ADDRESS BY SENATOR STROM THURMOND (D-SC) ON SENATE FLOOR AGAINST S. RES. 5, WHICH WOULD AMEND RULE XXII OF SENATE STANDING RULES, JANUARY 12, 1959.

MR. PRESIDENT:

I would again like to state that I am unalterably opposed to further empowering the Senate or any portion of it to limit debate. I would strongly prefer to completely abolish all cloture provisions from the rules.

For 125 years, from 1789 to 1917, there was no cloture rule in this Senate. Although there have been many changes in the material aspects of our life, the basic problems of man's relation with man are the same. We could operate as effectively now with unlimited debate as did the Senate during the first 125 years of our existence under the Constitution, which was by no means the least difficult period of our existence.

It has been alleged that one of the principal objections to unlimited debate is that it forces compromises on extreme legislation. It is well to recall in this regard that the formation of the Union by thirteen Sovereign States was in itself a compromise. Out of this compromise came the Senate in which we now serve, an original, unique and--I might add, judging from historical precedents and the vote last Friday--a continuing parliamentary body.

The substance of the compromise which brought about the formation of the Union was the protection and safeguards given to each Sovereign State and groups of States from the majority of their sister States. The procedure designed to implement the substance of the compromise included not only the institution of the Senate but also its so-called peculiarities, including unlimited debate.

These political innovations, of which unlimited debate was the cornerstone, provided the escape valve which has permitted the continued existence of the Union. They form the practical procedure by which our federal system is differentiated in operation from a national system of government, which would never have been acceptable to those States which formed the Union. It was never intended that the Senate should enact legislation aimed at and opposed by a particular section of the country and which is abhorrent and injurious to that section. The method which historically has been used to prevent such an occurrence is unlimited debate in the Senate. Already unlimited debate has been subjected to the will of a so-called two-thirds constitutional majority in derogation of 125 years successful experience with unlimited debate from 1789 to 1917. The federal system is based on the wise decision of the Founding Fathers to form a Union of
Sovereign States in which the Union had limited fields of activity. Thus were avoided the constant revolutionary pressures which would have eventually flowed from a national system of government in this large and dissimilar country. I am convinced that the destruction of these basic safeguards would be the final step in the conversion of our Federal system of government into a national system in fact. With this escape valve of political restraint removed, the very existence of the Union would surely be in peril.

With this thought in mind, consider just what Senate Resolution 5 would do to limitation of debate. If considered from a viewpoint of the historical record of cloture attempts in the Senate, the practical effect of the change it proposes would appear minor. In fact, had the rule proposed by this resolution been in effect throughout the history of the country, no formal vote on cloture in the Senate would have been changed.

There is another approach, however, which indicates the enormous extent of the proposed change. Under the existing rules, the affirmative vote of 66 Senators is necessary to end debate. Under the proposed change, it would be mathematically possible under the present composition of the Senate to end debate by an affirmative vote of 34 Senators. Such a result would be, of course, an extreme case, for attendance on the sessions of the Senate would have to be poor indeed. Lest we assume that such an occurrence is too remote for consideration, however, I direct your attention to the fact that when the extremely vital issue of the Federal anti-pre-emption legislation came to a final vote in the closing days of the last session, only 81 of the possible 96 Senators were recorded as voting. If this be an indication of the trend of regularity of attendance, we can easily foresee action by the Senate on important issues when a quorum is barely present.

This proposed change in Rule XXII is one more step in the systematic destruction of free debate in the Senate which began in 1917. Between 1789 and 1917, there was no limitation on debate. In 1917, a cloture procedure by two-thirds of those present and voting was made applicable to all motions except motions to proceed to consideration of any measure. In 1949, further restriction on
debate was made possible by the rule change which made cloture applicable to all procedures except a motion to proceed to a consideration of a rule change. Now it is proposed to remove the last item not subject to cloture from the possibility of unlimited debate.

Have we changed so much that we could not again operate with unlimited debate? Absolutely not!

The idea is often expressed that we live in a changing world. In this age of nuclear energy and space exploration, we are prone to emphasize changes at the expense of ignoring those things which remain constant. Preoccupied as we are with the material aspects of life, we are inclined to assume that nothing is unchanging. If we will subjugate our egotism for a moment of reflection, we can readily comprehend that changes occur only in things made by man, and that all other things remain the same.

Predominant among things unchanging is the Creator, Himself. Despite the fluctuating and fickle faith of mankind, God, in his Omnipotence, is constant. Similarly, God's creation remains constant, and it is only man's knowledge that varies. For instance, man has recently abandoned the belief that matter can be neither created nor destroyed, but at the same time we learned that matter and energy are equated. Our knowledge has thus increased, but the laws of nature, instituted by God for the regulation of His universe, are unalterable.

Man, himself, was God's greatest creation. Although he has been given a soul, and the power of reason and choice, man also remains unchanging, as does human nature -- that combination of emotion and reason which govern his conduct.

Since the dawn of history, men have repeatedly established governments. Despite the fact that many governments were instituted for the preservation or establishment of individual power, and as such, were initially oppressive, man has always realized that the only noble purpose of government is to facilitate harmonious relations among the governed. At its best, government is a servant of the people, a reasoned contract among men for their mutual conduct. To Government, man also turns for the conduct of matters which are equally paramount in importance to all the contracting parties, such as defense of all from a common enemy from without.
None can deny the usefulness of government as a means of self-enforcement of basic limitations on man's instinctive or emotional, as contrasted to his reasoned, activities. Unfortunately, the dangers of government are too often overlooked or ignored, for government is the most inherently dangerous to man of any of man's institutions.

Government is a basic instrument for good only so long as, and to the proportionate degree that, it commands the respect and support of all the people. Christ, Himself, ordained the pre-eminence of the individual, and the degree to which the individual can be subverted to the group, without destroying the individual, is slight. It is fundamental that the more areas into which government is injected, the greater is the probability of divergence of opinion, and the less popular is support of the government. Similarly, the more areas into which government is injected, the greater the concentration of power; and in the concentration of power, the subjugation and oppression of the individual most often occur.

As the concentration of usurped power in the Federal Government continues at an alarming pace, we must protect at all costs those remaining safeguards against tyranny, and if possible, bolster them.

As I have pointed out, nothing has changed which affects the legislative problems of our country since the 125-year period when the Senate had unlimited debate. There is no valid reason for not returning to this worthy principle by abolishing all limitation on debate. Certainly a step in the other direction, as proposed by Senate Resolution 5, is unthinkable.

When legislation has sufficient merit to garner the enthusiastic support of a majority of Americans, even the most extended debate can not prevent its passage. As to civil rights legislation, the Majority Leader has himself pointed out that a majority of Senators can, and did in 1957, pass such legislation as they truly desire under the present rule.

Let us not deceive ourselves nor the public. Rule XXII is the strongest restriction of debate that the welfare of the country will bear, and the pending resolution to change it should be defeated.