

1964

CONGRESSIONAL RECORD — SENATE

21169

serve fair competition in the marketing of livestock.

Second. The conservation programs of the Department of Agriculture and other agencies will be designed to preserve our forests and public lands and gain the maximum grazing conditions consistent with sound conservation practices.

Third. This administration will utilize every authority to maximize aid to cattlemen in need of credit, consistent with sound business practices. We are determined to use the regular facilities of the Government so that cattlemen can work out their problems.

FREE MARKET FOR LIVESTOCK

Fourth. Consistent with the principles enunciated so often by cattlemen, we do not propose or support any direct price support programs, control programs, or subsidy payment programs—domestic or export—for beef cattle. We will support the cattlemen of America in their determination that there be a free market for livestock.

Fifth. With consultation and the aid of the cattle and beef industry we will continue to use the facilities of the Government to encourage beef promotion, purchases for school lunch and needy persons, export market development, and other actions designed to aid the profitable marketing of livestock and livestock products.

Sixth. The United States will continue to urge in negotiations in GATT that European and Japanese markets be open to all. We are interested in helping beef exporting nations find expanding markets outside the continental United States to relieve the pressure on our own people.

Seventh. The import quota legislation recently enacted into law and signed by the President now is the law of the land. This will be used when necessary, taking into full consideration the needs of the domestic cattle industry, the American consumer, and the stake of American agriculture in world markets.

Mr. President, the American cattleman is the guardian of a proud heritage. Like his father before him, he deals in the elements—birth and death, drought and storm, cold and heat. He believes in the free market and he is willing today as his forebears to raise the calves and feed the cattle that put beef on our tables. The only thing he asks, and rightly so, is to share, as do other segments of our population, in the regular services of a government dedicated to a free agriculture. We will continue to help him, help himself through this period of adjustment.

Never in the history of the world has more beef been produced and consumed in as short a period. We are determined to continue to build markets, because the future of beef, as is true of all agricultural commodities, is in increased markets at fair prices.

Bill
AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961—CLOTURE MOTION

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. JAVITS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Minnesota [Mr. HUMPHREY] may be added to amendment No. 1234, proposed by the Senator from Minnesota [Mr. McCARTHY] and myself as a substitute for the so-called Dirksen-Mansfield amendment, amendment No. 1215, to the foreign aid bill now pending.

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

Mr. JAVITS. I thank the Chair, and I thank the Senator from Minnesota for joining us in this effort which I regard as a most constructive way to deal with the reapportionment problem.

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

Mr. JAVITS. I yield.

Mr. HUMPHREY. I thank the Senator for his initiative in this matter and also commend the initiative that my colleague from Minnesota has taken with the Senator from New York. I studied very carefully today the Senator's proposed amendment as a substitute for the Dirksen-Mansfield amendment. As the Senator knows, tomorrow the Senate will vote on the cloture motion. It is my hope that it will be defeated. I shall vote against it. Then it would be my hope that the Senator from New York might, on behalf of the two Senators from Minnesota—and I am sure there will be many others who will be equally interested—offer his substitute expressing the sense of the Congress.

That substitute gets at every point about which we have deep concern. It asks the courts to take into consideration the time needed for legislatures to carry out effective reapportionment under the terms of the Court order. It also provides a request for time for preparation of a constitutional amendment if such is desired.

I think it goes a long way, but we must get "off the hook" on which we are now caught in the Senate so we can proceed with the business of the Senate.

I have serious doubt about the Dirksen-Mansfield amendment, not only as to its constitutionality, although I believe lawyers have said it is constitutional. I believe it works like some of the new drugs we hear about, which are designed for a cure, but the side effects of which are sometimes worse than the conditions at which they are directed.

I have listened to the debate and have read the Record. I have been considerably disturbed about the difference in interpretation as to the meaning of the Dirksen-Mansfield amendment. That is why I have joined the Senator in what I think is a clear-cut proposal. I do not think there is any doubt about what the Senator's proposal is. It gets to the point. It is not ambiguous. I think it will serve the interests of constitutional government and the interests of the States deeply concerned over the impact of the Supreme Court ruling. It will be fair and judicious. I am sure no one will ever want to ignore a resolution of the Congress.

Mr. JAVITS. I thank my friend.

Earlier today I announced that I would vote against cloture. I analyzed the situation and gave my opinion that to sustain the Dirksen-Mansfield amend-

ment would require an interpretation by the Supreme Court which would make it of no more effect than our "sense" resolution. Therefore, it seemed to me much more appropriate, under the doctrine of the separation of powers, to avoid a confrontation between Congress and the Court, as long as it could be done with dignity and propriety and achieve the same result. So I urge adoption of the substitute which, as the Senator noted, will be offered at the appropriate time. I am glad the Senator from Minnesota was able to join in that measure.

Mr. RUSSELL. Mr. President, I understand that the time on tomorrow between the convening of the Senate and the vote on cloture has already been divided by unanimous consent. I therefore wish to make a very brief statement as to my position on the cloture petition.

I wish to make perfectly clear at this time that if I ever have an opportunity, I shall vote for the amendment offered by the majority leader and the minority leader. Indeed, if I had the opportunity, I would be very happy to vote in favor of the much more far-reaching bill that passed the House of Representatives. In particular, I do not like that provision of the Dirksen-Mansfield amendment which places the stamp of congressional approval on the constitutionality of the Supreme Court's decision on the reapportionment of State legislative bodies, because I do not believe it was ever contemplated that the Court would have any legal authority in that area.

None of the original colonies had legislative bodies that were based solely on population.

In this modern day, we often lose sight of the fact that the States created the Federal Government. We seem to assume it was the other way around, and that the Federal Government in some manner created the States.

The Supreme Court decision on reapportionment denies to States rights they had when they created the Federal Government. It further denies a right the States gave to the Federal Government—that is, to have one House of the legislative branch of the Government based on population and to take other factors into consideration in the constitution of the other body of the legislative branch.

This is not the time nor the occasion to discuss that aspect of the question at length, but if Congress has any interest or any desire to maintain the form of government that has served us so well, it will soon be compelled to place some curbs on the Supreme Court.

I have never been more serious than now when I say that in my judgment the greatest threat to the future of this country is not Khrushchev or Mao Tse-tung, or all the forces that those two tyrants might bring to bear against us. The greatest menace to the rights and freedoms of future generations of American citizens is the tendency of the present Supreme Court to set itself up as an all-powerful agency that not only has the power to enact ordinary laws, but also asserts the power to amend and change the Constitution of the United States.

In the philosophy of a majority of the present Court, there are no such things as coequal and coordinate arms of Gov-

21170

CONGRESSIONAL RECORD — SENATE

September 9, 1964

ernment. A majority of the present Court seems to feel that the Court can not only exercise powers that are vested in the legislative branch by the Constitution, but also exercise powers that are reserved by the Constitution of the United States to all the people of the United States.

I therefore feel very deeply that some action should be taken, even if it is as weak a gesture as the Dirksen-Mansfield amendment appears to me to be.

Mr. President, I would like very much to be able to convince myself that I could honorably support the cloture motion. I have marveled many times at the cynicism and elasticity of conscience of many Senators. They stand here on the floor and proclaim their undying devotion and dedication to the adoption of the strongest sort of gag rule in the Senate. But when it serves their purpose they do not hesitate to conduct a first-class filibuster.

I know it has been stated on the floor by some Senators that they can assuage their conscience and reconcile their judgment by saying that, inasmuch as there is a rule that permits a filibuster, they intend to utilize it, even though they are opposed to it.

I would that my conscience and my convictions were so elastic that I could say that, because the gag rule of cloture is found in rule XXII, I will utilize it, even though I have always held to the conviction that any Senator from a State, or a once sovereign State, should enjoy and have the right of expressing the views that he holds, and the views of his constituency, on any issue as fully as he might desire to do so, bound, of course, only by Jefferson's cloture, which forbids any Senator to make more than two speeches on the same subject in the same legislative day.

Unfortunately, however, I have considered this matter carefully for the past 3 days, and I have not been able to convert my convictions into a rubber band.

I really speak the truth when I say I believe in freedom of debate in the Senate, and I refuse to resort to the specious reasoning that because there is a rule with which I disagree, I am completely justified in resorting to its use.

I am surprised at times to hear Senators make that argument, because in its last analysis it is an argument that the end justifies the means. When we come to adopting that as a principle in the Senate, our Government is on tenuous ground.

Honesty also impels me to say, Mr. President, that no real effort has been made to break the filibuster against the Dirksen-Mansfield reapportionment amendment. I do not recall that there has been a single night session. I can well remember that for a period of about 3½ months in the spring of this year, the Senate convened at 10 o'clock—and on some few days at 9 o'clock—and ran for 12 or 13 hours. That was when there was what was called a filibuster against the Federal Force Act, which was then before the Senate.

This has been a "powder puff" filibuster. I concede that. But the leadership has only undertaken to use a feather duster as a weapon to break the "powder puff" filibuster.

Mr. President, I cannot vote for cloture, because I would stultify myself in so doing. But I am perfectly willing to stay here in continuous session for such time as is necessary to bring the Dirksen-Mansfield amendment to a vote in this body.

If a majority of the Senate really believes in this effort to place a modest restraint on a judiciary that is running wild, we can stay here and bring this issue to a vote in the Senate.

Of course, if we are interested only in form and pretense and publicity, we can have the vote on cloture. The vote will lose. Then the leadership can say, "This is all we can do, and therefore we will move to lay this amendment on the table."

Mr. President, I wish to make my position perfectly clear. I am in wholehearted support of the Dirksen-Mansfield amendment. My only objection it is that it is too weak and that it places the stamp of congressional approval on the Supreme Court's reapportionment decision.

Mr. President, I cannot bring myself to vote to gag the Senate, because I am sincerely opposed to gag rule. But I

wish to make it perfectly clear to any of those who are really interested in the adoption of this amendment that I shall be willing to stay here with them until January 3, 1965, if it is necessary, in order to reach a vote, although I do not believe it would be necessary to get a vote on the question. I shall, of course, oppose any effort to table this amendment. I shall oppose any effort to water it down any further, because if it is made any weaker, we will not be able to see it.

I hope that after the cloture vote is had the leadership will take the action on this amendment that they have taken in other cases in which they were interested and give the Senate a real opportunity to debate it. Let us have a real educational campaign, if that is what the opponents wish to call it. Let them have a chance to educate for 14 hours a day by having the Senate remain in session for that long, as was the case when a handful of us opposed the Federal force bill earlier this year.

ADJOURNMENT

Mr. RUSSELL. Mr. President, I move that the Senate adjourn, under the previous order, until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 50 minutes p.m.) the Senate adjourned, in accordance with the order of September 8, 1964, until tomorrow, Thursday, September 10, 1964, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate September 9, 1964:

BOARD OF PAROLE

Charles E. Casey, of California, to be a member of the Board of Parole for the term expiring September 30, 1970.

COLLECTOR OF CUSTOMS

Mrs. Mavis Wyatt, of Tennessee, to be collector of customs for customs collection district No. 43, with headquarters at Memphis, Tenn.

POSTMASTER

The following-named person to be postmaster:

Leslie N. Shaw, Los Angeles, Calif., in place of O. K. Olesen, retired.