Rules Committee, but in both Congresses the threat of a filibuster kept the issue from the floor of the Senate.

In the 84th Congress, nothing whatever happened on Rule XXII.

In the 85th Congress, the Rules Committee on April 30, 1958, reported out Senate Resolution 17 to amend Rule XXII to provide for majority rule after full and fair debate. On July 28, 1958, a bi-partisan group of a dozen Senators took the floor and urged action on Senate Resolution 17, but the Resolution was not called up for action.

In the 86th Congress, both those who supported a substantial change in the filibuster rule and those who supported only a negligible change (from two-thirds of the total Senate to two-thirds of those present and voting) moved for a change in Rule XXII at the opening of the Senate of the 86th Congress before any other business had been transacted. Those who favored the negligible change from two-thirds of the total Senate to two-thirds of those present and voting won out over those who favored the substantial change. But this cannot obscure the fact that both sides recognized that the time, and the only time, to obtain any change in the filibuster rule is on opening day of the Senate of a new Congress when there are no existing rules to bind the majority of the Senate to a new Congress.

In the 87th Congress the Majority and Minority Leaders sent our motion for a new Rule XXII to the Rules Committee with a promise that there would be action later in the Senate. The Majority Leader later stated that "I am not at all certain that there will be a filibuster ..." (107 Cong. Rec. ____). And the Minority Leader went even further, saying that, if a filibuster against a rules change were to develop, "it would be like falling off a log to get two-thirds of the Senators to vote for cloture." (107 Cong. Rec. ____). Despite these assurances, when the matter was brought up on the floor in September, 1961, the filibuster prevented action on a change in Rule XXII and the matter died as it was bound to do. Whatever assurances may be given about action after the opening of the Senate of a new Congress, history renders those assurances meaningless. It is the opening of Congress -- or never.

V.

THE MAJORITY OF THE SENATE IN EACH CONGRESS HAS A CONSTITUTIONAL RIGHT TO ADOPT RULES OF PROCEEDINGS FOR THE SENATE OF THAT CONGRESS UNFETTERED BY ACTION OR RULES OF THE SENATE OF ANY PRECEDING CONGRESS

(1) Brief Filed During January, 1961, Rule XXII Effort. On December 30, 1960, a number of Senators favoring majority rule presented to Vice President Nixon a "Brief In Support of Proposition that a Majority of the Members of the Senate of the Eighty-Seventh Congress Has Power to Amend Rules at the Opening of the New Congress Unfettered by Any Restrictive Rules of Earlier Congresses". This Brief was inserted in the Congressional Record on January 5, 1961, by Senator Douglas (107 Cong. Rec. 232-241) and will not be repeated here. What follows is a summary of the arguments in favor of the right of the Senate of the new Congress to act, and further details are available in the earlier brief through reference to the cited pages of the Congressional Record.

(2) The Basic Constitutional Issue. The Vice President's advisory rulings in 1957, 1959 and 1961, which are set forth in the Appendix, reflect a very real understanding of the basic constitutional principle here involved -- that the members of the Senate of each new Congress have undiluted power to determine the manner in which they will operate during that Congress and have no power whatever to determine the manner in which the Senate of future Congresses will operate. This basic constitutional principle is rooted both in Article I, Section 5 of the Constitution and in the historic democratic principle that the present shall determine its own destiny unhampered by the dead hand of the past.

The Senate of the First Congress meeting in 1789 promptly adopted rules (see Debates and Proceedings in the Congress of the

United States, Vol. I, pp. 15-21). Just as the Senators of the First Congress meeting in 1789 had undiluted power to determine the rules under which they would operate, so the Senators of the Eighty-eighth Congress meeting in 1963 have undiluted power to determine the rules under which they will operate. No rules of the Senate of an earlier Congress can obstruct this right to adopt rules to govern the transaction of business. And no Senator or group of Senators can obstruct this right by seeking to prevent action on the rules through undertaking a filibuster. The filibuster is not a constitutional or a God-given right. It is up to the majority of the Senate convening on January 9, 1963, to determine whether they will expressly limit the use of the filibuster for the Senate of the Eighty-eighth Congress.

(3) Article I, Section 5 of the Constitution of the United States is Determinative. That section declares that "each House may determine the rules of its proceedings." Both the language and context make clear that "each House" means not only the separate branches of the Congress -- that is, the House and the Senate -- but also the separate branches of each succeeding Congress. No reason has been or can be adduced to interpret this constitutional provision as a grant of rule-making authority to the members of the House and the Senate meeting for the first time in 1789 and a withholding of this same authority from the members of the House and the Senate of later Congresses. Both language and logic lead to the conclusion that the constitutional authority to make rules is granted to each House of each Congress.

Article I, Section 5, as we have just seen, is an identical grant of rule-making authority to each House of Congress. It is not disputed that the House of Representatives of each new Congress has the power to, and does, adopt new rules at the opening of each Congress. The identical constitutional provision cannot reasonably be given a

different interpretation as applied to the Senate, a coordinate branch of the "Congress of the United States." Article I, Section 1. For, not only do the two bodies act as a team in the Congress, but the rule-making authority of the House can be rendered meaningless if the Senate is not also in a position to adopt rules that will make possible the expression of the majority will of the Senate and thus of the Congress. Every principle of constitutional construction supports the interpretation of Article I, Section 5, which gives the majority of the Senate present on January 9, 1963, the right to "determine the rules of its proceedings" unfettered by action or rules of the Senate of any preceding Congress.

(4) The Four Closest Senate Precedents Support the Right of the Majority to Act. In 1841 the Senate dismissed a printer whom the Senate of an earlier Congress sought to foist upon it. In 1876 the Senate abrogated the joint rules of the Senate and House which had been carried over from Congress to Congress by acquiescence for 87 years. In 1917 Senator Tom Walsh of Montana challenged the binding effect of the rules of the earlier Senate upon the new body and accomplished his purpose of obtaining the cloture rule he sought before acquiescing in the old rules. In 1957, 1959 and 1961 Vice President Nixon gave repeated advisory rulings that a majority of the Senate of a new Congress can act to adopt its own rules without the obstruction of actions and rules of the Senate of an earlier Congress and that a motion to cut off debate would be in order against a filibuster attempt to prevent a determination of the rules to govern the Senate of the new Congress. Thus, in the four closest precedents, the Senate, while some of its members

talked "continuous body" and others talked in a contrary vein, each time supported the right of the Senate to adopt new rules unfettered by past actions.

(5) The Senate of Each New Congress Makes a Fresh Start on All Activities. In every major activity the Senate recognizes a constitutional right of the Senate of each new Congress to determine both legislative and executive business anew. All consideration of bills, resolutions, treaties and nominations starts at the beginning of each Congress without reference to or continuation of what has taken place in the past; new officers and committee members are elected in the Senate of each new Congress; when the Senate finally adjourns, the slate is wiped clean; the proceedings begin again in the next Congress.

For convenience, we present the following analysis of the operations of the United States Senate in tabular form:

ANALYSIS OF THE OPERATIONS OF THE UNITED STATES SENATE

	ACTIVITY	SENATE ACTS ANEW IN EACH CONGRESS	SENATE BOUND BY SENATE OF PRECEDING CONGRESS	COMMENT
1.	Introduction of bills	X		See Senate Rule XXXII.
2.	Committee consideration of bills	X		See Senate Rule XXXII.
3.	Debate on bills	X		See Senate Rule XXXII.
4.	Voting on bills	X		See Senate Rule XXXII.
5.	Election of Officers	X		While the old officers carry over until new ones are elected, the carry-over does not prove rules carry-over. It is a mere convenience. Even in the House, the Clerk carries over until the new one is elected. Obviously this does not prove that House rules carry over; they do not.
6.	Consideration of validity of senatorial elections	X		Although credentials of a Senator-elect are often presented to the Senate prior to the beginning of his term, the validity of the credentials can only be considered by the Senate to which he was elected and not before.
7.	Consideration of Treaties	X		See Senate Rule XXXVII(2).
8.	Submission and Consideration of Nominations	X		See Senate Rule XXXVIII(6).
9.	Election of Committee members	X		See Rule XXV. While old committees carry over until new ones are elected, the carry-over does not prove rules carry-over. It is a mere convenience. Even in the House, the Clerk carries over until the new one is elected. Obviously this does not prove that House rules carry over; they do not.

ACTIVITY	SENATE ACTS ANEW IN EACH CONGRESS	SENATE BOUND BY SENATE OF PRECEDING CONGRESS	COMMENT
10. Adjournment	X		Adjourns sine die. When Congress ends at noon of a particular day, and a special session of the Senate of the new Congress is called, the Senate adjourns at noon, and one minute afterwards opens the new session.
11. Rules	?	?	Past practice of Senate on rules is ambiguous. It can be explained as acquiescence in past rules, which can either be repeated at the opening of the Senate of any new Congress by beginning to operate under them or which can be refused by the adoption of new rules in whole or in part.

The thing that stands out in the above analysis is that everything starts afresh with the possible exception of the rules. And these, too, it is submitted, start afresh in whole or in part the moment a majority of the Senators at the opening of the Senate of a new Congress so will it and so vote. All that has happened over the past years is that there has been acquiescence in the carry-over of rules of the Senate from Congress to Congress.* Carry-over of the rules based on acquiescence is certainly no precedent for arguing that the earlier rules bind the Senate of the new Congress in the absence of such acquiescence. Absent acquiescence, the Senate of the new Congress has power to adopt its rules at the opening of the new Congress unfettered by any restrictive rules of earlier Congresses. The acquiescence in Rule XXII will be ruptured when the Resolution proposed herein is offered on January 9, 1963.

---

* Except, of course, in 1917, when Senators Walsh and Owen refused to acquiesce until the Senate adopted the cloture rule they sought, and in 1953, 1957, 1959, and 1961, when Senators sought to change the rules as we are now doing.

(6) Continuous Body Talk is Irrelevant. As we have seen in (4) and (5) above, the Senate has not in the past acted as a continuous body.

It did not act as a continuous body in 1841 when it dismissed the printer chosen by the Senate of the earlier Congress; it did not act as a continuous body in 1876 when it adopted new joint rules; and it did not act as a continuous body in 1917 when it yielded to the contrary arguments of Senator Walsh and adopted the cloture rule he demanded.

It does not today act as a continuous body; it wipes the slate clean on bills, resolutions, treaties and nominations at the beginning of each new Congress.

No one would deny that many Senators have talked in terms of a continuous body and that textbook writers have accepted this talk in their academic works. But the talk has been largely by those who tried -- unsuccessfully -- to use the phrase to prevent Senate action departing from that of the Senate of an earlier Congress and who have failed in their efforts.

Actually, parliamentary bodies generally have both continuous and discontinuous aspects. The House of Representatives has continuous aspects and yet no one refers to it as a continuous body and no one disputes its right to adopt new rules at the beginning of each Congress. By the same token, the Senate has both continuous and discontinuous aspects; its limited continuous aspects (e.g., two-thirds carry-over) do not support the proposition that the Senate of an earlier Congress can prevent the Senate of a new Congress from acting upon rules as the majority may determine at the opening of the new Congress.

The argument for the carry-over of the rules seems to come down to this: Because two-thirds of the Senators carry over, the Senate is a continuous body; because the Senate is a continuous body, the rules

carry over. Striking the words "continuous body" out of this formula, the argument comes down to this: Since two-thirds of the Senators carry over, the rules carry over. But this is a patent non-sequitur. It assumes that the carry-over of two-thirds of the Senate always carries over a majority in favor of the rules. The infusion of one-third newly elected Senators -- both by their numbers and their power of persuasion -- may very well change the majority view on rules and it is this majority view that is determinative under our constitutional democracy, not who carries over. That the new one-third may change the majority on any matter is well illustrated by the shifting of the Senate from Party to Party over the years. The argument that the two-thirds carry-over prevents the new majority from acting on the rules disenfranchises not only the newly elected one-third, but the new majority who are prevented from exercising their powers and duties to make the rules for their own work and laws for the people. To say that the Senate of the Eighty-eighth Congress in 1963 is the same as the Senate of the First Congress in 1789 because two-thirds of its members carried over to the Senate of the Second Congress is to prefer romantic form to rational substance and dubious academic theory to practical reality.

Some Senators genuinely believe the Senate is a "continuous body." Others genuinely believe that it is not, that it acts as a "discontinuous body." Both have the right to their opinions. But when a descriptive term resulting from nothing more than the carry-over of two-thirds of the Senators is used as a reason for preventing the majority of the body from determining the Senate's actions, an adjective is being confused with a reason and an effect with a cause. The parliamentary deadfall dug by the Senate of a dead Congress, harmless enough as an abstraction, should not be permitted to stultify and destroy the power of the Senate and of the entire Congress in the present.

(7) Majority Rule Is the Letter and Spirit of our Constitution. The Supreme Court has aptly described the principle of majority rule as one "sanctioned by our Governmental practices, by business procedure, and by the whole philosophy of democratic institutions." N.L.R.B. v. A. J. Tower Co., 329 U.S. 324, 331.

The pervasive need for majority rule was recognized at the Constitutional Convention. Alexander Hamilton, writing in the Federalist, No. XXII, strongly emphasized this need as follows:

> "To give a minority a negative upon a majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser . . . If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority, in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater, and give a tone to national proceedings."

The authors of the Constitution prescribed majority rule as the rule for Congressional action by expressly enumerating all the instances in which more than a majority vote was to be required. These special cases were limited to five. There are two-thirds requirements in connection with (1) the power of Congress to override the veto, (2) Senatorial ratification of treaties, (3) the initiation by Congress of proposals to amend the Constitution, (4) the impeachment power, and (5) the expulsion of members of Congress. In these rare instances, where it was felt necessary to make exceptions to majority rule, the Constitution expressly said so (Article I, Section 7; Article II, Section 2; Article V; Article I, Section 3; Article I, Section 5). This detailed specification of the two-thirds requirement in connection with particular powers demonstrates that, when Congress was to operate other than by majority rule, it was so instructed by definite language in the Constitution.

Majority rule is the constitutional measure for legislative action. As Senator Thomas of Colorado pointed out in debating the

cloture rule of 1917, "majority rule is an essential principle in American Government" (55 Cong. Rec. 33). Yet this fundamental constitutional principle can only be reestablished in the United States Senate through new rules, in whole or in part, at the opening of the Senate of a new Congress. If this route is blocked by a ruling of the Vice President or otherwise, there will be no way to carry out this basic principle of the Constitution and to implement the Supreme Court's statement that a House of Congress "may not by its rules ignore constitutional restraints . . . " United States v. Ballin, 144 U.S. 1, 5. We turn now to the parliamentary steps to obtain majority rule at the opening of Congress.

VI.

THE PARLIAMENTARY STEPS TO CHANGE RULE XXII AT THE OPENING OF CONGRESS

3/5'2 Motion eliminated omitted by Rauh.

(1) Proceedings on January 9, 1963. The Senate of the 88th Congress will convene at 12 o'clock meridian on January 9, 1963. Immediately after the opening prayer, there will be formalities of presenting credentials, administering the oath to new members and the election of officers. At the close of the formalities, one of the Senators who supports a change in Rule XXII to three-fifths of those present and voting will seek recognition and, upon receiving recognition, will send his three-fifths cloture resolution to the Chair and ask that it be read. Since Majority Leader Mansfield has announced his support for the opening day effort to obtain a three-fifths cloture rule, he might offer the resolution himself and, even if he does not do so, he would certainly facilitate recognition of the Senator desiring to offer this resolution. After the Clerk reads the three-fifths cloture resolution, the Senator who had sent that resolution to the desk will request unanimous consent for the immediate

consideration of the resolution. Unanimous consent for immediate consideration of the resolution is required because Rule XL entitles the Senate to one day's notice in writing of motions to amend or modify a rule.* If unanimous consent is forthcoming, the resolution is on the floor of the Senate for debate. If, as seems almost certain, one or more Senators refuse unanimous consent, the Senator who had sent the resolution to the desk will send to the desk a notice of motion under Rule XL to amend Rule XXII to provide for three-fifths cloture.

After the three-fifths cloture resolution has been offered, one of the Senators seeking to change Rule XXII to provide for majority rule will seek recognition and, upon receiving recognition, will address the Chair substantially as follows:

> "Mr. President, on behalf of the following Senators [listing them] and myself and in accordance with Article I, Section 5 of the Constitution of the United States and the advisory rulings of the Chair at the opening of the 85th, 86th and 87th Congresses, I send to the desk a resolution and I ask that the Clerk read it."

The resolution sent to the desk will be as follows:

> "RESOLUTION
>
> "Resolved, that rule XXII of the Standing Rules of the Senate is amended by adding a new section 3 as follows:
>
> "3. If at any time, notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, a motion, signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate pursuant to this section, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the fifteenth calendar day thereafter (exclusive of Sundays, legal holidays, and nonsession days) he shall lay the motion before the Senate and direct that the Secretary call the

---

* Since Rule XL does not restrict the power of a majority of the Senate to act expeditiously on new rules, the group seeking to change Rule XXII acquiesces in this rule and is operating under it.

roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without further debate, submit to the Senate by a yea and nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a majority vote of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter, debate upon the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions with respect thereto, shall be limited in all to not more than 100 hours, of which 50 hours will be controlled by the majority leader, and 50 hours will be controlled by the minority leader. The majority and minority leaders will divide equally the time allocated among those Senators favoring and those Senators opposing the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and the motions affecting the same; provided, however, that any Senator so requesting shall be allocated ~~up to one hour~~. It shall be the duty of the Presiding Officer to keep the time. The above provisions for time in this paragraph are minimum guarantees and the motion to bring the debate to a close may specify additional time for debate ~~and more liberal terms for its utilization~~. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

a minimum total of one hour.

"Resolved, further, that section 3 of the Standing Rules of the Senate be redesignated as section 4."

After the Clerk reads the resolution, the Senator who had sent the resolution to the desk will request unanimous consent for the immediate consideration of the resolution. If unanimous consent is denied, as seems almost certain, the Senator who sent the resolution to the desk will address the chair as follows:

"Mr. President, I therefore send to the desk a notice of motion to amend certain rules of the Senate and ask that it be read."

The notice of motion would read as follows:

"NOTICE OF MOTION TO AMEND CERTAIN SENATE RULES

"In accordance with the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to amend Rule XXII of the Standing Rules of the Senate in the following particulars, namely:

"Rule XXII of the Standing Rules of the Senate is amended by adding a new section 3 as follows:

> "3. If at any time, notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, a motion, signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate pursuant to this section, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the fifteenth calendar day thereafter (exclusive of Sundays, legal holidays, and nonsession days) he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without further debate, submit to the Senate by a yea and nay vote the question:
>
> "'Is it the sense of the Senate that the debate shall be brought to a close?'
>
> "And if that question shall be decided in the affirmative by a majority vote of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.
>
> "Thereafter, debate upon the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions with respect thereto, shall be limited in all to not more than 100 hours, of which 50 hours will be controlled by the majority leader, and 50 hours will be controlled by the minority leader. The majority and minority leaders will divide equally the time allocated among those Senators favoring and those Senators opposing the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and the motions affecting the same; provided, however, that any Senator so requesting shall be allocated up to one hour. It shall be the duty of the Presiding Officer to keep the time. The above provisions for time in this paragraph are minimum guarantees and the motion to bring the debate to a

close may specify additional time for debate and more liberal terms for its utilization. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"Section 3. Redesignate section 3 of the Standing Rules of the Senate as section 4."

"The purpose of the proposed amendment is:

"To provide for bringing debate to a close by a majority of the Senators duly chosen and sworn after full and fair discussion."

After the resolutions have been offered, the Senate would presumably adjourn until Thursday, January 10th. It is not believed that Majority Leader Mansfield, who favors the proposal for three-fifths cloture, would seek to prejudice the right of the Senators bringing up the resolution to change Rule XXII by attempting to take up other business on January 9th. Indeed, it is customary for the Senate not to remain in session for any length of time on opening day when the new Senators who have just been sworn in have congratulatory and other festivities to attend. If, by some remote chance, an effort were made to go to other business, it would be incumbent on the Senators supporting the rules change either to object to the transaction of any such business or to make certain, by obtaining the necessary consents or parliamentary rulings, that the transaction of such business would not waive the rights of the majority to adopt rules at the opening of the Senate of the new Congress. In other words, it would be necessary to make sure that the Vice President would be prepared to treat January 10th as still the opening of the new Congress for purposes of the rules, despite the business the Majority Leader proposed to transact on January 9th. As already indicated, however, it is not believed that this problem is likely to arise; rather, it

is assumed that debate on the Resolution will commence on January 10th without hitch.

(2) Proceedings on January 10, 1963. As in 1959 and 1961, the Vice President, upon request of a Senator (105 Cong. Rec. 98; 107 Cong. Rec. 73), would lay the resolution before the Senate during the morning hour. At the conclusion of the morning hour, the resolution would be placed on the calendar (105 Cong. Rec. 102, 107 Cong. Rec. ___). At that time the sponsor of the resolution would move that the Senate proceed to the consideration of the resolution (105 Cong. Rec. 103, 107 Cong. Rec. ___). Debate on the motion that the Senate proceed to the consideration of the resolution would follow and presumably the motion would be agreed to as in 1961 (107 Cong. Rec. 231). During the course of the debate on the motion to proceed to consideration and on the motion itself, it would be incumbent on the Senators supporting the rules change to object to the transaction of any other business except by unanimous consent or under a ruling from the Chair that such business would not prejudice the rights of the majority to adopt rules at the opening of the Senate of the new Congress. Presumably the debate would continue from day to day after January 10th.

(3) Why Motion for Three-Fifths Cloture First. It is generally agreed both by those supporting majority rule and those supporting three-fifths cloture that the proposal for majority rule should be voted upon first. Because of this, it is important that the majority rule proposal be offered as a substitute for the three-fifths proposal which would automatically bring majority cloture up for the first vote.

(4) Tactics of the Opposition. What tactics the opposition to a change in Rule XXII will adopt are, of course, not known to us at this time. The opponents have at least the following alternatives:

(i) They can move to table the Resolution to change the rules. If a majority votes to table, such action would, as Vice President Nixon made clear in 1957, constitute approval of Rule XXII as a part of the rules of the Senate of the Eighty-Eighth Congress.

(ii) They can move to commit the Resolution to committee as was done in 1961. This would also constitute approval of Rule XXII as a part of the rules of the Senate of the Eighty-eighth Congress.

(iii) They can seek to defeat a motion to take up the Resolution to change Rule XXII or seek to defeat the Resolution itself. If a majority so votes, this would likewise constitute approval of Rule XXII.

Point of order re reference to Committee

memo on Rule 7, 32. Check out

(iv) They can make a point of order against the consideration of the Resolution to change Rule XXII. The point of order would not, clearly not, be well taken. Whether or not the proposed Resolution is considered under the Constitution or under the existing rules, in either event it is clearly in order. If rules do not carry over from Congress to Congress except by acquiescence, the proposed Resolution is in order as an expression of such acquiescence in the existing rules other than Rule XXII plus a new Rule XXII. If the rules do carry over, the Resolution is in order (as Majority Leader Johnson's Resolution was in 1959) as a Resolution to change a particular Rule.

If the opponents of a change in Rule XXII do not have the votes to table (as in (i) above), to send to committee (as in (ii) above), or to defeat the proposed Resolution (as in (iii) above), those who are most strenuously opposed to majority rule will undoubtedly seek to filibuster either the motion to take up the rules change or the rules change itself or both. It is then and only then that the real constitutional issue arises: Whether a majority of the Senators of the newly-convening body can cut off debate in order to carry out their constitutional function of determining rules or whether they must stand powerless before the minority shielded by the

Rules of an earlier Senate? As we have conclusively demonstrated in Point V, there can be only one answer to this question -- the majority of the Senate of the Eighty-eighth Congress has the power, under the Constitution, to act to determine its rules.

(5) Motion to Close Debate. As just indicated, if the opponents of a change in Rule XXII do not have the votes to table the resolution, to commit it to committee or to defeat it, they will undoubtedly filibuster. After ~~two or three weeks of filibuster~~, the time will come for the proponents of a new Rule XXII to move to close debate. At this time one of the supporters of a new Rule XXII (~~either a three-fifth or~~ majority supporter) would rise and address the Chair substantially as follows:

> "Mr. President, it is now clear that a majority of the members of this body desire to change Rule XXII. It is also clear that there has been a full and fair and even prolonged discussion of this matter. Further discussion will not enlighten the Senate nor the nation, but will simply be an effort to keep this body from acting. Therefore, under the Constitution and especially under Article I, Section 5 thereof, and under the advisory rulings of the Vice President at the opening of the last three Congresses, I move that the Senate without further debate now vote upon the question whether the body wishes to terminate debate and to vote upon the pending ~~motion~~ concerning Rule XXII."*

It would seem likely that Senator Russell or one of his colleagues would raise a point of order contending that the proposed motion is out of order on the ground, as they would claim, that Rule XXII carries over and is the only method for closing debate. The matter would then be squarely before the Vice President on the right of the Senate of a new Congress to adopt its rules by a majority vote and without the fetters of Rule XXII laid down by an earlier Congress.

The Vice President would have three choices:

---

* This form of motion is preferred to a motion for the previous question (as used in the House) to avoid the raging academic controversy on the history of the previous question motion from 1789 to 1806. We are convinced, however, that the previous question motion would be and could be utilized as an alternative.

(i) The Vice President could, and we submit should, rule that the motion is in order (as Vice President Nixon repeatedly made clear he would have ruled). In this event there would undoubtedly be an appeal from the ruling of the Chair and this appeal is debatable. However, the Senators favoring a change in Rule XXII could move to table the appeal and, if the tabling motion succeeded, this would have the effect of upholding the Vice President's ruling. Immediately upon the tabling of the appeal, the Vice President would put the motion to terminate debate, and, if this motion carried, the Vice President would put the majority rule proposal to the Senate. If that carried, it would be the end of the matter; if it failed, the Vice President would then put the three-fifths motion to the Senate. Whatever happened, that would be the end of the matter.

(ii) The Vice President could, with or without giving an advisory ruling, place before the Senate the constitutional question whether the motion to terminate debate was in order. If a majority of the Senators voted that the motion was in order, then the motion to terminate would be put and from there on the procedure would be identical with that in (i) above.

(iii) The Vice President could, contrary to Vice President Nixon's several advisory rulings, hold the motion to terminate debate out of order. If he did this, we could appeal the ruling, but the matter would be subject to filibuster without any known method of terminating debate. It is not believed, however, that Vice President Johnson would make a ruling that would make it impossible for the majority of the present Senate to work its will.

(6) Procedure Like 1961 not 1953, 1957 or 1959. It is immediately recognizable that the proposed procedure for January 9, 1963, is like the 1961 procedure and is different from the procedure adopted by the proponents of majority rule at the opening of other recent Congresses.

In 1953 and 1957, the motion utilized on opening day was as follows:

> "In accordance with Article I, section 5 of the Constitution which declares that * * * 'each House may determine the rules of its proceedings' * * * I now move that this body take up for immediate consideration the adoption of rules for the Senate of the Eighty-third [or Eighty-fifth] Congress."

In 1959 the same motion was offered as a substitute for Majority Leader Johnson's motion to amend the rules.

The Senators joining in the effort to change the rules on January 9, 1963, have two alternative courses open to them:

(i) They could have proceeded with the motion to take up rules as they did in 1953 and 1957 and as they sought to do in 1959.

(ii) Or they could proceed, as they did in 1961 and are now doing, under the Constitution, Vice President Nixon's advisory rulings in 1957, 1959 and 1961, and the existing rules (to the extent they do not thwart the will of the majority).

The Motion to take up rules utilized in 1953, 1957 and 1959 proceeds on the assumption that the rules of the Senate do <u>not</u> carry over from Congress to Congress except by acquiescence of a majority of the Senate of the new Congress. The briefs submitted in support of the motion to take up the rules at the opening of those Congresses made out an overwhelming case for this proposition.

We have, however, decided on the second alternative of proceeding under the Constitution, Vice President Nixon's ruling and the existing rules, for four reasons:

(i) Some Senators have indicated concern at operating under general parliamentary procedures even during the period of the adoption of rules, and the procedure now being followed avoids this problem, for the rules are assumed to carry over except to the extent that they thwart the ability of the majority to determine the rules at the opening of the Senate of the new Congress.

(ii) Vice President Nixon repeatly expressed his opinion at the opening of the Eighty-fifth, Eighty-sixth and Eighty-seventh Congresses that the rules do carry over from Senate to Senate except that earlier rules, insofar as they restrict the power of the Senate of a new Congress to change its rules, are not binding on the Senate at the opening of a new Congress.

(iii) Majority Leader Johnson's 1959 action in bringing up a rules change on opening day of the new Congress is a recent precedent for immediate consideration under the rules of such rules changes as are desired by a majority of the members of the Senate.

(iv) This procedure worked smoothly in 1961 and was thwarted only by a motion to send to committee adopted by the barest majority. If that majority is now on our side, the procedure we are utilizing will be effective.

We desire to make it extremely clear that, by proceeding as we are doing under both the Constitution and the existing rules, we do not waive and we cannot be considered as waiving the constitutional power of a majority of the members of the Senate of the new Congress to adopt their own rules unfettered by any restrictive rules of the past. We are proceeding under the Constitution and under Vice President Nixon's repeated advisory rulings that the rules, although they do carry over from Congress to Congress, cannot restrict what a majority of the Senate of the new Congress wants to do at the opening of a new Congress in the way of determining what rules are to govern the body for the next two years.

Respectfully Submitted by Senators
Joining in Motion to Amend Rule XXII
to Permit a Majority of the Total
Senate to Close Debate

APPENDIX

VICE PRESIDENT NIXON'S RULINGS

In 1957, during the debate on the rules at the opening of the Senate of the Eighty-fifth Congress, Vice President Nixon gave an advisory ruling as follows (103 Cong. Rec. 178):

> "It is the opinion of the Chair that while the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress.
>
> "Any provision of Senate rules adopted in a previous Congress which has the expressed or practical effect of denying the majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional. It is also the opinion of the Chair that section 3 of rule 22 in practice has such an effect.
>
> "The Chair emphasizes that this is only his own opinion, because under Senate precedents, a question of constitutionality can only be decided by the Senate itself, and not by the Chair.
>
> "At the beginning of a session in a newly elected Congress, the Senate can indicate its will in regard to its rules in one of three ways:
>
> "First. It can proceed to conduct its business under the Senate rules which were in effect in the previous Congress and thereby indicate by acquiescence that those rules continue in effect. This has been the practice in the past.
>
> "Second. It can vote negatively when a motion is made to adopt new rules and by such action indicate approval of the previous rules.
>
> "Third. It can vote affirmatively to proceed with the adoption of new rules.
>
> "Turning to the parliamentary situation in which the Senate now finds itself, if the motion to table should prevail, a majority of the Senate by such action would have indicated its approval of the previous rules of the Senate, and those rules would be binding on the Senate for the remainder of this Congress unless subsequently changed under those rules.

"If, on the other hand, the motion to lay on the table shall fail, the Senate can proceed with the adoption of rules under whatever procedures the majority of the Senate approves.

"In summary, until the Senate at the initiation of a new Congress expresses its will otherwise, the rules in effect in the previous Congress in the opinion of the Chair remain in effect, with the exception that the Senate should not be bound by any provision in those previous rules which denies the membership of the Senate to exercise its constitutional right to make its own rules."

In 1959, during the debate on the rules at the opening of the Senate of the Eighty-sixth Congress, Vice President Nixon gave advisory rulings as follows:

"Under the advisory opinion the Chair rendered at the beginning of the last Congress, it is the opinion of the Chair that until the Senate indicates otherwise by its majority vote the Senate is proceeding under the rules adopted previously by the Senate, but, as the Chair also indicated in that opinion, it is the view of the Chair that a majority of the Senate has a constitutional right at the beginning of each new Congress to determine what rules it desires to follow" (105 Cong. Rec. 6).

* * * * *

"The resolution submitted by the Senator from Texas will be considered under the rules of the Senate which have been adopted previously by the Senate. But as the Chair stated earlier today, and as he expressed himself more fully in an advisory opinion at the beginning of the last Congress, in the opinion of the Chair the rules previously adopted by the Senate and currently in effect are not, insofar as they restrict the power of the Senate to change its rules, binding on the Senate at this time.

"The Chair expressed that opinion in the last Congress, but it is only an opinion. The question of constitutionality lies within the power of the Senate itself to decide. The Constitution gives to the Senate the power to make its rules. That means that the Members of the Senate have the right to determine the rules under which the Senate will operate. This right, in the opinion of the Chair, is one which can be exercised by and is lodged in a majority of the Members of the Senate. This right, in the opinion of the Chair, in order to be operative also implies the constitutional right that the majority has the power to cut off debate in order to exercise the right of changing or determining the rules" (105 Cong. Rec. 8-9).

* * * * *

"If, for example, during the course of the debate on the motion of the Senator from Texas, which deals with changing the rules, a Senator believes that action should be

taken and debate closed, such Senator at that time could, in the opinion of the Chair, raise the constitutional question by moving to cut off debate. The Chair would indicate his opinion that such a motion was in order but would submit the question to the Senate for its decision" (105 Cong. Rec. 9).

* * * * *

"In the opinion of the Chair, as he has expressed it both yesterday and at the beginning of the first session of the last Congress, the rules of the Senate continue from session to session until the Senate, at the beginning of a session indicates its will to the contrary.

"In the opinion of the Chair, also, however, any rule of the Senate adopted in a prior Congress, which has the express or implied effect of restricting the constitutional power of the Senate to make its own rules, is inapplicable when rules are before the Senate for consideration at the beginning of a new Congress.

"It has been the opinion of the Chair, for example, that subsection 3 of rule XXII would fall in that category, because it has the practical effect, or might have the practical effect, of denying to a majority of the Senate at the beginning of a new Congress its constitutional power to work its will with regard to the rules by which it desires to be governed.

"On the other hand, in the opinion of the Chair, the requirement that any proposal to amend or adopt rules lie over for a day, under rule XL, would not have such an inhibiting effect. Consequently, the Chair believes that rule XL is one which can properly apply in connection with consideration of the rules by the Senate at this point" (105 Cong. Rec. 96).

* * * * *

"It is the opinion of the Chair that at the beginning of a new Congress a majority of the Senate has the constitutional right to work its will with regard to the rules by which it desires to be governed, and that that right cannot be restricted by the membership of the Senate in one Congress imposing its will on the membership of the Senate in another Congress" (105 Cong. Rec. 101).

* * * * *

"The key problem around which this discussion has revolved is with regard to the question of whether the Senate can move to bring a question of change of the rules to a vote, as the Senator from Wyoming is aware. It is the opinion of the Chair that insofar as that problem is concerned, at the beginning of a new Congress the Senate can proceed to adopt new rules or to amend old rules without being inhibited by any previous rule which might restrict or

deny the constitutional right or power of a majority of the membership of the Senate to determine its rules" (105 Cong. Rec. 102).

* * * * *

"A constitutional question would be presented if the time should come during the course of the debate when action on changing the rules should seem unlikely because of extended debate. At that point any Member of the Senate, in the opinion of the Chair, would have the right to move to cut off debate. Such a motion would be questioned by raising a point of order. At that point the Chair would submit the question to the Senate on the ground that a constitutional question had been raised because of the Chair's opinion that the Senate, at the commencement of a new Congress, has the power to make its rules. That power, in the Chair's opinion, cannot be restricted even by action of the Senate itself, which would be the case where the membership of the Senate in one Congress has attempted to curtail the constitutional right of the membership of the Senate in another Congress to adopt its rules" (105 Cong. Rec. 103).

In 1961, during the debate on the rules at the opening of the Senate of the 87th Congress, Vice President Nixon gave advisory rulings as follows (107 Cong. Rec. 9-13):

"The Chair has indicated his opinion that at the beginning of each new Congress a majority of the Members of the Senate have the constitutional right to determine the rules under which the Senate will be guided. Once that decision is made, or once the Senate proceeds to conduct business under rules adopted in previous Congresses, those rules will be in effect."

* * * * *

"The ruling of the Chair is that any rule adopted in a previous Senate which would inhibit the right of a majority of the Members of the Senate in a new Congress to adopt its rules is not applicable. And, as the Chair has made his ruling previously, the Chair would hold that in this instance the filing of the motion under rule XL, as the Senator has indicated he would desire to proceed, is proper; but that any section of the rules, other than rule XL, which would inhibit the right of a majority of the Members of the Senate to determine its rules, would not be applicable."

* * * * *

"...The Chair stated that at the beginning of a new Congress a majority of the Members of the Senate can, either by positive action or by waiver of the right to take such action proceed to adopt its rules; but if the Senate proceeds, without objection, under rules previously adopted, to the conduct of business, it is the Chair's opinion that then the rules adopted in

previous Congresses will apply to the Congress in which this Senate is sitting.

"On the other hand, if at the beginning of a Congress, before other business is transacted, a majority of the Members of the Senate desire to change the rules under which the Senate has been operating, it is the opinion of the Chair that the majority rule will apply."

* * * * *

"...As the Chair pointed out in his advisory opinion during a previous session of the Senate, any provision of the rules adopted by the Members of the Senate in one Congress cannot, in his opinion, inhibit the constitutional right of a majority of the Members of the Senate in any new Congress to adopt their rules by majority vote.

"As the Senator from Georgia has properly pointed out, only a majority vote is required to change the rules, if the Senate reaches the point of voting.

"What the Chair held as, in his opinion, unconstitutional was the attempt of the Senate in a previous Congress to inhibit the right of the Senate in a practical sense to get to the point where it could adopt rules by majority vote."

* * * * *

"The Chair in his advisory opinion did hold that the Senate was a continuing body and that the rules of the Senate did continue except for any rule adopted by the Senate which, in the opinion of the Chair, would inhibit the constitutional right of a majority of the Members of the Senate to change its rules or adopt new rules at the beginning of a new session of the Senate. This was the basis of the Chair's advisory opinion. The Chair's opinion was not that it was not a continuing body and that it began with no rules at all at the beginning of a new Congress. It is the opinion of the Chair that, at the beginning of each new session of Congress, the Senate does operate under and begins its business with the rules adopted in previous sessions of the Senate; but the Chair holds that any provision of the rules previously adopted which would restrict what the Chair considers to be the constitutional right of the majority of the Members of the Senate to change the Senate's rules, or to adopt new rules, would not be applicable."

* * * * *

"The Chair expressed his opinion that the provisions of rule XXXII which would inhibit the right of a majority of the Members of the Senate at the beginning of a new Congress to change its rules by majority vote would be unconstitutional."

* * * * *

"It is the opinion of the Chair that so long as no substantive business is undertaken by the Senate the opening of the new Congress still is in effect, so that the Senate would be able to adopt its rules under the majority procedure which the Chair has described."

Minnesota
Historical Society

www.mnhs.org