

March 17, 1975

CONGRESSIONAL RECORD — SENATE

S 4091

possible. The inclusion of any of those provisions in this Subsection should not imply that these provisions are in conflict with the Constitution of the United States.

Section 502. The interim formula stated in this Section is not intended to be the exclusive method by which laws of the United States are or can be made applicable to the Northern Mariana Islands. The Congress of the United States will have power subject to Section 106 to alter the manner and extent to which laws covered by the formula apply to the Northern Mariana Islands, to make laws not covered by the formula applicable or to make laws covered by the formula inapplicable. The formula does not make the Northern Mariana Islands into a territory or possession of the United States prior to termination. In many instances, however, the Northern Mariana Islands will be treated as if it were a territory or possession of the United States prior to termination, for many laws applicable to Guam because it is a territory or possession will become applicable to the Northern Mariana Islands.

The phrase "applicable to Guam" or "applicable to the Trust Territory of the Pacific Islands" in this Section is to mean "applicable within" as well as "with respect to" the geographic areas mentioned or the people who reside in or who are citizens of those geographic areas.

The term "the federal banking laws" in Subsection (a) has particular reference to Sections 13, 25 and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 466, and 601-632, respectively) and Section 5191 of the Revised Statutes (12 U.S.C. 143). The reference to the Micronesian Claims Act in Subsection (a) is not intended to preclude the Northern Mariana Islands from seeking such amendments to the Act, or increased appropriations for its implementation, as appear appropriate or desirable.

Subsection 503(a). It is understood that the laws of the Trust Territory of the Pacific Islands, as modified by the Government of the Northern Mariana Islands pursuant to its authority, which relate to the subjects addressed in this Subsection, will continue to be effective after termination of the Trusteeship Agreement, except to the extent that they are modified by federal law after termination or by the Government of the Northern Mariana Islands.

Section 504. The provision that the United States will bear the cost for the work of the Commission does not mean that the United States will pay the salary of the four Commissioners who are domiciled in the Northern Mariana Islands.

Section 506. To the extent that the United States law does not apply, the Northern Mariana Islands has the power over immigration into its territory. An immediate relative of a United States citizen residing in the Northern Mariana Islands may gain admission to the Northern Mariana Islands in accordance with local law without claiming at that time entitlement to immediate relative status under the United States Immigration and Nationality Act.

Section 801. The revenue provisions of the Covenant are not designed to render the Federal Unemployment Tax and the benefits derived therefrom applicable to the Northern Mariana Islands.

Subsection 603(b). The parties believe that the treatment provided for in this Subsection is consistent with the obligations of the United States under the General Agreement on Tariffs and Trade. However, this Subsection is not intended to conflict with United States international obligations and does not require that the United States take any action which would be inconsistent with such obligations. Should such a conflict arise, the United States will seek appropriate waiv-

ers or modifications of its international obligations.

Subsection 603(d). The term "a developing territory" as used in this Subsection is intended to refer to the June 25, 1971 General Agreement on Tariffs and Trade waiver regarding preferential tariff treatment of goods from developing countries and territories and to other similar benefits which may be available to the Northern Mariana Islands.

Section 702. It was not considered necessary to include this Section among the provisions listed in Section 105 which may be modified only by mutual consent. The reason for this omission is that, while Section 702 constitutes a commitment on the part of the United States Government, it is of a transitional nature extending for seven years following the establishment of the new Government. In addition, a failure to appropriate funds as required by that Section would constitute a dispute under Article IX which could be submitted to the courts pursuant to the provisions of that Article.

Subsection 704(c). The reference in this Subsection and in Subsection 803(e) to a United States Department of Commerce composite price index is intended to refer to the United States Gross National Product Implicit Price Deflator.

Section 803. It is understood that the Government of the Northern Mariana Islands may exercise its obligations and rights under this Article through a legal entity established to receive and hold public lands in trust for the people of the Northern Mariana Islands.

Section 805. The parties intend that it will be the responsibility of the Government of the Northern Mariana Islands to implement the provisions of this Section. In particular, the parties understand that the Constitution or laws of the Northern Mariana Islands will define the operative terms in this Section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent".

Subsection 805(a). The use of any property or interest acquired by the United States pursuant to this Subsection will not be limited to the public purposes for which it was originally obtained.

Section 901. This Section is not intended to preclude the Government of the Northern Mariana Islands from requesting the Congress of the United States to confer non-voting delegate status on the Resident Representative provided for in this Section.

Subsection 904(c). The parties note that this Subsection is not intended to preclude the Government of the Northern Mariana Islands from discussing matters of mutual concern with other Pacific island communities.

Section 1001. In accordance with the request of the Marianas District Legislature, the United States intends to administer the Mariana Islands District separately from the remainder of the Trust Territory following approval of the Covenant by the people of the Northern Mariana Islands. In establishing other qualifications for voting in the plebiscite the United States will consult with representatives of the Marianas District Legislature and other local leaders.

Section 1002. The parties note that the United States has stated that it is now planning on a provisional basis to terminate the Trusteeship for all the districts by 1981.

Mr. JOHNSTON. Mr. President, this measure does not imply in any manner approval of that covenant, but simply offers a facile way, an orderly way, to get the transition funded should Congress approve it after the people of the Marianas approve it. That is all that is

involved in this amendment, and I urge the Senate to approve it.

UNANIMOUS-CONSENT AGREEMENT—ORDER OF VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the votes occur in the following manner and in the following: The vote on S. 1172 is already scheduled to be the first vote, and to be followed by the vote on House concurrent resolution 133 as amended.

I ask unanimous consent that the votes then occur as follows: The vote on the committee amendment to S. 326, and that the disposition of that measure then immediately follow; to be followed by the vote on the Proxmire amendment to H.R. 3260.

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

Mr. ROBERT C. BYRD. Mr. President, can we begin voting now?

TEN-YEAR TERM FOR THE APPOINTMENT OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

The PRESIDING OFFICER (Mr. GARN). The Chair lays before the Senate S. 1172. The bill will be stated by title.

The Assistant legislative clerk read as follows:

Calendar No. 35. S. 1172, a bill to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a 10-year term for the appointment of the Director of the Federal Bureau of Investigation.

The Senate proceeded to consider the bill.

A 10-YEAR TERM FOR THE FBI DIRECTOR

Mr. ROBERT C. BYRD. Mr. President, the bill now before the Senate would limit the tenure of the Director of the Federal Bureau of Investigation to a single 10-year term. I originally introduced the legislation in the 93d Congress, and, after hearings by the Senate Judiciary Committee, it was approved by the Senate on October 7, 1974, by a vote of 70 to 0.

Unfortunately, the House of Representatives did not have time to act on the measure before Congress adjourned.

This bill would aid in insulating the FBI Director against politically motivated manipulation from the executive branch by giving the office a tenure of 10 years; and, at the same time, it would minimize the dangers of autocratic control of the Bureau by a Director who had built up a concentration of power over a long period of time by placing a limitation on the amount of years that one man could serve as Director of the FBI.

Until 1968, the Director of the Federal Bureau of Investigation was an appointee of the Attorney General. In 1968, the Congress passed Public Law 90-351, title VI, section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968, which amended title 28, United States Code, section 532, making the Director of the Federal Bureau of Investi-

ation a Presidential appointment subject to advice and consent of the Senate.

There was no provision in the 1968 statute as to the duration of the appointment of the FBI Director. It became apparent during the confirmation hearings on L. Patrick Gray to be FBI Director that if high executive branch officials could attempt to misuse the FBI by means of unjustified requests to an Acting Director who wished to be nominated as permanent Director, then the same tactics could be applied to an incumbent FBI Director who had no protection of a fixed term for his position. Under the provisions of my bill, there is no limitation on the constitutional power of the President to remove the FBI Director from office within the 10-year term. The Director would be subject to dismissal by the President, as are all purely executive officers.

However, the setting of a 10-year term of office by the Congress would, as a practical matter, preclude—or at least, inhibit—a President from arbitrarily dismissing an FBI Director for political reasons, since a successor would have to be confirmed by the Senate.

This bill will aid in minimizing the danger of political manipulation of the Bureau and, at the same time, lessen the long-range danger of an individual's becoming a law unto himself by retention of the directorship over a long period of time. The lessons of recent years have been many, one of which was that safeguards within the system of checks and balances must be protected. Where there are no safeguards, they must be erected.

Mr. President, the merits of this bill are, I believe, obvious as is the need for this legislation. I hope the Senate will again pass the bill, and that the House, too, will act affirmatively during this Congress.

Mr. HRUSKA. I thank the Senator for the courtesy and the patience of engaging in this colloquy. I feel the recital of reasons on the part of this Senator might serve some purpose, either in consideration of this bill in the other body, or perhaps in conference if the bills are dissimilar enough to require a conference.

Mr. President, I favor this instant bill and its provision for a fixed term of office for the Director of the Federal Bureau of Investigation.

Establishing a fixed period of time for the service of the Director will lend stability to that office and assure a degree of continuity to that superb organization. This legislation may also lessen the concern of some who fear that appointment of individuals for an unspecified time may be done for political purposes. The 10-year duration of office will provide the Director the opportunity to devise and implement policies of a long-range nature. It will lessen any potential for buildup of any political pressure as well as incentives for same.

However, the record should be made clear that the stability which we are attempting with this legislation will not interfere with the Presidential power of removal. This bill does not attempt to curtail this constitutional power of the

Chief Executive. Should the President seek to remove a Director of the FBI, an executive officer, prior to the expiration of the 10-year term, he would be free to do so.

This Presidential constitutional removal power has been long recognized. In *Myers v. United States*, 272 U.S. 52 (1926), the Court addressing this question wrote:

If there is any point in which the separation of legislative and executive powers ought to be maintained with great caution, it is that which relates to officers and offices. . . . The vesting of executive power in the President was essentially a grant of the power to execute the laws. . . . As he is charged specifically to take care that they be faithfully executed, the reasonable implication, even in the absence of express words, was that as part of this executive power he should select those who were to act for him under his direction in the execution of the laws. The further implication must be in the absence of any express limitation respecting removals, that as his selection of administrative officers is essential to the execution of the laws by him, so must be his power of removing those for whom he cannot continue to be responsible.

This principle, enunciated in the *Myers* case, has been reaffirmed more recently in *Humphrey v. United States*, 295 U.S. 602 (1934) and *Wiener v. United States*, 357 U.S. 349 (1957).

Over all, the passage of the subject bill will result an improvement the present undeterminate tenure. The bill should be approved.

The PRESIDING OFFICER. The bill is open to amendment. If there be no 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 and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) and the Senator from Indiana (Mr. HARTKE) are absent on official business.

I also announce that the Senator from South Dakota (Mr. ABOUREZK) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator

from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 85 nays 0, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—85

Allen	Gravel	Muskie
Baker	Griffin	Nelson
Bartlett	Hansen	Nunn
Beall	Hart, Gary W.	Packwood
Bellmon	Haskell	Pastore
Bentsen	Hatfield	Pearson
Biden	Hathaway	Pell
Brock	Helms	Percy
Brooke	Hruska	Proxmire
Bumpers	Huddleston	Randolph
Burdick	Humphrey	Ribicoff
Byrd,	Inouye	Roth
Harry F., Jr.	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Johnston	Scott,
Case	Kennedy	William L.
Chiles	Laxalt	Sparkman
Clark	Leahy	Stafford
Cranston	Magnuson	Stennis
Culver	Mathias	Stevenson
Curtis	McClellan	Stone
Dole	McClure	Symington
Domenici	McGee	Talmadge
Fannin	McGovern	Thurmond
Fong	McIntyre	Tower
Ford	Metcalfe	Tunney
Garn	Montoya	Weicker
Glenn	Morgan	Williams
Goldwater	Moss	Young

NAYS—0

NOT VOTING—14

Abourezk	Eastland	Mansfield
Bayh	Hart, Philip A.	Mondale
Buckley	Hartke	Stevens
Church	Hollings	Taft
Eagleton	Long	

So the bill (S. 1172) was passed, as follows:

S. 1172

To amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a ten-year term for the appointment of the Director of the Federal Bureau of Investigation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new section:

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 8, United States Code, shall apply to any individual appointed under this section."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS subsequently said Mr. President, I missed the vote on S. 1172. I ask unanimous consent that the Record show that I would have voted for that bill. I was delayed in the office of the physician.

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