

process on behalf of such partnership, corporation, association, or entity; or

(2) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

#### ANTITRUST DOCUMENT CUSTODIAN

SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as antitrust document custodian, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

(b) Any person upon whom any demand issued under section 3 has been duly served shall deliver such material to the custodian designated therein at the place specified therein (or at such other place as such custodian thereafter may prescribe in writing) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). No such demand or custodian may require delivery of any documentary material to be made—

(1) at any place outside the territorial jurisdiction of the United States without the consent of the person upon whom such demand was served; or

(2) at any place other than the place at which such documentary material is situated at the time of service of such demand until the custodian has tendered to such person (A) a sum sufficient to defray the cost of transporting such material to the place prescribed for delivery or (B) the transportation thereof to such place at Government expense.

(c) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this Act. The custodian may cause the preparation of such copies of such documentary material as may be required for official use by any individual who is entitled, under regulations which shall be promulgated by the Attorney General, to have access to such material for examination. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than a duly authorized officer, member, or employee of the Department of Justice or any antitrust agency, provided nothing herein shall prevent the Attorney General from making available the material so produced for examination by the Committee on the Judiciary of each House of the Congress. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representative of such person.

(d) Whenever any attorney has been designated to appear on behalf of the United States before any court, grand jury, or antitrust agency in any case or proceeding involving any alleged antitrust violation, the custodian may deliver to such attorney such documentary material in the possession of

the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court, grand jury, or antitrust agency through the introduction thereof into the record of such case or proceeding.

(e) Upon the completion of (1) the antitrust investigation for which any documentary material was produced under this Act, and (2) any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material (other than copies thereof made by the Department of Justice or any antitrust agency pursuant to subsection (c)) which has not passed into the control of any court, grand jury, or antitrust agency through the introduction thereof into the record of such case or proceeding.

(f) When any documentary material has been produced by any person under this Act for use in any antitrust investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all documentary material (other than copies thereof made by the Department of Justice or any antitrust agency pursuant to subsection (e)) so produced by such person.

(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced under any demand issued under this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian thereof, and (2) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated. Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

#### JUDICIAL PROCEEDINGS

SEC. 5. (a) Whenever any person fails to comply with any civil investigative demand duly served upon him under section 3, the Attorney General, through such officers or attorneys as he may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of such demand, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(b) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which the office of the custodian designated therein is situated, and serve upon such custodian a petition for an order

of such court modifying or setting aside such demand. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional right or privilege of such person.

(c) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this Act.

(d) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this Act. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28 of the United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

#### CRIMINAL PENALTY

SEC. 6. (a) Chapter 73 of title 18 of the United States Code (relating to obstruction of justice) is amended by adding at the end thereof the following new section:

"§ 1509. Obstruction of antitrust civil process

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part, by any person with any civil investigative demand made under the Antitrust Civil Process Act, willfully removes from any place, conceals, withholds, destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody or control of any person which is the subject of any such demand duly served upon any person shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(b) The analysis to such chapter is amended by inserting at the end thereof the following new item:

"1509. Obstruction of antitrust civil process."

#### SAVING PROVISION

SEC. 7. Nothing contained in this Act shall impair the authority of the Attorney General, the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, or any antitrust investigator to (a) lay before any grand jury impaneled before any district court of the United States any evidence concerning any alleged antitrust violation, (b) invoke the power of any such court to compel the production of any evidence before any such grand jury, or (c) institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order or process by any person.

Mr. DIRKSEN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. KUCHEL. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

### TEMPORARY APPROPRIATIONS FOR THE FISCAL YEAR 1960

Mr. HAYDEN. Mr. President, I ask unanimous consent for the immediate consideration of House Joint Resolution 475, amending a joint resolution making temporary appropriations for the fiscal year 1960, and for other purposes.

The Senate will recall that previously it passed a similar joint resolution for the month of July. At this time it is necessary that the Senate pass such a joint resolution for the month of August.

The only changes in this joint resolution are for increases in the sums of money with which to carry on, during the month of August, the operations of the mutual security program, and also for the transfer of certain funds.

The PRESIDING OFFICER. The joint resolution will be read.

The joint resolution (H.J. Res. 475) amending a joint resolution making temporary appropriations for the fiscal year 1960, and for other purposes, was read twice by its title.

The PRESIDING OFFICER. Is there objection to the request for the immediate consideration of the joint resolution?

Mr. JOHNSON of Texas. Mr. President, there has been some confusion in the Chamber, and it has been difficult for all Senators to hear. So I hope the Senator from Arizona will repeat his brief explanation of the joint resolution. As I understand, it is the usual measure when not all the regular appropriation bills have been acted on finally.

Mr. HAYDEN. That is correct. The joint resolution will make provision for the month of August, in the way the Congress has previously made provision for the month of July.

Of course at the end of the fiscal year, all the appropriations for that fiscal year lapse. Therefore, in order to carry on the work of the Government, the Congress has previously provided that one-twelfth of the unexpired appropriations for the last fiscal year may be expended during July.

Now that July has almost ended, any appropriations which have not yet been made for 1960 must be continued for August on the same basis, namely, one-twelfth of the amount of the previous year's appropriation. That is all there is to the joint resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. JOHNSON of Texas. Mr. President, I move that the vote by which the joint resolution was passed be reconsidered.

Mr. DIRKSEN. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

### CONFERENCE REPORT ON THE INDEPENDENT OFFICES APPROPRIATION BILL

Mr. MAGNUSON. Mr. President, several Senators have asked me about the independent offices appropriation bill, which has been in conference; and there is disagreement on the item dealing with civil defense, on which the Senate has passed on two occasions.

The House has agreed to the conference report, but not to amendment No. 1, which includes the civil defense grants to cities and State Governors.

The Senate committee decided to bring the matter back to the Senate. It is at the desk, and I expect to call it up, if possible—and if the leadership will agree—on tomorrow, following the morning hour.

I know that several Senators are vitally interested in that particular item.

### SAFEGUARDING BENEFITS OF INCOMPETENT VETERANS

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 6319) to amend chapter 55 of title 38, United States Code, to establish safeguards relative to the accumulation and final disposition of certain benefits in the case of incompetent veterans.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BYRD of Virginia. Mr. President, this bill is designed to prevent gratuitous benefits to incompetent veterans who are receiving care at public expense from accumulating in excessive amounts and passing, upon the death of the veterans, to relatives who have no claim against the Government on account of the veterans' military service.

The bill has the approval of the Administrator of the Veterans' Administration, the Bureau of the Budget, and the Treasury.

Mr. KUCHEL. Mr. President, will the Senator from Virginia yield to me?

Mr. BYRD of Virginia. I yield.

Mr. KUCHEL. Is the intention in connection with the bill to have the Federal Government continue to make maintenance payments for the treatment or care of an incompetent veteran to a public institution, such as a State institution or a local institution, in the event the incompetent's estate were to equal or exceed \$1,500?

Mr. BYRD of Virginia. In reply to the inquiry of the distinguished Senator from California, I may say that, under existing law, payments of compensation, pension, or emergency officers' retirement pay to incompetent veterans who are hospitalized in VA hospitals are discontinued when his estate reaches \$1,500, and are not resumed until his estate is reduced to \$500. Section 2 of H.R. 6319 makes this limitation applicable when the incompetent veteran is being cared for in other Federal institutions or in State or similar public institutions.

If a charge is made by the public institution for the care of the veteran,

payments therefor will continue to be paid to the institution out of the accumulated fund of the veteran. When the amount of the accumulated fund is reduced to \$500, the Veterans' Administration will resume the monthly payment to the veteran until his estate again reaches \$1,500. Thus, the public institution will continue to receive payment for the care of the veteran. H.R. 6319 makes no change in this respect.

If the veteran regains competency, he will be paid the full amount of the unpaid benefits.

Mr. KUCHEL. I thank the able chairman of the Finance Committee for the reassurance of the intention of this bill which is about to receive favorable consideration by the Senate. I may add that the people of California, through their State government, have provided an excellent veterans' home, under the direction of Col. Stanley F. Dumfries. The pending bill, as the able chairman of the Finance Committee has indicated, will continue the present Federal policy of making some payments to an institution such as that conducted by the government of California for the care of veterans who have become incompetent.

The PRESIDING OFFICER (Mr. Young of Ohio in the chair). The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6319) was ordered to a third reading, read the third time, and passed.

### REMOVAL AND TERMS OF OFFICE OF MEMBERS OF CERTAIN REGULATORY AGENCIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 464, Senate bill 1965.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1965) to establish certain provisions with respect to the removal and the terms of office of the members of certain regulatory agencies.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interstate and Foreign Commerce, with amendments, on page 1, line 9, after the word "qualified", to strike out "Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office."; on page 2, line 3, after "Sec. 2.", to strike out "(a) Subsection (b) of section 4 of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended by inserting at the end thereof the following: "Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.""; and at the beginning of line 8, to strike out "(b)", so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the*

first section of the Federal Power Act (16 U.S.C. 792) is amended by inserting immediately before the sentence "Not more than three of the Commissioners shall be appointed from the same political party," the following: "Upon the expiration of his term of office, a Commissioner shall continue to serve until his successor is appointed and has qualified."

Subsection (c) of section 4 of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended by inserting at the end thereof the following: "Upon the expiration of his term of office, a Commissioner shall continue to serve until his successor is appointed and has qualified."

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MAGNUSON. Mr. President, Senate bill 1965 was reported unanimously from the Committee on Interstate and Foreign Commerce. It makes uniform the conditions and terms of office of members of regulatory agencies such as the Interstate Commerce Commission, Federal Trade Commission, Civil Aeronautics Board, and other agencies. Under existing law, the members of the Interstate Commerce Commission, the Federal Trade Commission, and the Civil Aeronautics Board, upon termination of their appointments to office, continue in office until their successors are appointed and qualify. On the other hand, the members of the Federal Power Commission and the Federal Communications Commission do not continue in office after the expiration of their terms of office. The result has been that there have been some unfortunate circumstances because when the term of office of one of the members of those Commissions has expired the reappointment or a new appointment has not been sent to the Senate in time, or, sometimes, if the nomination has been sent to the Senate in time, confirmation has been delayed, with the result that the appointee cannot serve and a vacancy is left in the agency.

It is desired to make the terms of office of members of regulatory agencies uniform, so that they may serve until successors are appointed and qualify. That is about all there is to the bill.

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

Mr. MAGNUSON. I yield.

Mr. CARROLL. I have not had an opportunity to study the bill. I have sent for my file on this matter.

Do I correctly understand that the provisions of the bill apply to certain agencies, such as the ICC—

Mr. MAGNUSON. No; I may say to the Senator from Colorado that members of the ICC, the Federal Trade Commission, and the Civil Aeronautics Board, upon termination of their appointments, continue in office until their successors are qualified; but as to the Federal Communications Commission and the Fed-

eral Power Commission, the law is different, and the service of the members of those agencies expire at the end of their term of office.

It is desired to make the terms of office of members of these five main regulatory agencies uniform, so that the members may continue in office after their terms have expired and until their successors are appointed and qualified.

As I stated previously, there have been some unfortunate cases. The term of office of the chairman of the Federal Power Commission expired, and his nomination for reappointment was sent to the Senate on the day his term expired. Under committee rules, the committee had to wait two weeks. Then there was a rather long hearing on the nomination of Mr. Kuykendall. Before we were through, a month had elapsed. In the meantime, he could not serve as chairman. So far as his office was concerned, everything was stalemated, and he could not be paid. Congress had to pass a bill to reimburse him for that month. Actually, he could sit in his office, but he had no official standing.

The purpose of the bill is to make uniform the terms of office of members of the five agencies.

Mr. CARROLL. Will the Senator yield further?

Mr. MAGNUSON. Yes.

Mr. CARROLL. The objective seems to be a perfectly logical and reasonable one. I remember the Kuykendall incident. It seems to me also the bill is necessary for the reason that if a member of an agency cannot function, it may affect officially some of the decisions and opinions that are handed down.

Mr. MAGNUSON. Yes. The bill would also have the effect of giving the Senate a reasonable opportunity to look into the appointments. This has not happened with the present Executive, according to my recollection, but it could happen that an Executive would wait until the last day and then send to the Senate the nomination of a replacement, and then press for the confirmation of that nomination, on the theory that no one was in office in the agency. The bill gives all concerned a more reasonable opportunity and makes uniform the terms of office in the agencies mentioned.

Mr. CARROLL. If the Senator will yield further, I had a question about what appears on page 3 of the report. It has to do with an amendment which I assume the Senator will discuss later.

Mr. MAGNUSON. We cut that part out of the bill. The bill as introduced would have made it uniform. As the report states:

The bill, as introduced, also would have made uniform the President's power to remove from office a board or commission member for "inefficiency, neglect of duty, or malfeasance in office." Under existing law members of the Interstate Commerce Commission, the Federal Trade Commission, and the Civil Aeronautics Board may be so removed. The quoted language is not contained in the acts governing the Federal Communications Commission and the Federal Power Commission.

We decided that that provision of the bill should be deleted, because it involves

some serious legal matters which we want to look into in much more detail.

The Senator from Colorado will recall the famous Humphrey case. Mr. Humphrey was removed as a member of the Federal Trade Commission. That case was taken to the Supreme Court. No reasons were given for removal, and so on and so forth.

We have deleted that section. All the bill now will do will be to make uniform the terms of service.

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

Mr. MAGNUSON. I yield.

Mr. CARROLL. As I understand the situation, the Federal Power Commission and the Federal Communications Commission do not have in the law relating to each the proviso that the President may remove a commission member for inefficiency, neglect of duty, or malfeasance in office.

Mr. MAGNUSON. The Senator is correct.

Mr. CARROLL. This bill would not make that a part of the law?

Mr. MAGNUSON. No. The bill would not change the existing law in that respect. I think it is proper that we meet the problem, and we will have to do so sooner or later, because that provision is in the law with regard to three regulatory agencies and not with regard to two others.

Mr. CARROLL. Does the Senator from Washington not think it would be advisable, inasmuch as we are seeking uniformity insofar as the expiration of terms of office is concerned, to make the provision applicable to all of the boards, in view of the recent controversy which has arisen especially with reference to one of the Commissioners of the Federal Communications Commission? It would seem to me that the President ought to have the power to remove for inefficiency, neglect of duty, or malfeasance in office. If there is no such power, what can be done about the situation? We are not dealing with a theory. We are dealing with a condition as it existed some months ago.

As a matter of fact, all we have to do, without trying to castigate any individual, is to consider the trial which is now pending. I read about it in the morning newspaper. There is a petition for a retrial date.

Mr. MAGNUSON. The Senator from Colorado will recall, in regard to that case, the President did not remove the Commissioner involved, but asked for his resignation, and the Commissioner submitted his resignation. That would also be true with regard to the Federal Power Commission, but we would have to amend the two basic acts to make them uniform.

Mr. CARROLL. While we are considering the tenure of office and providing for some equality, perhaps we should consider the other point.

Each of three boards or Commissions now is under the jurisdiction of the statute, so why should two be excluded? If I may say so, the same general uncertainty would be applicable to the other three. Why should we exclude the

Federal Communications Commission and the Federal Power Commission?

Mr. MAGNUSON. We did not exclude them. The basic laws which set up each one of these agencies contained different provisions. The basic law which established the Federal Communications Commission and the basic law which created the Federal Power Commission did not include the removal clause, whereas the basic laws which set up the Interstate Commerce Commission, the Federal Trade Commission and the Civil Aeronautics Board did.

This is a matter the committee wants to go into in some detail and on which the committee desires to hold hearings.

As a matter of fact, the bill I introduced contained the paragraph which was deleted. The committee did not see fit to include it, without having held hearings.

I am sure the study the Senator is embarking on in the Committee on the Judiciary will be of help to us on this problem.

How do we define what is "inefficiency" in the mind, let us say, of an executive who can remove a commissioner of an independent agency, which is an arm of Congress rather than an executive agency? How do we define "neglect of duty?" The courts in some cases have done so, as the Senator knows, in some of their decisions.

We felt that we did not have enough evidence on the matter, and had not held sufficient hearings, and had not looked into enough cases in regard to the other regulatory bodies to report such a provision. The committee wants to consider a bill to that effect, similar to the provision which was deleted. It will consider the matter again later.

In the meantime, since we felt that everybody was in agreement with regard to the terms of office, we felt we ought to correct that situation as soon as possible.

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

Mr. MAGNUSON. I yield.

Mr. CARROLL. I have in my hand a report from the American Law Division of the Library of Congress, addressed to the Senate Subcommittee on Administrative Practice and Procedure, for the attention of the chairman, the Senator from Colorado [Mr. CARROLL]. The subject of this report is "Scope of Congressionally Imposed Restrictions on the President's Power of Removal in Relation to the Independent Regulatory Agencies and Commissions."

I shall read the report, because it is rather important:

As the quoted excerpts presented below will confirm, Congress, in enacting legislation establishing independent regulatory agencies, has not consistently employed any single verbal formula for defining or qualifying the President's power of removal exercisable with reference to Commissioners serving thereon:

I. Removable for "inefficiency, neglect of duty, or malfeasance in office": Federal Trade Commission (U.S.C. 15: 41); Federal Coal Mine Safety Board (U.S.C. 30: 475(b)); Atomic Energy Commission (U.S.C. 42:

2032); Interstate Commerce Commission (U.S.C. 49: 11); Civil Aeronautics Board (U.S.C. 49: 1321(a)(2)).

II. Removable for "inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause": National Mediation Board (U.S.C. 45: 154(1)).

III. Removable "upon notice and hearing, for neglect of duty, or malfeasance in office, but for no other cause": National Labor Relations Board (U.S.C. 29, 153(a)).

IV. Expressly removable by the President: Civil Service Commission (U.S.C. 5: 632).

V. Agencies, the members of which hold office "during their good behavior": Indian Claims Commission (U.S.C. 25: 70b (b)).

VI. Agencies, the members of which serve "at the pleasure of the President": Export-Import Bank (U.S.C. 12: 635a (b, c)).

VII. Agencies as to which no statutory qualification of, or reference to, the President's power of removal is applicable: Federal Deposit Insurance Corporation (U.S.C. 12: 264(b)); Federal Farm Credit Board (U.S.C. 12: 636c); Federal Home Loan Bank Board (U.S.C. 12: 1437); Federal Housing Administration—Administrator (U.S.C. 12: 1702); Securities and Exchange Commission (U.S.C. 15: 78d); Small Business Administration—Administrator (U.S.C. 15: 633(b)); Federal Power Commission (U.S.C. 16: 792); Tennessee Valley Authority—Directors (U.S.C. 16: 831a (b)); Tariff Commission (U.S.C. 19: 1330); Federal Mediation and Conciliation Service—Director (U.S.C. 29: 172(a)); St. Lawrence Seaway Development Corporation (U.S.C. 33: 982); Veterans' Administration—Administrator (U.S.C. 38: 11a); National Science Foundation (U.S.C. 42: 1863-1864); Railroad Retirement Board (U.S.C. 45: 228j (a)); Federal Communications Commission (U.S.C. 47: 154 (a-c)).

Mr. MAGNUSON. That is an important group. I point out to the Senator from Colorado that in the basic law there is no statutory application at all.

Mr. CARROLL. There is no statutory application with regard to group VII. I wanted to sustain the desire of the Senator from Washington to move forward in this field. I wanted to make a record, because the subcommittee of which I am the chairman may move in this field in regard to the agencies in the executive branch and to their practices and procedures under the Administrative Procedure Act.

I thank the Senator from Washington for his patience. The reason I have taken this time is to make the point that had the President of the United States been empowered to remove from office for inefficiency, neglect of duty, or malfeasance, I do not think he would have had to ask anyone for a resignation. I think the time has come to review the entire structure of individual agencies, some executive agencies, and some public corporations which the Congress has created, to see if we cannot bring about uniformity of treatment. I do not think there is any doubt that, when there is statutory power to do so, the President may remove anyone from office for malfeasance in office.

I commend the distinguished Senator from Washington for his statement that this field will be studied. That is one of the reasons why I take the time to make a record in this respect.

Mr. MAGNUSON. Mr. President, I appreciate the interest of the Senator

from Colorado and what he is doing.

I am sure we are all in agreement that the laws should be uniform. Some laws provide that the President may remove an official for cause. It is up to the court, in some cases, to determine what is "cause." Some cases have arisen in which the President has removed an official and has refused to give him a bill of particulars, and suit has been brought in an attempt to find out why. In some other agencies, mainly executive agencies, appointment is made to serve at the pleasure of the President. The courts do not have to do much with that language, because displeasure of the President could mean almost anything, and that would be sufficient.

In several important agencies we ran across a conflict between those which are armed by Congress with power to remove an incumbent, and those which are not. In cases in which there is statutory authority, removal is usually for inefficiency, neglect of duty, or malfeasance in office.

So there are all kinds of conditions setting for the power of the Executive to do a job which he should do in many cases. In the case of two agencies, there is no such provision in the law. In the case of three others there is. There are several decisions on this question, going into the subject in some detail.

I am sure the Senator from Colorado and the rest of us would like to take a long look at the subject, to see that no one is removed unjustly, but that the Executive shall have the power to dictate the removal of an incumbent when he has the authority to do so.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an excerpt from the committee report which lists, for two agencies, the days of vacancy in such agencies caused by the fact that a term of office expired, and no replacement had been qualified and confirmed. In one instance the time ran as high as 162 days, when no one could serve.

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

All of the acts provide that in the case of an unexpired term of office, the nomination shall be for the balance of the term of office involved. This bill makes no change in the actual statutory term of office.

Prior to the enactment of the Federal Aviation Act of 1958, the terms of the members of the Civil Aeronautics Board expired at midnight on the last day of their term of office. Before the Congress enacted the Federal Aviation Act of 1958, the Board had experienced the following periods of vacancy of members since 1941:

Date term expired	Date successor took oath	Days of vacancy
Dec. 31, 1956.....	Apr. 4, 1957	93
Dec. 31, 1955.....	June 11, 1956	162
Dec. 31, 1954.....	Mar. 1, 1955	59
Dec. 31, 1950.....	Feb. 6, 1951	36
Dec. 31, 1947.....	Apr. 6, 1948	96
Dec. 31, 1941.....	Jan. 15, 1942	14

A similar table for the Federal Power Commission discloses the following periods

when the Commission was not at full strength:

Date term expired	Date successor took oath	Days of vacancy
June 22, 1934.....	Aug. 13, 1934	52
June 22, 1942.....	July 10, 1942	18
June 22, 1952.....	July 9, 1952	17
June 22, 1953.....	Aug. 17, 1953	56
June 22, 1954.....	July 9, 1954	17
June 22, 1957.....	Aug. 16, 1957	55

In its report on this legislation, the Commission advised that "This situation has on occasion made it impossible to reach a decision in a particular case, \* \* \*."

Your committee is of the firm opinion that these "arms of Congress" should be kept at full strength, and that the laws governing the terms of office of the Members thereof should be uniform.

We urge the enactment of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to make uniform provisions of law with respect to the terms of office of the members of certain regulatory agencies."

#### ACCEPTANCE OF DECORATION BY HON. THOMAS F. McALLISTER, JUDGE OF U.S. COURT OF APPEALS

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 575, House bill 2067.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 2067) to authorize the Honorable Thomas F. McAllister, judge of the U.S. Court of Appeals, to accept and wear the decoration tendered him by the Government of France.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record at this point an excerpt from the report of the Committee on Foreign Relations relative to this subject.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

#### BACKGROUND

The law and regulations applying to the acceptance of gifts from foreign governments or foreign government officials are as follows:

"[Attachment to Department Circular No. 277]

#### "LAW AND REGULATIONS

"Article 1, section 9, clause 8 of the Constitution reads as follows:

"No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, prince, or foreign State."

"The act of January 31, 1881 (5 U.S.C. 115), provides:

"Any present, decoration, or other thing, which shall be conferred or presented by any foreign government to any officer of the United States, civil, naval, or military, shall be tendered through the Department of State, and not to the individual in person, but such present, decoration, or other thing shall not be delivered by the Department of State unless so authorized by act of Congress."

"By an Executive order dated April 13, 1954, the President directed that after that date no request should be submitted for the consent of Congress for anyone, other than retired personnel, to accept gifts, decorations, awards or any other thing tendered to them by a foreign government.

"It is provided in title 5, United States Code, section 115a that:

"The Secretary of State is directed to furnish to the 75th Congress and to each alternate Congress thereafter a list of those retired officers or employees of the United States for whom the Department of State under the provisions of section 115 of this title, is holding decorations, orders, medals, or presents tendered them by foreign governments."

"The acceptance of gifts by officers and employees of the Foreign Service is governed by section 1002 of the Foreign Service Act of 1946, as amended (22 U.S.C. 804), providing:

"An officer or employee of the Service shall not ask or, without the consent of the Congress, receive, for himself or any other person, any present, emolument, pecuniary favor, office, or title from any foreign government. A chief of mission or other principal officer may, however, under such regulations as the President may prescribe, accept gifts made to the United States or to any political subdivision thereof by the Government to which he is accredited or from which he holds an exequatur."

"It is further provided in 1 FSM IV 625.1 and 625.2, as follows:

"625.1 No American employee shall accept any decoration, gift, or emolument of any kind from any foreign sovereign government, or from any state, province, or municipality of any foreign government, or from any governmental or semigovernmental agency, or from any international organization of states, notwithstanding the fact that the United States is a participant in such international organization. Moreover, to assure absolute equality and uniformity in this regard, no American employee of the Foreign Service shall ever wear any foreign decoration while serving in such capacity.

"625.2 No American employee, nor any person on behalf of such employee, shall petition the Congress of the United States for legislative permission to receive any foreign decoration, gift, or emolument described in section 625.1."

"It is also provided in pertinent part in section 1021(a) of the Foreign Service Act of 1946, as amended (22 U.S.C. 809):

"The Secretary [of State] may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the [Foreign] Service or for the carrying out of any of its functions. \* \* \*"

It will be noted that the constitutional provision cited above applies to all persons "holding any office of profit or trust" under the United States; the provisions of the United States Code apply to "any officer of the United States, civil, naval, or military," and the regulations based on the Foreign Service Act of 1946 apply to "officers or employees of the Service."

#### THE PENDING BILL

H.R. 2067 will authorize Judge McAllister to accept and wear the decoration of the Chevalier of the Legion of Honor, awarded to him by France. This honor was not awarded as a result of official activities on his part in representing the United States,

but solely because of service rendered during World War I as a private citizen and because of his continued devotion as a private citizen to strengthening the bonds of friendship between France and the United States.

The Honorable PHILIP A. HART, junior Senator from Michigan, appeared before the Committee on Foreign Relations on Thursday, July 23, in support of the pending resolution and described the services for which the decoration was tendered.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2067) was ordered to a third reading, read the third time, and passed.

#### ESTABLISHMENT OF RATES OF BASIC COMPENSATION FOR CERTAIN POSITIONS IN THE PATENT OFFICE

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 485, Senate bill 1845.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1845) to amend title 35 of the United States Code relating to patents.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service, with an amendment, to strike out all after the enacting clause and insert:

That section 202 of the Classification Act of 1949, as amended (5 U.S.C. 1082), is amended by redesignating the paragraph thereof which was added by the Defense Department Overseas Teachers Pay and Personnel Practices Act as paragraph (33), and by changing the period at the end of such subsection to a semicolon and adding the following new paragraph:

"(34) examiners-in-chief and designated examiners-in-chief in the Patent Office in the Department of Commerce."

Sec. 2. The first paragraph of section 3 of title 35, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary of Commerce is authorized to fix the rates of basic compensation of examiners-in-chief and designated examiners-in-chief in the Patent Office, at per annum rates not in excess of the maximum scheduled per annum rate of compensation provided for positions in grade 17 of the General Schedule under the Classification Act of 1949, as amended."

Sec. 3. The enactment of the amendments made by the first section and section 2 of this Act shall not affect—

(1) any position of examiner-in-chief in the Patent Office in the Department of Commerce existing immediately prior to the date of enactment of this Act,

(2) the compensation attached to such position of examiner-in-chief, or

(3) any incumbent of such position, his appointment thereto, or his right to receive the compensation attached thereto.

until appropriate action is taken under authority of the amendment made by section 2 of this Act.

Sec. 4. (a) The rate of basic compensation of the Administrative Assistant Attorney General, the Administrative Assistant Sec-

retary of the Interior, the Administrative Assistant Secretary of Agriculture, the Administrative Assistant Secretary of Labor, and the Administrative Assistant Secretary of Treasury shall be \$19,000 per annum.

(b) Section 505 of the Classification Act of 1949, as amended, is amended by adding at the end thereof a new subsection as follows:

"(j) The Attorney General is authorized to place a total of three positions in the Bureau of Prisons in grade 17 of the General Schedule. Such positions shall be in addition to the number of positions authorized to be placed in such grade by subsection (b)."

Mr. WILLIAMS of Delaware. Mr. President, may we have an explanation of the bill?

Mr. JOHNSTON of South Carolina. Mr. President, the bill, which the Department requests, would make possible what we regard as equitable changes in the salaries of a few employees in the Patent Office. The bill was unanimously reported favorably by the committee.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to provide for the establishment of rates of basic compensation for certain positions in the Patent Office in the Department of Commerce, and for other purposes."

#### ELIMINATION OF ANNUAL REPORTS BY CHAPLAINS IN THE NAVY

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 564, House bill 3290.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 3290) to amend title 10, United States Code, to eliminate the requirement that each chaplain make an annual report to the Secretary of the Navy.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

#### APPOINTMENT OF BOARDS OF MEDICAL OFFICERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 565, House bill 3320.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 3320) to amend the act of June 21, 1950, relating to the appointment of boards of medical officers.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENGLE. Mr. President, the bill would merely amend the present law, which requires a board of examiners, in determining the competency of an officer whose mental competence is questioned, to come from the service in which the officer serves.

The trouble is that very often a man in the infantry will be in an Air Force hospital, a Naval hospital, a Marine hospital, or even in a veterans' hospital, and it is necessary to send all over the country to assemble a board, whereas each hospital has medically competent boards in the service, thoroughly able to make a proper determination.

The present requirement involves a great expense for travel, inconvenience, and sometimes long delay.

As a consequence, that limitation is proposed to be stricken from the law, for the purpose of eliminating such expense and delay, and permitting any competent mental board in the hospital in which the person is being cared for to make the determination of competency.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### CREDIT FOR SERVICE AS A MEMBER OF THE WOMEN'S ARMY AUXILIARY CORPS

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the consideration of Calendar No. 566, House bill 3321.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 3321) to amend title 10, United States Code with respect to crediting certain service as a member of the Women's Army Auxiliary Corps, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, the bill would credit service in the Women's Army Auxiliary Corps as active military duty for any person who subsequently served on active duty in any of the Armed Forces.

The Women's Army Auxiliary Corps was authorized by the act of May 14, 1942. Section 12 of that act provides, in part:

The corps shall not be a part of the Army, but it shall be the only women's organization authorized to serve with the Army, exclusive of the Army Nurse Corps.

In other words, members of the Women's Army Auxiliary Corps serve with, but not in, the Army.

The purpose of the bill is to give credit to women who served in the Women's Army Auxiliary Corps, along with other credit for military service.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### RESTRICTION OF INCREASE OF FORCES AT NAVAL INSTALLATIONS PRIOR TO NATIONAL ELECTIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 567, House bill 4068.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 4068) to amend title 10, United States Code by repealing section 7475 which restricts the increasing of forces at naval activities prior to national elections.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENGLE. Mr. President, the bill would repeal a law which was passed in the fiscal year 1877. Apparently there was the idea at that time that naval personnel at certain places would be increased within 60 days of the election, for political purposes.

I think it is significant that a Democratic Congress is willing to repeal that law, with a Republican administration in the White House. We think it is outmoded, and no longer needed, and that large increases in naval personnel for political purposes will not occur at naval activities prior to national elections. Therefore the law, enacted in 1877, has survived its usefulness, and should be repealed.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### WITHHOLDING OF SEAMEN'S WAGES UNDER STATE TAX LAWS

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 428, Senate bill 1958.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1958) to amend title 46, United States Code, section 601, to clarify types of arrestment prohibited with respect to wages of U.S. seamen.