big cities. I scarcely thought that the situation would come as close to home as it has within the past few hours.

About 5 o'clock this morning a young man, who is either 17 or 21—and it has not been determined yet—broke the door and the chain in the apartment of Miss Joyce Morgan, who is a secretary in the legislative section of my office. She is not sure what awoke her. But she thought she saw someone go by the door of her bedroom. She got up, went to the front door and saw that her door was broken open. She went back to her bedroom, and picked up a pistol which she keeps for protection. The young man by that time had gone into the dressing room. When he saw that she was awake, he turned off a light under which he was rifling her purse. She fired one shot through the door. He was not hit. However, he thought he was because some of the splinters from the door apparently struck him.

I do not believe I need to remind Senators of the incident which occurred a few weeks ago involving one of the fine young ladies from the office of Senator CURTIS. I am not sure that that young lady is out of bed yet. She was horribly beaten, and perhaps the scars, psychologically as well as physically, will be with her for the rest of her life.

I believe Miss Joyce Morgan deserves a pat on the back, first of all, for a kind of bravery which is very rare these days, and for having the kind of spirit to take the initiative upon her own instead of waiting for what might conceivably have happened. No one knows what might have happened had she not had the gun and the courage to take action.

After she had shot through the door, the young man pleaded for mercy. He opened the door. She held the gun on him while she phoned for the police. The police took the young man into custody.

I rather believe that, no matter what the court does in this situation, it will be some time before this young man attempts to enter an apartment or any other dwelling in this city, or any other city.

I rise to pay tribute to Miss Morgan for the courage she has shown. I do not know what will stop the rampage of crime which seems to be in progress throughout the country. We have spent millions of dollars on the problem of juvenile delinquency. We have not solved it. The courts do not seem to be able to deal with it. I do not agree with some of the Supreme Court decisions of the past few years which, I believe, overprotect the criminal.

I say again that it is time to start weeping for the innocent, and not for the guilty. We must start respecting law. We must accord to our law enforcement officers the respect which is due them. We must realize that they are not whipping boys for the public, but that they are our bastions between lawlessness and anarchy and a society which lives by law and order and is characterized by orderliness.

Mr. MORSE. Mr. President, I am very glad that the Senator from Colorado gave us that account. As a member of the Committee on the District of Columbia, whose subcommittee has jurisdiction over the general problem of lawlessness which confronts us in the District, I join in complimenting Miss Morgan for a bravery and courage that too often is not exhibited by many in like circumstances—and for very good reasons, many times, because of the great individual differences in people. But she performed a very courageous act. I wish the Senator would express to her my high compliments and congratulations for the courage and the high citizenship that she displayed under very difficult circumstances.

Mr. ALLOTT. I certainly will and I thank the Senator very much.

The ACTING PRESIDENT pro tempore. Is there any further morning business? If not, morning business is closed.

## AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The ACTING PRESIDENT pro tempore. Without objection, the Chair lays before the Senate the unfinished business, which will be stated by title.

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

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 1215) offered by the Senator from Illinois [Mr. DIRKSEN] for himself and the Senator from Montana [Mr. MANSFIELD].

Mr. MORSE. Mr. President, the Presiding Officer and I will have the pleasure of being almost alone in the Chamber for the next few minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the senior Senator from Oregon losing his right to the floor.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MORSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MORSE. Mr. President, the Presiding Officer [Mr. METCALF] and I will have the delightful pleasure of each other's company for a while in the Senate. I observe also my friend, the Senator from New York [Mr. KEATING]. I hope that the Senator from New York will find it possible to remain, although I assure him that he need not keep a watchdog on the Republican side of the aisle, for I give him my word that I shall merely talk, and ask for no action. I shall make no unanimous-consent requests or requests for votes. The Senator from New York is a very busy man these days. He should spend his time where his efforts will be most productive. Therefore, although I am always flattered to have the presence of the Senator from New York, it will not be necessary for him to remain.

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

Mr. MORSE. I am happy to yield to the distinguished Senator from New York.

Mr. KEATING. I always gain from listening to the distinguished Senator from Oregon as long as my time permits. I cannot imagine using it to greater advantage than in listening to the pearls that fall from the lips of the Senator from Oregon.

Mr. MORSE. They still have their shells on, too. I thank the Senator very much. I am delighted.

Mr. President, I am against the amendment, and I shall give my reasons forthwith, but I ought to advise the Presiding Officer as to the parliamentary strategy.

I was highly complimented when the leaders of the debate in opposition to the Dirksen amendment called me. A couple of them came to see me. They were concerned about obtaining a speaker for this morning, because for some reason the group that is leading the fight against the Dirksen amendment found themselves with many conflicting engagements, some out of the city. They asked, "Will you help?"

Within reason, I always try to help. I said, "Are you gentlemen filibustering?" I am still the only liberal who admits that he filibusters.

They replied, "We are going to speak at some length." I asked, "Is this another of those prolonged debate situations?"

I believe the answer, in a variety of word forms, was in the affirmative.

I said, "I have a few things to say in opposition to the amendment. I have a few more things to say about foreign aid, which would make anything that I might say germane."

I shall speak for some time. But I think it is a mistake to try to beat the Dirksen amendment by a filibuster, although if filibustering it would give us some assurance that we could get rule XXII amended so as to bring to an end filibustering in the Senate of the type that seeks to prevent a vote from ever occurring, I would be willing to speak at greater length than I now contemplate doing.

If we could get adopted the Morse antifilibuster resolution, the Clark-Douglas-Neuberger measure, the old Lehman amendment, or any of the others that would have the effect of fixing a time certain for the Senate eventually to vote—which, of course, is what is necessary in order to outlaw the filibuster in the Senate—if there were some assurance that filibustering, or prolonged debate, against the Dirksen amendment would hasten that day, for that purpose I would speak longer than I now intend to speak.

There are a great many reasons why I do not find myself enthusiastic about filibustering the Dirksen amendment, although I think it must be defeated, if at all possible, for reasons which I shall

state shortly. But I wish to confine my attention to the question of procedure.

I good-naturedly said to those who asked me to participate in the debate this morning that I knew how they felt, for I had been in that position many times in recent years only to find my liberal friends in the Senate taking on a parliamentary cloak more pure than snow and declining to be of assistance to me in trying at least to assure full debate on certain questions.

I shall never forget how many of them left us in the greatest political steal in my 20 years in the Senate—the communication satellite steal. There was an interesting series of rollcalls on the part of the alleged liberals in the Senate. I observed in yesterday's newspaper that the monopolistic corporation, which was formed with the help of many liberals and at a great loss to the American people, got its hand in the till, and then put it farther into the till, to get more free assistance from the Federal Government to carry out the nefarious program of the Satellite Communications Act. But I suppose that goes along with the parliamentary process, although certain liberals who joined in that nefarious communication program disappointed some of us very much, for we needed their help.

How well I remember the number of liberals in the Senate who joined in the gag rule at the time of the satellite communications steal, and who supported a motion for dropping in triphammer fashion, the parliamentary guillotine on the necks of those of us who were seeking to have full debate against the satellite communications program, when there was no rush whatever except that it was felt that the sooner it was placed under cover, so the American people would know as little as possible about that shocking legislation, the better. In time, it will cost the taxpayers not billions of dollars, but trillions. I remember all the propaganda, misleading in nature, that went into that political steal and sucked many liberals along with it.

I remembered that over the weekend when I was asked to participate in the debate against the Dirksen amendment. But I never let past differences cause me to refuse assistance in a meritorious effort in the present.

Some of the opponents of the Dirksen amendment stood with us on the satellite fight. I believe all the opponents, without exception, are completely right and deserve a great deal of credit for the fight they are putting up against the Dirksen amendment. But I say to them from the floor of the Senate, as I have said to them privately, first, that they cannot beat it with prolonged debate, or what I call a filibuster, unless they really can gather together a group of Senators who will commit themselves in advance to stay put and agree to no parliamentary compromises.

I have been through this process so many times that I despair of having enough Senators who would stay put. Three or four times I organized a filibuster against a wiretapping bill. There was much enthusiasm at the beginning, but it did not take very long until Senators who had assured me they would stand firm found one excuse or another to straggle off, to desert, only to appear shortly thereafter as soldiers in opposition in the interparliamentary army.

As the Acting President pro tempore [Mr. METCALF] will recall, we had enough on those occasions to stop and to beat a wiretapping bill that sought to destroy the precious rights of privacy of freemen and freewomen. But we were aided not by numbers in the Senate, but by time. The attempts were made late in the session. The Presiding Officer will remember that the then Senator from Colorado, Mr. Carroll, and I, on the last night of the session, 3 or 4 years ago, opposed that bill. The Judiciary Committee of the Senate had held an extraordinary, special meeting of the committee in the early evening of the night it was planned to adjourn sine die, and voted out a wiretapping bill. The leadership of the Senate announced that it would put the bill on the calendar of the Senate for passage that night. The House already had passed a bill, which, with the passage of the Senate bill, offered good prospects that an agreement could easily be reached between the two Houses to accept one or the other of the bills.

The Senator from Colorado and I, who had been given assurance that a considerable number of Senators would stand with us, found, within 3 or 4 hours, that we stood alone. That never dismays me, although one does not like it. But the CONGRESSIONAL RECORD will show that we decided to beat it by a filibuster, if necessary. I said to Senator Carroll, "If you are good for 4-hour speeches, with my 10-hour speeches, we can keep it here for a few days, and I think that will end it."

Then we talked to the Parliamentarian about a point of order we thought we could raise. The RECORD will show that late that night, or in the early morning hours, it was agreed that our point of order would be sustained. That ended the invasion of the privacy of the American people through a wiretapping bill on that occasion.

But, Mr. President, that is tough going. It is not easy. It is disappointing to find that so few Senators are willing to take an all-out stand for civil liberties, the preservation of which will determine in no small measure the freedoms of the American people.

I cite this example because it is one of many in which I have made use of the filibuster to prevent steamroller tactics in the Senate. I never have engaged, and never will engage, in a filibuster that seeks to prevent a vote ever occurring on a piece of legislation. In the example I referred to steamroller tactics were used in the 11th hour of the session. I could cite other examples. The record was perfectly clear that no committee hearings had been held on that bill. I asked for the citation of the name of one recognized constitutional law expert in the entire country who had ever testified. Certain police leaders and Department of Justice leaders who have a prosecutor's complex, were all for the bill. There had never been adequate hearings.

The record will show that I said that I agreed to enter into an agreement, come the next session of the Congress, after there had been full committee hearings, that would limit to a reasonable extent the debate on a wiretapping bill and then proceed to a vote on it; but I did not intend that night, if I could prevent it, to let the wiretapping bill be steamrollered through the Senate when there had not been adequate hearings.

It will be recalled that on another occasion, late one Friday afternoon, my good friend the then Senator from Texas, Mr. Johnson, who was majority leader of the Senate, attempted to get through the Senate, without even a half dozen Members on the floor, the Price Daniel narcotics control bill.

I was in favor of more stringent control of narcotics, but not for a bill containing a wiretapping section, and not with a capital punishment section in it. That bill contained a section which provided for capital punishment for anyone who sold narcotics to anyone 18 years of age or younger. Not only was it irreconcilable with my religious faith and beliefs, but I thought that proposal would defeat the very purpose of a more stringent administration of the narcotics law.

So I asked a page boy to go to the Senate restaurant and get me a red rose. I would have the Presiding Officer note that today I am not wearing a red rose, which is notice that I am not engaging in a filibuster. If I put it on, Senators will know that the fight has started.

The page boy brought me the rose and I put it on. My beloved majority leader was very unhappy. He said I had not given him any warning. I said, "When did you give me any warning that you were going to try to put through the Price Daniel narcotics bill?"

Of course, I realized at that time that Price Daniel was a candidate for Governor of Texas. This was near the end of the session, again, and apparently it was thought that the passage of the bill would be very helpful to him in his race for Governor. But I never permit the political interests of any of my colleagues in the Senate to interfere with what I consider to be a matter of public policy and public interest.

So I made it perfectly clear that we would talk over the weekend. I suggested to the majority leader that he might set the record of being the first majority leader to hold the Senate in session on a Sunday. It was then 4 o'clock in the afternoon, and I said to him, "At 6 o'clock I shall call for a live quorum. I doubt if you can get one this side of New York City." It was then Friday afternoon. I said, "I will enter into an agreement with you that to limit debate next Tuesday on the bill to 2 hours on a side, and come to a vote on Tuesday, but I do not intend to let you come to a vote tonight, because I am satisfied that a majority of Senators are against the bill, and if I can get them back here, they will vote against it so far as the capital punishment and wiretapping sections of the bill are concerned."

My friend the majority leader was not prone to give me that agreement. So I proceeded to discuss it. In a few moments he came over and said he would

give me the agreement. I said, "I am sorry. It is necessary for me to finish this segment of my speech now, because I would not want to break it off in the middle. Some Ph. D. candidate 20 years from now would be puzzled if I did. This wiretapping issue is all important."

He asked, "How long will it take you to finish this segment of the speech?"

I said, "A couple of hours." Then I will be very glad to stop until Tuesday."

The majority leader accepted that understanding. As the RECORD will show, I completed the speech. On the next Tuesday, by a substantial majority, both the wiretapping and the capital punishment sections of the bill were deleted, and the remainder of the bill, which had had my support from the beginning, was passed.

I cite this example to point out to my critics that a use of what my liberal friends in the Senate call prolonged debate is justifiable to prevent a steamroller from pushing through the Senate, without adequate consideration, a bill which many consider not in the public interest, and is also justifiable to buy time, if one wishes to put it that way, to make the record on the merits of an issue for the information of the American people.

After all, the Senate is a great school. It is a great schoolroom not only for political education, but also for education on the merits and demerits of proposed legislation. I shall never vote in the Senate to deny to any Senator adequate time to debate the merits or demerits of any pending legislation. My critics can continue to call that by any name they wish. If we are to retain the Senate as the greatest parliamentary body in the world, we must strike a balance between adequate and inadequate debate, between adequate and inadequate protection of a minority, so that a minority may, in ample time, seek, on the merits, to change itself into a majority, and to prevent a denial to the minority of adequate time for full debate.

Such a balance is struck fairly and equitably by any of the major proposals for an amendment to rule XXII, such as the Douglas proposal, which, If I am correct in my mathematics, would provide, in round numbers, 15 days of debate, at a maximum, after a cloture motion had been filed, or my antifilibuster resolution, which I have submitted now for a good many years, which would provide for 100 hours of debate after cloture had been obtained with one difference so far as the present rule is concerned; namely, that the 100 hours would be 100 hours that Senators could farm out, so to speak. In other words, a Senator could yield his time or a part of his time to other Senators. We all know that the rules of courtesy in the Senate are such that even if a Senator is opposed to a measure, but does not intend to use his time, he will give another Senator his share of the time, or a part of his time.

If I thought that engaging in prolonged debate for the next couple of weeks would result in a modification of rule XXII, I might join for that purpose. But I do not contemplate, at least at the present, joining in prolonged debate in the next few days in order to stall action on the Dirksen amendment prior to the Democratic convention—although I seriously doubt that there will be any action on it prior to the Democratic convention. The amendment should be withdrawn. Obviously, it has no place in the foreign aid bill. It is clearly a rider to the foreign aid bill. I have never been happy with a procedure that called for legislating by a rider. In my opinion, the Dirksen amendment should be referred to committee for hearings. The Senator from Illinois [Mr. DIRKSEN] should call it up next January and have it referred for hearings. Then the Senate should be given the benefit of the recent discourse about the standing constitutional law authorities. We know that bar association after bar association, as stated by the Senator from Wisconsin [Mr. PROXMIRE] earlier in the debate, is opposed to the Dirksen amendment on constitutional grounds. I believe they are right. We know that an appropriate committee of the American Bar Association is opposed to the Dirksen amendment on constitutional and legal grounds.

I am at a loss to understand why the Senator from Illinois is following tihs parliamentary course of action. Time and time again in our years of service together in the Senate I have heard him plead to refer a major piece of proposed legislation to committee for hearings. Many times I have heard him defend the hearings process of the Senate—not always, but many times. Every time he has, he has been obviously correct procedurally; every time he has not, he has been just as wrong as he is about this amendment.

We all know much politics is involved in this amendment. It is too bad, merely because an election is in the offing, that the legislative process on the floor of the Senate should be used to any degree whatsoever for election purposes. The Senate ought to be kept immune from political activities, so far as campaign strategy is concerned.

These are days when there is much confusion in American public opinion. The people are concerned and puzzled. There is strong opposition to foreign aid, and rightly so. I believe there is more opposition to foreign aid than most Senators fully realize. I am against the foreign aid bill, and I shall vote against it. So when my colleagues who urge me to do more than I have agreed to do and intend to do—at the present time, at least—in the thought that I might be persuaded with a carrot that could help to defeat the foreign aid bill, my reply is: I want to defeat the foreign aid bill on its demerits. I am not interested in defeating the foreign aid bill, if we could—and I do not think we could—by way of supporting a strategy that would seek either to prevent a vote on it or to send it down to defeat via the Dirksen amendment. That is not a good legislative process. We should not work our will in that way.

There is enough that is bad enough about the foreign aid bill without our adding a nongermane, irrelevant rider amendment to it and urging that it be rejected for that reason.

I had breakfast this morning with some Members of the House. They said, "We think you will be pleased to know that about 70 of us in the House have signed a petition in which we are announcing"—I believe they have already announced it—"that we will not vote for foreign aid if the Dirksen amendment is attached to the bill."

"But, I said, "you will if it is not attached to the bill?"

They said that most of them would.

I said, "Then, I am not interested in your suggestion that I in any way implicate myself in any program to defeat the foreign aid bill merely because the Dirksen amendment may be attached to it."

That was a rather difficult decision for me to make, Mr. President. In my judgment, if I went along with that suggestion, I would be doing something that I never knowingly and intentionally ever do. I would be agreeing to support a legislative expediency; and I do not believe there is any place in this body for expediency. The American people, who sent us here, have a right to expect us to vote strictly on matters of principle; and we always know when we are acting on principle. We do not need an interpreter to tell us the difference between principle and expediency.

The foreign aid bill, devoid of the Dirksen amendment, raises a clear choice for each Senator to vote upon—whether he wants to support the foreign aid bill in its present form or whether he wants to support the foreign aid program in the face of the devastating, irrefutable proof that has been mustered against it, in many of the undeveloped areas of the world. Senators have a clear choice in voting on the merits and demerits of the bill. They are put in the position of voting their convictions on principles.

(At this point Mr. JORDAN of Idaho took the chair as Presiding Officer.)

Mr. MORSE. Mr. President, when we encumber the foreign aid bill with the Dirksen amendment, which has no relationship to the foreign aid program, which is merely an expedient legislative device to drag in, by its ears or its tail, a reversal of the U.S. Supreme Court, or to place in indefinite suspension a decision of the U.S. Supreme Court dealing with the precious constitutional rights of the American people, we have a proposal which is an act of expediency. I believe that every time we act on the basis of expediency and sacrifice principle at the altar of expedient compromise, we do something bad to our whole legislative process.

We should not do it. We should stand up against it. We should vote against it. The amendment should either be sent to committee to report back at an appropriate time in the next Congress, or it should be laid on the table, which will give Senators an opportunity to stand up and be counted on whether they are for or against political expediency in the Senate.

In due course of time in the debate, I intend to make one or both of those motions, unless other Senators make them first.

I do not intend to support an amendment which is bottomed upon a foundation of political expediency. I judge from some of the things reported in the press and on radio broadcasts and television telecasts over the weekend, that some Republican strategists believe that they have put the Democrats in a difficult position. One referred to putting us behind the political eight ball.

Those who hold that point of view reflect upon and insult the intelligence of the American voter. In my State, I would have no hesitancy in taking my opposition to the Dirksen amendment to any farm group in the State. It is obvious that the Republicans believe that the Dirksen amendment will sweep the Farm Belt like a prairie fire. I believe that they are mistaken. The farmers are just as dedicated to our constitutional processes as are the people living in urban or metropolitan areas.

Once the people in the rural areas come to understand the constitutional implications of the Dirksen amendment, they will react against it. I do not feel that once the farm population comes to understand the constitutional implications of the Supreme Court decision they are going to insist upon the perpetuation of an electoral system that weighs the vote of a voter in the rural area as more than one vote.

Do Senators know why? Because the people of the rural areas believe in fair play just as much as do the people in any other area of the country. What the Supreme Court has said, in effect, is that the present apportionment system violates the rules of fair play. It gives a greater weight in many areas of the country to the rural voter, which is hard to reconcile with our democratic conception of majority rule. Majority rule means exactly that. It means that each voting citizen is allowed the same voice, as far as his vote is concerned, as any other citizen.

I say to some of my Democratic friends who seem to be of the opinion that a compromise must be arrived at with the election staring us in the face: "What are you afraid of? Do you really wish to win an election based upon that kind of compromise of principle? Do you have so little faith in the intelligence of the American voter that you feel you must support quickly a hush-hush program in the Senate and get the matter behind you as fast as possible?"

I say to Senators who are pushing for a prolonged debate on the issue that there is much which can be said in support of the strategy so far as concerns hammering away at the facts involved in the Supreme Court decision and the consequences that would flow from the Dirksen amendment.

That is why I have given the Senate no irrevocable commitment as to what my parliamentary course of action will be, so far as speaking at length is concerned, if I belief it can be constructive in connection with the edcational processes needed with regard to both the Supreme Court decision and the Dirksen amendment. In intend to deal with the Supreme Court decision before I finish. I shall read it and discuss its major paragraphs, paragraph by paragraph.

I was opposed to the Supreme Court packing of the 1930's. At that time, I was dean of the law school at the University of Oregon. I spoke out against the plan. I thought it was a mistake.

This is a sort of Supreme Court packing plan in reverse.

The objective is the same. Those who wished to put favorable judges on the Supreme Court used a rather ugly word at the time. It was described as amounting to prostituting the judicial processes of the Constittuion.

Those who wish to deny the application of the apportionment ruling of the Supreme Court, and all of the constitutional protections which the Court made clear it was seeking to guarantee, are really attempting to substitute themselves for the Supreme Coourt.

I have great respect for my colleagues in the Senate. But it is nothing less than ludicrous for Senators to play at being justices on the Supreme Court, without even a committee hearing, without even an opportunity to hear from witnesses who are expert in constitutional law, and, without even listening to nonpolitical authorities expound on the meaning and the implication of the Supreme Court decision, to decide that they are qualified to substitute themselves for the overwhelming majority of the Supreme Court in this matter. That attitude on the part of the legislative politicians is highly presumptuous.

The Dirksen amendment, in effect, would tell the Supreme Court how to decide its cases. I am as opposed to it as a matter of public policy as I was opposed in the 1930's to the proposal of Franklin D. Roosevelt to pack the Supreme Court.

Our system of government, consisting of three coordinate and coequal branches of the Government, works very well. No other system of government in all the history of the world has worked as well from the standpoint of reserving for, granting to, and protecting basic human rights of free men and women guaranteed by the Constitution. The Constitution, in effect, and in practice, gives assurance that the people of this Republic shall be the masters and not the servants of the Government.

In my judgment, the Dirksen amendment is an unwarranted attack upon the constitutional powers of the Supreme Court. We all know that in 1803 after a period of controversy, debate, and discussion as to where the ultimate authority in decreeing constitutional rights really vested, the great Chief Justice of the Supreme Court, Chief Justice Marshall, of Virginia, in Marbury against Madison removed, I hope for all time, any doubt as to that constitutional question. He ruled that the Supreme Court was the final arbiter of the constitutional rights of American people, subject only to the important check of a constitutional amendment.

Mr. President, I would that the Senator from Illinois would see his way clear to follow a suggestion that I read in this morning's newspaper offered by the Senator from Minnesota [Mr. HUMPHREY], which, if I read it correctly, seeks to give assurance to the Senator from Illinois that the issue which he raises in his amendment will be taken up forthwith by the appropriate committee of the Senate come January.

I would go further than that, in keeping with what I have already said about having no desire to participate in a debate or a parliamentary strategy that would prevent a vote from ever occurring on this or any other issue. I am perfectly willing to see if an agreement could not be arrived at that the committee receive the instructions of the Senate to report to the Senate not later than a date certain—March 15 or April 1—after there has been an opportunity to have full hearings in the committee. That certainly is a reasonable request. It is certainly in keeping with the orderly handling of the subject. I have tried to satisfy myself that there would be some good reason for opposing such a proposal, and I have not been able to find one. As legislators, we shall set a pretty messy example to the American people if we, in the absence of full committee hearings and a report, proceed to "curbstone" on this subject by voting on the Dirksen amendment.

We lawyers believe that a case should be tried on its merits. That is pretty basic, particularly to lawyers, in the administration of American jurisprudence. Every nonlawyer in the Senate should see the wisdom of it. Particularly, the lawyers in the Senate should support some such proposal as that made by the Senator from Minnesota [Mr. HUMPHREY].

Let me say to the Senator from Wisconsin [Mr. PROXMIRE], who has just joined us, that immediately prior to his coming into the Chamber from the party meeting that he has attended, and which I could not attend because of my commitment to hold the floor until at least noon, I had suggested that we ought to adopt the proposal that the press carried this morning, offered by the Senator from Minnesota [Mr. HUMPHREY], which if I read it right, suggests that the issue be postponed until the next Congress, when hearings could be held and constitutional experts could be called upon to testify. I said that I would propose a modification of that suggestion, so far as I am concerned, by agreeing that some date certain be fixed by way of instructions to the Senate committee—March 15 or April 1—to report back to the Senate whatever the committee might decide upon, favorably or unfavorably, or a modified proposal. The Senator from Illinois has supported—although not always—proposals to have a question referred to a committee. Many times he has supported such a proposal, and I believe it is a sound practice. However, I judge that the Senator from Illinois is not interested in the Humphrey proposal because, if he was correctly quoted in the press this morning, he was opposed to it because the proposal had no teeth in it.

Of course it has teeth in it. It provides assurance to the country that the question will go to hearing. But meanwhile we should not play the role of Supreme Court and substitute ourselves for the Supreme Court. I speak most re-

spectfully when I say that we are not qualified to do so on the basis of a comparison of our knowledge of the case and the knowledge of the case by the Supreme Court.

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

Mr. MORSE. I yield.

Mr. PROXMIRE. Would the Senator agree that on a matter which so clearly places the Congress in the position of moving in on the Supreme Court, directing or restraining the Supreme Court, that it is particularly imperative that we rely on our Judiciary Committee, the Senate's committee of legal experts that is supposed to advise the Senate?

The Senator from Oregon has served the Senate and the country very well. On this issue of consistent committee referral. I have deserted him at times on civil rights measures that would otherwise be killed but I think he has been right in general in insisting that we rely on our committees on legislative matters of great importance. There have been times we have not done so because it was clear to many of us that a committee would bury legislation. But in this case, in view of the fact that the committee reported a variation of this measure without any hearings, it is clear the Judiciary Committee would not only have not buried it but would have hurried it through. So there wold not have been any practical reason, let alone reason or principle, for not having the Judiciary Committee consider the matter and give us its advice.

Does that make sense?

Mr. MORSE. As the Senator will see when he reads in the RECORD of tomorrow my earlier remarks, that is one of the premises I am expressing today. I think the proposal should go to committee. It should not be passed as a rider. It should not be passed in the absence of hearings. I respect the Senator's views, but as he knows, I take the position that we never have to worry about a committee burying anything if the Senate exercises its authority over its agents. Each committee is naught but the agent of the Senate. If we give instructions to the committee such as I have suggested, if the Judiciary Committee is asked to hold hearings starting early next session and report either favorably or adversely on the amendment of the Senator from Illionis by March 15 or April 1, or whatever date the Senate in its wisdom wants to agree upon, the measure cannot be buried.

I have checked this procedure in previous debates. Each time the Parliamentarian has assured me that never in the history of the Senate has a committee refused to carry out the instruction of its parent or principal body.

I do not believe that time will ever come, for the obvious reason that if a committee ever did it, the Senate has authority to take a matter away from it. It also has the authority under those circumstances to impose whatever restrictions upon the actions of the committee the Senate might wish to impose.

The suggestion of the Senator from Wisconsin is unanswerable.

Mrs. NEUBERGER. Mr. President, will the Senator yield?

Mr. MORSE. I am delighted to yield to my colleague.

Mrs. NEUBERGER. I must return to the Agriculture Committee. It is hoped that action can be taken today on Public Law 480. But I wished to make a comment.

I was glad to hear my colleague comment about the use of the committee being refused as a device in the Senate. My colleague has presented an argument for considering a bill of this importance in committee, but some Senators who said it was used as a device to kill certain legislation are now supporting the principle that it should go to committee. It reminds us of the saying that the devil can cite scripture for his own purposes.

There have been cases in which every Senator knew what the merits of a bill were. If it had been fully discussed by the other body, it might perhaps be felt that the Senate could depart from the committee procedure. Even then I did not approve of it. My colleague and I come from a State which has been through a reapportionment fight, and we know that the shibboleths used against it never came to be true. It never hurt the farmers of our State. But we do not know what the situation is in other States. So it seems that a slap at the courts, and a violation of the rules and traditions of the Senate are being attempted.

Mr. MORSE. I thank my colleague for her intervention. While she is still in the Chamber, I express my compliment to her for the very able and fine speech she made Saturday afternoon on this subject matter. I was able to hear only a part of it.

I have followed an absolutely consistent policy in my years in the Senate of always supporting the preservation of the committee process. Bills should go to committee. It is perfectly proper for the Senate to commit under instructions such as I am suggesting with regard to the Dirksen amendment. But it is a good safety valve, a good check, a safety first measure, to have a committee examine even bills of innocent appearance. Sometimes even the most innocent looking bill has some legislative sleepers embedded in it, and I am for requiring committee clearance of them.

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

Mr. MORSE. I yield.

Mr. PROXMIRE. Is it not true that one of the prime reasons for an extended discussion on the floor, for exploring the subject in detail on the floor, is that there have not been committee hearings?

Mr. MORSE. Certainly.

Mr. PROXMIRE. This is a highly complicated question. It not only involves deep constitutional principles on which the Supreme Court has spoken a number of times, but also involves a serious effect on all our States. So if the Judiciary Committee has not heard constitutional experts, if it has not heard arguments as to what the effect will be on Oregon, Wisconsin, Michigan and Oklahoma, for example, it is necessary for those of us who are deeply concerned about this proposal to explore it, to discuss it, to examine it, to try to challenge those who are trying to have the Dirksen amendment adopted, in much greater detail than we would have had to do it if there had been a hearing, and a record had been made.

One of the reasons why we feel impelled to have this discussion at substantial length is that there is no record, and we feel we have a duty to make a record.

Mr. MORSE. The Senator's position is unanswerable.

My colleague [Mrs. NEUBERGER] pointed out in her speech on Saturday—and I hope Members of the Senate who were not present will read it—that we have been through this procedure in Oregon. It has been stated in the press that Oregon has gone further in carrying out the principles of reapportionment than has any other State. Although Oregon will have some problems in redistricting congressional districts, that problem is somewhat ancillary to the heart of the issue. The basic principle of the decision has been recognized in Oregon, and bears out what I said earlier in this speech—namely, we have the assurance that once the people understand, in the rural areas, in the urban areas, and in the metropolitan areas, they will not want to perpetuate an apportionment system that violates the rules of fair play.

We are pretty thoroughly unified in support of the proposition that democracy cannot work if we seek to defend the maintenance of discriminatory practices that give an advantage to certain voters because of the location of their voting residence in a given State.

Many of the arguments we are hearing now about what the reaction of the farmers will be have vanished into thin air in my State. When the farmers come to understand that what is sought to be accomplished is that each citizen shall have one vote, and that it shall be weighted only as one vote, and have the effect of only one vote, they accede to the fairness of that principle, because it coincides with the rules of the playground on which they were brought up. It is a homely truism, but it is true—that when all is said and done, our democratic system rests on the rules of the playground.

We do more teaching of democracy on the playgrounds and gymnasiums of America and in all the competitive enterprises in which boys and girls participate, than we do anywhere else; at least, we teach young people as much about the principles of democracy in action on the playground—using that broad descriptive term—as we do in the classrooms. That principle is involved in this apportionment fight. Many people have not looked at it from that standpoint. However, some people think they wish to keep an advantage, and think they wish to protect themselves, so to speak, from what they call city slickers—and we know what kind of prejudice that involves in connection with that kind of public opinion in some areas of our country. Yet when at last such people come to grips with the controlling question, "Do you

really think that you should count for more than anyone else in the voting process of this democracy?" they will say, "I do not look at it that way. I had not thought of it that way. I did not realize that."

We must have faith that people will insist that the rules of the playground be applied to others in the same way that they are subject to those rules; just as they are being asked in this instance to have the rules of the playground applied to them, so that they will not have an unfair advantage over someone else who, by accident of residence in our State, is being placed at a disadvantage.

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

Mr. MORSE. I yield.

Mr. PROXMIRE. Can the Senator imagine what would happen on any playground if it were suggested that in a baseball game one side should have four strikes or five strikes instead of three; or what would happen if it were suggested that in a football game one side had first and 10 and the other side first and 30?

Mr. MORSE. The advocates of the Dirksen amendment do not want any referee in the game.

Mr. PROXMIRE. That is exactly correct. The Senator from Illinois [Mr. DOUGLAS] pointed out that in some cases the advantage in State legislative representation is sometimes 30 to 1 or 40 to 1; and that it is as high as 1,000 to 1, in favor of 1 group over others.

Mr. MORSE. Under our constitutional system, the Supreme Court is the referee. The referee decides whether any transgressions have occurred against constitutional rights. Some people do not like the referee. They are not proposing to substitute another referee; they are proposing to kick out the referee. What kind of rules would we have then?

The whole idea is really absurd. The advocates of the amendment are taking advantage of the parliamentary situation. Otherwise they would get nowhere. If they had tried the same tactics last January or February, at the beginning of the session, they could not have prevailed. Everyone would have said, "Of course this question must go to committee. There is a great deal of time available in which to get a committee recommendation."

It would be salutary to adopt the modification that I understand has been put forward by the Senator from Minnesota [Mr. HUMPHREY]. I do not wish to hold the Senator from Minnesota to it, and I will assume the responsibility of making the suggestion myself if I do not understand correctly the modification that the Senator from Minnesota is putting forward.

Be that as it may, I would offer the proposal as my own, with the RECORD showing that I am relying on the Senator's proposal as the original source. If what I say is not a fair interpretation of the proposal of the Senator from Minnesota, I offer it as my own. It is that the matter go over until January, with the understanding that the Dirksen proposal be offered then, either in the present form or in any modification of it that he may wish to offer between now and then; that it be referred to the Judiciary Committee, with instructions that hearings be held; and that a report, favorable or unfavorable be made to the Senate not later than March 15 or April 1.

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

Mr. MORSE. I yield.

Mr. PROXMIRE. The Senator is correct about our having a great deal of time available, in another sense, too. There is no question that we shall not go home at the end of this week, or that there will be no sine die adjournment by the end of this week. We cannot do it. It is impossible. I am positive it is impossible, because the Committee on Finance has just now acted on medicare and medichoice. By a vote of 11 to 6 it has voted not to report a bill with medicare or medichoice in it. That will mean an extended floor fight on one of the most critical issues to come before the Senate. That will take a day or two or three. Also, there are at least two big appropriation bills still to be considered. They are controversial. They will account for at least a day or two each. Then there will be a supplemental appropriation bill to be considered, on which hearings have started. Those bills will have to be debated while the Senate sets aside the present discussion. I am as positive as of anything I know that Congress will not adjourn sine die by the end of the week. We have lined up speeches for a number of days on the Dirksen amendment. We have only started. Many Senators feel very deeply about this matter, and will talk for a long time on it.

Under those circumstances, it seems to me it would certainly serve the interest of Senators if the advice of the Senator from Oregon were followed promptly, with the Dirksen amendment being withdrawn and the Judiciary Committee giving it its prompt attention, with the understanding that it will be returned to the Senate. I would greatly prefer to see happen what the Senator has suggested. The fundamental principle that the Senator is arguing so well is that the Judiciary Committee give its attention to the matter in hearings, that it call experts, and persuade them to testify. Then we would have something to act on, and then at least a big part of our procedural objections to the bill would have been met.

Mr. MORSE. I agree with the Senator from Wisconsin. There is no possibility of a sine die adjournment before the Democratic convention, or, as was suggested in one newspaper article, by Labor Day. I believe that we shall do well to get out by October 1. Some Senators are running for reelection and are concerned about that. The Senator from Wisconsin [Mr. PROXMIRE] is running for reelection. But I have some gratuitous advice to give them. I remember when I was a candidate for reelection in 1962, and had the short space of about 3 weeks for campaigning. That was cut down a few days because I was called back on the Cuban crisis. So I had about two and a half weeks or so. I was worried; I thought it might be unfortunate. Perhaps it was fortunate. I turned over a substantial part of my campaign speaking and itinerary to my wife and one of my daughters. I am sure they did a better job than I could have done. The results were highly favorable. My percentage of victory was increased over what it had been 6 years earlier.

We have a task to perform here. I am for staying until it is completed. If it means staying here until October 1, then it will be October 1. We shall do everything we can to accommodate Senators by granting pairs and by giving as much notice as we can, so that Senators who live at least no farther away than does the Senator from Wisconsin may go out and campaign over long weekends.

But we are inclined to overrate the importance of long, stretched-out campaigns. Perhaps the American people would appreciate it if we reduced the amount of campaigning, and would particularly appreciate it this year if we stayed here and attended to legislative business. Speaking from a partisan viewpoint, and possibly with a bit of prejudice, I do not believe a long campaign is needed this year, so far as the Democratic side of the aisle is concerned. We can send out the information. The people will reach their own intelligent judgments without any protracted campaigning.

Time spent in opposition to the Dirksen amendment would probably be time well spent. That is why I am willing to set forth in this speech today my broad general position concerning it. When we come to the decision itself, I shall set forth some of my more specific legal objections.

Mr. PROXMIRE. Mr. President, will the Senator from Oregon yield on a point he made earlier?

Mr. MORSE. I yield.

Mr. PROXMIRE. Does Oregon have population apportionment in both houses of its legislature?

Mr. MORSE. The State constitution requires it for both houses. For many years, that requirement was ignored, but in recent months we have proceeded to enforce the principle of population apportionment.

Mr. PROXMIRE. Some Senators with whom I have spoken have expressed the concern that if both houses of State legislatures are elected on the basis of population apportionment, the farmers will be forgotten; that the rural areas, which are losing population, will lose influence in the State government.

The Senator from Oregon is a native of my State of Wisconsin. We are proud of him. He knows that Wisconsin has always had population apportionment in both houses of the State legislature. In 1848, under the Northwest Ordinance, we were required to provide it. Wisconsin has always had strong agricultural representation in the legislature in spite of the fact that it has been on a population basis. That representation has not been weakened.

Wisconsin's State Department of Agriculture is one of its strongest departments. It still is.

I am sure that on this basis, the Senator from Oregon might agree that the

farmer has nothing to fear from putting everybody on the same basis and giving everyone in this ball game three strikes, instead of giving some four or five strikes.

Mr. MORSE. I completely agree. Let me add the other argument that goes along with the argument of the Senator from Wisconsin, which he states he has heard in the cloakroom. Some of the opponents of population apportionment say that there might as well be unicameral legislatures if both the senate and house are, selected upon the basis or principle of population apportionment, with one person having only one vote, and not a vote and a quarter or a vote and a half. As the Senator from Illinois [Mr. DOUGLAS] has pointed out, due to the inequities that the Supreme Court struck down, some rural areas have several votes per person, in weighted effect.

Giving that kind of advantage to rural areas is not necessary to guarantee them fair legislative treatment. One sees that in the Wisconsin Legislature. I was brought up on the great progressive record of the Wisconsin Legislature. The farmers of Wisconsin have never suffered, and the farmers of any other State would not suffer, because the interesting thing is that some of the leaders in the legislatures from the metropolitan areas are the first to go to the defense of the agricultural interests. They recognize how important it is to have a strong agricultural influence in the State for the benefit of the economic welfare of the whole State.

The argument that is being used against population apportionment is purely an argument from fear; it is purely a bogyman. It is a scarecrow argument. In my judgment, two branches of the legislature are necessary to carry out the system of checks and balances on the State level, because, as we know, it makes much difference in the checking system whether one sits representing the whole State in Congress or representing a congressional district of a State. The individual Member of Congress often gets, on a district level, information that a Senator does not get. It works out the same way on the State basis. That is an important part of our system of legislative checks and balances.

I am not at all moved by the argument that if there is the same type of selection, populationwise, of two branches of a legislature, we might well do away with one of the branches. That does not make sense at all. It completely overlooks the interplay of political representative forces within the State, communitywise, countywise, districtwise, and ultimately statewise. The framers of Oregon's constitution certainly did not think population as the basis for both legislative bodies rendered either of them useless. The different length of terms and the difference in areas represented makes the houses different, from each other, even though both are apportioned according to population.

A more legitimate and reasonable exercise of congressional authority in prescribing for the judicial branch of the Government than the pending Dirksen amendment would be the resurrection of the Roosevelt Court-packing plan of 1937. Increasing the number of judges is a less blatant interference in the activities and decisions of the Supreme Court than is the effort to direct a verdict. That is all the Dirksen amendment is—a directed verdict.

There is no congressional authority over the composition of State legislatures. This body is not competent to legislate on matters of State apportionment. Yet that is exactly what is called for in this amendment. I am astonished that Members of Congress who for years have bemoaned and condemned the expansion of Federal laws into matters traditionally reserved to the States are now pressing for a statute that will once and for all create a precedent for Federal legislative action in the most vital area of all—apportionment of the State legislature.

The whole reapportionment issue has arisen between the States and the Federal courts. Its source is the mandate of the 14th amendment that the States shall not deny to their citizens the equal protection of the law.

How, then, does Congress "get into the act?" It is being dragged into it by the back door. It is apparently being dragged into it through that section of the Constitution which authorizes Congress to constitute tribunals inferior to the Supreme Court, and that section which authorizes Congress to regulate the appellate jurisdiction of the Supreme Court. Perhaps the enforcement clause of the 14th amendment could serve as a basis for congressional action, but this is not an enforcement measure.

The Dirksen amendment does not constitute or organize any inferior tribunals; and it does not authorize or deny specific appellate jurisdiction to the high court. It does not enforce the equal protection clause.

Instead, it tells the Federal district courts how they shall dispose of a certain class of cases; namely, State reapportionment cases.

I should say that it seeks to tell them how to dispose of certain cases, because I am highly skeptical that a statute of this nature can be binding on any Federal court.

Listen to the language:

> Any court of the United States having jurisdiction of an action in which the constitutionality of the apportionment of representation in a State legislature or either house thereof is drawn in question shall, upon application, stay the entry or execution of any order interfering with the conduct of any State government, the proceedings of any house of the legislature thereof, or of any convention, primary, or election, for such period as will be in the public interest.

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

Mr. MORSE. Mr. President, then, the Dirksen amendment continues: "the stay for the time necessary to permit reapportionment shall be deemed to be in the public interest in the absence of highly unusual circumstances." The Dirksen amendment calls for a stay "for the period necessary—to allow the legislature of such State a reasonable opportunity in regular session or the people by constitutional amendment a reasonable opportunity following the adjudication of unconstitutionality to apportion representation in such legislature in accordance with the Constitution."

That is a stay which Congress is going to tell the courts is "in the public interest."

So, having directed a verdict of stay of execution, Congress helpfully advises the courts that the duration of the stay shall be for such period as will be in the public interest.

I am sure the Federal courts are going to find that advice most useful. It assumes that the courts do not now prescribe for the public interest. It assumes that the courts do not understand or recognize the public interest until Congress points it out to them.

I do not know of a single reapportionment case in a single State where the courts have not patiently waited for the State legislatures or the State courts to take care of reapportionment themselves. I do not know of a single instance where "the public interest" does not call for enforcement, after considerable delay, of the equal protection clause.

It is interesting that the Dirksen amendment makes no mention of that. It is interesting that the Dirksen amendment says nothing about the public interest to be served by enforcement of the equal protection clause. I ask the question: Why not?

If we are to advise the courts on how to do their job, we at least should advise them to uphold and enforce the Constitution, not to postpone and further delay its enforcement.

Section (a) of this amendment is a directed verdict. But the standard it uses wherein it calls for a stay "for such period as will be in the public interest" is a useless advisory opinion.

So is all of section (b) an advisory opinion. It calls for an undertermined period of stay which would permit the States to act themselves. But I do not know of a single case where the courts have not given the States opportunity after opportunity to act for themselves. Read the history of these cases. The courts have stayed the execution of reapportionment orders time and again in the hope the States would act.

In fact, if I were to offer any criticism of the courts in this matter it would be that they have stayed execution of some of these orders for too long. Justice delayed is still justice denied, and all the Dirksen amendment proposes to do is to delay justice a little longer.

I see not a word in this amendment that would be of any guidance to the courts at all, even if it were in the province of Congress to give guidance to the courts, which it is not.

The amendment is nothing more than a heavy-handed attempt to intervene in

the administration of justice. It is intervention far more direct than the court-packing plan of nearly 30 years ago. I wonder what the backers of this amendment would have said 30 years ago, had Franklin Roosevelt urged Congress to pass a bill directing the Supreme Court to stay execution of its decisions overturning New Deal statutes. The objections to that kind of interference would have been even more violent than were the objections to the additions to the Court sought by Roosevelt.

So my basic objection to the Dirksen amendment is that it seeks to put Congress into the judicial business, in addition to its legislative business. This is a flagrant violation of the separation-of-powers clause of the Constitution.

But I also oppose the amendment because far from protecting the States in any of their functions, it is destructive of the powers and function of the States.

The decline of the State as an effective unit of Government has been in direct ratio to their refusal, or perhaps their inability, to reflect the interests and opinions of a majority of their people. The control of State legislatures, year in and year out, by rural and smalltown minorities has compelled the metropolitan areas to turn to the Federal Government for assistance in coping with the rising problems of urban growth.

Malapportionment has cost this country the effective services of our States. It has thrown a burden upon the Federal Government that has not always been sought by the Federal Government. It has brought big-city mayors to the Nation's Capital to obtain what should have been done at the State capital.

The Federal courts have done the States the greatest service of the century by requiring them, at long last, to get back into the mainstream of American life. Baker against Carr, and the decisions that have followed it, will do more than any Congress could ever do to restore vitality to the States.

I am at a great loss to understand why those who tout themselves as advocates of States rights should be trying to stop the one thing that has reinvigorated the States. They should be cheering Baker against Carr. They should be trying to speed up the application of these decisions, because they are the salvation of the States.

Let it be remembered that the prairie, the mountains, and the small towns of America are no long representative of our people. Their virtues are many, and rural and small town life is cherished by many of us. But the great bulk of the American people no longer live on the farm or in small towns. If the American people, as they move into metropolitan living, do not take control of political affairs at the State level with them, they will appeal to Washington.

In any case, the effort by minorities to retain control of the State legislatures is a losing effort. If they succeed in controlling their States they will steadily lose power to Washington.

The needs of the American people are going to be served. If they cannot be served at the State level, they will be served at the Federal level.

In my own State, we did not wait for the courts to point out our duty. The Oregon Constitution calls for apportionment of both houses by population. But the legislature itself did not abide by the directive of the State constitution. It took the people, by use of the initiative, to carry out reapportionment.

The press indicates that Oregon is the only State that will not be affected by Baker against Carr, and I ask unanimous consent to have printed in the RECORD an article published in the New York Times entitled "Oregon Is Spared Redistricting Job."

I also ask unanimous consent to have printed a telegram I received today from Mayor Willard Marshall, of Salem, Oreg., in opposition to the Dirksen amendment.

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

[From the New York Times, Aug. 9, 1964]

OREGON IS SPARED REDISTRICTING JOB

SALEM, OREG., August 8.—Oregon is watching smugly as other States face the responsibility of reapportioning State legislative districts.

So far as Oregon is concerned the recent decision by the U.S. Supreme Court requiring States to realine legislative districts on the basis of population merely formalized a system adopted by the State in 1961.

As a result Multnomah County, which includes Portland, the State's largest city, elects 17 of Oregon's 60 representatives and 8 of the State's 30 senators.

On the other side of the State, where the population is lower, one State senator, Anthony Yturri, represents a four-county area of nearly 28,000 square miles—and area equal to that covered by Vermont, New Jersey, New Hampshire, and Rhode Island combined.

In the same part of Oregon, State Representative Robert Burns represents a two-county area of 20,000 square miles—an area nearly the combined sizes of Maryland, Hawaii, and Connecticut.

Mr. Yturri represents about as many people as each of the eight Multnomah County senators. And Mr. Burns' vote is backed up by about the same number of people as each of Multnomah County's 17 representatives.

It does give legislative weight to the cities. But that's what it's supposed to do, because that's where most Oregonians live.

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SALEM, OREG.,
*August 14, 1964.*

Senator WAYNE MORSE,
*U.S. Senate, Washington, D.C.:*

Request you oppose by all possible means any restriction on Federal court authority or any delay regarding State legislative reapportionment.

WILLARD C. MARSHALL,
*Mayor of Salem.*

Mr. MORSE. Mr. President, this amendment should be rejected. If there is to be any change in the relationship of the Federal courts to the States, it should be accomplished by constitutional amendment. That is the recourse for those who wish to overturn or vitiate Baker against Carr.

I do not believe any foreign aid bill is worth the Dirksen amendment. There is more than $6 billion in the foreign aid pipeline. As I shall point out momentarily in another subsection of this speech, it is closer to $7 billion than $6 billion. The country could get along without a foreign aid bill until January. We could get along without a foreign aid bill until well on into the spring. We have ample time to consider a new bill. And I shall discuss that momentarily. After all, it was the end of December last year before action on foreign aid was completed. There is nothing we get from foreign aid that is worth this destructive and flagrant violation of the separation of powers, this rejection of the equal protection clause, this effort to retain minority control of the State legislatures.

Better that foreign aid go over to January than that we upset so many elements of our constituteional system in order to get it passed. I am not talking about filibustering. I am simply saying that if the Dirksen amendment is approved, the foreign aid bill should be defeated by Congress or vetoed by the President. I hope it will not come to that because the Dirksen amendment deserves to be voted down.

Mr. President, that causes me to comment on the foreign aid bill, vis-a-vis the Dirksen amendment. About an hour and a half ago I deplored the attempt to shackle the foreign aid bill with the Dirksen rider.

I point out that when one of my good friends in the Senate tried to argue with me that I should give unlimited support to what he called a prolonged debate in order to help kill the foreign aid bill by battling away against the Dirksen amendment, I good-naturedly remarked to him that we should keep the issues separate. I am against the foreign aid bill. I shall vote against the foreign aid bill for reasons that I shall summarize shortly. That will not cause me to connect the Dirksen amendment with my desire to beat the foreign aid bill. The foreign aid bill ought to be beaten on its own demerits. That is my position. And I shall hold fast to that position. And the Dirksen amendment should be defeated on its own demerits.

The Dirksen amendment is another form of a Court-packing proposal. It is really an attempt on the part of the Congress, through a legislative rider by the Senate, to play the game of pretense that we are Justices of the Supreme Court.

We do not have the qualifications to be Justices of the Supreme Court in this matter. We are not versed on it. To be frank about it, we do not know. That is why I said that I could not understand how lawyers in the Senate could vote for it. They would be guilty of what we try to teach young lawyers never to do—to "curbstone" on a complicated legal question before they have been to the law library, before they have done their legal research.

This amendment needs a great deal of legal research. The place to have such legal research done is in a committee hearing, in which we can bring in the leading legal experts on constitutional law and on legislative process to advise us as to the merits and demerits of the Dirksen amendment.

One of the front leaders of the American Bar Association who has been very active in the American Bar Association activities, particularly in the field of the doctrine of separation of powers and

in the field of criminal law administration and public law administration, is a distingushed lawyer from St. Louis, Mo.—Arthur Freund. As long as 6 weeks ago, he foresaw that this subject would arise. Arthur Freund wrote me and said, in effect:

Be on guard against an attempt to get legislative action that will scuttle *Baker* v. *Carr*.

I was surprised. I wrote back. I said:

I have doubt that any such attempt will be made before this session of Congress adjourns.

That did not satisfy him. He sent me some more material on this subject matter. He informed me that many members of the American Bar Association were alarmed about what they were satisfied were plans—as he put it—to scuttle the Supreme Court decision.

He was right. I was mistaken in being doubting Thomas. I do not know why was such a doubting Thomas. I suppose the reason was an abiding faith that such parliamentary tactics as are involved in this rider would not be attempted on a matter as far removed as foreign aid.

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

Mr. MORSE. I yield.

Mr. CLARK. I congratulate the Senator on his excellent speech. Unfortunately, I could not be present in the Chamber to hear him deliver most of it. I heard the closing portion of his speech. I had an opportunity to read the remarks which the Senator prepared for release. I believe it is an excellent exposition of a number of the most important reasons why this incredibly bad amendment should not be approved by the Senate.

The senior Senator from Oregon has been a distinguished law school dean. He is known to be one of the outstanding experts in the Senate, not only on constitutional law, but also on legislative procedure.

Does the senior Senator from Oregon agree with my view that the legislative procedure utilized to bring the modified Dirksen amendment to the floor of the Senate is not only highly unusual, but is also practically indefensible?

Mr. MORSE. I said that earlier in my speech. I believe the whole procedure is indefensible. We ought not to be a party to it.

Before the Senator came on the floor, I knew that he and other colleagues were at a Democratic conference meeting that was held at 11 o'clock this morning, which I could not attend.

I have already discussed the wisdom of referring all these proposals to committee, with some directive that they will be reported back at a time certain. We need the benefit of legal scholarships on the many issues imbedded in the amendment and we can only get it by the hearing procedure of a committee.

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

Mr. MORSE. I yield.

Mr. CLARK. Is the Senator aware that the original Dirksen proposal which came from the Judiciary Committee not only was subjected to no hearings then, but also that the meeting of the committee in which the Dirksen original amendment was ordered reported lasted only 45 minutes?

Mr. MORSE. I was not aware of the time factor that the Senator has outlined. I was aware of the fact that the committee had not subjected the amendment to thorough hearings.

Mr. CLARK. I have been advised by members of the Judiciary Committee who voted against reporting the amendment that there was really no discussion of the wording of the amendment whatever, that a large majority of the committee apparently had made up their minds to report the amendment favorably—it was then in bill form—and that there was only desultory discussion in which the Senator from Michigan [Mr. HART] and the Senator from North Dakota [Mr. BURDICK] indicated their serious dissatisfaction and suggested hearings. They pointed out the constitutional implications and the vast amount of literature which is extant on the subject from the civic organizations which have interested themselves in the subject for many a long year.

I happen to have in my hand three of those pamphlets. One is entitled "Reapportionment and Redistricting," issued in 1962 by the Institute of Public Administration of the Pennsylvania State University, and two separate brochures issued under the authority of the National Municipal League, one of them by William J. D. Boyd entitled "Patterns of Apportionment," and the other entitled "Reapportionment and the Federal Analogy," by Robert B. McKay.

Surely this type of careful scholarly work is entitled to consideration by the Judiciary Committee.

I would hazard a guess—and perhaps I am being unfair to my colleagues—that not all members of the Judiciary Committee have taken the trouble to read the outstanding opinion of Chief Justice Warren in the Reynolds case or even the concurring or dissenting opinions of the other judges. There was no indication, so I am informed, at the Judiciary Committee meeting that the question had been given any consideration in depth.

The Senator from Oregon is aware, I am sure, of the vast differences between the present Dirksen amendment and the original Dirksen amendment; is he not?

Mr. MORSE. Yes. It seems to me that if the Senator from Illinois thought that his original amendment was sound, he should have wanted to take that to the committee rather than the compromise amendment that he has agreed upon in an endeavor to get a vote on the proposed rider.

Mr. CLARK. The so-called compromise amendment which is now before the Senate has never been considered by any committee of the Senate.

Mr. MORSE. That is correct.

Mr. CLARK. My understanding, which I have obtained only from the press, is that the amendment was concocted with the assistance of able counsel whom the minority leader was able to command, and the Solicitor General and the Deputy Attorney General, Messrs. Cox and Katzenbach—working under some pressure to try to concoct something that would be less objectionable than the original amendment and might conceivably stand the test of constitutionality.

It is my understanding that hardly anyone among those who would be expected to take a strong view against the amendment was called into consultation. Certainly I was not. I wonder if the Senator from Oregon was.

Mr. MORSE. The Senator can take judicial notice that the Senator from Oregon would not be consulted with regard to such a question. I can best describe it as an amendment that was sired by expediency and born from the womb of politics.

Mr. CLARK. I wonder if my friend from Oregon does not think it odd that a measure purporting to reverse, at least in part, carefully considered opinions of the Supreme Court of the United States—not one but almost 8 or 10 opinions. including Baker against Carr, the Wesberry case, the Gray case, and all the decisions handed down on the 15th of June and the decisions which have come down since then—has not been given the slightest consideration by the Judiciary Committee in the first instance or in the second instance.

I wonder if the Senator from Oregon does not believe that in terms of legislative procedure the subject is one which would result in justifiable criticism from those who do not believe that either the original proposal or the substitute is in any way sound?

Mr. MORSE. I agree with the Senator. I hold in my hand the landmark decision protecting the basic constitutional rights of all the American people—the Baker against Carr decision. Earlier I had said that I intended to discuss large segments of that opinion, but I have been so full of my subject since 10 o'clock this morning that I have not been able to reach the decision, which means that in a subsequent speech I shall have to discuss the decision.

Let me say to the Senator from Pennsylvania that the decision is a scholarly piece of juridical work. I would not reflect on anyone. I merely ask a rhetorical question. I wonder if the advocates of the Dirksen amendment have read the decisions that have been cited by the Supreme Court setting forth the historical and the constitutional background of the decision itself.

I quickly add that I have not read them all yet. I intend to do so before the debate is over. But I have made substantial progress in reading them; and as one reads this great juridical account of American constitutional history set forth in the long line of Supreme Court decisions, he becomes all the more aghast over the opposition that we are running into at the suggestion that we let that great landmark decision go to Senate hearings, for that is all we are asking when we suggest hearings on the issue. We are really suggesting that Senators know what they are talking

about before they vote. I do not speak disrespectfully when I say that the Senate would not know what it was doing if it voted on the subject before Senate hearings.

There is a whole line of Supreme Court decisions that should be submitted to a committee seminar, over a period of a good many committee sessions, because we are dealing with a matter that is very precious to the perpetuation and protection of the constitutional rights of the American people. If Senators will read the decisions I have already read, they will find it is true not only in respect of the 14th amendment but in respect of many other parts of the Constitution. I am pleading as a lawyer in the Senate to my colleagues, not to turn themselves into "curbstoners," because the odds are all against them if they start to curbstone on anything both as basic and precious to the rights of the American people as Baker against Carr. This is not a subject that ought to be a matter of legislative rider on a foreign aid bill, without any hearings on it.

Mr. CLARK. I concur in what my friend from Oregon has just said about the desirability, if we are to legislate in a mature way, of Members of the Senate familiarizing themselves with these great decisions of the Supreme Court. In my opinion, the line of decisions starting with Baker against Carr and ending, for the time being at least, with the Reynolds case, represents one of the great landmarks in constitutional law in my lifetime, the other being the case of Brown against Board of Education, which established the right of every American child to go to an integrated school. In two of these landmark cases, Reynolds, and Brown against Board of Education, in which the Chief Justice wrote the opinions, the great Chief Justice took the lead when Congress showed itself to be the sapless branch in not taking the lead.

Instead of striking down the Chief Justice of the United States, without giving an opportunity for an appearance before a committee, I concur in the opinion of the Senator from Oregon that this amendment should go back to the Judiciary Committee for serious hearings, not only as to its effect, but also as to its constitutionality.

I will detain the Senate only a moment longer to ask the distinguished Senator how there can be any legitimate justification for proposing a matter of such grave constitutional import as this without hearing, with only 45 minutes of discussion, the amendment being entirely rewritten and offered in its present form on the floor, as a rider to the foreign aid bill. What kind of procedures do mature men utilize in the Senate? They could not get away with it for one-half a minute in the House of Representatives. I do not believe they could get away with it for one-half a minute in any one of the legislatures of the 50 States. Yet they come in here—and I use the word advisedly—and have the effrontery to tack a proposed measure of such great constitutional importance to a foreign aid bill. Their motivation is clear. I do not ordinarily discuss the motivations of my colleagues, and I shall not do so now. But the inevitable result of what they want to do would be to hold a gun at the head of the President of the United States and say, "you shall not veto what you know is unconscionable." The Senate should not let that happen.

Mr. MORSE. It cannot be justified, but Senators had better take a look at what they are trying to do. They are seeking to put legislative clothing on what I consider to be an illegitimate child born out of legislative wedlock as a result of parenthood of illegitimacy.

Mr. CLARK. I thank the Senator for yielding to me.

Mr. MORSE. Mr. President, before I turn to a matter related to the general proposition, I make my last point in this speech before I discuss Baker against Carr at a later time.

I am greatly concerned about what will happen in the thinking off the American people, if this rider is passed by the Congress, with regard to their respect for the courts. Let us face the issue. If the Congress of the United States is willing to deliver this slap in the face at the Supreme Court of the United States, what do Senators think popular reaction to such action will be? It is unfair. It is unjustified. It starts raising serious questions of doubt as to the good faith of the Supreme Court, and as to its courageous, serious attempts to carry out its constitutional responsibility.

There is very much of an emotional reaction to a decision of the Court; and that cannot give birth to sound legislation. I fear that this course of action would divide us more in this country, develop more and more lack of respect for our judicial processes, create more schisms in our body politic, and be a disservice to the whole juridical system.

Unless there is high respect for the courts, unless a legislature always takes the position that when the courts speak, that is the law until the people, by way of their checks, by way of their constitutional amendment process, take action, in my judgment it would weaken the citadel of government in this great Republic. We have a constitutional system built upon the foundation of the establishment of three coordinate and coequal branches of government. This proposal is an attack on that system. I think we would pay dearly, so far as public reaction to judicial processes is concerned, for those who do not want to pay respect to the courts are going to build this issue up into a balloon type attack upon government by law.

Government by law requires obedience to court decision until the constitutional processes have run their course. Government by law would never justify an expedient course of action on the part of the Senate in this case, or on the part of the House if it takes the Tuck bill, seeking to make itself legislatively supreme in connection with constitutional determination.

That is what is sought to be done. It is sought to supplant the Supreme Court in regard to the determination of constitutional rights. In my judgment, there is only one way to do that. If the people themselves do not like a decision of the Supreme Court and feel that a decree of the Supreme Court in regard to the Constitution should be reversed, let them amend the Constitution, for there is no denying the fact that ever since Marbury against Madison in 1803 the Supreme Court has had the jurisdiction and authority to hand down the decision in Baker against Carr. When Chief Justice Marshall spoke in Marbury against Madison, he bespoke decades ahead the jurisdiction of the Court in Baker against Carr. That decision of the Supreme Court remains final, under our Constitution, until the people themselves decide that they want to reverse it by way of a constitutional amendment.

In my judgment it is improper, it is out of place, and it is a false assumption of legislative power on the part of the Senate to seek to reverse the Supreme Court, short of the people themselves acting on a constitutional amendment. We reverse the Supreme Court if we set aside for 1 hour, for 1 minute, or for 1 second the application of a Supreme Court decision in respect to a decree dealing with the constitutional rights of the American people.

As politicians we may not like it, as politicians we may not support a constitutional amendment, but as a politician, even though elected to the Senate, I charge that it is an abuse of our senatorial prerogatives to seek to substitute ourselves for the Justices of the Supreme Court and to set aside for any period of time a decision of that Court dealing with the constitutional rights of the American people.

I shall speak at a later date on my interpretation of the legal effects of Baker against Carr. However, I wish to say a word about foreign aid. Then I shall close for the day.

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

Mr. MORSE. I yield.

Mr. DOUGLAS. I congratulate the Senator from Oregon for his extremely able address. The Senator from Oregon is one of the great constitutional lawyers of this body. He knows whereof he speaks. I am very much impressed by the fact that the views which the Senator from Oregon has advanced concerning the unconstitutional nature of the proposed action of the Senate as embodied in the Dirksen amendment is also increasingly the judgment of the most respected newspapers of the country.

I wonder whether the Senator from Oregon would permit me to ask that, at the conclusion of his address, excerpts from recent editorials in the Atlanta Journal, the Cleveland Plain Dealer, the Providence Journal, and the Philadelphia Inquirer may be printed in the RECORD.

Mr. MORSE. I am delighted to have the Senator do that.

Mr. DOUGLAS. I ask unanimous consent that the excerpts from editorials be printed in the RECORD at the conclusion of the Senator's remarks.

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

(See exhibit 1.)

Mr. DOUGLAS. I also ask unanimous consent that there may appear in the RECORD at the conclusion of the Senator's remarks an article on this subject, written by Mr. Anthony Lewis, which discusses primarily the constitutional issue, and which appeared in the New York Times, of August 16, 1964.

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

(See exhibit 2.)

Mr. MORSE. Mr. President, I appreciate very much the kind words of the Senator from Illinois. I thank him for his leadership in opposition to the Dirksen amendment. He knows the very high regard in which I hold him as a legislator and the deep affection I have for him as a friend.

Once again he has been willing to row against the current, in seeking to stop what I am satisfied would prove to be a horrendous legislative mistake on the part of the Senate if it should adopt the Dirksen amendment. I am delighted that he and Senator CLARK, Senator PROXMIRE, Senator HART, and other Senators seek to have this question postponed for committee meetings come January.

## U.S. INVOLVEMENT IN VIETNAM

Mr. MORSE. Mr. President, I ask unanimous consent that there be published in the CONGRESSIONAL RECORD a letter to the editor which appeared in the Washington Post of recent date. Let the RECORD show that the writer of the letter to the editor of the Washington Evening Star is Mark W. Cornelis. It deals with the Vietnam situation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RESPONSE ON VIETNAM

To those who have taken the time and effort to inform themselves on the background of U.S. involvement in Vietnam and the alternatives which were open to us to resolve the situation, the military escalation directed by President Johnson comes as an appalling shock.

With only Senators MORSE and GRUENING voicing opposition to our policy, at this writing, it occurred to me to inquire at their respective offices as to the response being registered by their constituents, via letter and telegram, to their dissenting position. I was informed that Senator MORSE had received 200 telegrams by 11 a.m. on the morning of August 6, and that all but one or two congratulated him on his stand, taken the previous afternoon, condemning the actions in Vietnam. Senator GRUENING'S office reported on the same morning that of several thousand letters received during the past few weeks on Vietnam the percentage was between 400 and 500 to 1 in support of the Senator.

It may be that the constituents of Senators GRUENING and MORSE are better informed than most of the American public, but a poll of the general electorate in this country might well reveal, on the basis of the above statistics, that our war in Vietnam is not only stupid and unjust, but lacks the support of the average American citizen.

MARK W. CORNELIS.

WASHINGTON.

Mr. MORSE. In yesterday's Washington Post Mr. Jack Anderson wrote an article on the Tonkin Gulf snafu dealing with the fact that the captain of the *Maddox* did not know that the South Vietnamese were raiding the coast of North Vietnam.

I shall ask later to have the entire article published in the RECORD, but first I should like to make a few comments on it.

The research of Mr. Jack Anderson, whether he fully realizes it or not, has borne out completely the position which the senior Senator from Oregon took at the time of the speech in opposition to the South Vietnam resolution and at the time of his protesting the provocative activity of the United States in not only Tonkin Bay but in southeast Asia at the time of the attacks upon the *Maddox* in Tonkin Bay.

The RECORD will show that I said at the time that the briefings indicated that the captain of the *Maddox* was not aware of the bombing of the two small North Vietnam islands by South Vietnam naval ships. The RECORD will show that I pointed out that these naval ships were supplied by the United States as a part of the American military aid, in complete violation of the Geneva accords.

Many proponents and apologists of the administration's action in South Vietnam did not like to face the ugly fact that we have violated the Geneva accords for almost 10 years. The statement of that fact has always met with hush-hush, and has always met with a coverup. We do not help the cause of peace by trying to cover up our wrongdoing. Of course, Red China and North Vietnam and the Pathet Lao in Laos have been violating the Geneva accords. But I never thought I would live so long as to hear the apologists for this administration seek to justify outlawry on the part of the United States because Red China, North Vietnam, and the Pathet Lao in Laos are also outlaws.

The supplying of such arms and naval ships to the South Vietnamese was itself a violation of the Geneva accords.

It is an old story that two wrongs can never make a right. What I pointed out at the time of that debate, I reassert now. It is verified again, by the Anderson article. Before I am through, it will be verified by an article in the Manchester Guardian, as it has been verified by writer after writer since the bombing of the coast of North Vietnam.

It is true that the captain of the *Maddox* did not know of the bombing of the two South Vietnam islands. But of course he was operating under constant, complete, 24-hour-per-day radio communication and electronic communication with the American officials in Saigon and in Washington. They knew about it. Let us get this fact before the American people once again. Their American officials, who have been aiding and abetting our dictator puppet in South Vietnam, knew in advance of the escalating of the war into North Vietnam by the bombing by South Vietnamese naval ships of the two North Vietnam islands. We aided and abetted; we are implicated, and we have helped to provoke an act of outlawry against those two Vietnamese islands. I said so at the time, and every verification since bears out the soundness and accuracy of the report of the Senator from Oregon.

McNamara finally had his way. This has been McNamara's war from the beginning, and still is. He is still calling the tune and the shots.

As I said the other day, as we now remember to the discredit of the United States, the slogan "Remember the *Maine*," grew out of an unfortunate incident that threw the United States into a war with Spain, when the United States had little cause to go to war with Spain, so I am satisfied that historians of the future in regard to this dark page in American history will record the slogan, "Remember McNamara." In history, McNamara will have to assume the chief blame for the unconscionable and inexcusable action of the United States in joining with the South Vietnamese in escalating the war into North Vietnam.

American officials knew where the *Maddox* was. There had been a bombing of the North Vietnamese islands, carried out by that shameful military dictator puppet in South Vietnam—General Khanh. American officials knew where the *Maddox* was. She was entirely too close to those islands not to have produced the result that her presence as a provocateur produced.

I said days ago that the United States was a provocateur in connection with the bombing of the North Vietnamese islands. I repeat that statement today. The hands of the United States are bloody because of our provoking action by escalating the war in North Vietnam. American leaders have protested that they have been against escalating that war; but what their lips have said is quite different from what their hands have done. The United States has participated in the handiwork of escalating that war into North Vietnam.

The presence of the *Maddox* in Tonkin Gulf waters, even though they were international waters, was perfectly proper. National waters extend only 3 miles. Nevertheless, the fact is that the *Maddox* was allowed by American military and diplomatic leaders in Saigon to be in Tonkin Gulf so close to the mainland of North Vietnam that no one should have been surprised that the North Vietnamese looked upon the action as provocation—and they obviously did.

The evidence is also clear that when the PT boats of North Vietnam started out to the vicinity and location of the *Maddox*, the *Maddox* took to sea and was not overtaken by the PT boats until she was some 30 miles out. There is a dispute as to how far out she was, but I say that 75 miles would have been too close. The *Maddox* was satisfied from intelligence reports that had been obtained that the PT boats with their torpedos were after her. She had a perfect right to fire when attacked. I have always said that. Also, at the time of the second attack, she had the right to sink the boats. But the United States had no right under international law to commit war against the mainland of North Vietnam, for that was an act of aggression. That act was not necessary to protect the *Maddox* or any other