

DIGEST OF SPEECHES ON CIVIL RIGHTS MADE BY  
SENATOR HUBERT H. HUMPHREY  
ON THE FLOOR OF THE SENATE  
MARCH 14 and 16, 1949

Mr. President, we have had many comments from our distinguished colleagues during the course of the debate of the past few weeks. I have patiently listened to those comments and as a new member of this body chose not to participate in the deliberations. I remained silent also because I knew that the American people wanted more action and less talk. Events of the past day, however, lead me to stand and express my views.

We have had a long debate, Mr. President, and many issues have been raised. The Rules of the Senate are inadequate to meet the needs of our day. Under the rules it has been possible for a determined and organized minority of Senators to keep this body from taking any action at all, by refusing to stop talking and thus preventing the Senate from voting. In most cases the talk is not even pertinent to the issues. Our inability over the past few years to pass civil rights legislation in the Senate, even though it has received the approval of the House of Representatives, the majority of the Senate, and the overwhelming support of the American people, is an indication of the way the Rules have permitted a form of minority control. Since this is a violation of the principle of majority rule on which our democracy is based, it was generally agreed that some change in the rules was desirable and in fact necessary.

Many proposed changes were introduced: Some favored allowing debate on any issue to be curtailed after a reasonable period by a majority of the Senate; others by a "constitutional majority"; some by a two-thirds or three-fourths; others by a "constitutional two-thirds". The Rules Committee under the leadership of the distinguished Senator from Arizona (Hayden) held full hearings on this question. Out of these hearings came a compromise, the Hayden-Wherry resolution, allowing a two-thirds vote to prevent a filibuster from continuing endlessly on any matter before the Senate. The old rule allowed a two-thirds cloture only on a bill itself.

Mr. President, I felt the Hayden-Wherry resolution was too mild and did not face up to the problem of minority control of this body; but I welcomed the opportunity to discuss the resolution and perhaps support it if it seemed the best compromise we could now get. A number of our colleagues from the South also opposed the Hayden-Wherry resolution on the ground that it was too stringent a rule for them, and also probably because under this rule it was likely that civil rights legislation could pass the Senate. But, unlike those of us who opposed the resolution for other reasons, our Southern colleagues chose to filibuster and thus keep us from discussing the Hayden-Wherry resolution, thereby demonstrating again the evil of filibuster and the necessity for a change in our rules.

After listening patiently many days while our colleagues from the South held the floor, our distinguished majority leader (Lucas) circulated a petition to end the debate and allow the Hayden-Wherry resolution to be discussed on the floor. Vice-President Barkley accepted the cloture petition on the ground that Senate Rule XXII passed in 1917 allowed such cloture on a "measure" and the motion to discuss the Hayden-Wherry resolution, which was being subjected to filibuster, was a "measure" and hence subject to cloture.

Mr. President, I need not add my views to the respected authorities introduced by Mr. Barkley in support of his ruling. It is inconceivable to me how any other interpretation can be valid after studying the legislative history of this question since 1917, listening to the scholarly debate on this floor, and even examining the standard dictionaries in the field. Nevertheless by a vote of 46 to 41 Mr. Barkley's ruling was overruled last Friday night.

The significance of this vote last Friday, Mr. President, cannot be exaggerated. There were many honest differences of opinion on this question, but it is significant that of the 46 members who voted against Mr. Barkley's ruling, 23 Republicans, the majority of the Republican delegation, joined the 19 members from the South and 4 from border and southwestern states. It is also interesting to note that of the 23 Republicans who voted against our Vice-President's ruling and thus dealt a body blow in turn to civil rights, only 5 were elected or re-elected last November.

The vote last Friday was a blow to civil rights as well as to the dignity of the Senate, Mr. President, because it meant that this body could not proceed to discuss legislation so long as there was a determined minority ready to prevent consideration by continuing to talk. In the face of such a minority our choice is either to submit or make a farce of the legislative processes by allowing weeks of valuable time and many thousands of our taxpayers' dollars to be spent as a few Senators hold the floor and talk on. The problem is a particularly crucial one because of urgent rent control, Marshall Plan, agricultural price supports and labor legislation awaiting action which would necessarily have to be sidetracked to outlast our colleagues from the South. After much thought those of us on this side of the aisle came to the decision that the danger of minority control was so great and was so threatening to the whole of the President's program that it was important for us to break that control now and change the rules of the Senate to conform to democratic practices. We believed we had a good chance of winning, even though each member of the minority could speak twice at any length, because we were assured by our Republican colleagues that they too were interested in enacting the civil rights program and were opposed to unlimited filibuster.

Mr. President, those of us on this side of the aisle interested in civil rights acted in complete good faith. Even our distinguished colleagues from the South acted in good faith in that their position against civil rights and against cloture was always clear. But in the midst of these events, rumors and talk of informal meetings began to fill the air; then suddenly a petition was brought to the floor signed by 52 members of the Senate.

It is this petition which we are now discussing. It is this petition and the so-called Wherry Compromise proposal which I raise my voice against and which I know the American people will rise up against.

First as to the nature of the petition. It was signed by 52 members who agreed, Mr. President, not only to the fact that they were in favor of the Wherry proposal, but also that they would not accept any amendments to it. Those who signed this petition, Mr. President, the overwhelming majority of whom are Republicans and Senators from the South, have their minds made up and closed. They never consulted us and they tell us now that nothing we say can change their position even though we represent the program for which President Truman campaigned and which was supported by the American people. This is an outrage against the legislative processes, Mr. President. It is a blow to the democratic principles of discussion, debate and compromise.

Second, as to the effect of the Wherry resolution. It provides that a filibuster can be stopped only when 64 members of the Senate, two-thirds of the whole membership vote for cloture. Much has been said about the Constitution in the course of this debate. Mr. President, I speak not only as a member of the United States Senate who has taken an oath to uphold and defend the Constitution, but also as a former professor of political science when I say that the Wherry resolution is both unconstitutional and a defeat for democratic forces.

The Constitution is based on the doctrine of majority rule. It provides in Article One that a majority of the Senate shall constitute a quorum and be sufficient to conduct business. Whenever the framers of the Constitution intended that more than a majority would be necessary for action they specifically so stated in the Constitution. On four different occasions for example a two-thirds vote is required: to impeach the President of the United States and other federal officers; to expel an elected member of the Senate; to ratify a treaty; to over-ride a presidential veto. It will be noted that these steps are most serious and for that reason require more than a majority vote. Yet even with these extraordinary acts a simple two-thirds or a possible 33 out of a quorum of 49 can act. Yet, the Wherry resolution would rule that 64 members must vote to stop a filibuster. These gentlemen, Mr. President, would have us take a backward step and adopt a rule more stringent than any ever conceived by our Constitution and in fact contrary to the Constitution and they would call it a "compromise". This is no compromise. It is a desperate defeat for the forces of human brotherhood, decency, and democracy. It is an unholy alliance against civil rights.

Our country escaped from minority control back in the days of the Articles of Confederation. At that time we operated under a plan whereby the approval of 9 out of 13 states was required for passage of any legislation. The chaos resulting from such an arrangement was so great that government under the Articles of Confederation became impossible. This led to the Constitution with its provision that a majority would constitute a quorum to do business.

The Wherry resolution therefore runs counter to the whole intent and philosophy of our Constitution.

In a practical sense, moreover, it probably means the end of civil rights legislation. It means that 64 Senators must agree before a filibuster can be stopped. It means that where 33 Senators out of 96 decide that the Senate should not consider an issue, their will is superior to the will of 63 other Senators who may be in favor of the bill. It means, furthermore, and this is one of its most dangerous ramifications, that where a Senator is absent from a vote on cloture his absence is equivalent to a vote against cloture and in favor of the filibuster.

Mr. President, those of us who oppose this unholy, unconstitutional Wherry resolution do not propose to ignore the rights of any minority in this body. I know of no suggestion to prevent their right to express themselves - even at length. We only propose that there be some time limit to this speaking which would prevent a minority from controlling and permanently preventing majority action. The question is not one of allowing men to express their opinions but of allowing a majority to act. The issue, moreover, is more than one concerning a Senate rule. Basic to this discussion is our obligation to conform to the golden rule. I do not know whether after a discussion and debate we could in this body pass civil rights legislation, but I do know that we owe it to the people to discuss it and stand up and be counted on it. The Wherry resolution will prevent us from even considering the legislation.

We are told by the gentlemen on the other side of the aisle that there is a difference of only one vote requirement between the Wherry resolution and a proposal to allow a simple two-thirds vote to apply cloture which we now have under Rule XXII. Let's not be deceived. There is a difference of at least eight votes. Since 1917 we have had 19 roll call votes on cloture. The average attendance at these roll calls was 84. Under the Wherry resolution, which we are now asked to swallow, 64 votes would have been required. It is a step backward. I must therefore say I will never vote for this proposal. I would rather lose 100% now and come back another day after another election. I know some Senators will go forth and say "We got cloture." I say to them: "No, you did not get cloture. You got some kind of concoction that might deceive somebody into thinking it is cloture."

The coalition of Republicans and Southern Democrats being formed before us today has serious consequences for Americans. By refusing to face the need for civil rights, we have given strength to the totalitarian forces within our society from the right and the left. I have had a great deal of experience, Mr. President, fighting subversive forces. I know that the communist party will now exploit this step we take today and against which I fervently protest. They will spread their tales not only in our own country, but to the people of the world. They will say that America is not interested in the democratic principles of liberty and equality. They will say that Soviet Russia and not America is the true friend of the millions of colored people in the world. They will say, and we will have presented them with the ammunition to say, that America is insincere and that our political parties are insincere.

We have a responsibility to the principles for which we stand to pass civil rights legislation. We have a responsibility to the people of the world to assure them we are their friends regardless of their color, that we believe in democracy. We have a responsibility to the Catholics, Protestants, and Jews who suffer from discrimination in community after community to assure them that we are not going to forget the evils of our society and that we are going to correct them.

Mr. President, I have before me a resolution pledging those in this body who sign it to hold the Senate of the United States in session until the civil rights program set forth in the platform of both the Democratic and the Republican parties is voted upon. The people have a right to know where each of us stand. My position in this matter is clear. I shall vote for majority rule in the Senate and for the right of a majority of this body to employ cloture so that every Senator has the opportunity to debate and express himself on all issues. I shall vote for civil rights legislation in accordance with the platform of our party and the program of President Truman. These are my convictions. I am prepared to stay all summer to vote in accordance with my convictions. This body can do no less.



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