MR. PRESIDENT:

I shall now address myself to Senator Eastland's second point of order. It appears that Section 3 of the Alaskan Constitution is in direct violation of the Constitution of the United States in providing the manner and terms for the election of United States Senators.

Section 1 of H. R. 7999 ratifies and accepts a Constitution for the State of Alaska which has been previously approved by the residents of the Territory of Alaska. Article XV, Section 3, of this Alaskan Constitution provides for the election of one United States Senator for a long term and the election of one United States Senator for a short term. The exact language of this section is as follows:

Section 3. The officers to be elected at the first general election shall include two Senators and one representative to serve in the Congress of the United States, unless senators and a representative have been previously elected and seated. One senator shall be elected for the long term and one senator for the short term, each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States. The term of the representative shall expire on the third day of January in the odd-numbered year immediately following his assuming office. If the first representative is elected in an even numbered year to take office in that year, a representative shall be elected at the same time to fill the full term commencing on the third day of January of the following year, and the same person may be elected for both terms.

The Constitution of the United States provides in Article I as modified by Article XVII that the Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for six years. It is very clear therefore that any attempt to elect a Senator for what is called "a short term"
is in violation of the Constitution. The Constitution clearly states that Senators must be elected for a term of six years.

I know of two previous instances in which an attempt has been made to designate the classification of Senators by the Legislatures of their States. The first such instance occurred one hundred years ago in 1858, when the State of Minnesota was admitted to the Union. The Legislature of the State of Minnesota passed a resolution designating that one of the elected Senators should represent the State for a longer term than the other. The Senate heard the resolution and referred the matter to the Committee on the Judiciary which reported a resolution setting forth the procedure for classifying the two new Senators from Minnesota in precisely the same manner in which the Senators from other new States had been classified by the Senate, without a single exception, from the first session of the first Congress. In other words, the Senators were classified by lot.

This system by which the Senate has always classified Senators of new States was not challenged again until December 4, 1889, when the credentials of the two Senators from the new State of North Dakota were presented to the Senate. At the same time that the credentials of these Senators were presented, there was also presented a resolution of the two Houses of the North Dakota Legislature. The resolution designated one of the two Senators to serve a longer term than the other. Senator Hoar then addressed the Senate and this is what he said:

MR. HOAR. Mr. President, the Constitution of the United States provides that after the assembling of the Senate, in consequence of the first election,
"they (the Senators) shall be divided as equally as may be into three classes." The Constitution did not expressly provide by what authority that designation should be made, but it has been the uninterrupted usage since the Government was inaugurated for the Senate to exercise that authority. Indeed, no other authority could be for a moment supposed to have been intended to be charged with this duty.

The Legislature of the State of North Dakota, the two houses of that Legislature, after the election, have expressed a desire that one of the two gentlemen elected to the Senate of the United States from that State should hold the seat for the long term. Of course, that matter did not enter into the election there, and if it had done so, it is obvious that the State Legislature had no constitutional authority in relation to the subject. Indeed, it was not then known, and is not yet known, what length of term will be assigned to either of the Senators from that State. Either of them may, in accordance with the lot, be assigned to the six years', the four years', or the two years' term. All that the Senate now knows is that, if this resolution be adopted, no two Senators will be assigned, from any one of the States that have just been admitted, to a term of the same length. Perhaps the desire of the Legislature of the State of North Dakota may be accomplished as the result of the proceedings of the Senate, but that must be the result of the lot, and I can not see that the Senate may justly or properly exercise any authority in regard to it by way of departure from its duty.

There is no question whatsoever about the procedure which the Senate has established for classifying Senators. It is an old and long established procedure. It has not been seriously challenged for the last hundred years. Yet we find the framers of the Constitution of the State of Alaska flying in direct contravention of the established procedures and, indeed, in direct violation of the Constitution of the United States.

Let me make it clear that I do not believe for an instant that this was done maliciously or with any intent to overthrow established procedures. On the contrary, I am convinced that the people of Alaska wish to join the Union under the same terms and conditions that have applied to the admission of other States.
However, as I have mentioned before, this is not a Government of good intentions to the exclusion of the law. It is a Government, I would hope, of good intentions under the law.

It appears to me that this violation of the Constitution, though unintentional, is a most serious matter.

I have not had the opportunity to study carefully all of the provisions in the Alaskan Constitution. I am making an effort to study them now, while this bill is under consideration. It occurs to me that since this Alaskan Constitution is so far out of line with the Constitution of the United States with regard to the selection of Senators that it may well be that there have been other important errors in the drafting of the Alaskan Constitution. I do not believe that sufficient care has been given to the study of the Alaskan Constitution in considering the Alaskan statehood bill.

As all of us know well, there are not two classes of Senators but three classes. The terms of one-third of this body expire at two year intervals. The proposal of the Alaskan Constitution is completely inconsistent with the Constitution of the United States, which requires that Senators be chosen for a term of six years and that the Senate divide itself into three classes.

I urge that this point of order be sustained, and that no further consideration be given this legislation until the Alaskan Constitution is made to conform with the Constitution of the United States.