

## COMMUNICATIONS AND MESSAGES TO THE SENATE

*See also* "Amendments Between Houses," pp. 126-143; "Bills," pp. 225-250; "Business by Senate Delayed Until State of Union Message Submitted," pp. 1009-1010; "References to Committees," pp. 1150-1169; "Vetoes," pp. 1381-1389.

All communications and messages to the Senate, to whom ever they may be addressed (that is, to the Senate, the Vice President, the President pro tempore, or the Secretary of the Senate), finally reach the Vice President's Office, or the Office of the President pro tempore when there is no Vice President; and under the rules of the Senate, it is the responsibility of the Vice President or President pro tempore, to see that all such communications and messages are referred to the appropriate standing committee.

All messages from the House of Representatives, including bills and resolutions, and messages and communications from the President of the United States and the Administration, or any other Agency of the Federal Government, all memorials from State legislatures and territorial legislative bodies, and petitions from the public at large, are laid before the Senate under Rules VII and IX, and are appropriately referred. Likewise, any petitions and memorials addressed to individual Senators which are presented to the Senate are referred to the appropriate standing committee, if the Senator desires to have them so referred.

Under Rule VII, after the Journal is read, the Presiding Officer "shall lay before the Senate messages from the President, reports and communications from the heads of Departments, and other communications addressed to the Senate, and such bills, joint resolutions, and other messages from the House of Representatives as may remain upon his table from any previous day's session undisposed of."

Under Rule IX, "Messages from the President of the United States or from the House of Representatives may be received at any stage of proceedings, except while the Senate is voting or ascertaining the presence of a quorum, or while the Journal is being read, or while a question of order or a motion to adjourn is pending."

Under Rule VII, "The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate, any bill or other matter sent to the Senate by the President or the House of Representatives," and any question pending at that time shall be suspended.

Thus, all communications submitted to the Senate (bills and resolutions, communications from the President and the Administration, and all petitions and memorials) are received at the Desk at one time or another, and unless otherwise disposed of, are referred to the appropriate standing committee. Notations

of the nature of such communications and where referred are entered in the Journal, as well as in the *Congressional Record*, so that the Senators and public may know what disposition was made of them.

## Rule VII, Paragraphs 1, 3-6

### [Communications and Messages Laid Before Senate]

1. On each legislative day after the Journal is read, the Presiding Officer on demand of any Senator shall lay before the Senate messages from the President, reports and communications from the heads of Departments, and other communications addressed to the Senate, and such bills, joint resolutions, and other messages from the House of Representatives as may remain upon his table from any previous day's session undisposed of. The Presiding Officer on demand of any Senator shall then call for, in the following order:

The presentation of petitions and memorials.

Reports of committees.

The introduction of bills and joint resolutions.

The submission of other resolutions.

All of which shall be received and disposed of in such order, unless unanimous consent shall be otherwise given, with newly offered resolutions being called for before resolutions coming over from a previous legislative day are laid before the Senate.

3. The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate, any bill or other matter sent to the Senate by the President or the House of Representatives for appropriate action allowed under the rules and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

4. Petitions or memorials shall be referred, without debate, to the appropriate committee according to subject matter on the same basis as bills and resolutions, if signed by the petitioner or memorialist. A question of receiving or reference may be raised and determined without debate. But no petition or memorial or other paper signed by citizens or subjects of a foreign power shall be received, unless the same be transmitted to the Senate by the President.

5. Only a brief statement of the contents of petitions and memorials shall be printed in the *Congressional Record*; and no other portion of any petition or memorial shall be printed in the *Record* unless specifically so ordered by vote of the Senate, as provided for in paragraph 4 of rule XI, in which case the order shall be deemed to apply to the body of the petition or memorial only; and names attached to the petition or memorial shall not be printed unless specially ordered, except that petitions and memorials from the legislatures or conventions, lawfully called, of the respective States, Territories, and insular possessions shall be printed in full in the *Record* whenever presented.

6. Senators having petitions, memorials, bills, or resolutions to present after the morning hour may deliver them in the absence of objection to the Presiding Officer's desk, endorsing upon them their names, and with the approval of the Presiding Officer, they shall be

entered on the Journal with the names of the Senators presenting them and in the absence of objection shall be considered as having been read twice and referred to the appropriate committees, and a transcript of such entries shall be furnished to the official reporter of debates for publication in the Congressional Record, under the direction of the Secretary of the Senate.

## Rule IX

### [Receipt and Dispatch of Messages and Communications]

1. Messages from the President of the United States or from the House of Representatives may be received at any stage of proceedings, except while the Senate is voting or ascertaining the presence of a quorum, or while the Journal is being read, or while a question of order or a motion to adjourn is pending.

2. Messages shall be sent to the House of Representatives by the Secretary, who shall previously certify the determination of the Senate upon all bills, joint resolutions, and other resolutions which may be communicated to the House, or in which its concurrence may be requested; and the Secretary shall also certify and deliver to the President of the United States all resolutions and other communications which may be directed to him by the Senate.

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### Conference Committees:

In one case, memorials were referred directly to the Conference Committee. See "Conferences and Reports," "Memorials on Bill Referred to Conference Committee," p. 483.

### Confidential Communications:

The Chair has advised that Rule XXIX of the Standing Rules of the Senate (which deals with confidential communications and business) is applicable to an FBI report submitted to the Senate by the executive branch on a nomination for a cabinet position, and prohibits the disclosure by Senators of the contents of that report during consideration of that nomination.<sup>1</sup> However, references in Senate debate to confidential communications that have already been published in the public media, do not violate the provisions of the rule.<sup>2</sup> When a Senator in debate had made reference to the contents of such an FBI report, he shortly thereafter obtained unanimous consent

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<sup>1</sup> See Mar. 2, 1989, 101-1, *Record*, pp. S 1973-74.

<sup>2</sup> See Mar. 2, 1989, 101-1, *Record*, p. S 1975.

to expunge that portion of his remarks from the *Congressional Record*.<sup>3</sup>

The Chair in response to a series of parliamentary inquiries about the disclosure of information from a confidential FBI report submitted to the Senate, indicated the following: it would not be permissible to refer to the number of witnesses interviewed by the FBI in compiling the report; it would not be permissible to refer to the ratio of favorable to unfavorable witnesses contained in the report; names could not be cited from the report; witnesses could not be identified by characterizations other than their names (such as occupation, qualifications as a witness, date of interview, date of alleged occurrence); places could not be referred to; Senators could not read from notes made from the report; quotations of phrases or isolated words could not be made; reference could not be made to the number of anonymous phone calls or to anonymous letters; and reference could not be made to Senators or others interviewed by the FBI. In response to further inquiries, the Chair indicated that to the extent that a Senator could demonstrate that any of the foregoing information had already been made public, a Senator could make reference to it on the floor, but no Senator could reveal such information; a Senator could read an article containing such information, but could not assert or deny the accuracy of the report.<sup>4</sup>

#### **Debate of:**

See "Messages, Debate of," p. 758.

#### **Editorial Held Not To Be a Petition:**

An editorial appearing in a newspaper is not a petition within the meaning of the rule, and it is out of order to present the same as a petition to the Senate.<sup>5</sup>

#### **Executive Communications Presented in Executive Session:**

See also "Executive Business and Executive Sessions," pp. 832-842; "Nominations," pp. 938-953; "Treaties," pp. 1294-1310.

<sup>3</sup> See Mar. 2, 1989, 101-1, *Record*, pp. S 1973, 1977.

<sup>4</sup> See Mar. 3, 1989, 101-1, *Record*, pp. S 2136, 2140.

<sup>5</sup> Mar. 24, 1924, 68-1, *Record*, p. 4775.

Petitions relating to executive business should be introduced or presented in executive, and not legislative session,<sup>6</sup> and one relating to a pending treaty from which the Senate has removed the injunction of secrecy may be presented in open session.<sup>7</sup>

In 1890, the Senate decided that memorials remonstrating against the ratification of an extradition treaty between the United States and Russia should be presented in legislative session.<sup>8</sup>

For precedent of House message on a vetoed bill being laid before the Senate in executive session, see pp. 1382-1385.

#### **Foreign Petitions—Restrictions on:**

See "Ruled Out of Order for Senate To Receive," pp. 439-441.

#### **Inserted in Congressional Record:**

See "Congressional Record," pp. 643-654.

#### **Journal Not Interrupted by Message From House:**

See "Journal," pp. 893-901.

#### **Laid Before the Senate and Reference by Presiding Officer:**

Under Rule VII, "after the *Journal* is read, the Presiding Officer on demand of any Senator shall lay before the Senate messages from the President, reports and communications from the heads of Departments, and other communications addressed to the Senate \* \* \*"<sup>9</sup>

Communications addressed to the Senate, in practice, include communications, petitions or memorials addressed to the Vice President or to the President pro tempore, as the Presiding Officer of the Senate. Under this provision of the rule, the Presiding Officer has a right to lay before the Senate official communications received by him,<sup>10</sup> as well as a memorial from the Governor and other citizens of a State.<sup>11</sup>

<sup>6</sup> Feb. 26, 1884, 48-1, *Record*, p. 1374; Mar. 13, 1890, 51-1, *Record*, p. 2196.

<sup>7</sup> Dec. 15, 1884, 48-2, *Record*, p. 232.

<sup>8</sup> Mar. 17, 1890, 51-1, *Record*, p. 2288.

<sup>9</sup> Rule VII, par. 1.

<sup>10</sup> Jan. 10, 1927, 69-2, *Record*, p. 1338.

<sup>11</sup> Aug. 26, 1912, 62-2, *Record*, pp. 11862-65.

The Presiding Officer may at any time, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill, matter or message sent to the Senate by the President or the House of Representatives.<sup>12</sup>

A message from the House may be laid before the Senate (1) while unfinished business is pending,<sup>13</sup> and takes precedence over that business;<sup>14</sup> (2) or, on motion by a Senator, while a motion to proceed to the consideration of a bill is pending.<sup>15</sup>

A message from the House of Representatives does not have to lie over 1 day under the rule.<sup>16</sup>

Action on a motion to agree to a House amendment to a Senate bill having been postponed by arrival of the hour for the consideration of the unfinished business, the Vice President on the following day after the approval of the *Journal*, again laid the amendment before the Senate, claiming the right under Rule VII.<sup>17</sup>

Any question pending at the time such a message is laid before the Senate shall be suspended for the purpose;<sup>18</sup> any unfinished business pending or a privileged motion to proceed to the consideration of a vetoed bill will not be displaced.<sup>19</sup>

Veto messages may be laid before the Senate as a privileged matter; see "Vetoed," pp. 1381-1389.

For practices of Senators yielding to lay messages before the Senate, see "Yielding," pp. 788-797.

### Postpone Consideration of Veto Message:

See "Postpone," pp. 997-1003.

### Precedence of Motion That a Petition Not Be Received:

A motion that a petition laid before the Senate be not received was held to have precedence over a motion to refer it.<sup>20</sup>

<sup>12</sup> May 21, 1935, 74-1, *Journal*, pp. 363-64, *Record*, p. 7896; May 19, 1884, 48-1, *Record*, p. 4273; Sept. 5, 1944, 78-2, *Record*, pp. 7530-31; see Aug 13, 1942, 77-2, *Record*, p. 6829.

<sup>13</sup> July 15, 1912, 62-2, *Record*, pp. 9063-64.

<sup>14</sup> May 19, 1884, 48-1, *Record*, p. 4273.

<sup>15</sup> May 21, 1896, 54-1, *Record*, p. 5516.

<sup>16</sup> Dec. 17, 1919, 66-2, *Journal*, p. 32, *Record*, pp. 734-35.

<sup>17</sup> Apr. 3 and 4, 1912, 62-2, *Record*, pp. 4241, 4472.

<sup>18</sup> Rule VII, par. 3.

<sup>19</sup> Mar. 4, 1927, 69-2, *Record*, p. 5896.

<sup>20</sup> Jan. 18, 1912, 62-2, *Record*, pp. 1055-57.

### **Presentation of Communications, Messages, Petitions and Memorials:**

See "Receive, etc." p. 438.

### **Print in Record:**

See "Congressional Record," pp. 643-654.

### **Privileged Business—Question of:**

In 1933, a petition making charges of official misconduct against a Senator was referred to the Committee on the Judiciary with a view to determining whether such documents are privileged and should be presented to the Senate.<sup>21</sup>

### **Privileged Consideration of Messages From the President of the United States and House of Representatives:**

See also "Amendments Between Houses," pp. 126-143; "Bills," pp. 225-250; "References to Committees," pp. 1150-1169; "Vetoed," pp. 1381-1389.

Messages from the President and the House of Representatives are matters that can be considered without displacing the unfinished business.<sup>22</sup>

A message from the House of Representatives, including one involving amendments of the House to Senate amendments to a House bill, may be laid before the Senate while unfinished business is pending or at any time, and unanimous consent is not required for its consideration at that time.<sup>23</sup>

A message from the House in connection with a bill is privileged even if no official papers were received except the message itself.<sup>24</sup>

Where House amendments to a Senate bill have been laid before the Senate a motion to agree thereto, upon objection, is not in order until the Senate on motion has proceeded to their consideration.<sup>25</sup>

<sup>21</sup> Apr. 14, 1933, 73-1, *Record*, pp. 1712-14.

<sup>22</sup> See July 8, 1937, 75-1, *Journal*, p. 404.

<sup>23</sup> Sept. 5, 1944, 78-2, *Record*, pp. 7530-31; July 15, 1912, 62-2, *Record*, pp. 9063-64.

<sup>24</sup> June 26, 1952, 82-2, *Record*, p. 8151.

<sup>25</sup> Mar. 3, 1913, 62-3, *Record*, p. 4673.

Messages from the House of Representatives relative to conferences and joint sessions are privileged for immediate consideration. See "Conferences and Conference Reports," pp. 449-493, and "Concurrent Resolutions," pp. 442-448.

For the practice of yielding the floor for the consideration of messages from the House, see "Yielding," pp. 788-797.

Messages may not be acted on in the absence of a quorum. See "Business or Debate Out of Order in the Absence of a Quorum \* \* \*," pp. 1046-1049.

During a call of the Calendar under "Unanimous Consent for the Consideration of Unobjected-to Bills," action on a House message is not in order, see pp. 263-264.

### Reading of Message From President:

Under the custom of the Senate, a message from the President, transmitting a report to the Senate pursuant to law is read, and not the report itself.<sup>26</sup>

While a motion to amend the *Journal* is pending, a message from the President of the United States can only be read by unanimous consent.<sup>27</sup>

### Reading of Petitions and Memorials:

The reading at length of a petition or memorial, under Rule VII, is not in order<sup>28</sup> except by unanimous consent.<sup>29</sup>

The reading by a Senator of a petition into the *Record* during the transaction of morning business is a violation of the rule requiring only a brief statement of its contents to be printed in the *Record*.<sup>30</sup>

The substance only, under the rule, should be stated, and its reading is not in order except by unanimous consent.<sup>31</sup>

<sup>26</sup> July 30, 1948, 80-2, *Record*, p. 9562.

<sup>27</sup> Jan. 21, 1946, 79-2, *Record*, p. 136.

<sup>28</sup> Dec. 16, 1890, 51-2, *Record*, pp. 499, 553.

<sup>29</sup> June 17, 1913, 63-1, *Record*, pp. 2015-16; Apr. 4, 1894, 58-2, *Journal*, p. 140, *Record*, pp. 3440-43.

<sup>30</sup> June 20, 1918, 65-2, *Record*, pp. 8040-41.

<sup>31</sup> May 16, 1898, 55-2, *Record*, p. 4934.

### Receive Messages From the President and House at Any Time:

See also "Debate," pp. 716-797; "Quorum," pp. 1038-1078; "Yielding," pp. 788-797.

"Messages from the President of the United States or the House of Representatives may be received at any stage of the proceedings, except while the Senate is voting or ascertaining the presence of a quorum, or while the *Journal* is being read,<sup>32</sup> or while a question of order or a motion to adjourn is pending.<sup>33</sup>

Messages from the President of the United States or the House of Representatives have been received in the absence of a quorum.<sup>34</sup>

The Senate may receive such messages while a Senator holds the floor without prejudicing his right thereto.<sup>35</sup>

The House of Representatives may receive a message from the Senate while the latter is not in session.<sup>36</sup>

The receipt of a message from the President of the United States has been regarded in one instance as intervening business, and a renewal of a motion for an executive session rejected immediately prior to the receipt of the message was held to be in order.<sup>37</sup>

### Receive Petitions and Memorials:

Under Rule VII the presentation of petitions and memorials is, in order when the Presiding Officer calls for them during the morning business following an adjournment.

Petitions, memorials, and private bills, may, after the expiration of the Morning Hour, be delivered to the Presiding Officer's desk, and, with the approval of the Presiding Officer shall be entered in the *Journal* and *Record* and appropriately referred.<sup>38</sup>

In 1938, the Chair also ruled that during the consideration of the unfinished business this could be done.<sup>39</sup>

<sup>32</sup> Mar. 1, 1927, 69-2, *Journal*, p. 252, *Record*, pp. 5174-76.

<sup>33</sup> Rule IX, par. 1.

<sup>34</sup> Oct. 23, 1914, 63-2, *Journal*, p. 566, *Record*, p. 16959; Dec. 22, 1916, 64-2, *Record*, pp. 676-77.

<sup>35</sup> July 13, 1937, 75-1, *Journal*, p. 411, *Record*, pp. 7109, 7112; see also July 26, 1962, 87-2, *Record*, p. 14864.

<sup>36</sup> Aug. 24, 1935, 74-1, *Record*, p. 14673.

<sup>37</sup> Feb. 20, 1885, 48-2, *Record*, p. 1954.

<sup>38</sup> July 25, 1914, 63-2, *Record*, pp. 12725-26; Rule VII, par. 6.

<sup>39</sup> Jan. 19, 1938, 75-3, *Record*, p. 752.

A Senator in possession of the floor, however, may not be interrupted or taken off the floor against his will for the purpose of presenting a petition or other matter.<sup>40</sup>

During the presentation of petitions and memorials, a motion to print a matter as a document or a motion to proceed to the consideration of a resolution is not in order, upon objection.<sup>41</sup>

### **Receiving Messages During Recess of the Senate:**

The Senate, pursuant to an order, may receive messages through its Secretary during a recess. See "Messages Received During Recess Pursuant to Order," p. 1085.

### **Reference of:**

See "References to Committees," pp. 1150-1169; "Reference of Veto Message," p. 1386.

### **Reports on Petitions and Memorials by Committee:**

In 1934, the Committee on Privileges and Elections, after hearings and consideration of the petitions and memorials referred to it concerning the right of Huey P. Long to a seat in the Senate from the State of Louisiana, reported that no further action in the matter was warranted, and the committee, upon motion, was thereupon discharged.<sup>42</sup>

### **Returned for Signature:**

In 1886, an unsigned message transmitted to the Senate by the President, on motion, after it was read, was returned for the President's signature.<sup>43</sup>

### **Ruled Out of Order for Senate To Receive**

#### **Anonymous:**

An anonymous communication cannot be received as a petition,<sup>44</sup> nor can a paper not addressed to the Senate (or

<sup>40</sup> Aug. 6, 1937, 75-1, *Record*, p. 8358; July 13, 1921, 67-1, *Record*, p. 3654; Aug. 24, 1921, 67-1, *Record*, p. 5603.

<sup>41</sup> July 8, 1918, 65-2, *Record*, pp. 8840-41; June 21, 1921, 67-1, *Record*, p. 2795.

<sup>42</sup> June 16, 1934, 73-2, *Journal*, p. 597, *Record*, p. 12015.

<sup>43</sup> Mar. 17, 1886, 49-1, *Record*, p. 2430.

<sup>44</sup> Rule VII, sec. 4; Feb. 6, 1884, 48-1, *Record*, p. 907.

Vice President), under the rule, be received as a petition or memorial without unanimous consent.<sup>45</sup>

#### Foreign Petitions:

A petition or memorial from a citizen of a foreign power cannot be received under the rule unless it is transmitted to the Senate by the President;<sup>46</sup> the same is true in the case of a paper from a subject of a foreign power.<sup>47</sup>

A petition of a subject of Great Britain for authority to renew his application for a patent, having been presented to the Senate and not transmitted by the President, was subsequently withdrawn as being in violation of the rule.<sup>48</sup>

A communication from a citizen or subject of a foreign power may be printed in the *Congressional Record* under a suspension of the rules,<sup>49</sup> or a Senator, in the course of an address, may use the information contained therein in supporting an argument made by him.<sup>50</sup>

#### Legislative Petitions in Special Sessions:

In 1881, the Chair held that petitions praying for special legislation could not be received at an extraordinary session of the Senate.<sup>51</sup>

At a special session of the Senate in 1893, an order was adopted by unanimous consent that petitions thereafter should be filed with the Secretary of the Senate to be presented at the next regular session of Congress.<sup>52</sup>

#### Must Be Signed:

A petition or memorial may not be received by the Senate unless signed.<sup>53</sup>

#### Unless Authorized by Law or Resolution:

The receipt of executive communications, except when authorized or required by law, or when made in response to a resolution, was ruled out of order by the Chair in

<sup>45</sup> Dec. 17, 1884, 48-2, *Record*, p. 300.

<sup>46</sup> Rule VII, sec. 4; Mar. 31, 1888, 50-1, *Record*, p. 2541; Jan. 5, 1956, 84-2, *Record*, p. 71.

<sup>47</sup> Mar. 10, 1926, 69-1, *Journal*, p. 219.

<sup>48</sup> Jan. 13, 1886, 49-1, *Record*, p. 626.

<sup>49</sup> Oct. 13, 1919, 66-1, *Record*, p. 6762.

<sup>50</sup> Sept. 27, 1919, 66-1, *Record*, pp. 6017-18.

<sup>51</sup> Mar. 5, 1881, 47-Special Session, *Record*, p. 4.

<sup>52</sup> Mar. 27, 1893, 53-Special Session, *Record*, p. 32.

<sup>53</sup> Rule VII, par. 5; Feb. 7, 1827, 19-2, *Journal*, p. 158.

1920, as being prohibited by a resolution of the Senate, adopted in 1908, unless transmitted by the President.<sup>54</sup> This resolution, adopted in 1908, was a challenge of the practice of executive Departments on their own initiative of transmitting directly to Congress drafts of proposed bills for legislation desired by such Departments.<sup>55</sup>

In one instance in 1933, a communication from the Chief of Engineers, War Department, relative to an amendment intended to be proposed to a Senate bill, was referred to the President of the United States.<sup>56</sup>

President Madison, in 1813, declined, as being a coordinate branch of the Government, to deal with a committee of the Senate instead of the Senate.<sup>57</sup>

#### **Senators Petition Committee To Make Report on:**

In 1932, certain members of the Senate petitioned the Committee on the Judiciary to report to the Senate resolutions pending before it dealing with the repeal of the 18th Amendment, in order that a vote might be had on the question.<sup>58</sup>

#### **Special Session of Senate—Legislative Petitions Out of Order:**

See "Special Sessions of Senate," pp. 1233-1234.

#### **Yield Floor To Receive Message:**

A Senator may refuse to yield temporarily for the receipt of a message from the President of the United States, or House of Representatives, since there is no requirement in the rules that a Senator having the floor must yield for that purpose. He would not impair his rights to the floor by yielding for its receipt.<sup>59</sup> A Senator who yields to receive a message from the House of Representatives does not necessarily lose his rights to the floor.<sup>60</sup>

<sup>54</sup> Dec. 14, 1920, 66-3, *Record*, p. 308; Feb. 3, 1910, 61-2, *Record*, pp. 1420-22.

<sup>55</sup> Dec. 11, 1907, 60-1, *Record*, p. 268; Dec. 12, 1907, 60-1, *Record*, pp. 294-302; Jan. 15, 1908, 60-1, *Record*, p. 714; Jan. 16, 1908, 60-1, *Journal*, pp. 115-16, *Record*, p. 772.

<sup>56</sup> Mar. 1, 1933, 73-1, *Journal*, p. 135, *Record*, p. 2595.

<sup>57</sup> Jan. 16, 1908, 60-1, *Journal*, pp. 115-16, *Record*, p. 772.

<sup>58</sup> Mar. 22, 1932, 72-1, *Journal*, p. 345, *Record*, p. 6644.

<sup>59</sup> May 23, 1959, 86-1, *Record*, pp. 9254-55; July 30, 1962, 87-2, *Record*, p. 15031; see also July 27, 1962, 87-2, *Record*, p. 14882.

<sup>60</sup> July 26, 1962, 87-2, *Record*, p. 14864.