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Legislative Proposals for Changes in the Presidential Electoral System

Mike Mansfield 1903-2001

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CONGRESSIONAL RECORD—SENATE

1961

BY MR. MANSFIELD: S. 278. A bill to amend title II of the Vocational Education Act of 1944, relating to practical nurse training, and for other purposes; to the Committee on Labor and Public Welfare.

BY MR. HILL (for himself and Mr. HARTKE, HUMPHREY, COOPER, MORTON, HASTIE, MOSS, BASTLEY, YOUNG of North Dakota, PASTORE, LONG of Hawaii, METCALF, CHAVES, KESSELMAN, LAUSCHE, young of Ohio, MCNAMARA, HICKORY, SALTONSTALL, CLARK, MORSE, BEALL, WILLEY, OXENFORD, and GORE) submitted a concurrent resolution (S. Con. Res. 4) relating to a Joint Committee on National Fuels Study, which was referred to the Committee on Interior and Insular Affairs.

BY MR. BEALL: S. 264. A bill to authorize the construction, operation, and maintenance by the Secretary of Agriculture to convey certain property owned by the United States to Brigham Young University and to provide for other purposes; to the Committee on Interior and Insular Affairs.

BY MR. ALLOTT (for himself and Mr. SMATHERS): S. 264. A bill to authorize the construction, operation, and maintenance by the Secretary of Agriculture to convey certain property owned by the United States to Brigham Young University and to provide for other purposes; to the Committee on Interior and Insular Affairs.

BY MR. BEALL: S. 264. A bill to authorize the construction, operation, and maintenance by the Secretary of Agriculture to convey certain property owned by the United States to Brigham Young University and to provide for other purposes; to the Committee on Interior and Insular Affairs.

MODERNIZE THE MONROE DOCTRINE TO MEET THE THREAT OF COMMUNIST IMPERIALISM IN LATIN AMERICA

Mr. BUSH submitted a concurrent resolution (S. Con. Res. 5) to modernize the Monroe Doctrine to meet the threat of Communist imperialism in Latin America, which was referred to the Committee on Foreign Relations.

RESOLUTION AMENDMENT OF RULE RELATING TO CLOTURE

Mr. MANSFIELD: S.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of President and Vice President, to the Committee on the Judiciary.

S. J. Res. 24. Joint resolution designating the fourth Sunday in September of each year as "Interfaith Day"; to the Committee on the Judiciary.

By Mr. CLARK: S. J. Res. 24. Joint resolution designating the fourth Sunday in September of each year as "Interfaith Day"; to the Committee on the Judiciary.

ADDITIONAL DISTRICT COURT JUDGES FOR DISTRICT OF MARYLAND

Mr. BUTLER. Mr. President, in the 85th and 86th Congresses I introduced proposed legislation which called for the appointment of one additional judge in the U.S. district court for the district of Maryland—S. 1142 in the 86th and S. 697 in the 85th Congress.

Despite the need for this judge, the Democratic-controlled Congress nevertheless chose not to act. Since that time, however, several years have passed and...
the Judicial Conference has published the results of at least two comprehensive studies of the over crowded docket conditions existing in the Federal system and its recommendations for additional district and circuit judges, and I am sure, the population of the States of Maryland. Those recommendations provided for the appointment of at least two additional judges to the district court bench and two additional judges to the bench of the Court of Appeals for the Fourth Circuit.

I have many times in the past publicly stated my views on the need for these additional judges and the need grows greater with each passing day. The present caseload of the two courts, according to the Judicial Conference's reports, is much higher than the national average. Those statistics reveal a phenomenal increase in civil cases filed since the end of World War II in Maryland's two districts. Between the 7-year period from 1946 through 1952, the average annual civil filings were 571.

In the succeeding 7-year period, from 1953 through 1959, they rose to an overall increase of 56 percent with no increase in judge power. The average number of civil cases commenced per judgeship in 1959 was twice the national average of 215.

The situation is also critical with respect to the criminal caseload which in 1959 was more than 60 percent above the national average of 108 per judgeship. Nevertheless, the median time for disposing of cases in the district of Maryland—10.4 months in 1959—was consistently below the national median—15.3 months in 1959.

An analysis of the court records of the fourth circuit will reveal that the need for the additional two judges recommended for that court is equally great. The nationwide need for additional Federal judges has been repeatedly urged by the Advisory Committee on the Federal Judiciary. Those recommendations provided for the appointment of additional circuit judges for the Fourth Circuit Court of Appeals, introduced by Mr. Butler, was received, read twice by its title, and referred to the Committee on the Judiciary.

**LEGISLATIVE PROPOSALS FOR CHANGES IN THE PRESIDENTIAL ELECTORAL COLLEGE**

Mr. MANSFIELD. Mr. President, for the appointment of additional circuit judges for the Fourth Circuit Court of Appeals, introduced by Mr. Butler, was received, read twice by its title, and referred to the Committee on the Judiciary.

Today, the inadequacy remains; the antiquity remains; the inequity remains. But I wonder, Mr. President, how much of the public indignation remains. It is a long time now from November to January and, somehow, we have once again muddled through a presidential election which has come about by accident rather than design, reasonably to reflect the views of the voters in the selection of the President and the Vice President of the United States.

The flaws in the electoral system are still there; but is the will to do something about them still there? As the Senate well knows, neither every major election which, in one manner or another, highlights the outrageous weaknesses in the system, there is a clamor for change. The attempt to improve the system has been made before, many times. Rarely have the attempts met with success and many times they have failed. These failures, notwithstanding, it seems to me that the attempt must be made again and again so long as the flaws remain. The attempt must be made and, someday, it must succeed if we are to insure the continued vitality of the basic political machinery of the Nation.

It has some great catastrophes in other areas of our social life to end inertia and to produce significant changes in practices, as, for example, in fire prevention, in banking, and in many other matters. I hope that it will not require anything so drastic to produce significant changes in the basic but outmoded instrumentalities of our political freedom—that for selecting the President of the United States so as to encourage the best possible choice as well as the continued responsiveness of the office to the people of the Nation.

During the last political campaign I announced that I would present for the consideration of the Committee certain measures for dealing with what appeared to me to be significant flaws in the Presidential electoral system. That is what I shall do, today. Explanatory remarks have been completed.

The significant flaws, as I see them, the flaws requiring priority consideration, are these:

First. The out-date electoral college, which has, in the past, not been regularly used successfully, and I am sure, not the last word on any of these problems. They represent one Senator's thinking—aided in its legal expression by the experts of the Library of Congress and the staff of the Senate Committee.

Today I wish to introduce three legislative measures which are designed at least to begin to cope with these five categories of flaws. They are not the first legislative word, and I am sure, not the last word on any of these problems. They represent one Senator's thinking—aided in its legal expression by the experts of the Library of Congress and the staff of the Senate Committee.

The proposed amendment calls, simply, for the election of the President of the United States by direct popular vote. It would give to every vote—wherever it may be cast in the Nation—an equal value with all others cast. It would write into the Constitution the principle that one American voter equals one vote—no more, no less, in the selection of the President and Vice President of the Nation.

This approach is not new. Mr. President. It has been tried time and again in the history of the Republic. In recent years, the distinguished majority whip, the able Senator from Minnesota [Mr. HUMPHREY] and other Members of this body have fought well but without success to bring about this change.

It remains to be seen whether a renewal of the effort at this time will meet with success. With all results, I am not sanguine in my expectations. The issue is not simple and even if it were, constitutional changes are not easily or quickly made, nor should they be. Nevertheless, it seems to me most desirable that we test periodically in the Congress these propositions: First, we have reached that point in our continuing constitutional evolution in which Americans should express their unity as a people, beyond State divisions, by selecting their President of the United States; and second, we have reached, as a people, that point of political enlightenment and maturity at which Americans are competent to fill the Presidential office by direct vote, without the faceless intermediaries of the electoral college.

Mr. President, it is my experience with fellow Americans, not only in Montana but throughout the Nation, leads me to subscribe to both propositions. It is for that reason that I will introduce this proposed...
amendment. It is for that reason that I have considered but rejected alternative proposals for changes which would, in essence, seek to do precisely that—rather than abolish the electoral college system. No matter how it may be changed, so long as the institution remains, I cannot see how the principle of one American voter—one vote in the selection of the President. All significant measures short of this, so far as I can see, can act only as a rectifying device, as efforts to shift advantages as between large States and small States, between rural areas and urban areas. I, for one, can see no real national purpose in exchanging the inequities which exist in the present system for the unknown inequities which various halfway measures may substitute for them.

To the only significant argument which still serves to underwrite the electoral college system, that is, that it is a part of the Federal system and as such must be preserved, I can only reply that, in principle, the Federal system has functioned through an antiquated device which has not worked as it was intended to work when it was included in the Constitution and which, if anything, has become a divisive force in the Federal system by pitting groups of States against groups of States. As I see the Federal system in contemporary practice, the House of Representatives is the key to the protection of district interests as district interests, just as the Senate is the key to the protection of State interests as State interests. These instrumentality, and particularly the Senate, as the great bulwark beyond districts, beyond States, for safeguarding the interests of all the people in all the States. And since such is the case, in my opinion, the Presidency should be subject to the direct and equal control of all the people. That is what this proposed constitutional amendment would do, if it is properly worded, not to the State legislatures for ratification, as has been done for the Constitution and as was done in the case of the repeal of the 18th amendment, to the direct and specific consideration of amending conventions by the people in the States solely for that purpose.

The amendment, as now proposed, will do one thing more. It will speed the day for the assumption of office by a President-elect from January 20 to the December 1 prior. In short, this provision will reduce the lame-duck presidency by several weeks and thereby cut the dangerous drift in national leadership during periods of administrative change. At the same time I am authorizing the people, and the new President a greater opportunity to shape his program more effectively and thus permit the people more time to gain control over the continuing processes of the executive branch before the meeting of the new Congress.

Let me turn next, Mr. President, to the first of two bills which I shall also introduce today along with the proposed amendment, Mr. President. The President's duty is aimed, simultaneously, at two flaws in the present electoral system—the cost of campaigns and their brutal and brutalizing tendency to miss an electorate. Members of this body that the costs of political campaigns—particularly presidential campaigns—has reached enormous levels. If all the expenditures from all sources are totaled, the cost runs into tens of millions of dollars—no one really knows exactly how much. Money is clearly a factor in all campaigns, and in close campaigns, it may be the decisive factor.

I do not think that it serves the interests of the entire Nation when elections can be influenced significantly or even decided by the question of which candidate can raise the most money. I do not think it serves the national interests when the expenses for those who campaign to serve all the people must be necessarily based on the number of people in the groups of which they are the spokesmen and organizations which make large contributions directly or indirectly. I do not think it adds to the dignity and vitality of the national political life when any one other major source of political finance is the patently unsatisfactory practice of selling $2 steaks at $100-a-plate dinners. I do not think it serves the national interest when political campaigns which begin as instruments of public enlightenment end in a crescendo of weary repetition and name calling as the length of the campaign exhausts the candidates and forces of hate and malice against one as the cry to join in a final chorus of distortion and defamation at the close of the campaign.

Let me say, Mr. President, that I do not criticize the loyal adherents of any party in these comments. They work hard for their candidates. They raise money as best they can because money is essential in political campaigns. They do the best that they can in the current system of broadcasting, but as also provided for in the Constitution, to the direct and specific consideration of the amendment at the close of the campaign.

The bill that I am about to introduce, Mr. President, seeks to isolate a principal cost of modern presidential campaigns which have become the most important single devices of public discussion of the issues. It would have the Nation understand the standards by which the cost of such broadcasting for each party. This would pay for roughly a total of less than 10 hours of a full day on radio and TV. It would do this, however, only if the parties held their nominating conventions for President and Vice President after September 1. In other words, Mr. President, the people would cover with public funds a part of the cost of a presidential campaign but only if the parties in turn agree to shorten their campaigns which, in effect, they would do if they held off their nominating until after September 1.

Finally, as I noted, the bill would also act to simplify and to make more equitable the conditions of nomination of candidates in the party conventions, to be eligible for the financial aid provided under the measure, a party's convention would not need to be called after September 1 but votes at the convention would have to be allotted on the same basis as congressional representation, and no fractional vote would be permitted. Convention delegates, thus, would have to be chosen in rough proportion to population. Conventions would consist uniformly of about 600 delegates rather than the many more who now participate, and we would see an end to that curious convention phenomenon whereby some delegates are worth half a body while others are whole and full of value.

I turn now to the second of the two bills which I shall introduce today. This bill is concerned with the question of the use of the direct primary as a device for the nomination of presidential candidates. Let me say at the outset that in preparing this bill, I have drawn heavily on the original work of the distinguished Senator from Illinois [Mr. Douglas], the author from Wisconsin [Mr. Proxmire], and our late and dedicated colleague from Oregon [Mr. Neuberger].

I considered for a long time the possibility of a direct primary as a device to encourage the people to have a voice in their political leadership, and the constitutional reasons as well as those of practicality. I have now come to the conclusion that something along the lines of the approach of the Senator from Illinois [Mr. Douglas], which would not require a constitutional amendment, would be most practical at this point. What is proposed, then, is a modification and elaboration of a bill presented by him in the 82nd Congress. It would give the Federal government at a set rate to help them finance the conduct of preferential primaries for nominees for the Presidency. In short, it is an effort to encourage States to use this device so that if the conventions do meet they will have before them a far more extensive grasp of popular sentiment as expressed in preferential primaries, rather than is now the case, a sentiment which they would ignore at their peril. In short, the bill is designed to help bring
the nominating processes out from behind the closed doors and to encourage wider popular participation in them. This, in effect, grants the candidates, which were raised against the original Douglas legislation, and it goes further which were raised against the original study of the problem and with a full awareness that changes in the basic political machinery of the Nation ought never to be lightly undertaken. I introduce them with the expectation that they will be carefully considered by the appropriate committees along with other motions on this subject.

By the same token, I introduce them in the belief that action to modernize the electoral machinery for the Presidency and to introduce a measure of greater dignity and public participation in the political campaigns is long overdue. I introduce them in the belief that in due time the closed doors and to encourage serious candidates for the nomination for President and Vice President, and providing for election of candidates for President and Vice President, by popular vote.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States.

"ARTICLE --

"Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during a term of four years, and, together with the Vice President, shall be elected by votes cast by the people of the several States. No person constitutionally ineligible for the office of President shall be eligible for that of Vice President of the United States.

"The Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year in which the regular term of the President and Vice President shall expire, unless the Congress shall otherwise determine, by law, the time of such election; and the Congress may at any time by law make or alter such regulations. The candidates for the offices of President and Vice President shall be selected in such manner as the Congress shall by law provide. The names of the candidates so selected shall be printed upon the ballot in each State, and shall so appear thereon that a single vote shall be cast by each voter for the candidate of a political party for the office of President and the candidate of the same party for the office of the Vice President.

"Sec. 2. Within two weeks after such election, the chief executive of each State shall make distinct lists showing the number of votes cast in such State for the candidates of each party for the offices of President and Vice President, which lists shall be signed, certified, and transmitted under the seal of the State to the seat of the Government of the United States directed to the President of the Senate. On the second Monday following such election the President of the Senate shall open all certificates in the presence of the Speaker of Representatives and the Chief Justice of the United States, and the votes shall then be counted. The candidates of a political party for the offices of President and Vice President having the greatest number of votes cast for each shall be declared elected President and Vice President, respectively. If the candidates of two or more political parties have an equal number of votes for President and Vice President, and the candidates shall be deemed elected who shall have received the greatest number of votes for each of the different states. The Congress may by law provide for the case wherein one or more of the persons referred to in the first sentence of this paragraph are unable to be present on the day fixed for the opening of the certificates, declaring who shall act in their places.

"Sec. 3. The terms of the President and Vice President shall end at noon on the first day of December in the fourth year of their term; and the terms of their successors shall then begin.

"Sec. 4. The first, second, third, and fourth paragraphs of section 1, article II, of the Constitution, the twelfth article of the amendment to the Constitution, that part of section 1 of the twentieth article of amendment to the Constitution which refers to the terms of the President and Vice President, and section 4 of the twentieth article of amendment to the Constitution are hereby repealed.

"Sec. 5. This article shall take effect on the first day of June following its ratification.

"Sec. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions of two-thirds of the several States within seven years from the date of its submission to the States by Congress."

To the Committee on the Judiciary:

S. 227. A bill to provide for the reimbursement of political parties for their radio and television expenditures in Presidential election campaigns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of reimbursing political parties for their expenditures for radio and television broadcast time in aid or support of the election campaign of their candidates for President and Vice President, the Secretary of the Treasury shall pay, with respect to each Presidential election, from the sums appropriated pursuant to section 1 of this Act and for the purpose of reimbursing such political parties for such expenditures, (a) a sum not to exceed $1,000,000 to each political party whose candidates for President and Vice President received more than 1 per centum or more of the total popular vote in such election; and (b) a sum not to exceed $100,000 to each political party whose candidates for President and Vice President received more than 1 per centum but less than 10 per centum of the total popular vote in such election.

Sec. 2. Within two weeks after the election, the chief executive of each State shall make distinct lists showing the number of votes cast in such State for the candidates of each party for the offices of President and Vice President, which lists shall be signed, certified, and transmitted under the seal of the State to the seat of the Government of the United States directed to the President of the Senate.

"On the second Monday following such election the President of the Senate shall open all certificates in the presence of the Speaker of the House of Representatives and the Chief Justice of the United States, and the votes shall then be counted. The candidates of a political party for the offices of President and Vice President having the greatest number of votes cast for each shall be declared elected President and Vice President, respectively. If the candidates of two or more political parties have an equal number of votes for President and Vice President, and the candidates shall be deemed elected who shall have received the greatest number of votes for each of the different states. The Congress may by law provide for the case wherein one or more of the persons referred to in the first sentence of this paragraph are unable to be present on the day fixed for the opening of the certificates, declaring who shall act in their places.

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"Sec. 5. This article shall take effect on the first day of June following its ratification.

"Sec. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions of two-thirds of the several States within seven years from the date of its submission to the States by Congress."
States did not exceed six, and (iii) fraction voting was not permitted.

3. Sec. 3. In any case in which the candidates of any political party for President and Vice President, or any two political parties of one or more other political parties, reimbursed under this Act shall be made only to such political parties who received the greatest number of popular votes.

4. Sec. 4. This Act shall apply to the presidential election to be held in 1964 and to each such election thereafter.

5. Sec. 5. The Board is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

6. Sec. 6. A bill to establish a Federal Presidential Election Board to conduct preference primaries in connection with the nomination of candidates for President.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) in order to encourage the use of preferential primaries for the purpose of suggesting nominees for President to the major political parties, there is hereby established the Federal Presidential Election Board (hereinafter referred to as the “Board”) which shall consist of the following members:

1. Two members to be appointed by the President of the United States;
2. Two members to be appointed by the Speaker of the House of Representatives;
3. Two members to be appointed by the President of the United States from each political party which polled more than 10 per centum of the total popular vote in the next preceding presidential election, such appointment to be made from among names submitted by the national committees of such parties;
4. One member to be appointed by the President from each political party which polled more than five but not more than ten per centum of the total popular vote in the next preceding presidential election, such appointment to be made from among names submitted by the national committees of such parties;
5. One member to be appointed by the President from each political party which polled not more than five but not more than one-half centum of the total popular vote in the next preceding presidential election, such appointment to be made from among names submitted by the national committees of such parties;
6. Members of the Board shall be appointed for terms of four years beginning on March 4th of the year following a presidential election except that (1) any member appointed to fill a vacancy prior to the expiration of four years for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the President may offer to the persons first appointed after the enactment of this Act shall commence on the day after the close of the regular annual appointments and shall end on February 28, 1968.

Vacancies shall be filled promptly by appointment in the same manner as provided in subsection (a) of this section. After the appointment of the first members of the Board, and at the beginning of each four-year term thereafter, the Chief Justice of the United States shall designate one of the members of the Board to call a meeting of the Board at which the first order of business shall be the election of a chairman and vice chairman.

Sec. 4. Sec. 4. The Board is hereby authorized to enter into agreements with the several States, through their appropriate officials of the several States, for the preferential primary of such State, for suggesting nominees for President to each political party which polled 10 per centum or more of the total popular vote in the next preceding presidential election.

(b) The Board is hereby authorized to conduct preferential primaries in other areas under the jurisdiction of the Government of the United States, either independently or in conjunction with local officials.

Sec. 5. Sec. 5. Each member of the Board shall receive the sum of $25,000 per year or part thereof spent in the performance of his official duties. The Board shall appoint and fix the salary of compensations of such other employees as it may from time to time find necessary for the proper performance of its duties. All of the expenses of the Board, including all necessary travel and subsistence expenses incurred by the members or employees of the Board in the discharge of its duties, shall be paid out of appropriations therefor, and there is hereby authorized to be appropriated to the Board for each presidential election year not to exceed the sum of $10 million to carry out the purposes of this act.

Mr. KEATING subsequently said: Mr. President, with the approval of the Senator from Montana (Mr. Mansfield), the able majority leader, I ask unanimous consent that my name may be added as a co-sponsor of the joint resolution (S.J. Res. 23) proposing an amendment to the Constitution of the United States relating to term of Office of President and Vice President in the section 3 of that amendment which provides for the nomination of candidates for President and Vice President by popular vote, introduced by him earlier today.

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

LIMITING THE TRAVEL OF COMMUNISTS

Mr. WILEY. Mr. President, I introduce, for appropriate reference, a bill, sponsored by myself and by the Senator from Utah [Mr. BENTEN], which would give to the Secretary of State the power to withhold passports from persons who seek to travel abroad to further the international Communist conspiracy.

I have noticed with considerable concern recent statements by the Director of Central Intelligence that the Communist Party of this country is devoting a great deal of its energies to the spreading abroad of its ideas, and others that the Communist Party is revitalizing its internal structure; that the party apparatus is being strengthened; that recruiting campaigns are underway.

We have known for some time that a major objective of the Communist Party is to make an effort to reverse the trend of our security system. Recently, the party has been particularly active in its assault on the State Department’s passport program.

On June 16, 1958, the Supreme Court held by a 5-to-4 opinion in the Kent-Briehl and Dayton cases that the Secretary of State did not have authority to deny passports even when he had evidence that the persons concerned were going abroad knowingly and willfully to advance the Communist movement. I propose to give the Secretary of State the statutory authority the Supreme Court found lacking.

I believe it is absolutely essential that the Congress enact legislation authorizing the Secretary of State to deny passports to active proponents of the Communist conspiracy. The right to travel abroad is a privilege of every American and not a right. Therefore, I propose to authorize the Secretary of State to determine that ‘freedom to travel’ is compromised in any real sense by legislation necessary for our national safety, any more than the right to drive a car down Main Street is violated by a regulation keeping from behind the wheel the blind or the insane. The bill I am introducing seeks to strike a balance between the rights of the individual and the requirements of our national safety necessary for the protection of the public interest.

I believe I am introducing today is identical with S. 2315 which I introduced in the first session of the 86th Congress. Unfortunately, no action was taken on that bill. I feel it is very important that we act on this matter very soon.

This bill should not be misunderstood as one seeking to reverse any holding of the U.S. Supreme Court. It merely seeks to give the statutory authority the Court found lacking.

Representatives of the Department of State have testified before committees of this body, and have stated in public pro-
announcements that the Communists have been quick to take advantage of this trend. Some American agents are flocking to the State Department to get their passports while the getting is good. There is no longer any deterrent whatsoever to the activities of Communist agents and couriers to whatever country their subversion might be most effective in dismembering the free world.

Congress is charged with the responsibility of carrying out the international Communist conspiracy. We do not allow Communist couriers to enter this country. Why, then, should we allow homegrown Communist couriers to leave it and travel freely abroad? We must give the Government the power so it does not remain helpless to prevent American Communists, including national leaders and officials of the Communist Party of America, from going abroad to conspire against the very Government which must facilitate their travel.

I request unanimous consent that the bill be referred to the Senate Committee on Foreign Relations, the Committee on the Judiciary, and or­dered to be printed, for the purpose of carrying out the powers of the committee.

Mr. President, I ask unanimous consent that the bill be printed at this point of the record.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Foreign Relations, and ordered to be printed, as follows:

Be it enacted by the Senate and House of Representa­tives of the United States of America in Congress assembled, in Title I—Denial of Passports to Supporters of the International Communist Movement.

SECTION 1. The Congress finds that the international Communist movement, of which the Communist Party of the United States of America is an integral part, seeks everywhere to thwart United States policy, to influence foreign govern­ments and people against the United States, and by every means possible to weaken the United States and ultimately to bring it under Communist domination; that the activities of the international Communist movement constitute a clear and continuing danger to the security of the United States, and seriously impair the con­duct of the foreign relations of the United States; and that the travel by couriers and agents of the United States is essential to the proper enforcement of the provisions of this Act.

The SEC. of State is authorized to issue passports to persons who are not found in violation of the provisions of this Act, and to the conduct of foreign relations of the United States and therefore passports should not be issued to or held by such persons.

SEC. 2. (a) In accordance with the findings in section 1, the Secretary of State is authorized to deny a passport, or to revoke a passport already issued, to any person to whom it is determined, on the basis of the evidence submitted to the Secretary, that he is subject to the provisions of this Act. The Secretary may request additional information and may order any witness to appear before him and to give evidence, and may issue an order for the production of evidence.

(b) The Secretary shall consider as evidence of activities in furtherance of the purpose of section 2 (b) of title I on the basis of which the passport is denied or revoked.

(1) present membership in the Communist Party or for membership in the international Communist movement, and (2) activities under circumstances which reasonably warrant the conclusion that the person in question is subject to the provisions of this Act.

(2) A statement that the person is going or planning to go abroad for the purpose of furthering the activities of the Communist movement, and (3) facts and circumstances which reasonably warrant the conclusion that the person in question is subject to the provisions of this Act.

(3) A statement that the person is going or planning to go abroad for the purpose of furthering the activities of the Communist movement, and (4) facts and circumstances which reasonably warrant the conclusion that the person in question is subject to the provisions of this Act.

(4) A statement that the person is going or planning to go abroad for the purpose of furthering the activities of the Communist movement, and (5) facts and circumstances which reasonably warrant the conclusion that the person in question is subject to the provisions of this Act.

(5) A statement that the person is going or planning to go abroad for the purpose of furthering the activities of the Communist movement, and (6) facts and circumstances which reasonably warrant the conclusion that the person in question is subject to the provisions of this Act.

SECTION 2. The Secretary of State, and, in his absence or incapacity, the Acting Secretary of State, shall have authority to deny or revoke passports to any person by virtue of the provisions of section 2 (b) of title I on the basis of which the passport is denied or revoked.

SEC. 3. The Secretary of State shall have authority to deny or revoke passports to any person by virtue of the provisions of section 2 (b) of title I on the basis of which the passport is denied or revoked.

SEC. 4. The provisions of this title shall continue in effect until the termination of the national emergency established by Presidential Proclamation Numbered 1964, December 16, 1963 (64 Stat. A 454).

Title II—Procedure for Passport Denial and Review.

SEC. 5. Upon application therefor, duly completed, and upon compliance with any requirement under the provisions of section 3 of title I of this Act, a passport shall be issued by the Department of State.

SEC. 6. Prior to completion of any proceedings under section 212 of title 22 of the United States Code (32 Stat. 336), or the applicant shall be informed in writing of a denial thereof, within ninety days after the receipt of such application. If a passport is denied, revoked, or restricted for any reason other than noncitizenship or geographic restrictions of general applicability, the passport applicant or holder shall be informed in writing of the reason, as specifically as is consistent with considerations of national security and foreign relations, and of the right of the person to appear before the Passport Hearing Board in accordance with subsection (a) of this title. Notice of the denial of a passport shall be given by the Department of State.

SEC. 7. There shall be established within the Department of State a Passport Hearing Board consisting of three officers of the Department to be designated by the Secretary of State.

The Board shall have jurisdiction in all cases wherein a hearing is requested in writing within thirty days after notification of the denial of a passport, or any reason other than noncitizenship or geographic restrictions of general applicability, or within thirty days after issuance of a second passport to the same person and to be furnished to the Board under seal.

The Board shall hold a hearing within ninety days after the receipt of the request unless such time limit is extended at the request of the party. The order granting to the Department of State the power to deny passports shall not otherwise participate in the deliberations or recommendations of the Board.

SEC. 8. The Secretary shall establish and promulgate public rules which shall accord to the individual in proceedings before the Board the following rights:

(a) To be present in person and to be represented by counsel.

(b) To testify in his own behalf, present witnesses, and offer other evidence.

(c) To cross-examine witnesses appearing against him at any hearing at which he or his counsel is present and to examine all other evidence which is made part of the open record.

(d) To examine a copy of the transcript of the open proceedings or to be furnished a copy upon request.

(e) In order to protect information, sources of information, and investigative methods, disclosure of which would have a substantially adverse effect upon the national security or the conduct of foreign relations, the Board may at any time consider oral or documentary evidence without making the information, sources, or methods the subject of such consideration. Prior to completion of its proceedings, the Board shall furnish to the individual a description of any evidence that has been obtained which has not been advised in full or in detail or to attack the credibility of sources which have not been disclosed.

SEC. 9. The United States District Court for the District of Columbia shall have jurisdic­tion to review any final determination of the Secretary of State under section 8 of this Act to determine whether there has been compliance with the provisions of this Act and of any regulations issued thereunder. In any such proceedings the court shall have power to determine whether any findings which are stated to be based upon the open record were taken into consideration in making the findings and conclusions, and upon any objections submitted by the individual. In appropriate cases the Secretary may be ordered to appear before the Board for further proceedings. The Board shall make public rules which shall accord such procedures as it deems necessary to enable the individual to participate in the Board's deliberations and recommendations of the Board.

Title III— Regulations.

SEC. 11. The Secretary of State is author­ized to promulgate regulations to carry out the provisions of this Act.