meet them. Three changing forces are bringing a new era to conservation. The first is growing population. By the year 2000, more than 300 million Americans will need 10 times the power and 2½ times the water that we now consume. Increasing pressures will take our resources, and increasing leisure will tax our recreation.

The second is the triumph of technology. The bright success of science also has had a darker side. The waste products of our progress, from exhaust fumes to radiation, may be one of the deadliest threats to the destruction of nature that we have ever known.

The third force is urbanization. More of our people are crowding into cities and cutting themselves off from nature. Access to beauty is denied and ancient values are destroyed. Conservation must move from nature's wilderness to the man-made wilderness of our cities. All of this requires a new conservation. We must not only protect from destruction, but we have the job of restoring what has already been destroyed—not only develop resources, but create new ones—not only save the countryside but, yes, finally, salvage the cities. It is not just the classic conservation of protection and development, but it is a creative conservation of restoration and innovation. Its concern is not with nature alone, but with the total relation between man and the world around him. Its object is not just man's welfare, but the dignity of his spirit.

Above all, we must maintain the chance for contact with beauty. When that chance dies, a light dies in all of us. Thoreau said, "A town is saved not more by the righteous men in it than by the woods—that surround it." And Emerson taught, "There is no police so effective as a good hill and wide pasture."

We are the creation of our environment. If it becomes filthy and sordid, then the dignity of the spirit and the deepest of our values immediately are in danger. In the development of a new conservation I intend to press ahead on five fronts:

First, we seek to guarantee our children a place to walk and play and commune with nature. The demand on our recreational facilities is doubling each decade. We must act boldly or our future will be barren. We will move vigorously under our recent laws to acquire and to develop new areas for recreation in this country—emphasizing areas of concentrated population. And we will be ready to expand our programs to meet the developing needs. A national program of scenic parkways and scenic riverways is on the horizon. I hope, for instance, to make the Potomac a conservation model for our metropolitan areas. In our cities, open spaces must be reserved where possible, and created where preservation comes to light.

Second, we must control the waste products of technology. The air we breathe, the water we drink, our soil, our wildlife, are all being blighted by the poisons and the chemicals, and all the inevitable waste products of modern life. The skeleton of discarded cars, old junk cars, litter our countryside—and are driving my wife mad. She thinks that one of the advantages of getting defeated is to give her some time to get out and do something about cleaning up the countryside and these old junk cars along our beautiful driveways. I intend to work with local government and industry to develop a national policy for the control and disposal of technological and industrial waste. I will work with them to carry out that kind of a policy. Only in this way, I think, can we rescue the oldest of our treasures from the newest of our enemies.

Third, we must increase mastery over our environment through the marvels of new technology. This means rapidly increasing emphasis on comprehensive river basin development. So we plan to cooperate at every level to develop the resources and to preserve the values of entire regions of this land. It means drawing fresh water from the oceans. Within a few years economic desalinization will be a reality for a large number of Americans. It means learning to understand the weather and to do something about it. The advance notice that we got on Hurricane Carla saved us thousand of lives and millions of dollars. It means that use in every field of the newest knowledge to meet the oldest needs. It means encouraging the development of the genius of man in order to unlock the secrets of the earth.

Fourth, we must prevent urbanization and growth from ravaging the land. I will suggest, in cooperation with local government and private industry, policies for such prevention. Their goal will be to insure that suburban building, highway construction, industrial spread, are conducted with reverence and with the proper regard for the values of nature.

Fifth, we must conduct conservation on a global scale. The Antarctic Treaty, weather, and fishery agreements, the treaty with Canada that we celebrated yesterday, are all examples of what can be done if Nations will devote common effort to common interest.

These are some of the fronts of the new conservation which I will work to carry forward. And I tell you now that this hope will always be among the closest to my heart.

From the beginning, we have been a people of open spaces. We have lifted our eyes to the deserts and to the mountains, and now we are lifting them to the stars. But on this earth the ring draws closer around us. So let us not leave our task with the reproach of our children already ringing in our ears. Far, far too much is at stake. There are the resources on which our future rests, but there is a good deal more than that. In a thousand unseen ways we have drawn shape and strength from the land.

Respect for man and reverence for God have taken root in our spacious soil. In isolation from nature lies the danger of man's isolation from his fellow and from his creator. All my life I have drawn sustenance from the rivers and from the hills of my native State. I do not see them so often any more these days, and I am lonesome for them almost constantly. But their message of love and chalenge is written in my spirit. I want no less for all the children of America than what I was privileged to have as a boy.

In the book of Matthew, it says "The floods came, and the winds blew, and beat upon the house, and it fell not, for it was founded upon a rock." The house of America is founded upon our land and if we keep that whole, then the storm can rage, but the house will stand forever.

This morning you have an unusual assemblage in this room. I was escorted to the dais by a progressive young Republican Governor. I was met by a cordial, hospitable mayor. I flew across the continent with a number of outstanding leaders of the Congress, of the House and of the Senate. You have an unusual quality of leadership in this great Northwest. We celebrated some of the fruits of that planning yesterday in Canada, fruits of the work of men like the two great Senators from Washington, and this wise, veteran legislator from Vermont, George Aiken, who sits on the front row and does me great honor by coming to this area of the Nation with me.

Oregon, Washington, California, and Montana, all the great West, is here this morning, not to just talk about the glories of the past, but to try to pull the talent of this great region together to undertake an adventure of tomorrow. I first came to Portand as a youngster fresh out of uniform in the early days of the war to scrap the battleship *Oregon*. I saw then all of the hope and the daring, and the idealism, and the spirit of conservation that I have observed reflected by your spokesmen in the halls of the House of Representatives and in the Senate. We have come along ways in those 20-odd years, but we have not gone nearly far enough. The eyes of the Nation are looking to you to provide the leadership that will not just make this the best conservation Congress we have ever had, but that will help us to bring our dreams of a more beautiful America, a safer America, a healthier America available to our children as it has been available to us.

Thank you very much for your wonderful hospitality.

Mr. MORSE. The speech was in keeping with the conservation philosophy of the great Pinchot and Teddy Roosevelt. It was in keeping with the great conservation philosophy of Woodrow Wilson and Franklin Roosevelt; of Charles McNary and Hiram Johnson; of Clarence Dill, George Norris, and Robert LaFollette. It was in keeping with those men in public life who through the years have stood up and opposed all the nefarious, selfish attempts that have been made by certain groups that put a dollar sign always above the public interest; that would have sought to turn the rivers of this country and their hydroelectric power potential over to their selfish interests, and thereby deny to the people the maximum development of their rivers for the benefit of the public interest.

As I said in Portland after the speech, I say on the floor of the Senate today, that, important as the speech is as of today, it will be a speech of greater importance 3 or 4 years from today, because by that time I am sure we will have accomplished an implementation of many of the challenges that President Johnson laid down in his Portland speech.

I am proud to be associated with a statesman who has the vision and the foresight President Johnson portrayed in his great speech on conservation last Thursday morning. He has given, irrespective of their partisan affiliations, a challenge to all Americans to carry forward with a basic tenet for which so many of us have fought so hard for so many years in the Senate. We have a common obligation to see to it that we perform our obligations as trustees of God's gift of the natural resources of this rich land to the people of the country, and that we have an obligation to see to it that we leave those natural resources in a better condition than that in which we found them. When all is said and done, that is the underlying principle of the philosophy of the great conservationists of all time. It certainly was demonstrated last Thursday to be the underlying philosophy of our great President.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

Mr. MORSE. Mr. President, I turn now to the pending business before the Senate.

Mr. PROXMIRE. Mr. President, will the Senator from Oregon yield?

Mr. MORSE yield.

Mr. PROXMIRE. In the event the distinguished Senator from Oregon finishes his remarks and moves to adjourn the Senate in the absence of the Senator from Wisconsin, would the Senator from Oregon at that time ask that on Tuesday, after the morning hour, the Senator from Wisconsin shall have the right to complete the speech which he started today and would like to complete, but did not, because he wished to accommodate the Senator from Oregon and yielded to him so that he might speak? It is my understanding that the Senator from Oregon has a substantial statement to make and will take some time today. Although, as the Senator from Oregon said, it is planned to have the Senate adjourn at a reasonable hour, it might not be possible for the Senator from Wisconsin to return to the Chamber.

Mr. MORSE. Mr. President, we ought to attend to that matter right now. I appreciate the special consideration that has been extended to me. I think we will all agree that, under the circumstances, the Senator from Wisconsin was most courteous in being willing to suspend his speech temporarily while I made mine, in view of the reason I have given for my absence from the Senate during the next 2 days. Therefore, it is only courteous that I should now ask unanimous consent that when the Senate reconvenes at its next session, after the transaction of routine morning business, the senior Senator from Wisconsin be recognized to complete the speech that I have interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Mr. President, the "can of worms" that is before the Senate should be referred to the Committee on the Judiciary. The debate on the Javits amendment in the nature of a substitute established that there is no area of agreement on the authority of Congress in this field. The opponents of the Javits substitute insisted that because it had no force of law, it was useless; and the advocates of the Javits amendment claimed that Congress had no authority to enact binding legislation in this field and, hence, could do no more than express its opinion. The debate on the Javits substitute revealed all the weaknesses of a parliamentary body when it fails to use its committee system.

It has been charged that the courts have caused confusion, but we are only compounding it by our procedure in the Senate. Ask the Committee on the Judiciary for its printed hearings on bills or proposed constitutional amendments relating to reapportionment. The answer will be given that there are no hearings, printed or otherwise. The Committee on the Judiciary has not held public hearings on this subject at all.

That is a travesty on the legislative process. We are dealing with some of the basic, abstract principles of constitutional rights. We have no record or a single statement from a single constitutional law authority in this land. What are we thinking of? I say to the American people: You do not have any rights of freedom separate from the abstract principles of our constitutional government. Here is a flouting, a denial, a desecration of a basic principle of our American constitutional system; namely, that there shall be three coordinate, coequal branches of government, each branch having its supposedly protective rights within its own domain. We have a Congress in which many Members are engaged in a game of playing that they are Justices of the Supreme Court of the United States.

It is for the Supreme Court, not Congress, to decide the constitutional rights of the people. That is undeniable. It has been undeniable ever since 1803, when the great Marshall, of Virginia, in a landmark decision, handed down a ruling that the constitutional rights of the American people are determined by the Supreme Court of the United States. That is where the Congress vested the right giving the people the check, and that check, of course, is the check of the constitutional amending process.

I do not care what kind of semantics are used. As Senators know, I did not make myself too popular last week; but any time popularity and image cultivation becomes my motivating principle, I will get out of the Senate. I did not make myself too popular by being the one so-called liberal in the Senate who refused to go along with the Javits amendment. Of course, I did not go along with the Javits amendment. I did not teach constitutional law to walk out on my teaching merely because I walked into politics.

The Javits-McCarthy-Humphrey substitute for the Dirksen amendment that was voted on the other day was an affront to the Supreme Court of the United States. I do not care what language the liberals use to rationalize their position. They affronted the Supreme Court when they sought to advise it on the handling of apportionment cases. They affronted our system of government that is based upon three coordinate, coequal branches of government. They tried for the moment—and I say this respectfully, but I believe it is true—for reasons of political expediency to put themselves above the Supreme Court.

How would these flaming liberals really feel, if some day the Supreme Court were to meet and hand down a "sense of the Court" opinion telling the Senate how it should transact its business. I can hear the speeches now.

Mr. President, if it becomes necessary between now and Christmas to tell the Senate what I believe those speeches will say, I shall be glad to do so. I am ready to stay until Christmas. I am willing to stay in this Chamber until I drop to prevent the Senate from affronting the Supreme Court.

There is a candidate for the Presidency making speech after speech undermining the prestige of the Supreme Court. I hope the American people will recognize those speeches for what they are—as I am sure they will—and will give him the treatment in November he has coming to him.

The system of three coordinate, coequal branches of Government must be preserved, if the American people are to remain free.

Congress has no constitutional right, legal or ethical—and I underline the word "ethical"—to sit in legislative assembly and affront a coequal branch of Government.

I have listened to many cheap arguments of political expediency during my 20 years in the Senate: "We must go home to campaign. I must get to campaigning."

My answer is, "So what?"

No Member of this body has any right to vote for a substitute to the Dirksen amendment that is itself a rebuke to the Supreme Court—as the Dirksen amendment is a rebuke to the Supreme Court—out of any motivation of political selfishness.

It is not important for any Senator to go home to campaign, so long as his primary trust is to keep faith with the oath he took when he was sworn in at the beginning of his tour of duty. He has a clear duty to stay and fight, so long as it may be necessary, to stop the passage of the Dirksen amendment until there have been committee hearings.

Let me make clear, as I have done so many times, that when I participate in a filibuster in the Senate, I never participate in one aimed at preventing a vote from ever occurring on a piece of legislation. I am participating in a filibuster now. I am the only liberal who admits to participating in a filibuster at this moment. Most of my liberal friends are great in the use of semantics. When they engage in educational debate, they say they are engaged in prolonged debate, when everyone knows what they are engaging in. They are engaging in a filibuster.

We need to ask ourselves the question: "What kind of filibuster?" Not a filibuster to prevent a vote from ever occurring, but a filibuster that assures the American people time will be made available to accomplish two things: First, committee hearings; and second, a committee report. Committee hearings are vital to the legislative process. Those hearings and the committee report can be used by the courts, and ultimately by the U.S. Supreme Court, to determine the meaning of the legislation from the standpoint of legislative intent at the time it was passed.

But they are much more important to us here in the Senate for our own guidance.

I participate in that kind of filibuster. That is why I am perfectly willing to participate in a filibuster on this question until Christmas or longer, if necessary, in order to prevent the many injustices of the Dirksen amendment, to be used as a shackle upon the freedom of free men in this country.

I participate in filibusters, and shall be glad to particpate in a filibuster on this question, including a filibuster against any substitute.

I serve notice that I am fed up with substitutes such as the Javits-McCarthy-Humphrey substitute of the other day, which is only a little less objectionable than the Dirksen amendment.

Any substitute which affronts the Supreme Court, any substitute that seeks to win approval of Congress for what amounts to a reprimand of the Court, any gratuitous comment directed to the Federal judiciary about any class of cases, I shall filibuster.

It will be interesting to see how many liberals join me in that cause.

I am in good voice. I take it for granted that the Senate would not act while I was away attending the funeral of a colleague. I shall be back on Thursday.

(At this point Mr. PROXMIRE took the chair as Presiding Officer.)

Mr. MORSE. Mr. President, I am against substitutes. I have attended the meetings and they have yet to put together a chain of words which do not amount in meaning and in fact to a rebuke of the Supreme Court. They say it is justified because Senators wish to go home. It is justified because Senators wish to get out of Washington. It cannot be justified. The only issue we can justify is a vote to lay on the table until we can have hearings.

So, Mr. President, I am going to filibuster against the Dirksen amendment. I am going to filibuster against substitutes to the Dirksen amendment, until we can get some hearings on the Dirksen amendment and on the substitute.

I have listened to the liberals saying, "Oh, there have been no hearings on the Dirksen amendment." I did not hear them even whisper that there had been no hearings on their substitute.

Let me say to my liberal friends that it is just as wrong to go to a vote on a substitute as to go to a vote on the Dirksen amendment. It is bad, rotten, legislative policy. It does not protect the American people. So, let us stop all this shadowboxing, all this subterfuge, all this legislative hypocrisy. I am speaking only my opinion and charging no one with it, I merely give an interpretation. Let us be determined to protect this basic right of the American people to have hearings on the Dirksen amendment.

Then, Mr. President, I shall filibuster against it because it is a rider on the foreign aid bill. I have listened to these magnificent speeches about how bad that policy is. But a substitute is a rider, too. It is just as bad from the standpoint of the legislative process. We cannot justify legislation on a major subject matter by way of a rider on another major subject matter, when the two are nongermane to each other. That pollutes the legislative stream of the Senate. It makes it stink. It is a stinking process.

Mr. President, can we not as liberals stand together for once in support of purity in the legislative process? Do not tell me again, "Oh, but you must compromise, WAYNE." Of course, we must enter into many compromises. I enter into compromises, but never knowingly compromise what I consider to be a matter of principle. This is a basic principle in the legislative process. I shall not buy that expediency. On the contrary, I believe that we have a solemn trust and obligation to stand up against legislating by way of a rider on the foreign aid bill. And, I am against the foreign aid bill.

I have been asked, "What are you objecting so strenuously for? You are against the foreign aid bill. This will help you." I would not use those tactics to defeat a bill that I was against. If a bill cannot be defeated because of its innate badness, if the bill be one on which there have been hearings and a committee report, I shall be ready for a vote after I have said all I wish to say about the bill.

So I am not interested in seeing the Dirksen amendment used to defeat the foreign aid bill.

I shall filibuster in order to give the American people time to catch up with Congress. I have seen the importance of that procedure so many times in my years in the Senate. This will also give the Senate time to catch up with itself. Many a time I have seen a measure that the old "steamroller" in the Senate was ready to push through, with full steam ahead, when 25 percent of the Senate would be the most that really knew very much about the merits of the bill.

When we have a major bill such as this bill, full of all the abstracts that this bill contains, involving so much of the constitutional history of the Republic, related so directly to our basic freedoms, we must have time for the people to catch up.

We have been discussing this matter now for 30 days. Did anyone really think 30 days ago that there would be anywhere near the public interest in this subject matter from the standpoint of its substantive merit that there is today? Thirty days ago, the editorial writers were still uninformed.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. Even the prescient Walter Lippmann misunderstood the issue and wrote an editorial implying that the Dirksen amendment was a forward step.

Mr. MORSE. He performed a great disservice to the American constitutional form of government in this country by that column.

Mr. DOUGLAS. But he has since turned at least halfway back.

Mr. MORSE. He has made some noise in that direction. But I am still waiting for the Lippmann article in which he recognizes his previous disservice and his new enlightenment on the subject—if he has been converted.

The American people are thinking about it now. The American people know the importance of the 14th amendment to the preservation of their freedoms. We have caused such disturbance in the thinking of so many people in regard to the issue we have brought to their attention, concerning their rights under the 14th amendment, that we have had rightist groups, ultra-reactionary extremist groups pour out propaganda that the 14th amendment really is not a legal part of the Constitution of the United States. Such nonsense. Where do those extremists propose to repeal it? See what will happen if they try. Tell the American people that we must get rid of the 14th amendment, and see what their reaction will be. Thank God, the overwhelming majority of the American people believe in the implementation and constitutional guarantee of equal protection of the law. We cannot have a free society without it.

The difficulty is that with problems as abstract as this, there is always a tendency for some people to take refuge in a rationalization shelter labeled "theory." They think it is too theoretical. How are we to make the American people understand that these theoretical principles of government are the stuff out of which freedom is woven? They are the warp and the woof of our liberty. It takes time.

That is the reason why the senior Senator from Oregon is giving his third reason for opposing any quick vote on this question, except a vote to lay on the table. I believe we ought to keep this great seminar going. I look upon the Senate of the United States these days, as far as the Dirksen amendment is concerned, as a seminar in assembly.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. Is it not lamentable that the supporters of the Dirksen amendment do not take the floor and justify their position?

Mr. MORSE. They cannot justify it. How can they justify an unconstitutional amendment? How can they justify attacking the U.S. Supreme Court in the carrying out of its duties within its constitutional prerogatives? They cannot justify it. So, they want to railroad it through. The head of steam has been on. A few of us, however, have been throwing a few barriers on the tracks. We are not through.

I announce that I am perfectly willing to stay here until Christmas. It will not have any effect on the elections if we stay here. The people in the States of Senators who oppose the Dirksen amendment will respect them for staying here and carrying out their trust. The President of the United States will be elected overwhelmingly throughout the country. The American people are becoming more frightened day by day by the irresponsibilities of the Republican candidate.

IRRESPONSIBLE CHARGES IN FOREIGN POLICY

I digress long enough to say that I was shocked, as chairman of the Subcommittee on Latin American Affairs of the Senate, to hear the Republican candidate attack the late beloved President of the United States, John F. Kennedy, a former Member of this body, with his inexcusable slander and libel that President Kennedy played politics with the security of this country in 1962 in connection with the Cuban crisis.

If Jack Kennedy were sitting in the seat in the rear of the Chamber which he occupied for many years, the Senator from Arizona would have his hand called in no uncertain terms and his libel answered. Jack Kennedy is dead. He cannot answer. But as chairman of the Senate Foreign Relations Subcommittee on Latin America, I propose to answer

the Senator from Arizona and say that there is not a word of truth in his libel and slander against Jack Kennedy.

Mr. President, I know what happened in the hours of the early dawn of that historic morning. Jack Kennedy was not a war monger. Jack Kennedy believed that he had a sacred trust as commander in chief and President of this country to win a peace with honor, but to proceed to meet the security needs of this country any time a crisis called upon him to do so.

I should like to say for the benefit of the Senator from Arizona that when the State Department and the Pentagon submitted to the President of the United States the incontrovertible truth, that Castro and Khrushchev had placed in position in Cuba land-to-land missiles—not land-to-air missiles, which under international law Castro had to put in place as a matter of national security of his own country—but land-to-land missiles, thereby jeopardizing the security of the United States and the Western Hemisphere, the President made his decision in those early hours of the dawn. He served notice that those missiles would be dismantled or we would dismantle them.

He did bring about their dismantling, and he did it without resort to war or armed attack of any kind. He did it with a loss of life limited to one or two observation pilots.

Yet the Senator from Arizona seeks to discredit one the greatest achievements of the American Presidency in order to pick up a few votes. Ever since October of 1960, he has indicated that his policy toward Cuba would be one of war and near war. His formula is not the achievment of U.S. objectives through the channels of international law, as was Jack Kennedy's objective, but the prescription of violence and use of force to achieve those objectives. That is why Jack Kennedy is now under attack for one of his finest contributions to world history.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. Did he not make a further statement that if any nuclear missiles fell upon the United States, they would be treated as missiles coming from the Communist bloc and we would retaliate with the full force of our nuclear power?

Mr. MORSE. He made that perfectly clear. Khrushchev understood it and Castro understood it.

Mr. President, for any candidate in the midst of an election campaign to try to deceive the American people into believing that their Commander in Chief at that critical hour was playing politics with the security of this country establishes irresponsibility—and that is the kindest word I can use within the rules of the Senate. That is my answer to the American people. There is no place in this campaign for the desecration of the grave out in Arlington Cemetery over which a perpetual torch burns, continuing to send out a light symbolic of the lamp of world statesmanship that Jack Kennedy kindled and kept burning. There is no place in the Senate for playing politics either in the preservation of our system of three coordinate and coequal branches of government.

I am opposing the Dirksen amendment again today because the Dirksen amendment is so alarming from the standpoint of its repercussions and its future implications to our whole constitutional system of government. If in shortsightedness the Senate should surrender and go home after adopting either the Dirksen amendment or a substitute amendment, that would have exactly the same effect so far as being a rebuff to the Supreme Court is concerned.

BAD LEGISLATIVE PROCEDURE

I have already pointed out that the Senate Judiciary Committee has not held public hearings on this subject.

The committee reported, without hearings, S. 3069, introduced by our colleague the Senator from Illinois [Mr. DIRKSEN]. But the language of that bill is quite different from the language now before us in the present Dirksen-Mansfield amendment. The fact is that there are no hearings and no committee report on the Dirksen amendment.

Moreover, there is no guidance to Senators who have been suggesting alternative language to the Dirksen amendment.

We are all sitting here spouting curbstone opinions about the manner in which the Federal courts have been handling reapportionment cases, and whether Congress should do anything about it, and if so, what. To do that without the help of so much as an hour of hearings, without the help of any opinion or position from the Justice Department, is an exercise in futility.

It is worse than that. It is an insult to the American people, for the American people have a right to expect us to do our legislative job thoroughly. They have a right to know that we shall at least have a basis for knowing all the implications of any major issue upon which we are called to vote. It would be a very interesting set of examination papers that we would get back from the Senate, may I say most respectfully, if we submitted to the Senate about 20 questions on constitutional law related to the Dirksen amendment, including constitutional history.

The suggestion that the courts should be supervised by Congress is bad enough without trying to accomplish the supervision by means of a Committee of the Whole.

No one who is seeking to give the American people an honest and unfettered opportunity to pass upon the merits of a constitutional amendment changing the court decisions should object to that. Of course, the backers of the Dirksen amendment have indicated that that is not what they want. Our friend from Illinois reminds us again and again that time, in his opinion, is of the essence and that reapportionment must be stopped, pending enactment of a constitutional amendment.

I ask: Why must it be stopped? Why is it not just as feasible to let the administration of justice proceed? Obviously, if that administration of justice is as heinous as the Senator from Illinois tells us it is, then the American people will change the Constitution quickly enough. They can always do that. They can do it with fairly represented legislatures, as well as with the present malapportioned ones, if that is what they really want.

There is nothing whatever in our constitutional system or in our 150 years of practice under it that sanctions the suspension of justice, the suspension of the Constitution, until a constitutional amendment can be passed.

And however it may be phrased, that is what is sought to be done here with the Dirksen amendment and the various substitutes. The Senator from Illinois [Mr. DIRKSEN] thinks he is directing the courts to give the States time; the Javits proposal was designed to express the opinion of Congress that the courts should take into consideration any constitutional amendment that may be offered on the subject.

I am tired of hearing Senators say they are willing to vote for something if it is meaningless. There is no reason to vote for something meaningless; and nothing that is enacted on the subject will be meaningless because it will have great impact upon the American people even if it has no impact upon the courts.

It simply is not possible to intrude upon the function of the courts and still be meaningless. And if there is to be no intrusion upon the function of the courts, then there is no call to pass anything.

Both the Dirksen and Javits proposals have one thing in common; they are intended to slow down the courts in reapportionment orders. Why else are they offered? One is a directive, the other a request. But the Senator from New York would have no reason in the world to propose any language on the subject at all if he were not seeking to restrain, to slow down, to caution the courts on their application of the 14th amendment to State legislatures. He has advocated his "sense of the Congress" approach as being more effective with the Court than the Dirksen language. But at the same time, support for it was sought among liberals on the basis that it was meaningless and would have no effect.

That is the measure of how confused we are in our deliberation and in our understanding of the issue.

If one is really seeking to vote for something meaningless, one could probably vote for the Dirksen amendment, because, as the Senator from New York has said, it is undoubtedly unconstitutional and therefore null and void. Certainly it would be disregarded by the courts just as readily as a "sense of the Congress" resolution would be disregarded.

The debates and votes taken so far indicate to me that Senators do not really know whether they want to do something effective or not. A "sense of the Congress" resolution is ineffective because it is only advisory. But the Dirksen amendment is ineffective because it is unconstitutional. So what is the difference?

Both constitute an attack upon the Federal judiciary. They lend aid and

comfort to those who seek high office on a platform of undermining the Federal courts. Moreover, that is the intent of most of them. It is their design to keep the State legislatures intact. We have no other reason to be considering any proposal on the subject at all.

The argument between Senators with that intention is how to do it effectively.

I regret that so many others who do not want to suspend the administration of justice have lent themselves to one or the other of these devices as being the lesser of the evils. I think they are wrong in their choice, for one thing. A case can be made that the Dirksen amendment is less harmful than anything else because it it so patently unconstitutional.

For my part, I deny the validity of the objective of all these proposals. They are designed to perpetuate an unsound system of area representation of the State legislatures, in violation of the 14th amendment. They are designed to perpetuate an illegality until it can be made legal.

Why do not the advocates of malapportionment simply put their efforts behind a constitutional amendment to change the 14th amendment? Why do they not concentrate on educating the American people to get behind a change in the 14th amendment? Why it is that they are not willing to leave the issue to the wisdom of the people?

What they are really trying to do is to amend the Constitution by suspending its enforcement. I shall always be opposed to that approach. There is nothing the Federal courts are doing with respect to the State legislatures that cannot be overturned in the years ahead if the American people decide they do not like the application of the Constitution as it is now written.

The Senators who are ardently backing the Dirksen amendment have made repeated pleas to the effect that time is of the essence, that Congress must act now. But time for them is only of the essence because they know that once the people have tasted equal representation in their legislatures they will never go back to the old system. They know that Congress must act now, because if it does not, all is lost for malapportionment forever. They know that over the years, the American people will appreciate, and not oppose the Court decisions, just as they came to appreciate and not oppose the civil rights decisions.

If the Supreme Court has decided that the 14th amendment applies to a situation the people do not want it applied to, they will change their Constitution in time.

Why is that not good enough for the Senator from Illinois and his colleagues? If a constitutional amendment is ever passed, every single State reapportioned under Court order will be free to go back to the old system. Why is that not good enough for the backers of these "Court-busting" propositions?

It is not good enough because they know it would never happen that way.

I am a veteran here in the Senate in connection with Court-busting bills, Time and time again in the Senate, in the dying days of a session, there have been attempts to steamroller through this body various attacks on the U.S. Supreme Court. I have called them Court-busting bills. I refer also to wiretapping bills.

I believe the record will show that three different times the senior Senator from Oregon has prevented the passing of wiretapping bills in the closing days of the session by engaging in a filibuster in the Senate. On a few occasions I had some help. Each time I said I would be perfectly willing to enter into an agreement to fix a time to vote, or to limit debate on the wiretapping bills, after there had been committee hearings.

I knew what would be shown in those committee hearings. I knew what the overwhelming majority of the American people would say about them once they got the facts on the merits of the issue. I am satisfied that once the American people know of the attempts that proponents of wiretapping bills are engaged in to invade their privacy, and that a candidate for the Presidency of the United States is seeking to capitalize on them for political purposes, by giving the American people the false impression that the President of the United States is responsible for law enforcement—even in Phoenix, Ariz., which has one of the highest crime rates in the country, by the way—they are going to recognize that the problem of law enforcement is basically a State and local problem. The Federal Government must cooperate with the local law agencies, and does. They sit down with the FBI, with one of the most dedicated public officials in my time, J. Edgar Hoover.

Come forward with evidence that the Justice Department does not cooperate with the States when they ask for help in connection with criminal law enforcement. But it again is misleading and deceiving the American people to create in the midst of a political campaign the false impression that, because we have stopped the passage of Court-busting bills in the Congress of the United States, we have added to the crime rate. There is not a scintilla of evidence that supports that contention. Police state methods do not have to be adopted in order to have efficient criminal law enforcement.

SAME PROCEDURE USED IN OTHER COURT-BUSTING BILLS

I joined in preventing the passage of a Court-busting bill that sought to take away one of the precious guarantees of freedom in this country in the field of habeas corpus law. Let me say to the American people: "You would not be a free people if you did not have the protective rights under habeas corpus. Do not forget that your constitutional fathers carried on a successful revolt against the British Crown in part because of the tyranny of the British Crown in the field of habeas corpus."

How short are our memories?

I am ready to do it again this year, because it is in the incubator; it is in the hopper. I have given clear notice that I shall fight it as hard this year as in past years.

There is another Court-busting bill, or a bill that has some Court-busting features in it, which would repeal the Mallory rule. The Mallory rule was incorporated in the unanimous decision of the Supreme Court which declared that when a Federal arresting officer puts his hand on the shoulders of free men and women, he has the legal obligation to take the arrested man or woman without delay before a committing magistrate for commitment or release.

Yet in this political campaign we find the deceptive tactic being used by the Republican candidate for President which seeks to mislead the American people into the false belief that the preservation of that precious right of freedom and protection from false arrest under the Mallory rule shall be denied to the American people. The basis of the false argument is that the preservation of the rule has something to do with crime rates.

The rule exists in the District of Columbia. However, I ask Senators to go over to Baltimore, where it does not exist, and take a look at the crime rate; or to go to Phoenix, Ariz., or go to any city in this country where, under State administration, not bound by Federal rules, the Mallory rule does not exist. The crime rate is as high or higher than in the District of Columbia.

If the police have probable cause for the arrest, the arrested person is bound to be committed. If the police do not have probable cause for the arrest, the accused should be released forthwith.

That is all that the Supreme Court said. It is a simple, elementary principle in protecting the American people and the constitutional right to be free from false arrest.

Only a few years ago the great Senator Carroll, from Colorado, who is no longer with us, a member of the Judiciary Committee, a brilliant lawyer, and fine constitutionalist, stood with me on the floor around 2 a.m. on the last night of the session. We stood shoulder to shoulder as we assured the Senate we would be very happy to have their company for the next several weeks, if necessary, if that is what it took to prevent the invasion of what we considered to be a precious safeguard of liberty, the right to be free of a public third-degree inquisition device.

The Senator from Colorado, as a part of our parliamentary strategy, decided that we ought to raise a point of order. We were sustained. I shall never forget the brilliant parliamentary argument the Senator from Colorado made on that occasion. I say good naturedly that it was to the relief of many of our opponents when we were sustained. They knew that the resolution for sine die adjournment could then be adopted before morning.

Mr. President, one must expect to be misunderstood during these fights on the floor of the Senate. However, one must never let those misunderstandings and criticisms divert one for even a second. I believe, as an old teacher of criminal law and criminal procedure, that no sacrifice on our part in the Senate by way of whatever effort we find necessary to put out to stop that kind of invasion of

freedom is too much for our people to ask.

I know what a police department can do. As a member of the Committee on the District of Columbia and as chairman of the subcommittee which has jurisdiction over law enforcement in this city, I shall continue to do everything that I can to strengthen our police, but within the limitations of the constitutional rights of the American people.

I shall never give to any police department the authority to arrest an American citizen, to take him down to the police department, and subject him to the inquisition of that department—and this was possible prior to the Mallory rule—for as many hours as they want to put the third degree on that person.

Those are police state tactics, not the tactics of a democracy.

As one who participated in many crime surveys before coming to this body, I say that it has taken the dedicated service of those many people in this country who have brought forth, in the last 30 years, a series of crime surveys, to put a check on the abusive, arbitrary, third degree practices of one police department after another in this country.

I shall never be a party to reviving those abuses. Therefore I have opposed that kind of Court-busting legislation.

PASSPORT REGULATIONS

Mr. President, a few years ago the U.S. Supreme Court handed down a landmark decision in the field of passport law. In the State Department we had a Passport Division which was prosecutor, jury, and judge, all in one, and which acted behind the black curtains of concealment. Those curtains hung as a symbol of the death of the rights of free men and women behind those curtains. The State Department had relegated unto itself the dictorial function and authority to determine whether a free man or woman could travel abroad.

The Supreme Court in that great decision made it clear that that cannot be reconciled with freedom, either. How well I recall the speeches of abuse against the Supreme Court made on the floor of the Senate. How well I recall the wild charges about aiding Communists and playing into the hands of Moscow. I have always taken the point of view that the best way to whip a Communist in his vicious lying propaganda is to get him out in the open. So there were attempts in the Senate to pass a Court-busting bill with respect to passport legislation. I did my best to forestall it in the closing hours of that Congress, and it was not passed.

Thus, far, such bills have been beaten. But the attempt will be revived. Extreme rightists in this country will attempt again, from time to time, periodically, to make political capital out of their superpatriotism. But if they are allowed to get by with it, they will extinguish one great constitutional guarantee after another, and set up their own police state.

I could continue indefinitely. I was counting up the cases the other night. I think there have been some 10 or more Court-busting bills in recent years that I have fought to block in the dying days of a session. I have always appreciated the help I received from a few colleagues each time. There were never very many; there were never enough, judged from the standpoint of support those of us who fought those bills should have received.

I find myself today in disagreement with some of my beloved liberal colleagues in the Senate in regard to the parliamentary course of action that should be followed in connection with the Dirksen amendment. Some of them have convinced themselves that they ought to compromise the issue. This great constitutional issue cannot be compromised without doing irreparable damage to the precious rights of the American people. I will not be a party to the compromise proposals of the liberals in the Senate. I consider them to be dead wrong in their approach, and equally guilty with the proponents of the Dirksen amendment. For every procedural argument they use against the proponents of the Dirksen amendment, they are equally guillty in their own procedure.

What they have offered as a substitute is no substitute. They, too, are guilty of affronting the Supreme Court of the United States. They think that if they put a little semantic sugar around the amendment, it will make it less poisonous. But, of course, it will not. They would do irreparable damage because they would mislead American public opinion. They would raise questions in the minds of the people in regard to the jurisdiction of the Supreme Court, and they would play into the hands of the Republican candidate for the Presidency, who is making false attacks and is going about the country seeking to undermine the confidence of the people in the Supreme Court.

I say to my liberal colleagues in the Senate: "You cannot justify your action. You ought to withdraw from your position quickly. Stop proposing substitutes for the Dirksen amendment, for the very nature of your substitutes is a reprimand to the Court. It is bound to be."

But they say: "We are going to use almost entirely the language of the Court." What in the world does that have to do with the purport of a resolution when the language of the Court is written into the framework of a resolution that seeks to give direction and advice to the Court? That does not happen to be the prerogative of our constitutional system.

It is no less gratuitous. It is no less outside the framework of the Constitution. A blow to the courts from their friends is no less damaging than a blow from its enemies.

Again I say, as I said earlier this afternoon that we can imagine the howling that would go up in this august body if the Supreme Court started to hand out sense-of-the-Court opinions in regard to how the Senate ought to do its work. What about the old saying that what is sauce for the goose is sauce for the gander? I say to my liberal friends that that saying is applicable to them.

What the proponents of the Dirksen amendment are asking Congress to do now is to suspend the Constitution.

DIRKSEN AMENDMENT WOULD SUSPEND CONSTITUTION

What the proponents of the Dirksen amendment are asking Congress to do now is to suspend the Constitution. What connotations that carries with it. What meager history one has to know to know the implications of that. How many nations have headed down the road to totalitarianism with that first step of suspending the constitution and constitutional liberties, or any portion of them.

Usually it is done by a chief executive. Usually it is an announcement by a head of state that he is suspending the constitution until unrest or violence is curbed. Often that is the last that is heard of the constitution, until a revolution takes place and a new one is formed.

I wonder what Members of Congress would say if a President of the United States announced that he was suspending the Constitution, or some part of it, or some right that it guarantees. The Constitution permits the suspension only of the right of habeas corpus, and that only in time of rebellion or invasion. That is the only provision of the Constitution that the document itself admits of abeyance. It was suspended in the early days of the Civil War by President Lincoln; but a court test later established that the terms of the Constitution meant that only Congress could suspend it.

Yet it is common among strong men governments to see the blessings of the rule of the law taken from the people as a key step in their subjugation to the rule of tyrants.

What we have here before us is a suspension by Congress of a constitutional provision. That is what the Dirksen bill provides. The equal protection clause of the 14th amendment is to be suspended until January 1966, insofar as it applies to State legislatures.

That is what the Dirksen amendment provides. It is an incredible thought to many of us that such an action could so much as be contemplated by Members of Congress, much less supported.

The Senator from New York [Mr. JAVITS] argued quite rightly that Congress has no power to do such a thing, and so the Dirksen amendment would be found unconstitutional by the courts when it came time for them to pass upon it.

So instead, it was suggested that rather than try to suspend the Constitution ourselves, we simply ask the courts to do it. The Senator from New York argued on behalf of his substitute that that was a more effective approach. That is the argument that will continue to be made on behalf of most of the other substitutes for the Dirksen amendment.

All the various compromise proposals call for some language that would ask the Federal courts to suspend the equal protection clause in this field for some specific or indefinite time.

What a devotion to constitutionalism. With one breath, Members of Congress condemn the Supreme Court and the Federal judiciary for usurpation of powers or for a variety of alleged distortions of the Constitution. And in the next breath, those same Members call upon the courts to suspend this provision of the Constitution altogether for as long as it may please the Congress of the United States.

That is some lesson to give the Federal judiciary. That is some directive on how to conform to constitutionalism.

That is some example to set for the younger generation that has just gone back to school, to learn about our constitutional system.

What are we thinking of, that we even entertain these measures and their various alternatives is simply beyond me.

Yet the Dirksen amendment to suspend a portion of the Constitution—to suspend the administration of justice—for 2 years has been before this body for some weeks. Opportunity to dispose of it has been presented, but not agreed to.

A substitute that asks the courts to suspend a portion of the Constitution instead of doing it ourselves has at least been rejected. That is some comfort. I believe that if mayhem is to be committed upon the Constitution, it should be done by the advocates and not by an agent directed by them. We should at least do our own dirty work, and not ask the courts to do it for us.

That is all these sense-of-the-Congress resolutions provide. They ask the courts to do only what we doubt we have the power to do ourselves. It remains my view that not only do we not have the power to hold up the application of the 14th amendment for any period of time whatsoever, but that we also have no power to ask the courts anything at all.

I will tell Senators the only way they can influence the Federal judiciary at all in this matter: it is to go home and express their individual views as citizens on reapportionment. The Federal judiciary is no more going to take notice of the sense of Congress acting as a unit than it would take note of an act of Congress suspending enforcement of the 14th amendment for 2 years, and for one simple reason: the first has no more constitutional sanction or authority than the other.

The unofficial, individual requests that Members of Congress may direct to the courts would have more standing with the courts than would any usurpation of power by Congress, whether it is worded as a directive or as a request.

Congress as an institution simply has no grant of power to interfere with the administration of justice, either by direction or by request. It has no grant of power to coach, advise, direct, beg, or plead with the judicial system in the disposition of constitutional cases.

EARLIER ATTEMPTS TO ALTER DECISIONS

The most powerful effort in this century to interfere was much more indirect—it was in 1937, with the attempt to add more judges to the Supreme Court. At least, that was within the power of Congress to do. Congress has to fix the number of judges on the Court because the Constitution does not. But what is being advanced now, either by way of statute or by way of an advisory opinion, is outside the power of Congress to do.

Since 1954, there have been many other efforts, usually directed to the jurisdiction of the Court or to specific decisions, rather than to its personnel.

Probably the most onerous of these were H.R. 3, relating to the construction to be given to Federal statutes by the judiciary, and what was known as the Jenner bill, revoking appellate jurisdiction from the Court in cases involving congressional committees, executive security programs, State security programs, and admissions to the State bar.

I have already reminded Senators of the disposition that was made of H.R. 3. That bill was passed by the House July 17, 1958, by a substantial majority, 241 to 155.

A companion bill was reported from the Senate Judiciary Committee. It sought to direct the Federal courts that in construing Federal laws, none was to be regarded as having preempted State laws on the same subject unless the Federal statute specifically so provided.

That, too, was an effort by Congress to interfere in the administration of justice. It tried to preempt for Congress the authority not only to make its laws but also to interpret them as well.

When H.R. 3 was offered as a floor amendment to another bill, an effort to table it failed by a vote of 39 to 46.

But by the next day, wiser counsel had had the opportunity to make itself heard. The amendment was committed to the Senate Judiciary Committee.

That is where this amendment should go.

That bit of legislative history also took place late in a dying Congress. 1958 was an election year, too. There was pressure to adjourn. Members were anxious to get home to campaign. It was evident that there would be no calm deliberation but only rash haste in the consideration of the measure.

In those circumstances, the Senate returned the matter to committee.

In the same year, it declined to act hastily and under adjournment pressure on the Jenner-Butler bill, altering the jurisdiction of the Supreme Court by withdrawing from it jurisdiction over cases in four specified areas. That bill had been reported to the Senate from the Judiciary Committee. It was on the calendar.

Senator Jenner offered it as an amendment to a pending House bill that related to court appeals from orders of regulatory agencies.

This, too, came late in the session. On August 20, 1958, the Jenner amendment was tabled by a vote of 49 to 40. Once again, the Senate refused to deal with a matter basic to the separation of powers on a "hurry-up" basis.

There was every reason to doubt the constitutionality of much of the Jenner bill. That alone was sufficient reason to table it.

But all the same doubts adhere to the Dirksen rider and the substitutes proposed for it. The Senate is widely divided on what our constitutional authority is in this field, since it does not relate to any powers delegated to Congress. We are totally divided and uncertain over what the effect of any of these proposals would be.

We are also divided over whether the U.S. Supreme Court should be rebuked by Congress. That is what some of the substitute language does. Some Senators feel that merely rebuking the Court is better than doing anything of a statutory nature.

But a case can be made that since Congress can in fact do nothing of a statutory nature, the only effect of any measure at all on this subject is its effect upon public opinion.

There is no language so innocuous that it will not harm and weaken the Federal judiciary among the American people. In a year when a presidential election campaign is being fought as much on that issue as any other, I cannot understand how so many Members of the Senate can contemplate giving any support whatever to that campaign.

There is no doubt that the Republican candidate for the presidency is carrying on a campaign against the Supreme Court, a campaign which seeks to undermine the prestige and the confidence of that Court with the American people.

This is an irresponsible attack that the Republican candidate is making. I am at a loss to discover any good reason why any of my liberal colleagues on the Republican or Democratic side of the aisle would join in undermining the prestige of the Supreme Court.

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

The PRESIDING OFFICER (Mr. NELSON in the chair.) Does the Senator from Oregon yield to the Senator from Illinois?

Mr. MORSE. I am glad to yield to the Senator from Illinois.

Mr. DOUGLAS. I am really pained that my good friend the Senator from Oregon is now indulging in the language that he is using. I believe that those of us who regard ourselves as liberals and who have borne a large share of the battle against the Dirksen amendment, have been doing so in order to defend the Supreme Court. I believe that we have shown proof of our feelings by the fight which we have been making on the floor. I yield to no one in the efforts I have made to defeat the Dirksen amendment.

We welcome the opposition of the Senator from Oregon against the Dirksen amendment. He has been a valiant ally in this respect; but I do say in all sweetness of spirit that he is no stronger an opponent of the Dirksen amendment, no stronger a defender of the Supreme Court than we are. It is not betraying any confidence to state that our group would reject any and all language which would in any event try to provide for a postponement of the decision of the Court from going into effect, or which would constitute a rebuke of past decisions of the Court, or which would suspend operations while a constitutional amendment was being offered. Moreover, so far as I personally am concerned,

I would certainly oppose any amendment limiting the Courts powers in apportionment matters.

All that we have tried to do has concerned the possibility of drafting language which, in effect, would tell the lower Federal courts to do precisely what the Supreme Court has told them they could do; namely, take into consideration the proximity of elections, and the time in which they have to prepare an alternative plan, and to try to throw the responsibility upon the State legislatures to as great a degree as possible, consistent with getting action.

Although I respect my friend, the senior Senator from Oregon, I do not like to be put in the pillory and told that we liberals are rebuking the Court and not being faithful to the decisions of the Supreme Court. That is not the case and I do not like to hear us charged with it.

What I would personally like to have happen is precisely what the Senator from Oregon would like to have happen; namely, for a tabling motion for the Dirksen-Mansfield amendment, to be proposed at an appropriate time. I would like to have it come at a time when we will have the maximum attendance and the support of the Senate democratic leadership and of the administration. For then we would have our best chance of success.

I hope that my good friend, the Senator from Oregon, will not proceed to divide our ranks. Although I respect his principles very much, I do not think there is any division, so far as purposes are concerned, between the principles of the Senator from Oregon and the rest of us.

We are probably not strong enough to carry a motion before the Senate. We are, however, strong enough by our persistence, probably, to defeat the Dirksen amendment. Whether we would be strong enough by ourselves to carry a tabling motion, however, which has parliamentary precedence, and which can be voted on without debate, is another matter.

We face a situation in which there are three or four groups, none of which is probably strong enough to impose its will affirmatively. In order to get an affirmative solution, we must get the support of an intermediate group, partly Republican, partly Democratic. We will accept somewhat meaningless language as relatively unobjectionable. But we would firmly object any proposal which rebuked the Supreme Court itself.

I hope the Senator from Oregon will take these points into consideration and withhold his answer. After all we have been comrades in arms and we do not ordinarily rebuke one's fellows in this fashion.

Mr. MORSE. Mr. President, I say to my friend the Senator from Illinois, that his professed love for me could not possibly be greater than my love for him. I repeat every criticism now by reference that I have made of the liberals on the floor of the Senate today. I am familiar with the rationalizations of my good friend the Senator from Illinois [Mr. DIRKSEN]. We completely disagree with what he is attempting to do.

His substitute, no matter how much sugar he puts on the pill, is a rebuke of the Supreme Court. His substitute would undermine the confidence of the American people in the Supreme Court. His substitute plays into the campaign of the Republican candidate for President, who is trying to stir up a loss of confidence of the American people in the Supreme Court. I do not care what language is used, even though it be the language of the Supreme Court itself in writing it into the framework of the resolution. The fact is that they are giving advice to the Supreme Court. They are seeking to ask the Supreme Court to suspend the implication and the enforcement of the 14th amendment for the time being.

I am shocked by their course of action. I not only do not withdraw the statement that I made this afternoon in criticism of them, but I repeat it. I think they are performing a great disservice by the course of action they are following, on a so-called sense-of-Congress resolution. I tell them once more what I told them in private conference, that they ought to stay here as many weeks as necessary in order to fight this resolution, by way of a filibuster, if necessary, and let them try to pass a cloture motion. Then, let the American people pass judgment on every politician in this body who votes for a cloture motion without a resolution rebuking the Supreme Court going to committee hearings, without a single witness for it, without a single constitutional law authority appearing before the committee.

I am sorry that I have a great difference of opinion with my liberal friends on the Senate floor. I do not question their motivation, but I think their judgment is terrible in this instance. It is their judgment that I have been against. I am sorry, but so long as I feel that my trust calls upon me to do so, I shall do everything that I can to prevent even the liberals from passing what they say is a meaningless resolution. If it is such, it is an act in futility. It is bound to be a resolution that will be interpreted by the American people as a slap in the face of the Court.

There is nothing they draft that is not gratuitous advice or comment to the Federal judiciary. I am against the policy altogether, irrespective of the class of cases involved.

I say to my dear friend the Senator from Illinois that I appreciate his advice. But I reject his advice. It is bad advice, in my opinion. I stand, on the basis of my conviction, in opposition to their course of action, as far as their proposal for a resolution expressing the sense of Congress by way of a substitute for the Dirksen amendment is concerned.

It is an unfortunate development in the Senate. Do not talk to me about splitting the liberals. I did not split them. They split themselves when they proposed a resolution that, in my judgment, is unsound in constitutional history, unsound in constitutional law, and unsound in American public policy.

Mr. President, I am about through with my speech on this subject today, although I shall speak at great length if necessary later.

The white backlash is not to be cultivated openly in the months ahead, nor will civil rights get much attention in its own right. But the same cause will be served by partisan candidates by denouncing the Federal courts, especially the Supreme Court. Read the papers. Read the accounts of the election campaign. One will read that in many parts of the country we are having a contest between one nominee and the Supreme Court.

That is the trend this campaign is taking, and the U.S. Senate will only expedite and promote it by adopting any measure of any kind that can be construed as advice or criticism of those courts.

Thus, in closing I say that what we ought to do is to stand firm, offer our vote for a motion to lay on the table, or offer to stay here and fight against this unconstitutional proposal for as many weeks as it may take, putting it up to the population in regard to the so-called cloture motion. I know it is said to me half a dozen times a day, "Do you want a cloture motion?" The answer is no. But if a cloture motion is desired, I am for holding responsible in American political life those who so vote. That is the answer. But the answer is not to compromise the Constitution. The answer is not for us to stoop at the altar of public expediency and convenience. On the contrary, the answer is that if we must go down in defeat, we should go down in defeat in defense of what we know is unanswerable, sound, constitutional theory. For, out of that theory will rise again the rights of the American people. The American people will lean forward and assert themselves in the reestablishment of their constitutional rights.

I close by asking unanimous consent that there be printed at this point in the RECORD an editorial from the St. Louis Post-Dispatch of September 17, 1964, entitled "The Goldwater Constitution," an editorial from the St. Louis Post-Dispatch of September 13, 1964, entitled "Attack on the Supreme Court," an editorial from the St. Louis Post-Dispatch for September 16, 1964, entitled "Where Is That Chaos?" and an editorial from the St. Louis Post-Dispatch entitled "Mississippi Bar Manifesto."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the St. Louis (Mo.) Post-Dispatch, Sept. 17, 1964]

THE GOLDWATER CONSTITUTION

Senator GOLDWATER's repeated attacks on the Supreme Court introduce a strange element in the presidential campaign. The Republican candidate is not running against the Supreme Court, and there would not be a great deal he could do about the Court if he were elected until vacancies occurred. Apart from that, he displays himself as something less than a constitutional expert.

On his southern tour, the GOP candidate asserted that the Court is taking away from State and local agencies "the traditional powers to apprehend and punish criminals." He mentioned three cases in which he said the Court had done this. But his interpreta-

tion was not the Court's, and his conclusion misreads what the Court did.

In one case the Supreme Court unanimously found unconstitutional a police search, without a warrant, of a suspect's hotel room in California. In another, it struck down use of evidence obtained from a warrantless search of an automobile after four suspects had been removed to jail. In a third case, the Justices held that a Chicago man's confession could not be used against him in court because it was obtained after police denied him the right to see his lawyer.

In these cases the Court took nothing away from law enforcement agencies that those agencies could properly claim. The Court did nothing in defense of criminality. The Constitution requires warrants for searches and provides for the right to counsel. In upholding the Constitution in such matters the Supreme Court was upholding the rights given to all the American people.

The same thing can be said of other decisions for which Senator GOLDWATER has criticized the Court. In demanding popular election of both houses of State legislatures, the Court was protecting the citizen's right to have his vote counted equally with all others. In rejecting State authority to order religious services in public schools, the Court was defending freedom of religion, not denying it.

Senator GOLDWATER is on risky political ground in attacking the Court for defending civil liberties. Why does he do so? Perhaps he is trying to capitalize on varying anti-court sentiments prompted by different decisions—the opposition to racial rulings in the South, to apportionment rulings among conservatives generally, to the school prayer rulings among some groups.

If the Goldwater forces could somehow amalgamate all the forces opposed to these decisions, they still would have mustered no more than a curious alliance of misunderstanding and disbelief in the essential principles of American Government. Against them should be arrayed every citizen who values his constitutional freedoms.

[From the St. Louis (Mo.) Post-Dispatch, Sept. 8 to 13, 1964]

ATTACK ON THE SUPREME COURT

Senator DIRKSEN'S ride against the Supreme Court has been stalled. Only 30 Senators voted to shut off debate on his plan to restrict Court power over State legislature apportionment, while 63 (including Missouri Senators SYMINGTON and LONG) voted against cloture.

Unfortunately, the rider to the foreign aid bill is not dead. A motion to table it was defeated by 49 to 38. So the situation is as it was, with Senator DOUGLAS, of Illinois, and his band free to go on talking against the Dirksen plan. As the debate proceeds, the public should become fully aware of the grave issues involved.

Senator DIRKSEN insists he is not attacking the Supreme Court. He says the issue is whether the Constitution empowers the Court to say how State legislatures shall be composed. What he means is that Congress should decide the Court's power; but the Constitution has already decided that.

It is true, as critics of the Court have said, that the Constitution gives Congress some control of appellate jurisdiction and of lower courts. But the Constitution also creates the Supreme Court, and gives to that Court full jurisdiction in all cases arising from the Constitution.

The Court was enforcing the Constitution in holding that its "equal protection of the laws" clause requires both houses of State legislatures to be elected by popular vote. Senator DIRKSEN is ignoring the Constitution in proposing that Congress, by simple legislation, tell the courts they cannot enforce the equal voting rights principle for a year and more. In that time the Senator hopes for passage of a constitutional amendment to override the Court decision permanently.

This is not the first attack on the Supreme Court, but it is one of the more serious. Only once in history has Congress actually restricted the Court by legislation. In 1868, during a struggle over Reconstruction, Congress withdrew the Supreme Court's authority to hear habeas corpus appeals from lower Federal courts. Even so, Congress did not tell the High Court it could not hear direct appeals on this great writ, and soon a more thoughtful Legislature rescinded its ruling.

President Franklin D. Roosevelt tried to pack the Court in 1937, when he was dissatisfied with decisions adverse to the New Deal. He proposed that he be given power to name an additional Justice, up to a total of 15, for each one who failed to retire at the age of 70. The Senate of those days was properly outraged, and properly killed the plan.

As a result of the McCarthy period hysteria, former Senator Jenner, of Indiana, in 1957 tried to remove Supreme Court jurisdiction from cases involving contempt of Congress, Federal loyalty actions, and various subversive activities. The Jenner proposals were tabled and never even reached a vote.

Now, for the first time, Congress is asked to interpret the Constitution for itself, taking from the Court that responsibility which the Constitution gives it. Could there be any stronger attack on one branch of Government by another, or any heavier assault on judicial review and separation of powers?

The Dirksen forces have suffered a deserved defeat, with a stalemate as the result. Perhaps Senator HUMPHREY will succeed with his effort to turn the Dirksen command to the courts to advisory legislation only, though there is no great reason for Congress to advise the courts to give States time to comply with the Court decision. The States will have to have time in any case.

But when Senator DIRKSEN insists that he is willing to fight for his cause until Christmas or after, the champions of the High Court cannot depend on leaving their trenches by Christmas. However long it takes, however long the Senate must remain in session, the authority of the Supreme Court to uphold the Constitution must be maintained.

[From the St. Louis (Mo.) Post-Dispatch, Sept. 16, 1964]

WHERE IS THAT CHAOS?

In two votes the U.S. Senate managed to do nothing at all about the Supreme Court and the State reapportionment issue, and nothing is precisely what should be done.

First the Senators voted 42 to 40 against a compromise advising the Federal courts to give the States time to reapportion their legislatures. This was a substitute for Senator DIRKSEN'S rider flatly ordering a court stay until 1966. Both the Senator and opponents of his rider agreed that the compromise was pointless.

Then the Senate defeated by 56 to 21 Senator THURMOND'S motion withdrawing all Federal court jurisdiction in State apportionment cases. This was similar to the House-approved Tuck bill, but its affront to the Constitution was too much for the Senate to swallow.

So the Dirksen rider and the filibuster against it will proceed as before, with nothing accomplished. And why should anything be accomplished? The main argument of the Dirksen forces is that "chaos" will result if the States are forced to act swiftly.

Such arguments hide a remarkable lack of fact. One fact is that the Supreme Court, in ordering that both houses of State legislatures be apportioned by population, suggested no action until after the November election. A second fact is that States which have already carried out apportionments have experienced no chaos.

Senator DOUGLAS, in response to supporters of his Illinois colleague, has pointed out that the Colorado Legislature met in special session this year and apportioned the State senate on the basis of population, giving Denver its rightful number of members. There is no chaos there. Senator DOUGLAS said the Legislature of Connecticut, in which 12 percent of the people control one house, expects to reapportion in time for a primary in late September, and there is no chaos there. Michigan voters already have held a primary under a reapportionment plan, without chaos, and apportionment litigation is underway in Oklahoma, and there is no chaos.

By way of contrast, the Dirksen rider itself would create a strong element of uncertainty. Apportionment suits have been filed in most States, including Missouri, and 47 legislatures will meet in 1965, including Missouri's. Fair apportionment could thus proceed on a regular course in the courts and the legislatures next year. But if the Dirksen rider were passed, the courts could not act and many legislatures would not act, and possibly some apportionment decisions would be set aside.

Chaos is a dramatic word. What the Dirksen rider would accomplish might better be called confusion, and an already confused Senate would do far better to let the matter drop.

[From the St. Louis (Mo.) Post-Dispatch, Sept. 14, 1964]

MISSISSIPPI BAR MANIFESTO

The officers and commissioners of the Mississippi State Bar deserve commendation and encouragement for the resolutions they have adopted upholding the rights of accused to counsel in civil rights cases and for the machinery they have asked their president to set up to implement that stand.

It is another matter to agree with the assertion in the same resolution that the lawyers of Mississippi have never failed in their duty to represent all persons accused of crime "regardless of race, creed, color, or national origin" and whether their cause was "popular or unpopular, respected or despised." There have been lawyers in Mississippi who have taken civil rights cases which they knew would alienate them from what Prof. James W. Silver calls "the closed society." But have all of them carried their advocacy as strenuously as in cases involving less personal risk, and have there been enough of them willing to assume substantial risks?

They know, as does every other Mississippian, that in the words of Hazel Smith, the newspaper publisher, "Today we live in fear. * * * It hangs like a dark cloud over us dominating every facet of public and private life. None speaks freely without being afraid of being misunderstood." Frank E. Smith, a former Mississippi Congressman now on the board of directors of the Tennessee Valley Authority, writes: "The Mississippi Advisory Committee to the U.S. Commission on Civil Rights has been composed of brave men and women. Only those willing to face physical threats and economic and social pressure could contemplate serving on it."

The record in civil rights cases of the Mississippi courts is a poor one. So little confidence did, the Mississippi summer project have in the prospect of obtaining ready and forceful counsel from the Mississippi bar that it took along its own staff of lawyers.

We would honor the Mississippi State Bar resolution more unreservedly, and find greater promise of concrete improvement in it, if it boldly admitted the shortcomings of this record instead of taking the defensive attitude that there is no fire in the smoke.

But even with that defect it is a forward step. Particularly encouraging is the pro-

posal for a liaison committee with the State and Federal courts, local bar associations, and accused persons. If it aggressively promotes a heightened sense of personal responsibility regardless of the risks involved it may stiffen a few spines, serve as a measure of organized counterpoise to the local prestige of segregationism, and enter some opening wedges into the closed society.

Mr. MORSE. Mr. President, in inserting those editorials from the St. Louis Post-Dispatch in the RECORD, I wish to pay my high commendation to the journalistic statesmanship of that great newspaper. For some years the St. Louis Post-Dispatch, without exception, has led the newspapers of this country in its frequent editorials educating the American people in respect to their constitutional rights and guarantees. It is a wonderful thing to have a newspaper that recognizes its educational duties in the field of government. All one has to do is to read the editorials that I have just put into the RECORD to have a better understanding as to why the senior Senator from Oregon will reject any compromise of this issue and will insist that the Senate stand up and face directly the Dirksen amendment, either by a vote to lay it on the table, or by a vote against cloture, and then continued debate for as many weeks as it takes in order to defeat the amendment.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. It is my understanding that I yielded the floor to the Senator from Oregon so that he could make a speech today, that I still retain my right to the floor.

The PRESIDING OFFICER. The unanimous-consent agreement was that the Senator from Wisconsin [Mr. PROXMIRE] would be recognized tomorrow after the close of morning business. As of now the Senator may be recognized in his own right.

Mr. PROXMIRE. I thank the Chair.

Mr. President, the speech that my good friend the Senator from Oregon [Mr. MORSE] made—I believe it was last Tuesday—at any rate, it was just before the vote on the so-called Javits-McCarthy-Humphrey compromise—was, I believe, the clearest and most concise speech made on the subject. I subscribe to 99 percent of it, but not 100 percent. I thought that the speech was logical. It was unanswerable. That is the word I used in discussion with others who had the same sentiment that I had in supporting the position of the Senator from Oregon in respect to any rebuke of the Supreme Court, direct or implied.

However, I feel that it is possible to draft a resolution which would not condemn the Supreme Court or rebuke the Supreme Court or imply any criticism whatever of the Supreme Court. Indeed, it would affirm the position of the Supreme Court, and at the same time it would make it possible for us to indicate that we feel that there might be some justice or some reason for persuading, or for giving the position of the Senate that the subordinate courts—inferior courts—might follow the dictation or the decision of the Supreme Court in providing more time for apportionment.

The Senator from Wisconsin feels very strongly that the Supreme Court was correct in its decision in the case of Reynolds against Sims. The Senator from Wisconsin feels very strongly that population apportionment—one man, one vote—is a vital and fundamental principle, and one for which we should contend however long it might take.

However, it would seem to the Senator from Wisconsin that there may be a way of winning this fight—and we all want to win it—without compromising principle at all and without implying any criticism of the Supreme Court. If that opportunity were available, then this Senator would support our leader, the distinguished Senator from Illinois [Mr. DOUGLAS], who made a fine statement earlier today, in affirming that he believes, as I understand, that we should work in the direction of affirming the court, working for population apportionment, and at the same time, if it meets those requirements, of adjourning sine die as soon as convenient.

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

Mr. PROXMIRE. I am happy to yield to the Senator from Illinois.

Mr. DOUGLAS. I should first like to have a motion offered to table the Dirksen-Mansfield amendment which would carry. And to do so I would need full leadership support.

Mr. PROXMIRE. Yes, indeed.

Mr. DOUGLAS. That is, Senator, a motion to table the Dirksen amendment. If that motion should fail, I would then be willing to accept an amendment which would merely tell the inferior courts that in the judgment of Congress they should do that which the Supreme Court has already told them they should do. I do not regard that as a rebuke of the Supreme Court. I believe it is merely an additional injunction to affirm the qualifying conditions which the Supreme Court itself threw around its instructions; namely, that the lower Federal courts should consider the proximity of elections and pay some slight attention perhaps to factors other than pure population, even though they should retain equality of representation as the substantial, overruling, and predominant criterion for decision.

Mr. PROXMIRE. I thank the distinguished Senator from Illinois. Once again—I feel it so strongly that I wish to say it again—the Senator from Oregon has made magnificent speeches, both last Tuesday and today. His speeches are unanswerable because we agree with them so wholeheartedly.

At the same time, I believe that there is one element upon which we obviously disagree because we voted differently. I believe it is consistent with a deep respect for the Supreme Court and with an absolute commitment to the principle of one man, one vote, which I have, to vote in favor of a compromise which in my judgment would in no way call that principle into question.

ADJOURNMENT

Mr. PROXMIRE. Mr. President, if there is no further business to come before the Senate, as a further mark of respect to the late Representative WALTER NORBLAD, of Oregon, I move that the Senate adjourn until noon tomorrow.

Mr. DOUGLAS. Mr. President, will the Senator withhold his motion?

Mr. PROXMIRE. I withold the motion.

Mr. DOUGLAS. Mr. President, is it understood that at the conclusion of morning business tomorrow the senior Senator from Wisconsin [Mr. PROXMIRE] will be recognized and will have possession of the floor?

The PRESIDING OFFICER. That understanding is included in the unanimous-consent agreement.

Mr. DOUGLAS. I thank the Chair.

The PRESIDING OFFICER. Does the Senator from Wisconsin renew his motion?

Mr. PROXMIRE. Mr. President, I renew my motion.

The motion was unanimously agreed to; and (at 4 o'clock and 28 minutes p.m.), the Senate adjourned until tomorrow, Tuesday, September 22, 1964, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate September 21, 1964:

POSTMASTERS

The following-named persons to be postmasters:

ALABAMA

Emory C. Gibbs, Hanceville, Ala., in place of E. H. McNutt, deceased.

ARIZONA

Lawrence A. Lippert, Florence, Ariz., in place of L. M. Morrell, retired.

CALIFORNIA

John B. Shamlin, Ceres, Calif., in place of J. M. Gondring, Jr., retired.

Harold B. James, Guerneville, Calif., in place of G. L. Clare, retired.

Mary S. Black, La Honda, Calif., in place of V. M. Benedict, resigned.

Arlie D. McCoy, Lockeford, Calif., in place of F. J. Figge, retired.

FLORIDA

Rosa M. Priest, Morriston, Fla., in place of L. W. Mills, retired.

GEORGIA

Lucille E. McCurdy, Pine Lake, Ga., in place of W. I. Cushing, retired.

ILLINOIS

Kenneth M. Mosher, Dahinda, Ill., in place of A. R. Woolsey, retired.

Floyd E. Lacey, Milton, Ill., in place of R. H. Keys, deceased.

Glenard E. Miller, Willow Hill, Ill., in place of S. L. Keeler, retired.

INDIANA

Harold L. Shepard, La Porte, Ind., in place of R. W. Leets, retired.

Robert W. Rushton, Monrovia, Ind., in place of R. C. Bray, retired.

Chester A. Etchason, Jr., Plainfield, Ind., in place of A. C. Morphew, retired.

IOWA

Sidney J. Ness, Underwood, Iowa, in place of E. L. Klopping, retired.

KANSAS

Myron L. Van Gundy, Reading, Kans., in place of W. R. Jones, retired.