LEACH of Iowa, Mr. ROE, Mrs. SPELLMAN, and Mr. WILLIAMS of Montana.

H.R. 810: Mr. ABDNOR, Mr. EDGAR, Mr. GINGRICH, Mrs. HOLT, Mr. HYDE, Mr. LAGOMARSINO, and Mr. MOTTL.

H.R. 813: Mr. SOLOMON.

H.R. 1045: Mr. BEDELL, Mr. KOGOVSEK, Mr. WEAVER, and Mr. PRICE.

H.R. 1071: Mr. JENRETTE.

H.R. 1081: Mr. EVANS of the Virgin Islands.

H.R. 1141: Mr. HOWARD, Mr. CHAPPELL, Mr. WHITTEN, Mr. GUDGER, and Mr. RITTER.

H.R. 1308: Mr. EVANS of the Virgin Islands.

H.R. 1309: Mr. DAVIS of Michigan, Mr. DOWNEY, Mr. EVANS of Georgia, Mr. HOLLENBECK, and Mr. ROE.

H.R. 1507: Mr. KEMP.

H.R. 1539: Mr. GINN, Mr. HUCKABY, Mr. LELAND, Mr. LUNDINE, Mr. MARTIN, Mr. MOFFETT, Mr. SPENCE, and Mr. COTTER.

H.R. 1734: Mr. EVANS of Georgia, Mr. OTTINGER, and Mr. ROE.

H.R. 1856: Mr. KINDNESS, Mr. MONTGOMERY, Mr. MCDONALD, Mr. SOLOMON, Mr. GOLDWATER, and Mr. GRISHAM.

H.R. 1878: Mr. LEACH of Louisiana, Mr. MURPHY of Illinois, Mr. JONES of North Carolina, Mr. LEDERER, Mr. MOAKLEY, Mr. WINN, Mr. WALGREN, Mr. GUYER, Mr. LOTT, Mr. ERDAHL, Mr. SCHEUER, Mr. DOWNEY, Mr. HYDE, Mr. MINETA, Mr. GILMAN, Mr. WOLPE, and Mr. SKELTON.

H.R. 1913: Mr. JONES of Tennessee, Mr. EVANS of Georgia, Mr. GUDGER, and Mr. CHAPPELL.

H.R. 1958: Mr. WALKER, Mr. GOLDWATER, Mr. MCDONALD, Mr. QUILLEN, Mr. BADHAM, Mr. LATTA, Mr. PHILIP M. CRANE, Mr. KINDNESS, Mr. KELLY, Mr. DAN DANIEL, Mr. BOB WILSON, Mr. SPENCE, Mr. BAFALIS, Mr. MOTTL, Mr. SHUSTER, Mr. GRISHAM, Mr. SYMMS, Mr. GUYER, Mr. EDWARDS of Oklahoma, Mr. SOLOMON, Mr. GRASSLEY, and Mr. CARNEY.

H.R. 1969: Mr. MARTIN.

H.R. 1979: Mr. NELSON, Mr. MARLENEE, Mr. CORRADA, Mr. FASCELL, Mr. BEDELL, Mr. JACOBS, Mr. VENTO, Mr. OTTINGER, Mr. MAZZOLI, Mr MILLER of California, Mrs. FENWICK, Mr. WOLPE, Mr. SIMON, Mr. CARR, Mr. PRICE, Mr. FRENZEL, Mr. MINETA, Mr. WOLFF, Mr. BONIOR of Michigan, Mr. CHARLES WILSON of Texas, Mr. DOWNEY, Mr. STUDDS, Mr. MAGUIRE, Mr. WEAVER, Mr. EDGAR, Mr. BLANCHARD, Mr. KILDEE, Mr. CLEVELAND, Mr. NEAL, Mr. RATCHFORD, and Mr. WIRTH.

H.R. 2075: Mr. BUCHANAN, Mr. CLEVELAND, Mr EDGAR, Mr. GINGRICH, Mr. GRISHAM, Mr. HYDE, Mr. LUKEN, Mr. MOTTL, and Mr. YATRON.

H.R. 2076: Mr. YOUNG of Florida.

H.R. 2126: Mr. BOLAND, Mr. DIGGS, Mr. EDGAR, Mr. JOHNSON of California, Mr. MICA, Mr. MOORHEAD of Pennsylvania, Ms. OAKAR, Mr. OBERSTAR, and Mr. SABO.

H.R. 2447: Mr. AUCOIN, Mr. BALDUS, Mr. CAVANAUGH, Mr. CORRADA, Mr. DASCHLE, Mr. DELLUMS, Mr. EDWARDS of California, Mr. GARCIA, Mr. LEDERER, Mr. LLOYD, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. OTTINGER, Mr. PEPPER, Mr. PRITCHARD, Mr. RANGEL, Mr. ROE, Mr. SAWYER, Mr. SOLARZ, Mr. VENTO, Mr. WATKINS, and Mr. YOUNG of Missouri.

H.R. 2538: Mr. TRIBLE.

H.J. Res. 2: Mr. EVANS of Delaware, and Mr. LEACH of Lousiana.

H.J. Res. 110: Mr. BOWEN, Mr. MCCLOSKEY, Mr. NOLAN, Mr. YATRON, and Mr. YOUNG of Alaska.

H.J. Res. 186: Mr. MURPHY of Pennslyvania, and Mr. MAGUIRE.

H.J. Res. 243: Mr. LAGOMARSINO.

H. Con. Res. 15: Mr. HAMMERSCHMIDT, Mr. GARCIA, Mr. SIMON, Mr. DASCHLE, Mr. JENRETTE, Mr. SAWYER, Mr. GOODLING, Mr. FISHER, Mr. DIGGS, Mrs. COLLINS of Illinois, and Mr. SKELTON.

H. Con. Res. 64: Mr. LEDERER, Mr. DERWINSKI, Mr. BEARD of Tennessee, Mr. BLANCHARD, Mr. GOLDWATER, Mr. GRISHAM, Mr. DORNAN, Mr. LAGOMARSINO, Mr. BENJAMIN, Mr. LEWIS, Mr. LENT, Mr. FLORIO, Mr. DOUGHERTY, Mr. BURGENER, Mr. ROE, Mr. ADDABBO, Mr. QUAYLE, Mr. BROWN of Ohio, Mr. FRENZEL, Mr. LLOYD, and Mr. DAVIS of Michigan.

H. Res. 131: Mr. CORRADA, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. EVANS of Georgia, Mr. ROE, Mr. WOLPE, Mr. MURTHA, Mr. MURPHY of Pennsylvania, and Mr. GUDGER.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

80. By the SPEAKER: Petition of the Concord Home Builders Association, Concord, N.H., relative to interest rates; to the Committee on Banking, Finance and Urban Affairs.

81. Also, petition of the National Indian Conference on Aging, Albuquerque, N. Mex., relative to amendments to the Older Americans Act and the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

82. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to the administration of programs for Indians; to the Committee on Interior and Insular Affairs.

83. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to health care for elderly Indians; to the Committee on Interstate and Foreign Commerce.

84. Also, petition of the National Indian N. Mex., relative to general assistance programs for Indians; to the Committee on Ways and Means.

85. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to traveling discounts for the elderly; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

86. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to the use of medicare and medicaid entitlements in Indian Health Service facilities, jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

### H.R. 2534

By Mr. GRAMM:

On the first page, strike out lines 3 through 7 and insert:

That the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased—

(1) by $430,000,000,000 during the period beginning on the date of the enactment of this Act and ending on September 30, 1979, and

(2) by $497,000,000,000 during the period beginning on October 1, 1979, and ending on September 30, 1980.

On page 2, after line 16, insert the following:

SEC. 5. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which would provide for a statutory limit on the amount of the public debt greater than $897,000,000,000 for any period during any fiscal year beginning after September 30, 1980—

(1) until the second required concurrent resolution on the budget for such fiscal year has been agreed to pursuant to section 310 of the Congressional Budget Act of 1974, and

(2) unless—

(A) the appropriate level of the total budget outlays for such fiscal year as set forth in such concurrent resolution is equal to or less than the recommended level of Federal revenues for such fiscal year as set forth in such concurrent resolution, or

(B) such concurrent resolution is agreed to in both the House of Representatives and the Senate by a vote of more than two-thirds of the Members voting (a quorum being present).

(b) The provisions of this section shall take effect on the date of the enactment of this Act.

# SENATE—*Tuesday, March 13, 1979*

*(Legislative day of Thursday, February 22, 1979)*

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord our God, in whom we live and move and have our being, we know not what any day may bring. Only this, we know that every day is judgment day. Thou dost judge us in the moment of action and in the grand climax of history. Thou dost judge us for what we are and what we do. Thou dost judge the way we work, the way we think, the way we speak, the way we vote, the way we play, the way we pray. Thou dost judge us according to the love we show and the help we bring. Judge us then according to Thy loving kindness for "Thy judgments are true and righteous altogether."

Let the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord our strength and our Redeemer. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., March 13, 1979.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
*President pro tempore.*

Mr. ROBERT C. BYRD thereupon resumed the chair as Acting President pro tempore.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee (Mr. BAKER) is recognized.

## THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized under the standing order.

Mr. BAKER. Mr. President, I thank the Chair.

I have no immediate need for my time under the standing order and I yield 5 minutes to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona (Mr. GOLDWATER) is recognized for up to 5 minutes.

Mr. GOLDWATER. I thank my friend from Tennessee for his usual courtesy.

(The remarks of Mr. GOLDWATER at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

Mr. STEWART assumed the chair.

## PRESIDENT CARTER'S PEACEMAKING EFFORTS IN THE MIDDLE EAST

Mr. GOLDWATER. Mr. President, I doubt that there is any one person in this country, or maybe the world, who has been more critical of President Carter in the field of foreign policy than have I.

I do not want anyone to think for one moment that by what I am going to say this morning I have suddenly changed my spots and will wake up on the other side of the bed.

I think that with the news we all read and heard and saw last night, with the news we all read and heard and saw this morning, it is rather evident that the peace President Carter went to the Middle East to try to achieve is not going to be achieved.

I am not one American, nor particularly one Republican, who is going to chastise President Carter for making this effort. I believe it took a great deal of courage. I think his performance over there was in keeping with his style of being forthright, even though we do not agree with him.

I would like to see him receive the accolade in this field that I think he deserves, and I urge my friends who are running for office at any level not to make of this Mideastern trip a political subject but, rather, to recognize that in this effort he has joined other Americans who served us as President, who showed courage in acting even though their actions were not fruitful.

So, Mr. President, I merely am offering these words as a man who is highly critical of this administration but as one who feels that the President does deserve a pat on the back for this trip, because we all have to admire a little guts.

Mr. BAKER. Mr. President, I join the distinguished Senator from Arizona in his remarks.

I think it would not be unseemly of me to remind our colleagues that before the President went, I said from this place on this floor that I thought it was a risk worth taking, and I still think so.

I do not know what the final result of the President's efforts will be or what will happen in the remaining hours before he returns to the United States, but it was a risk worth taking. From the appearances that generate from newspaper and television accounts that we have seen, I believe that some progress has been made.

I admire the President for his efforts in this matter, and I join the distinguished Senator from Arizona in his remarks and in his evaluation.

## PRESIDENT CARTER'S LATEST EFFORTS ON BEHALF OF PEACE

Mr. ROBERT C. BYRD. Mr. President, President Carter flew to Cairo and Jerusalem last week in the latest phase of his ongoing efforts to achieve a permanent peace between Egypt and Israel. In spite of the fact that advisers closest to the President warned prior to this mission that Mr. Carter did not expect to return with a treaty, some observers are already pronouncing that this most recent effort is a failure, and they are predicting the direst consequences for the hopes of peace in the Middle East.

I share with the distinguished Senator from Arizona (Mr. GOLDWATER) and with Mr. BAKER, the distinguished minority leader, the compliments they have stated here publicly for the President's efforts. To have done nothing would have justified criticism.

As I view it, the President's efforts may have brought the parties closer together. I have no way of knowing yet what the results are or what has been achieved. In any event, they have kept the negotiations moving forward; and even though a treaty may not be achieved immediately, I am not about to say that the President's efforts have been in vain.

Both of the parties in the Middle East—these are the people who would be the victims of failure—will pay the immediate price of failure, if and when there is failure. But as long as there is flexibility and as long as leaders on both sides of the question are willing to talk and continue to negotiate, then there has not been failure.

The President has kept the negotiations moving. While we all would like to see an immediate treaty, I have not labored under any illusions, and I hope that most Americans have not suffered illusions in this regard. It is a long process. We should realize, from the years of pain and suffering and strife and bloodshed, that it is a thorny, difficult, profoundly complex matter, and that it will take time.

During my own conversations with Middle Eastern leaders last year, I learned first hand how infinitely complex and difficult diplomatic negotiations on the conflicts in that area are, and how imperative it is that such negotiations be pursued with patience and tenacity. President Carter could well have departed from his meetings with President Sadat and Prime Minister Begin with some kind of instant limited agreements on peripheral issues, and the impression would have been imparted that great success had been realized. However, the mettle of such agreements would have become evident to all when the pressures of the real conflict began to build once again.

President Carter understands the nature and the complexity of the challenge that he has accepted in the Middle East, I believe, and I commend him.

I appreciate the fine spirit that has been exemplified on the floor just now by the minority leader and by the distinguished Senator from Arizona, as they, too, have commented on the dedication that President Carter has demonstrated in his efforts for peace.

The tragic and chronic confrontation in the Middle East has lasted for more than three decades. Moreover, it has consumed the careers of dozens of diplomates from many nations, and the lives of thousands of soldiers and civilians, Arab and Israeli alike. Already, in just a little more than 2 years in office, President Carter has accomplished more toward bringing peace to the Middle East than any of his predecessors, in spite of all their commendable efforts.

I congratulate President Carter on his efforts as he returns from Egypt and Israel today, and I encourage him to continue to exert his efforts and use his influence to achieve the peace that all men of good will around the world hope will come eventually to the Middle East. Not only will our generation give him its thanks, but all future generations will be indebted to him for this effort.

## ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time from the time allotted to me?

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes, under the previous order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

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

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## TAIWAN ENABLING ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 245, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 100

Mr. DOLE. Mr. President, I understand the parliamentary situation to be that each side has 5 minutes, the yeas and nays have been ordered, and a motion to lay on the table has been made; is that correct?

The PRESIDING OFFICER. If the Senator's preceding question is on amendment 100 of the Senator from Kansas, on which there is a limitation of 5 minutes of debate for each side, the Senator is correct. The yeas and nays have been ordered on the motion to lay on the table.

Mr. DOLE. Mr. President, I would just say very quickly that I think the issue is not particularly complicated. It may be controversial, but it is certainly not complicated. It is just a question of whether or not we want the Senate to have any voice in confirming, advising, and consenting on the director of the institute. We have simply provided that our American Institute—

shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate and who shall hold such appointment for a period of not to exceed two years.

Mr. President, my amendment concerns the question of Senate responsibility and the Senate's obligation to the American people and to the Constitution. I believe it is vital that the Senate have a provision for passing on the qualifications of the director of the American Institute on Taiwan. This amendment creates such an official avenue and safeguards the principles of advise and consent set forth in the Constitution.

I am not asking for official recognition of Taiwan by this amendment. I am only urging the Senate to have the opportunity to pass on the worthiness and judgment and ability of the person who will be the instrument of the United States. The institute will be carrying out U.S. foreign policy. On some occasions the director of the institute may even be placed in the position of initiating policy and actions that will affect U.S. strategic interests.

Again, let me state that it is not my intention to upset the balance my distinguished colleagues on the Foreign Relations Committee have carefully worked out, nor to destroy the delicate understanding upon which our normalization with the mainland rests. I am in favor of the normalization process when properly carried out. We have much to gain, in a closer relationship with Peking.

My concern here, however, is with the constitutional responsibility of the Senate. It seems to me that this bill, as it stands now, is asking the Senate to ignore some of that responsibility which we in the Senate now have to advise and consent to certain actions by the executive department.

As my distinguished colleague on the Foreign Relations Committee remarked yesterday, various elements of the executive department will be performing oversight functions in regard to the Institute, including the Comptroller-General. U.S. taxes are going to be channeled into the Institute to provide its operating funds. These facts only further indicate, the legitimate need for the Senate also to fulfill its oversight responsibilities.

Now it is certainly true that the relationship we are implementing in this legislation with Taipei is unprecedented. We cannot, therefore, lightly address the manner in which this relationship will be carried out. We are setting a precedent here today. And we should not make an ill-advised precedent for a short-term and purely political expediency. Once the director of this nongovernmental institute is appointed, he will not be subject to our direct control. It is necessary for us to have an opportunity to judge the worthiness of this unofficial official, before he is granted such unconditional scope for action.

Mr. President, that is the issue. I understand the questions being raised. One question raised is that Senate confirmation would destroy the nongovernmental character of the Institute. I believe it does not. If the Secretary of State, acting for the President, has the authority to appoint this individual without giving an air of officiality to the proceeding, then surely the Senate can merely inspect the candidate for merit without doing the same. It is my understanding that the Senate must advise and consent to the directors of the corporation for public broadcasting, yet that body remains a nongovernmental corporation.

We have all the questions raised as to why Congress does not pay more heed to what goes on in our so-called foreign policy. It seems to me that this is an opportunity to know one little thing. It does not shake the balance, or destroy that delicate balance worked out by the committee.

I would like to say again that I support closer ties with Peking in the hope that they will lead to a better understanding between our countries. Normalization may lead to greater chances for peace and economic prosperity. The United States under the Carter administration has gone a long way, has bent over backwards—perhaps too far—to accommodate the People's Republic on the issue of Taiwan.

I just left a meeting with Secretary Bergland, where we discussed an increase in agricultural trade with the People's Republic of China. It is a growing market, and with more chance for communication, it seems to me we will not offend the People's Republic of China and we will not give a cloak of officiality to the institute; we will simply preserve the right we should have in the Senate

to pass on the qualifications of the director.

The question of congressional oversight is a greater responsibility for us than this transitory problem of Taiwan. I do not believe it is in the best interest of the United States to make this temporary accommodation to suit the requirements of the current regime in Peking.

It is as simple as that. On that basis, I hope the amendment will be supported by my colleagues. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, our distinguished colleague from Kansas indicated it was not his intention to upset the delicate balance arrived at in the Foreign Relations Committee; but I would respectfully suggest that is what this amendment would do.

As the Senator from Kansas knows, the nuances in this legislation are probably more important than in most actions we have taken on the floor of the Senate.

(Mr. TSONGAS assumed the chair.)

Mr. BIDEN. I have just a few brief comments I would like to make. The Senator from Kansas indicates that he is merely asking that the Institute be headed by a director appointed by the President with the advice and consent of the U.S. Senate. I suggest that that does complicate this Institute and raise it to a level that is not contemplated in the initial agreement with the People's Republic.

The amendment is, I believe, also inconsistent with normalization. Our ability to have diplomatic relations with PRC and simultaneously maintain commercial, cultural, and other relations with the people on Taiwan depends on the latter relations being conducted on an unofficial basis. The American Institute in Taiwan was established under District of Columbia nonprofit corporation law as a private corporation precisely to avoid the appearance of officiality that this amendment, I believe, would create.

The appointment of a director of the AIT through the procedures specified in the Constitution for appointing officers of the United States would, I think, be disruptive to the delicate set of relationships this legislation is intended to promote.

Second, Mr. President, I think this amendment is unnecessary. Congressional oversight over the operation and management of the Institute is assured, I believe, in the present bill. In reflection of this amendment, I hope the Senator will turn to page 20 of the bill, title III. He will see that the committee spent a good deal of time dealing with that particular aspect of relationship.

We also have, and I would like to submit it for the RECORD, a letter to the chairman of the Foreign Relations Committee from the Secretary of State. I will not trouble the Senate with reading the entire submission. I ask unanimous consent that it be printed in the RECORD at this point.

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

THE SECRETARY OF STATE,
*Washington, D.C., February 23, 1979.*

Hon. FRANK CHURCH,
*Chairman, Committee on Foreign Relations, U.S. Senate.*

DEAR MR. CHAIRMAN. As you know, under the articles of incorporation and bylaws of the American Institute in Taiwan, the Secretary of State appoints and removes the trustees of the institute.

Because the Institute is not an agency or instrumentality of the Government, and because its trustees are not officers of the United States, it would not be appropriate for the Senate to advise and consent to the appointment of trustees or officers. However, the names of prospective trustees and officers will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee or officer, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

This arrangement will enable the Institute to retain its character as a private corporation and enable the Senate to participate in the selection of trustees in an appropriate manner.

Sincerely,

CYRUS VANCE.

Mr. BIDEN: It says in part:

However, the names of prospective trustees and officers will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee or officer, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

Mr. President, I think the proposed amendment is unnecessary to accomplish the goals for which it was ostensibly introduced in the first instance, and I think it would run serious risk of upsetting the delicate balance which we are attempting to achieve here through our legislation.

I fully concur with the Senator from Kansas when he says that the normalization process is useful and in our own self-interest for many of the reasons that he cited. I again respectfully suggest that passage of this amendment will put in jeopardy the very end that the Senator from Kansas is seeking.

I would also conclude by saying that if the Senator from Kansas is successful in his quest, he may find that he, in practice, prefers the arrangement proposed by the committee.

So for a number of reasons, both personal, practical, and official, I suggest that the Senator from Kansas is ill-advised in moving the amendment.

Assuming the Senator from Kansas is willing to yield back the remainder of his time, I am willing to yield back the remainder of my time. I move at this time to table the amendment, if that is agreeable to the Senator.

Mr. DOLE. That is not what I have in mind.

Mr. BIDEN. I yield to the Senator from West Virginia, the distinguished majority leader.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware that he has 20 seconds remaining and and the Senator from Kansas has a minute-and-a-half remaining.

Mr. BIDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the precedents, the Senator does not have enough time to suggest the absence of a quorum.

Mr. BIDEN. Then I suggest I keep speaking so the Senate is not out of order. Then I will yield for the minute-and-a-half to the Senator from Kansas. I do not really have much more to say, especially in 20 seconds. I have difficulty saying my name in 20 seconds. [Laughter.]

The PRESIDING OFFICER. The Senator's time has just expired. The Senator from Kansas has a minute-and-a-half.

Mr. DOLE. I have no desire to use that time, Mr. President. I would be happy to yield to the distinguished majority and minority leaders.

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## MIDEAST PEACE NEGOTIATIONS

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. The President of the United States just called me from Air Force 1 to say that he had talked again with President Sadat, and President Sadat has agreed to the proposals that have been discussed. The President did not go into any details as to what the proposals are or have been. But he said that Mr. Sadat has agreed to them; that Mr. Begin is going to submit those to his cabinet shortly and to the Knesset; that hopefully the Israeli Cabinet and the Knesset will agree to the remaining issues, and that a treaty may result.

That was the sum and substance of what the President had to say to me.

The distinguished minority leader received a call. I yield at this point to the minority leader for any comment he may have.

Mr. BAKER. I thank the distinguished majority leader.

Mr. President, the Vice President of the United States called me a little while ago to say that the President had requested that I be notified. It appeared that an agreement had been reached for submission, as I understood it, to the Parliament of Egypt and to the Knesset in Israel. My information coincides exactly with that described by the distinguished majority lead.

I would only add that I am pleased and relieved. I think the President took a risk that was worth taking. I am hopeful now that these other negotiations and considerations by the governing authorities of each country will result in a peace treaty.

Early on I commended the President of the United States for his initiative in undertaking this trip. I think the indications are now that the result may be favorable. I join with him and with the

majority leader in our statement of pleasure at that result.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, it is hoped, following what the minority leader has stated, that impending developments will result in a favorable action. My understanding is that President Sadat has agreed with all of the matters at issue. Again, I am not aware of all the details.

I can see, I think, the difference in the positions of Mr. Begin and Mr. Sadat. I have had the impression that Mr. Sadat, is in a little better position within his country to authorize and to give approval to proposals which Mr. Begin alone might not be equally able to do within his country.

I am hopeful that the Israeli Cabinet and the Knesset will add their stamps of approval.

It seems, Mr. President, based on these conversations that the distinguished minority leader and I have had with the Vice President and the President respectively, that things are looking up and that the hoped-for agreement may yet be achieved. Let us hope this will be the result.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer. I ask that the time that he has so graciously allowed us to proceed to use be charged against both sides on the bill.

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

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## TAIWAN ENABLING ACT

The Senate continued with the consideration of S. 245.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I move to table the Dole amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The question now is on agreeing to the motion by the Senator from Delaware to lay on the table the amendment of the Senator from Kansas. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The PRESIDING OFFICER. Has every Senator had a chance to vote?

The result was announced—yeas 54, nays 38, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—54

| | | |
|---|---|---|
| Baucus | Heflin | Nelson |
| Bayh | Huddleston | Nunn |
| Bentsen | Inouye | Pell |
| Biden | Jackson | Percy |
| Bradley | Javits | Pryor |
| Bumpers | Johnston | Randolph |
| Burdick | Kassebaum | Riegle |
| Byrd, Robert C. | Kennedy | Sarbanes |
| Cannon | Leahy | Sasser |
| Chafee | Levin | Stafford |
| Church | Long | Stennis |
| Cranston | Magnuson | Stevenson |
| Culver | McGovern | Stewart |
| Danforth | Melcher | Talmadge |
| Eagleton | Metzenbaum | Tsongas |
| Ford | Morgan | Weicker |
| Glenn | Moynihan | Williams |
| Hart | Muskie | Zorinsky |

NAYS—38

| | | |
|---|---|---|
| Armstrong | Garn | McClure |
| Baker | Goldwater | Packwood |
| Bellmon | Hatch | Pressler |
| Boschwitz | Hatfield | Proxmire |
| Byrd, Harry F., Jr. | Hayakawa | Roth |
| | Heinz | Schmitt |
| Cochran | Helms | Schweiker |
| Cohen | Hollings | Simpson |
| DeConcini | Humphrey | Stone |
| Dole | Jepsen | Tower |
| Domenici | Laxalt | Wallop |
| Durenberger | Lugar | Warner |
| Exon | Mathias | Young |

NOT VOTING—8

| | | |
|---|---|---|
| Boren | Gravel | Stevens |
| Chiles | Matsunaga | Thurmond |
| Durkin | Ribicoff | |

So the motion to lay on the table was agreed to.

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

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 101 (AS MODIFIED)

The PRESIDING OFFICER (Mr. PRYOR). Under the previous order, the Senate will now proceed to the consideration of amendment No. 101, offered by the Senator from New Hampshire, with 1 hour of debate.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 101.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I have a technical correction to my amendment which I send to the desk, and I ask unanimous consent that it be accepted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The modified amendment is as follows:

On page 23 after "SEC. 501", and before "This Act shall have taken effect on January 1, 1979" insert the following: "Contingent upon the President of the United States securing written assurances from the People's Republic of China that the People's Republic of China will not undertake military operations of any nature against the people of Taiwan.".

Mr. HUMPHREY. Mr. President, I believe that S. 245 will be vastly improved by my amendment. It would make the effective date of this law January 1, 1979, if approved by Congress, contingent upon the President's securing from the People's Republic of China written assurances that the People's Republic of China will not engage in military activities against the Republic of Taiwan. I believe that the bill would be improved vastly; and I think it goes without saying that the security of the Republic of Taiwan, the security of the people of Taiwan, would be improved vastly.

I believe it is quite possible that the People's Republic of China would agree to give those concessions. I think the People's Republic of China has a great deal more to gain from improved and formal relations with the United States than the United States has.

It is highly unfortunate that in his negotiations with the People's Republic of China, President Carter and his people failed to press for such an assurance. In fact, it came out during the hearings of the Foreign Relations Committee not only that the President did not press for such assurances, but also, that he never even bothered to ask for them, which is a shocking revelation, in my opinion.

There are those who will say that my amendment works against the best interests of the people on Taiwan. I point out that today, at this moment, we have neither an ambassador nor an embassy in Taiwan; at the same time, neither do we have the so-called American Institute. We are in a hiatus. Yet, the people on Taiwan remain free, they remain prosperous, our American investments in Taiwan remain secure, and the mutual agreements between this country and the ROC remain in force. So, should the Senate decide, in its wisdom, to approve this amendment, we would not be creating any further vacuum than exists at this moment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, it would be ruinous to adopt this amendment.

The whole purpose of this bill is to establish a basis whereby the United States can continue to maintain its relations with the people on Taiwan. The whole purpose of this bill is to serve the needs of that relationship. The commercial aspects, the cultural aspects, and our concern for the future security of the people on Taiwan are embraced in this bill.

Why is it necessary to bring this bill to the Senate in the first place? The answer to that question is known to Senators. We are faced with a unique condition. There are two Governments that continue to maintain that each is the Government of China. Both Governments agree that there is but one China, and that Taiwan is a part of it. That is not only an assertion of Peking; that is also an assertion of Taipei. The choice before the United States is, which of these Governments shall we recognize officially?

Obviously, the circumstances do not permit that we recognize both. The President of the United States has found the resolution to put aside 30 years of self-deception and to acknowledge that the People's Republic of China does in fact constitute the Government of China and the seat of that government is in Peking. It exercises effective jurisdiction over a billion human beings, who comprise one-fourth of the human race.

If this amendment were to be adopted we would be saying that everything contained in this bill that benefits Taiwan is made contingent upon some future written guarantee furnished us by the government in Peking that there never will be an armed attack upon the island of Taiwan.

Mr. President, Senators appreciate that when both the Chinese on Taiwan and the Chinese on the mainland regard the resolution of the Taiwan issue as an internal question, a Chinese question, there is no possibility of ever obtaining such written assurance. Thus, the adoption of this amendment effectively kills the bill through which we will otherwise be able to maintain all of our existing relations with the people on Taiwan on an unofficial basis. If Senators want to kill the bill, this is the way to do it.

I certainly have confidence that the Senate will show more mature judgment than to act favorably upon this amendment.

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

Mr. CHURCH. I am happy to yield to the distinguished Senator from Florida.

Mr. STONE. As a vigorous supporter of the Republic of China on Taiwan and one who in the committee worked as hard as possible to strengthen our relationships with the Republic of China on Taiwan, I believe that to adopt this amendment would not be in the interests of the Republic of China on Taiwan. We have a gap. We have a hiatus which we are now engaged in and we are doing our best to live through it. If this bill becomes law in the next few days, as it can, then our tremendous trade relations with the Republic of China on Taiwan, which exceeds $7 billion a year, can and will go on and even improve. And I think there could come a day in which stronger, more governmentally based relations with the Republic of China on Taiwan, could again take place.

At this moment, though, the best we can do for our relationship with them is to pass this bill which is far different than the bill initially presented to the Foreign Relations Committee. This bill has been strengthened in so many ways that it really does the job.

And I think that we should oppose this amendment as well-meaning as I am sure the Senator from New Hampshire is in this regard. He does want to help the Republic of China on Taiwan, as does the Senator from Florida. But I think that it is very, very important now to get on with this bill, which has strong definitions, strong property rights, and strong standing in court for our friends on Taiwan, and let us get on with it and pass this bill very quickly, because otherwise our friends could suffer substantially and that is not appropriate.

I think I should also say one other thing. This bill also has not merely a commitment to supply appropriate defensive weapons to Taiwan, but at my suggestion the Senator from Idaho and the Senator from New York incorporated the concept of a sufficiency of weapons, enough weapons so that they can defend themselves successfully.

Under those circumstances, and with what this bill now represents, and particularly after the amendment of yesterday, what this bill represents in every way, I really believe that it is time for us rapidly to pass this bill, send it to the President, and let us get on with our very good and we hope steady and improving relations with our friends on Taiwan.

Mr. CHURCH. I thank the Senator very much for his statement. I wish to add to it that the hiatus he refers to is one that should be of concern to us. It is one that should spur us on not only to enact this bill, but to reject any amendment that would put the effective date into the indefinite future, because there is nervousness right now about the hiatus to which the Senator from Florida has referred. I am informed that some Taiwanese banks and business firms have already withdrawn several hundred million dollars in funds because of the uncertainties about when this bill will take effect.

To prolong those uncertainties would, of course, simply aggravate the problem and doubtlessly result in massive withdrawals of Taiwanese funds from American banks.

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

Mr. CHURCH. I am happy to yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I join in opposition to the amendment for all the reasons spelled out so succinctly by the distinguished Senator from Idaho and the distinguished Senator from Florida.

I add that I applaud the work that they and Senator JAVITS, Senator STONE, Senator GLENN, and others have done in the Chamber in handling this measure so very, very effectively.

An amendment like this one, like several others that have been proposed, would destroy our efforts to develop a meaningful substantive relationship with the People's Republic of China.

I make plain that I support the Taiwan Enabling Act as reported by the Foreign Relations Committee and with the perfecting amendments that have been adopted to date. I have long been a proponent for U.S. diplomatic recognition of the People's Republic of China. It is in the interest of the United States, the most powerful country in the world, to establish a viable working relationship with the People's Republic of China, the most populous country in the world.

I do not see how we can be expected to deal with many worldwide problems of vast importance that are of vast significance to the people of our country if we are unable to talk in any direct and meaningful fashion with the People's Republic of China when we take into account how many people on the face of this world that Government represents.

Our two countries have very different systems and values. Yet, we also have many common interests. Our mutual concerns can now be discussed in an atmosphere conducive for resolution of our common problems. The recent agreement for the settlement of frozen assets is an example. But more important, the cooperation and participation of China are crucial in our search for solutions to such global issues as food, population, energy, and arms control.

At the same time, I am an advocate of continuing our commercial, educational, cultural, and scientific relations with the people of Taiwan. The United States and Taiwan have enjoyed a long and valued friendship and it is in our mutual interest to continue these good relations. While we nurture a new friendship, we cannot and should not forget our old ones.

I believe the Senate Foreign Relations Committee should be commended for the excellent job it has done in putting together the Taiwan Enabling Act, S. 245. This bill clarifies much of that which the administration implied but left ambiguous. Further, the committee has added an appropriate and necessary component to the framework of our future relations with the people of Taiwan. That essential component is the security clause asserting the continuing American concern and interest in the security of Taiwan and the western Pacific area. This provision in section 114 of the act is particularly necessary in the absence of an express pledge by Peking not to use force against Taiwan.

On several occasions I have spelled out the many reasons why I believe Peking will not use force against Taiwan, and I will not repeat them here for the record again. But since Peking would not renounce expressly the use of force against Taiwan, the United States must keep open its options to respond in the unlikely event there is a use of force by Peking. Therefore, I am pleased that the committee has incorporated the essential thrust of the resolution Senator KENNEDY and I introduced with the broad bipartisan support of 28 other Senators regarding the peace, prosperity, and welfare of Taiwan. And I am pleased that the Senate yesterday adopted a perfecting amendment by voice vote to section 114(b)(3) reflecting this substance.

The committee, in its thorough deliberations, has tackled a difficult and unprecedented situation. And the resulting committee language demonstrates the committee members' understanding of, and sensitivity and commitment to our future relations with the people of Taiwan.

As we preserve the substance of our commercial, cultural, and other relations with the people to Taiwan, it is important that we maintain these bonds on an unofficial—though no less substantive—basis. It would be inconsistent to maintain official relations with both Peking and Taipei.

The Taiwan Enabling Act establishes the necessary balance in our relations with the people of Taiwan and the Peking Government. And it is a balance that must be maintained. The administration can live with this bill. I believe the Chinese on both sides of the Taiwan Strait can also live with it—as it is without further changes. This bill will establish the balance which is in the interests of all parties. To upset the balance serves no one.

I am convinced that S. 245 is adequate and appropriate in governing our future unofficial relations with the people of Taiwan. I ask my colleagues to join me in this support, and I urge them to oppose amendment like the pending proposal that would destroy our opportunity to develop appropriate relations with the People's Republic of China.

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

Mr. CHURCH. I thank the Senator very much for his intervention, and I yield now to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I am sure that any comments by me at this point following the clear and lucid analysis of this amendment by the distinguished manager and the chairman of the Foreign Relations Committee and my colleagues, Senators STONE and CRANSTON, is not necessary. However, it seems to me as an opportune time for me to indicate my support for the pending legislation as well as my opposition to this amendment.

On December 15, 1978, President Carter announced that effective January 1, 1979, the United States would recognize the People's Republic of China. At the same time he asserted that the American people and Taiwan "would maintain commercial, cultural and other relations without official basis."

Since President Nixon signed the Shanghai Communique in 1972, a U.S. policy goal has been to work toward normalization of ties with mainland China. This was difficult to achieve due to our recognition of a strong alliance with the Republic of China. Both Taiwan and mainland China take the position that there is only one China, but that each considers itself the sole legitimate government of the Chinese people.

Recent U.S. recognition of the People's Republic of China as the sole legitimate Government of China now precludes our Government from dealing with Taiwan on an official basis.

The legislation before us assures the continuation of full commercial, cultural, and other relations between the United States and the people of Taiwan, on an unofficial basis. U.S. relations and interests with Taiwan will be handled by the American Institute of Taiwan, a private organization funded by the U.S. Government, established expressly for this purpose. The institute will be the channel through which most U.S. agencies and departments will carry out programs, transactions, and other relations with Taiwan. The institute will conduct its business with Taiwan through a similar private institution established by the people of Taiwan which will represent their interests.

Mr. President, let me emphasize that this legislation is independent of the President's decision to recognize the People's Republic of China. This legislation cannot affect that decision and no amendments to it or rhetoric about it can change that fact.

This legislation is important to Taiwan. It is important to American interests in Taiwan. It is the only vehicle available to legally assure a continuing commercial, social, and military relationship with Taiwan.

I know that some of my colleagues who disagree with the recognition of the PRC are frustrated by the fact that there is no legislative vehicle available to overturn the President's decision to culminate the policy initiated by President Nixon to normalize relations with China. I know, too, that some of my colleagues would like to amend this legislation so as to create a political issue—though obviously not a partisan issue.

But, Mr. President, the fact is that this effort and this amendment smacks of biting off one's nose to spite one's face. Taiwan needs this bill. America's interests in Taiwan need this bill. Conversely, I suggest the People's Republic of China might be pleased to see this bill die.

This amendment would have as its sole effect the denial of all of the benefits which S. 245 would confer upon the people of Taiwan. The entire thrust of this bill is the protection of the relationship with the United States and the people on Taiwan, their eligibility for programs and relationships, the standing of Taiwan's authorities and people in the U.S. courts, the applicability of Taiwan's laws in U.S. courts, the continuation in force of treaties and agreements with Taiwan, the protection of Taiwan's assets, the security amendment, and so on.

The administration has not made the continued relationship with the United States and the people on Taiwan contingent upon the PRC's conduct.

For Congress to do so would be completely inconsistent with its desire to protect the people on Taiwan.

We may wish the Chinese would issue a statement formally renouncing the use of force. There is no reason to believe they will do so.

To make our continued relationship with the people on Taiwan contingent upon the PRC taking an action that clearly it has no intention of taking will simply punish the people on Taiwan.

I would hope that each of my colleagues would bear this in mind as they consider amendments to and final passage of this legislation. With this in mind, Mr. President, I would like to address the bill in specific terms.

For purposes of U.S. domestic law, this legislation views Taiwan as a country, absent the official sovereign status. It extends to those representing Taiwan interests, all privileges and immunities necessary in conducting business with our country. Thus Taiwan will continue to be eligible under such statutes as the Arms Export Act, the Export-Import Bank Act, and the Atomic Energy Act. All existing international agreements, with the exception of the Mutual Defense Treaty, made between the United States and the People's Republic of China will continue in force notwithstanding the changed status of Taiwan.

This legislation also details the close relations between the American Institute of Taiwan and the U.S. Government. The Institute is authorized to enter into new agreements as necessary. Such agreements will continue to be subject to congressional approval and consultation, pursuant to U.S. law.

The basic structure of the bill as submitted by the administration remains intact. However, the committee has clarified and specified some of the provisions to guard against legal loopholes or questionable application of U.S. domestic laws which would have the effect of undermining American-Taiwan relations.

TAIWAN AND THE SECURITY QUESTION

One of the most discussed issues of the bill has been the nature of our defense ties with Taiwan. The committee decided to add a section to S. 245 under which the United States would continue providing defensive arms to Taiwan and would assist the people of Taiwan to maintain a sufficient self-defense capability, whether through the provision of arms or other means. This section also directs the President to immediately inform Congress of any threat to Taiwan's

security or to U.S. interests related to Taiwan. Any U.S. reaction to such threats would be carried out within the confines of U.S. law and constitutional processes. These confines include the provisions of the war powers resolution which insures congressional consultation by the President before any U.S. Armed Forces are committed to hostilities. U.S. law and constitutional procedures precludes any absolute security guarantee for Taiwan or any country.

IMPACT OF U.S.-PRC NORMALIZATION ON TAIWAN AND THE ASIA REGION

Normalization of relations between the United States and the People's Republic of China provides for a more cooperative relationship between our Government and their Government and enhances the prospects for a peaceful resolution of the Taiwan issue. The Mutual Defense Treaty which will be terminated in January 1980 has not and cannot in itself guarantee a peaceful future for Taiwan. This in no way diminishes our continued concern for the welfare of Taiwan. We have made it very clear to the People's Republic of China that our relations with them rests on the expectation that the Taiwan question be peacefully resolved.

During my trip to the People's Republic of China in the latter part of November 1978, the Chinese made clear to the congressional delegation their commitment to the "four moderizations," China's plan for large-scale economic development. They frankly stated that China's access to U.S. credit, agricultural commodities, and technology is a key to their country's development priorities. Furthermore the People's Republic of China seems far more preoccupied with Soviet influence in many parts of the world than with a forced takeover of Taiwan. Their trade interests with the United States coupled with their concern over Soviet expansionism are incentives for the People's Republic of China to seek a peaceful coexistence with the people of Taiwan.

Likewise U.S. normalization of ties with the People's Republic of China reduces the likelihood of a confrontation between China and the United States in the Asia region. This is especially significant for our Asia allies. Our coinciding interests in the Soviet role in Asia will also diminish possibilities of China precipitating political and economic upheaval in the region.

This bill is vital to our future relations with Taiwan, as it lays the groundwork upon which commercial, cultural, and other relations between our country and Taiwan will continue on an official basis. There is no reason to believe that this new basis will hamper our bilateral relations. On the contrary, there is every reason to believe that our relations will flourish and expand. Under a similar arrangement between Taiwan and Japan, established a few years ago, trade between them has actually increased.

I am sure my colleagues here share the same deep concern that the members of the Senate Foreign Relations Committee felt during their deliberations on S. 245: That the United States will not abandon Taiwan. With this concern very much in mind, the committee held extensive hearings on this bill, carefully considering wide-ranging views including those of the State Department, legal experts, business interests, congressional members, and defense experts. At the same time the committee was careful to avoid including language in the bill which would risk undermining or disrupting relations between the United States and the People's Republic of China. Such provisions would not safeguard Taiwan's future or our relations with them. Rather such provisions could only jeopardize Taiwan's future. I appeal to my colleague's to not be misled by amendments that may seem to strengthen our ties with Taiwan, but which actually undermine them and thus place in jeopardy the entire purpose of this bill.

Quite simply if this legislation is not passed, our relations with Taiwan go down the drain. We should waste little time in passing S. 245.

There are risks involved in this new policy toward the People's Republic of China and Taiwan, but I believe that this new policy is of such mutual interest to the People's Republic of China and to the United States and other countries whose future is of concern to us in the Western Pacific that the end result will be stabilization of the situation in the Western Pacific. Such a stabilization will work to achieve what this amendment seeks to achieve explicitly, but which it cannot, given the realities, achieve today on the Senate floor.

For that reason, Mr. President, I support the position taken by Senator CHURCH and others of my colleagues in opposing this amendment and supporting the pending legislation.

May I say I particularly appreciated the observations of my good friend from Florida (Mr. STONE) with whom I had the privilege of visiting and touring through the People's Republic of China last November.

We returned just 3 weeks before the President's historic decision, and I think, at least so far as I am concerned, that I am assured the Chinese at this point view it as in their interest to begin and continue an open relationship with the West, and that that objective would be inconsistent with the use of force directed toward Taiwan.

In the pending legislation, as Senator STONE has so articulately said, we have made it eminently clear to the People's Republic of China that we would regard it as against our interest for them to use force against the people of Taiwan. So I am delighted to have followed, and am prepared to follow, Senator STONE's comments on the pending amendment here this morning.

Mr. CHURCH. Mr. President, I yield to the Senator from New York such time as he requires.

Mr. JAVITS. Mr. President, I think Members have already put their fingers on the critical points here, but I would like to sum them up, as one of the authors of this bill.

This measure we are passing, as Senator MUSKIE so very properly said, is for the benefit of Taiwan. The People's Republic of China would probably be delighted if we did not pass this, because then all we do is exchange ambassadors. Everything is normalized, everything is regularized, and they have a free hand in respect of Taiwan, and we leave the Taiwanese up in the air as to whether they are going to be backed, defended, or traded with respect to what unilateral commitment we are making to them. That is all left up for grabs.

I could not think of anything that would be more satisfying to Teng than the collapse of the relations between the United States and Taiwan, which would result in leaving them totally alone. Where else are they going to go? They are orphans, at the mercy of 900 million people, who can certainly overwhelm them sooner or later.

So the passage of this bill is our way of giving them the assurance which they need and, for a change, in American policy—which has been bedeviled by the idea that the President cannot deliver has begun to stand out in the world, so that nations now doubt that we are resolute and are going to come through—here is a situation in which we are joining with the President, and we say as a totally united United States "We are going to see that you are not overrun, that you are not prejudiced, that you are not coerced either by force or by the implication of force or by boycott or blockade."

It seems to me that is a critical point, and there is no question about the fact that this will kill this whole proposition, because can you conceive of Teng, who is the inventor of this policy, swallowing this one?

He was just here, he just debated this proposition, and just told that they have got lots of time; they can wait forever. They do not intend to use force or change the social conditions, and so forth, on Taiwan. They value what is now their American connection. They do not want to jeopardize it, and in the face of that we say, "We want it in writing, or else."

The second point, which I think is exceedingly important, is this: What alternative do we offer to this way of approaching this problem? The alternative now is one of complete uncertainty for the people on Taiwan, and for this reason: let us assume, for the sake of argument, that we obtained this written promise, which is inconceivable under the circumstances. It seems to me anybody can see that, that the Chinese cannot do it, and if we should do this and incorporate it in this law it would simply mean the collapse of all the negotiations with respect to where we are today.

But let us assume we can get it. What is the sequel to that? We now have a written agreement with the Chinese. We do not have to do anything further. We do not have to assure them of arms, assure them of trade, assure them of back-

ing down the road, and a solemn promise by the United States. The Chinese have written it and have said they are not going to use force, and we are out of it, and that is all this amendment says. It says:

Contingent upon the President securing written assurances from the People's Republic that they will not undertake military operations.

What about boycott? What about blockade? What about telling every nation in the world "If you do any business with Taiwan, don't you show your nose in the People's Republic of China?

They have no promise from us, because we will have done all that you wished us to do by proposing this amendment. We get a written statement which just says that China will not use any military operations. Well, they can strangle them about 50 ways from the middle without any military operations.

So with all respect to our colleague, and I respect and appreciate the opposition to this measure, I really think it is better to kill it in open combat and fair duel than by stealth, and that is all this would do. Instead of knifing him in the front you are going to knife him in the back, and I do not believe that this is what our country wants.

Now, as to the differences between Teng and ourselves on the question of force, I think that is a very important question, and I wish to point out again, as one of the conceptualists in respect of this legislation, that it was my purpose, and I can only account for myself and I think it is carried out in the legislation, to make a unilateral promise by the United States which was not dependent or contingent upon anybody else's promise. We know that people forget, and we know that notwithstanding that this is a highly interdependent world, Taiwan is far away, so are the people of the People's Republic of China, and it is very hard for our people to get accustomed to the idea that that is where our frontiers are. If there is a war, that is where it is going to start, whether it is on that frontier, the European frontier, the Middle East frontier; it certainly is not going to start in Los Angeles, San Francisco, or New York.

So we felt this had to be enshrined in some way in American policy, like any other major declaration, that our people for generations would not forget what we have promised the Taiwanese in terms of their survival and their ability to exist under whatever system they decide to adopt.

So, it seems to me that we can understand Teng's statement, that they cannot give up the right of the use of force. "Maybe these people someday will deny their motherland," as he put it; they cannot denigrate their own concept that there is one China, including Taiwan, by agreeing to anything which denigrates that idea.

And we say, "All right, that was incorporated in the Shanghai communique, which we accepted, and you can feel that way, and even the people on Taiwan can feel that way. Although we doubt that they do; we really think it is the people who came over from the mainland who have those strong feelings. But be that as it may, we are telling you now we will not stand still for it, and will react with everything we have according to the constitutional processes of this country—and you do not have to agree to this, we are saying it unilaterally—if you use force, direct or indirect, or coercion against these people, not only to suppress them but to suppress their social or governmental system." It seems to me that when a great nation makes that kind of a condition, not based on something those people say or do or do not do, that is the strongest kind of commitment we can give the people on Taiwan.

And the proof of that is that whereas there was consternation on Taiwan when this policy was announced, everything has calmed down and the people there now have a sense of assurance that, with the people of this country unilaterally in back of them—not just industry or business—based upon what people may do, they can now feel secure in developing their society and their economy. I think that was the intent of the people of this country, which will be expressed by this bill.

So, while I deeply appreciate the fact that our colleague who proposes this amendment believes it will give more assurance to the people of Taiwan, I respectfully submit that it will give them much less than they have by this bill. That would appear from the impracticality of dreaming for a moment that we can get such a thing as this amendment proposes, or that there will be any other result than the total collapse of what we are trying to accomplish, if we should accept the amendment and it should be incorporated in the law.

So I hope very much that the Senate will reject it.

Mr. HUMPHREY. Mr. President, there have been several references in this discussion to the security of Taiwan, and how wonderful S. 245 is in that respect.

It is not wonderful at all. It represents a step backward when you compare it with the Mutual Defense Treaty which is in force today between the United States and the Republic of China.

The section dealing with military aggression in S. 245 is section 114. Let me read what it says. It says it is the policy of the United States——

to consider any effort to resolve the Taiwan issue—

I would like to know what that issue is, by the way.

by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

What entity is the Western Pacific area? And what military forces does that entity of the Western Pacific area have at its disposal? Will this entity, the Western Pacific area, come to the defense of Taiwan?

That is vague, deliberately vague language, and it means nothing.

The very least we could do for our friends on Taiwan, whose only sin was that they trusted us, would be to obtain assurances from the PRC that it will not resort to force against the Republic of China. We should have done that months ago. I believe such assurances could have been obtained; I believe they can still be obtained, because the PRC has far more to gain by improved relationships between our two countries than the United States does.

Our colleague from Idaho has spoken of the need for speedy action on this legislation. I believe our country suffers from undue haste in bowing to the demands of the Communists. Who made all the concessions? Did the PRC make one major concession? No, they did not. It was the United States which made all the major concessions. It bowed to the Chinese demand that we derecognize Taiwan, which is a sovereign country supported by its people. We bowed to their demands that we derecognize Taiwan, that we terminate our Mutual Defense Treaty, and that we withdraw our military presence. That is underway today; it is in fact virtually completed.

Who made all the concessions? We did. I suggest that haste has botched up this thing. President Carter made a very poor deal, which stinks to high heaven and begs for rectification. That is what my amendment aims to do, Mr. President.

Mr. President, if there is no further debate on this issue from the other side of the question, then I am prepared to relinquish the remainder of my time.

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. How much time remains to the opponents of the amendment?

The PRESIDING OFFICER. The opponents of the amendment have 5 minutes remaining.

Mr. CHURCH. First of all, let me say there is a fine irony—I am sorry; has the Senator from New Hampshire yielded the floor?

The PRESIDING OFFICER. He has yielded the floor.

Mr. CHURCH. There is a fine irony in this amendment. If it were sponsored by a Senator who carries a liberal label, I am quite certain that it would be opposed by the very Senators who may vote for it. The argument then would be how on earth can you trust the word of Peking? What good is a written assurance from Peking? What value does that have to the people on Taiwan? Conservatives would be in here en masse, criticizing and ridiculing the amendment, suggesting that there is no basis whatever for depending upon any assurance from Peking, written or verbal, and that the guarantee contained in the amendment is worthless.

I submit, Mr. President, that if we put the proposition to the people on Taiwan and asked them, "Which would you prefer, a written statement from the

Peking Government that they never will attack you in the future, or a unilateral statement by the Government of the United States that we base our whole new relationship with Peking upon the expectation that they will never resort to force in the settlement of the Taiwan issue; that furthermore, we pledge ourselves to furnishing Taiwan, in the future, whatever weapons it may need for its own defense; and that furthermore, we would regard any attack upon Taiwan, including a boycott or blockade, to be a threat to the peace and security of the Western Pacific and of grave concern to the United States." Mr. President, I know what they would say. They would say, "Give us that unilateral declaration of support from the United States. Do not force us to rely upon written assurances from Peking."

What a fine irony to have this amendment proposed by the very Senators who would ridicule it and vote against it if it were sponsored by some liberal Senator.

I find no good reason for the support of this amendment and its adoption by the Senate. Every Member should know that the amendment would kill the bill and suspend indefinitely everything within the bill that would enable us to proceed with our normal relationships and our peaceful ties with the people of Taiwan.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I will be very brief. I support the manager of the bill, Mr CHURCH, and the ranking minority member, Mr. JAVITS, in opposing this amendment. I do not for a moment speak in derogation of the author of the amendment or any of its supporters, but I think it would be a serious mistake if the Senate were to adopt this amendment. It would, in my judgment, effectively negate all that we are seeking to do in the bill. Let me say it this way: It would operate ultimately to the detriment of the very people about whom we are concerned here, in regard to our continuing relationships.

The effect of this amendment would be to injure the status of the people of Taiwan. It would have the realistic effect of killing the bill. I am sure the President would not sign the bill. He would veto the bill, if this amendment were included. He would have no alternative.

The People's Republic of China does not want to injure the relations which it is developing with the United States. It does not want to jeopardize those relations. The PRC is in no position to militarily attack Taiwan or to take Taiwan by military force at this time. And, at any time in the future that military action might be taken, the United States always has the option of acting within its constitutional processes in its own best national and security interests.

Mr. President, this amendment does not say anything about blockades. It says nothing about boycotts. It talks about military operations. I do not think there is a Member of this body who thinks for one moment that the People's Republic of China is going to give any written assurance that it will not undertake military operations of any nature against the people of Taiwan at any time. Premier Teng was in this country and he stated very clearly that the PRC has no intention of taking such action, but he would not completely close the door. He would not completely forgo the option of taking action at some future point. I can see from his standpoint why he would not do that. He is not going to give any written assurances.

For us now to demand that there be written assurances would be to jeopardize the very legislation that is in the best interests of the people of Taiwan.

If this amendment passed, I have an idea where some other happiness would prevail, and that would be the Soviet Union.

Just for once, Mr. President, let us think about the interests of our own country. We are all interested in Taiwan. We are all interested in cultural relations, and in continuing educational, scientific, and trade relations with Taiwan. That is what this legislation is all about. I think, and I hope most of us believe, that this legislation is in the interest not only of the people of Taiwan, but of the people of the United States.

So let us think once in a while of what is in the best interests of the United States.

Let the Senate adopt this amendment and the leader of the Soviet Union will say, "Amen." They will say, "Hurrah." Perhaps "amen" is not in their lexicon.

But they would be happy, they would be deliriously happy to see this amendment adopted, because they do not want to see the normalization of relations between the United States and the People's Republic of China go forward.

The PRESIDING OFFICER (Mr. NELSON). All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask for 2 minutes on the bill.

Mr. CHURCH. Mr. President, I grant 2 more minutes on the bill.

Mr. ROBERT C. BYRD. Mr. President, the Soviet leaders do not want to see our relations with the People's Republic go forward. Normalization was bad news in Moscow.

I do not want to go out of my way to offend anybody. We want to continue to cooperate with the Soviet Union where we can, to be friendly with the Soviet leaders. But the interests of the United States of America should come first. Where do those interests lie? They lie in passing this legislation without this amendment.

So let us be concerned about the interests of the United States. Let us not for a minute, not for 1 minute, be deluded. This would not be to the benefit of the people of Taiwan. But the leaders of the Soviet Government would be delighted to see this, because it would be a roadblock in the path of normalization of relationships between the United States and the People's Republic of China. I am not for 1 minute about to support this amendment, and I hope the Senate will reject it shortly.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I must say I am delighted at the high-powered opposition which floor managers have mustered against this amendment. I certainly was entertained by the statements prepared overnight which shows they are worried about this amendment. Well, they ought to be.

I am not opposed to realistic relations with the People's Republic of China, Mr. President. That has been implied. I am not. Neither are a great many of us who are opposed to the weaknesses in S. 245.

I am, however, adamantly opposed to knifing our friends, either in the front, the back, or the side, and that is what President Carter proposes to do.

My colleagues in this room have automatically dismissed the possibility that the PRC might be willing to grant in writing those assurances which I seek. I think they might. I point out again that the PRC needs us far more badly than we need the PRC. Why do we need them? I am not against having realistic relations with them, but we have gotten along beautifully now for decades without a close connection with the PRC. We can get along nicely for a few more months without those connections. I say there is a good possibility that we could receive those assurances if we demand them. They ought to have been demanded. We ought now to demand them in the President's place.

There seems to be worry expressed about a Presidential veto. Well, what is the worry about that? Are we a rubber stamp? Must we rubber stamp a bad, stinking deal the President has made in notifying our friends? I say no. I say let us pass this amendment. Let us, in effect, require the President to go out and deal again with the PRC and come back with a deal that is better for our friends.

Mr. President, if those who oppose me in this amendment wish to have no further discussion, I am prepared at this time to relinquish the remainder of my time.

Mr. CHURCH. Mr. President, I am prepared to yield back my time. I believe it has expired anyway.

The PRESIDING OFFICER. Is all time yielded back? All time has been yielded back.

Mr. CHURCH. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I further announce that, if present and

voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The PRESIDING OFFICER. Have all the Senators present voted?

The result was announced—yeas 74, nays 21, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—74

| | | |
|---|---|---|
| Baucus | Ford | Pell |
| Bayh | Glenn | Percy |
| Bellmon | Hart | Pressler |
| Bentsen | Heflin | Pryor |
| Biden | Heinz | Randolph |
| Boren | Inouye | Ribicoff |
| Boschwitz | Jackson | Riegle |
| Bradley | Javits | Roth |
| Bumpers | Jepsen | Sarbanes |
| Burdick | Johnston | Sasser |
| Byrd, Robert C. | Kennedy | Simpson |
| Cannon | Leahy | Stafford |
| Chafee | Levin | Stennis |
| Church | Long | Stevens |
| Cochran | Magnuson | Stevenson |
| Cohen | Mathias | Stewart |
| Cranston | McGovern | Stone |
| Culver | Melcher | Talmadge |
| Danforth | Metzenbaum | Tsongas |
| DeConcini | Morgan | Warner |
| Domenici | Moynihan | Weicker |
| Durenberger | Muskie | Williams |
| Durkin | Nelson | Young |
| Eagleton | Nunn | Zorinsky |
| Exon | Packwood | |

NAYS—21

| | | |
|---|---|---|
| Armstrong | Hatfield | McClure |
| Baker | Hayakawa | Proxmire |
| Byrd, Harry F., Jr. | Helms | Schmitt |
| Dole | Hollings | Schweiker |
| Garn | Humphrey | Tower |
| Goldwater | Kassebaum | Wallop |
| Hatch | Laxalt | |
| | Lugar | |

NOT VOTING—5

| | | |
|---|---|---|
| Chiles | Huddleston | Thurmond |
| Gravel | Matsunaga | |

So the motion to lay on the table Amendment No. 101, as modified, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 99

(Purpose: To permit individuals representing the people on Taiwan to be admitted to the Senate diplomatic gallery)

Mr. COCHRAN. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes amendment No. 99.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 13, line 15, before "The" insert "(a)".

On page 13, after line 24, insert the following:

"(b) In exercising its duty under paragraph 2 of rule XXXIV of the Standing Rules of the Senate, the Committee on Rules and Administration of the Senate shall issue regulations providing that the head and first secretary of the instrumentality referred to in section 109, and their families and suites, shall be admitted to the gallery in the Senate Chamber set apart for the use of the diplomatic corps. This subsection is enacted as an exercise of the rulemaking power of the Senate.".

Mr. COCHRAN. Mr. President, the purpose of this amendment, which is to section 113 of the bill before the Senate, is to require that there be extended to the first Secretary, and others designated in the amendment, the privileges of the diplomatic gallery for those who are in that capacity representing the instrumentality of Taiwan which is created to carry on relations here in the United States.

It is in keeping, in my judgment, Mr. President, with the intentment of the section as it now reads.

I hope that through discussions here on the floor with the distinguished chairman of the Committee on Foreign Relations and the distinguished chairman of the Committee on Rules and Administration that we may establish that this can, in fact, be done under the existing rules of the Senate. If it cannot, then we would pursue the amendment.

With that hope in mind, Mr. President, I reserve the remainder of my time, to permit the distinguished charman of the Committee on Foreign Relations to respond to this hope.

Mr. CHURCH. Mr. President, it is my understanding that the objective of the amendment lies within the discretion of the Committee on Rules and Administration of the Senate. Therefore, it would not be necessary nor advisable to write this language into the statute.

I note that the able chairman of the Senate Committee on Rules and Administration is present; and with the Senator's permission, I will ask him, as the chairman, to respond to the Senator's question.

Mr. PELL. I am glad to do so.

Mr. President, as we know, the diplomatic gallery—the gallery on the south side, behind the clock—very often is empty. It is entirely for diplomats, except the first and second rows on the east side. The first one on the east side is for guests of the President, and the second one is for guests of the Vice President. All the other rows are for diplomats. The original rule said that it was open only to the Secretary of State, foreign ministers, and so forth. Through usage, this has been expanded to include all members of the diplomatic corps.

From my point of view, I would think that, by the same custom of usage, the representatives of Taiwan, or Formosa—whatever we call it—should continue to have the same access to that gallery as long as they are being treated as they are, in a diplomatic manner, by the Government of the United States. That is my thought, and the thought which I would convey to the doorkeepers there. If there is any questioning of this thought, it can be raised in the Rules Committee at a later date, to see if the committee will sustain this recommendation or suggestion of mine. That would be my intention.

Mr. COCHRAN. Mr. President, I thank the distinguished manager of the bill. I believe that under the provisions of the rule, the chairman of the Committeee on Rules and Administration clearly has authority to issue, to such persons who are entitled to its privileges, cards which will permit them access to that gallery.

With that assurance, I will withdraw my amendment. I ask permission to withdraw my amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw it.

Mr. CHURCH. Mr. President, I thank the Senator for withdrawing the amendment in the light of the assurances he has received. I appreciate his cooperation.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. HELMS. To be divided equally.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I say to the Senator that——

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. HELMS. I withdraw it, then. The time is still running.

Mr. JAVITS. Mr. President, there is plenty of time on the bill. There are 5 hours on the bill. So I suggest that the Senator suggest the absence of a quorum, with the time chargeable to the time on the bill.

Mr. HELMS. All right. I suggest the absence of a quorum.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I yield to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am concerned about a particular provision of S. 245; namely, section 113 on page 13 of the printed document which states:

The President is authorized and requested, under such terms and conditions as he determines, to extend to the instrumentality established by the people on Taiwan and the appropriate members thereof, referred to in section 109, privileges and immunities comparable to those provided to missions of foreign countries, . . .

And so forth.

Mr. President, it has been alleged in some quarters, and I do not know whether it is true or not, that pressure was brought to bear on the Republic of China to accept the institute concept, pressure along the lines of threats to expell their personnel from this country, and I am concerned that in the future that kind of pressure could be exerted against the representatives of the people on Taiwan.

I am informed by counsel that the Senate cannot compel or direct the President to grant such privileges and immunities, but I wish to solicit the opinion of the floor managers relative to this section.

Is it their feeling that the threat of

withdrawal of diplomatic privileges and immunities by a President in order to sway the representatives of the people on Taiwan to a particular point of view be inappropriate behavior on the part of the President?

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

Mr. HUMPHREY. I yield.

Mr. JAVITS. Mr. President, in my judgment that would run counter to the purpose and intent of this section.

The purpose and intent of this section is that the appropriate members, that means in my definition, the senior people in this Taiwan Institute shall have privileges and immunities comparable to those provided to missions of foreign countries.

When the President signs this bill into law, in my judgment, he is at the same time to follow the intent of Congress undertaking a moral obligation to extend these comparable privileges and immunities, and the word "comparable" is the word used in the bill, as well as the word "appropriate," to the appropriate members of the Institute, to wit, the senior people.

When he signs the bill, he undertakes that moral obligation as a result of the intent of Congress in this provision.

Mr. HUMPHREY. I thank the Senator.

Mr. CHURCH. I concur in the remarks made by the distinguished ranking member of the committee.

Mr. HUMPHREY. I thank the Senator very much.

I understand it is the opinion of the Senator that the threat of withdrawal of privileges and immunities by a President would be counter to the intent of this section.

Mr. JAVITS. Based on differences of opinion in trying to make him do something he does not want to do, yes.

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from North Carolina wish to be heard?

Mr. HELMS. No.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate stand in recess for 1 hour, and that the time be charged equally against both sides.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Thereupon, at 1:12 p.m., the Senate took a recess for 1 hour.

The Senate reassembled at 2:12 p.m., when called to order by the Presiding Officer (Mr. HEFLIN).

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Does the unanimous-consent agreement automatically bestow time upon the Senator from North Carolina?

The PRESIDING OFFICER. If the Senator offers an amendment, he will have time on his amendment.

Mr. HELMS. Mr. President, I ask unanimous consent before we begin with my amendment that the distinguished Senator from New Mexico be heard briefly.

Mr. JAVITS. Mr. President, we will yield 2 minutes to the Senator. I yield 2 minutes to the Senator.

Mr. DOMENICI. I thank my friend from New York. I do not believe I will need 2 minutes.

Mr. President, the Senate will soon complete its work on S. 245, legislation designed to outline the framework of our future relations with Taiwan. This legislation is a unique exercise in diplomacy because we are seeking to establish quasi-official relations with a nation we no longer recognize. A special burden is placed upon us, and our colleagues in the House, because the decisions we make could well determine the fate of 17 million people. If we act wisely and firmly we will enhance the future security and freedom of these people.

I, along with many of my colleagues, are greatly troubled that the executive branch yielded to all the major demands made by the People's Republic of China without receiving any appreciable concessions in return. By acting as it did, the administration did little to insure the future freedom and security of the people of Taiwan. It must not be forgotten that since before the turn of the century, Taiwan has fallen under the control of the Chinese Government for less than 5 years. Fifty years of Japanese rule and 30 years of separate "nationhood" since 1949, have enabled the people on Taiwan to create a distinctly different socioeconomic-political and cultural system from the one that exists in mainland China.

In his December 15 speech President Carter spoke of the existence of the People's Republic of China as a "simple reality." I do not differ with the President's judgment—as far as it goes. There may be only one China, as acknowledged by Chinese officials in both Taipei and Peking, but there are two sovereign governments exercising effective control over portions of China's territory. For 30 years we refused to recognize the existence of the People's Republic of China. Now, however, we are refusing to recognize the existence of the 40th largest nation in the world by population, and our eighth largest trading partner. The true Asian reality is that there are two Chinas.

The Foreign Relations Committee has gone a long way to compensate for the deficiencies that existed in the original legislation transmitted to the Congress. I commend the members of the Senate Foreign Relations Committee for the diligent effort made to strengthen this legislation. It is my intention to vote for final passage of S. 245.

Having said that, however, I do not want to leave the impression that I believe we have done enough to secure the future right of self-determination for the people of the Republic of China. That is why I supported those amendments that were designed to upgrade future U.S. relations with Taipei, and strengthen the degree of our commitment to the security, freedom, and right of self determination for our friends and former allies on Taiwan. In particular, I deeply regret the Senate refused to accept Senator PERCY's effort to send a clear signal to Peking that an attack on Taiwan would be a "threat to the security interests of the United States." That seemed to me to be a modest assertion of our moral commitment to 17 million people who have—over the years—come to depend upon us for their security.

Mr. President, throughout this debate we have seen the new Sino-American relationship from several different points of view. The President outlined his views on December 15. Vice Premier Teng took full advantage of his recent visit to the United States to insure that "normalization" would further China's goals and objectives. The Soviets have reacted coldly to this development, and it appears to have delayed a Carter/Brezhnev summit and slowed progress toward a SALT II agreement. But, except for news coverage of demonstrations in Taipei, little effort has been made to fully comprehend the concerns of the people most directly involved.

To better understand the feelings of the government and the people of Taiwan we must put ourselves in their position. A television news commentary by Bruce Herschensohn, which was broadcast over KABC-TV in Los Angeles, Calif., just 4 days after the President's announcement, approaches this problem from an entirely different perspective. The text of this commentary, which has just recently come to my attention, transfers the Chinese experiences over the last 30 years to the United States. It expresses in terms which are readily understandable to us the feelings we would have if our Government were overthrown by a totalitarian regime, but many of our citizens and the top leadership of our Government were able to flee to Hawaii where they would carry on the traditions and the governmental procedures which we as Americans had come to cherish.

The commentary goes on to explain how a major power—Great Britain—came to our aid and strongly supported the security of the United States of America on Hawaii. Many years later, a new and inexperienced Prime Minister pulled the rug out from under the people of Hawaii in much the same way that President Carter undermined the long-range position and security of the Republic of China on Taiwan. This commentary is, in my opinion, especially useful because it enables us to view the free Chinese experience from a perspective we can better understand.

Mr. President, I would like very much to share this commentary, which was broadcast over KABC-TV, Los Angeles, on December 19, 1978, with my colleagues, and I therefore ask unanimous consent that it be printed at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. DOMENICI. In closing, Mr. President, let me stress that the long-range future of the Republic of China will continue to depend, in large part, on the actions of our Government. This bill does

not end our involvement with or our commitment to Taiwan; it just embarks us on a new phase in our relations with the people and the government we have, until recently recognized as the Republic of China. Many questions remain to be answered:

Can and will the United States, over the long run, act forcefully to deter military action against Taiwan?

Does the United States consider the Taiwan Strait to be international water? If so, are we prepared to assert ourselves to establish and maintain this principle?

Will the Carter administration and succeeding administrations have the will and the courage to resist Peking's protests and sell Taiwan the up-to-date weapons they will need to maintain a modern defense capability?

Will the United States, in concert with our allies, seek to limit the transfer of advanced military technology to the PRC so as to reduce the danger of aggression against Taiwan and China's other neighboring states?

If we do sell armaments to the PRC in the future, will we insist upon the usual restrictions against the use of American-supplied weapons for offensive purposes? Will we make it clear to Peking that we will not tolerate the use of American-supplied weapons in any attack upon the territory controlled by the Republic of China on December 31, 1978?

If future Presidents and Congresses act with firmness and courage, the future of Taiwan can be secure, peaceful, and prosperous. That is my hope, as we conclude our consideration of S. 245.

EXHIBIT 1

CHINA

Imagine that 30 years ago there was a tremendous uprising in the United States among military elements that backed a totalitarian regime; and imagine further, that the uprising won and took over our country. We fought and lost; but before the takeover, you and I and millions of Americans including the President, managed to escape onto the Hawaiian Islands.

Our friends stood by us. Great Britain was particularly horrified over the events and the Parliament of Great Britain voted unanimously for a mutual defense pact with us.

The new dictatorship on the Mainland of North America called itself the People's Republic of America. We, on Hawaii, retained our flag and name of the United States of America because it's what we represented, not simply representing Hawaii alone.

As time passed, new refugees escaped the Mainland of America and told us of millions who were being tortured and executed in California . . . people we knew . . . friends . . . relatives . . . and millions upon millions of others in the country. We learned that all civil liberties had been taken away . . . that all churches and synagogues had been closed . . . that all private property had been confiscated . . . no free press . . . and that in Washington, the statues of Lincoln and Jefferson had been removed from their memorials and destroyed . . . with the shells of the shrines re-dedicated to the conquerors . . . and we learned that American children were taken from their parents and educated in political schools with their main course being the future takeover of Hawaii. The new generation was being brainwashed into being political, atheistic robots.

During the ensuing years, Great Britain became engaged in its own foreign conflicts; and to keep our side of the Mutual Defense Treaty, we sent troops to fight beside the British for their cause, and we supplied them bases while the People's Republic of America killed English soldiers and killed our soldiers with them.

Then, one night, little more than a week before Christmas, while Parliament was out of session, the new Prime Minister of England, who was unschooled in foreign affairs, and a self-proclaimed moralist, went on television, smiled, and said, "In this season of peace, I take special pride in announcing that as of Jan. 1, 1979, Great Britain will recognize the People's Republic of America as the sole legal government of America. And we acknowledge the People's Republic position that there is but one America and Hawaii is part of it. And these decisions and actions open a new and important chapter in world affairs."

The story I told you is true. Only the names have been changed to protect the identity of those who are bringing about a new world order, without morality, loyalty or liberty. Some day, the names we used here may be accurate.

UP AMENDMENT NO. 43

(Purpose: To declare that the people on Taiwan, as defined in this Act, constitute an international personality)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 43:

On page 14, after line 12, insert the following paragraph:

"(5) to declare that the people on Taiwan, as defined in section 101(b) of this Act, constitute an international personality with the right to maintain its territorial integrity and sovereignty, notwithstanding the withdrawal of diplomatic relations with the entity recognized by the United States prior to January 1, 1979 as the Republic of China."

Mr. HELMS. Mr. President, as I have noted in my additional views in the committee report, the legislation before us, S. 245, is based upon a fatal contradiction. At one time or another, to one degree or another, and in one way or another, I think most Senators agree with that statement because, on the one hand, this legislation assumes that the United States can continue a normal relationship with the people on Taiwan but, on the other hand, it dismisses all the attributes of sovereignty upon which such a relationship could be based.

The committee report itself attempts to draw a distinction between domestic law and international law. The report says on page 7:

The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred on Taiwan by statute may be conferred without regard to Taiwan's international legal identity.

I note also that our official policy toward Taiwan is referred to on page 6 as "derecognition," a term, I believe, which has no basis in international law. And further on, on page 6, the committee report correctly summarizes the administration testimony:

The Administration did not press the PRC for a pledge not to use force against Taiwan during the negotiations preceding normalization, on the ground that no Chinese government would renounce the use of force against what it regarded as a province of China—a position repeatedly stated by the PRC. However, the Administration states that it made clear to the PRC that normalization rested upon the expectation that the Taiwan issue would be resolved peacefully.

Thus, Mr. President, the report makes this clear that the United States is seeking to avoid any action in international law which would prejudice the PRC claim, the Red Chinese claim, to exercise sovereignty over Taiwan, our friend, our ally, and anti-Communist government. This in itself is an action that obviously supports the claim of the People's Republic of China.

But is it really possible to take one position in our domestic law, and another in our conduct of international relations? In the judgment of the Senator from North Carolina, it is an impossibility. So the question that we must really settle before we act upon this legislation, is whether the arrangement is one that is expected to continue indefinitely, or whether it is a framework for the so-called peaceful transition of the people of Taiwan into domination under the Communist yoke.

That is the essential question. Much as I regret to raise this question this afternoon, it is one that in good conscience the Senator from North Carolina cannot avoid or ignore.

Although the committee report seems to say that we can ignore Taiwan's international status while concentrating on our domestic law, let us look at that status for a moment. For, if the United States does not make clear its position on the international status of Taiwan, we will not be able to challenge successfully any threatening PRC moves against Taiwan. Moreover, Taiwan's status does not depend objectively upon what the President of the United States does or says. Its status is independent of what we say. Yet in the long run Taiwan must be able to defend its status, either alone, or with the help of allies. By withdrawing our support of what Taiwan believes to be its status, we, as Taiwan's major ally, are actually contributing to the demise of that status.

So we cannot escape the consequences of our actions. As testimony presented to the committee by Professor Hungdah Chiu has pointed out, the Government of the Republic of China has had effective control of Taiwan for more than 30 years. The Republic of China possesses all four essential elements of statehood in international law, namely: First, a defined territory; second, a permanent population; third, a government; and fourth, the capacity to enter into international relations. There is nothing in international law to prevent the United States from recognizing the Republic of China, even if the United States at the same time recognizes the People's Republic of China.

As Professor Chiu stated:

How can the United States maintain its existing close relations, including treaty relations, with Taiwan without recognizing the Republic of China in Taiwan's international personality? According to international law, "the existence in fact of a new state or a new government is not dependent on its recognition by other states." (Hackworth, Digest of International Law, Vol. 1, 1940, p. 161). This principle also finds support in the 1933 Inter-American Covention on Rights and Duties of States which provided in Article 3 that "The political existence of the state is independent of recognition by other states." While the United States may not want to formally recognize the ROC even as a state and government within the territory under its control, it may take a position somewhere in between recognition and nonrecognition with respect to the international legal status of the Republic of China in Taiwan.

The point is, Mr. President, that we cannot "derecognize" Taiwan. We can recognize Peking as the "sole government of China" if we wish; but once we have recognized Taiwan and Taiwan continues to control its territory, we cannot take back that recognition. We can break relations, or withdraw our Ambassador. We did that to our enemies in World War II. But it is impossible to withdraw recognition. Not even the President has claimed to withdraw recognition. He has made no statement to that effect at all. Nor have administration spokesmen made any such statement. Rather, they have asserted that the United States takes no position on the PRC's claim to Taiwan. All that we have done is to withdraw diplomatic representation from Taiwan.

But I ask, Mr. President, is it possible to revise our domestic law, as the pending bill would do, without taking a position in international law? I submit that it is not. If we do not admit that the Republic of China Government is the legal governing authority on Taiwan, how can we have any relationship at all that is legal in international law? Can we have any relationship with the people of any nation that is not sanctioned first by the governing authorities in that territory? And if the authorities in Peking are the legitimate authorities—the "sole government," in the President's term—then how can we continue a relationship with a rival entity that claims to be the governing authority on Taiwan?

How can we sell military equipment and arms to the people on Taiwan when we have recognized Peking as the "sole government" of China? Are we not, then, selling arms to a rebellious province? And more to the point, how can the United States itself defend Taiwan against any economic or military pressure from the government that we have declared to be the sole government of China?

Mr. President, I think that it is clear in international law that we have no right to do any of these things under the circumstances. This bill says that the President can conduct relations with the people on Taiwan; but the President has recognized another government as the sole government of China.

This bill says that we can maintain commercial, cultural, and other relations with the people on Taiwan; but under international law, such relations cannot be conducted with "a people." This bill says that the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character; but how can we provide arms to the people on Taiwan when we refuse to take a clear position on the international status of the people to whom we are supplying the arms?

It should be plain, Mr. President, that we cannot accept the sophistry that our domestic law can authorize something that is in conflict with our position in international law. We must resolve that conflict before we approve this legislation.

Mr. President, I think that a middle position can be found that would recognize the realities of the situation without invading the President's prerogatives or powers. The basic principles would be as follows:

First. A middle way would not contradict the President's statement that Peking is the sole government of China.

Second. A middle way would not insist upon diplomatic relations, government-to-government relations, or any comment upon the legality of the governing authorities of the people on Taiwan.

Third. A middle way would confirm that the people on Taiwan had the right to act to maintain their independence from the mainland regardless of whether peaceful or military pressures were imposed.

Now we get down to the difficult questions Mr. President. That is why I am proposing that a fifth paragraph be added in section 114 in the declaration of the policy of the United States. This paragraph would say that it is the policy of the United States "to declare that the people on Taiwan, as defined in section 101(b) of this act, constitute an international personality with the right to maintain its territorial integrity and sovereignty, notwithstanding the withdrawal of diplomatic relations with the entity recognized by the United States prior to January 1, 1979 as the Republic of China."

Now what about this language—what does it do? First of all it is a declaration of U.S. policy. Taiwan's rights do not derive from what the United States says about those rights; but a declaration of policy with the force of law makes it clear where we stand, and enables us to defend Taiwan against the protests of tne PRC.

Second, it states that the people on Taiwan constitute an international personality; that is to say, they are a distinct entity that can be treated in a way distinct from the mainland.

Third, it provides the basis for the defense of the territorial integrity of that personality.

Fourth, it declares that the people on Taiwan are not in violation of international law in conducting international relations and defensive actions.

Fifth, it would solve an anomalous problem that has not yet been addressed; namely, the legal status of the Mutual Defense Treaty.

We have walked all around the periphery on this issue, but we have not come to a confrontation with it.

As we all know, the President on December 15 announced that he would give 1 year's notice of termination of the Mutual Defense Treaty on January 1, 1979, and did so. Yet on the same date, he recognized Peking as the "sole government" of China. That being the case, it would appear that for one more year we have a treaty with an entity which we do not recognize as a state.

Now it should be recognized that the Mutual Defense Treaty is not with the so-called people on Taiwan. The treaty is with the Republic of China. Perhaps we can can somehow change our domestic law to enable us to have relations with the people on Taiwan, but we cannot unilaterally change the terms of an international treaty. Whether we like it or not, for one more year we have a Mutual Defense Treaty with the Republic of China, even though we have withdrawn diplomatic representation. Therefore, in order to abide by our international obligations, we must take action that takes note of Taiwan's status as an international personality, capable of defending its territorial integrity and sovereignty. If that is not the policy of the United States, then we have no right to be furnishing arms to the people on Taiwan.

Alternatively, if that is not the policy of the United States, then the proper 1 year's notice, required under the treaty, was not given. If we ceased to recognize Taiwan as an entity with an international personality on January 1, then the President gave only 15 days' notice, not 1 year's notice.

The logic of it is very simple. We cannot continue defending an entity that has no right of self-defense, not even for 1 year. Either the President gave 1 year's notice, or he did not. If this legislation before us is to have any consistency whatsoever, it has to take a stand on whether or not it is proper under international law to extend military assistance to the people on Taiwan as an entity with international personality and the right of self-defense. If we do not take such a stand, then we are declaring that the President acted improperly in only giving 2 week's notice, instead of 1 year's notice, of termination of the treaty. A vote against this amendment, then, is a vote against the President.

Mr. President, this amendment does not invade the President's perogatives. It is only a declaration of policy, like the other four paragraphs of this section, and just as valid as the other four paragraphs. It does not insist upon diplomatic relations with the people on Taiwan. It is not incompatible with the concept of the American Institute on Taiwan. And finally, it does not contradict any of the publicly expressed agreements with Peking.

If we really believe that the people on Taiwan have the right to resist unification, have the right to resist coming

under Communist domination, even by peaceful means, then it is urgent that this declaration of policy become a part of this legislation.

Mr. CHURCH. Mr. President, I do hope that the Senate will reject the pending amendment offered by the distinguished Senator from North Carolina. The amendment serves no useful purpose.

Yesterday, this body undertook to determine the title to real property in this city, property that is the subject of possible court action, property which involves a justiciable question. I do not remember a time when the Senate has ever undertaken to substitute itself in the place of the court and, by vote of the Senators, to decide who owns a given piece of property. I doubt our jurisdiction to make such a determination.

I have no doubt that we are not competent to make such a determination. Today, if the Senate adopts this amendment, we shall make a great leap farther and undertake to define the status of Taiwan under international law. Mr. President, we have no competence to make such a determination.

Furthermore, by adopting this language, we accomplish nothing of value for the people on Taiwan. The fact is that the island exists. The fact is that there are 17 million people living on the island, working in factories and on farms and in various businesses, engaging in a voluminous international trade. The fact is that a government exists on that island, and nothing that we can say in an amendment of this kind affects or alters in any way the facts of life as they relate to Taiwan.

So, my first question is, Why do we persist in hanging ornaments on this tree? It is necessary for us to come to the Senate with a bill that will enable us to continue our relationship with the people on Taiwan through an institute that is created by the bill and on an unofficial basis.

That is the tree we need to plant and, indeed, it is the tree that will be planted when the Senate and the House of Representatives, later in the day, come to a firm vote on this measure. But, Mr. President, we do not have to hang ornaments on every branch of this tree—ornaments that only detract from its pristine beauty. I suggest that this is such an ornament.

If it were not for the fact that I believe it might impair the health of the tree, I would, out of a spirit of comity, say to my good friend from North Carolina, "If you want to hang this ornament on the branch, be my guest." But, unfortunately, Mr. President, I do believe it would impair the health of the tree, because it unnecessarily raises the very questions that we seek to avoid in establishing an unofficial basis for our future relationship with the people on Taiwan.

It unnecessarily attempts to define their status under international law with such imprecise terminology as "international personality"—whatever that means—and with the additional words, "the right to maintain its territorial integrity and sovereignty."



We have been over this point so many times that I am somewhat embarrassed to bring it up again. But if there is one proposition upon which the Government in Taiwan located in Taipei and the Government of the mainland located in Peking agree upon, it is the proposition that there is but one China and that Taiwan is part of China.

So when we introduce words like "sovereignty" in an amendment that attempts to define the status of the people on Taiwan, we interject an unnecessary problem into this argument.

This amendment tends to contradict the agreement we reached with the People's Republic of China. It tends to confer a status on Taiwan that suggests a different character than either the Government in Taipei or the Government in Peking extends to it.

Why do that? What useful purpose does it serve? Why complicate things when it is unnecessary?

If this amendment were adopted, Mr. President, it could set a precedent for other groups that would like to receive recognition by an official body of their international personality. No one knows how far such a precedent might carry us. No one voting for this amendment could know its limits.

So, for all of these reasons, it seems to me imprudent for the Senate to adopt the amendment offered by the distinguished Senator from North Carolina, even though it pains me not to accept it owing to the fact that he is a fellow member of the committee. I would like to oblige him, as I understook to oblige him yesterday in connection with half a dozen amendments that he offered at that time.

But the issues involved in this particular case are well set forth on page 7 of the committee report, where it reads:

> The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred on Taiwan by statute may be conferred without regard to Taiwan's international legal identity. The legal scholars consulted by the Committee agreed with this view. Most of these scholars thought it would be unwise to try to define Taiwan's international legal status. They said that the best approach would be to spell out the specific manner in which relations with Taiwan will be maintained by the United States. The proposed changes and amendments to S. 245 basically follow this approach.

There is little question but what this was the predominant position of the best legal scholars the committee could consult.

I hope that for these various reasons the Senate will see fit to reject the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, as I listened to my distinguished colleague from Idaho, it occurred to me at several points that we are not really in disagreement and perhaps we can work this thing out so that I will agree further with him or he with me.

But I notice that he said that legal scholars appearing before the committee failed to make any such suggestion as contained in this amendment.

I will have to differ with him.

Mr. CHURCH. Mr. President, will the Senator yield on that point?

Mr. HELMS. Yes.

Mr. CHURCH. What I said, actually, was that legal scholars consulted by the committee——

Mr. HELMS. I see.

Mr. CHURCH. The Senator will remember that after we heard from one such witness, the committee suggested to me that other prominent scholars be consulted. I had reference to the opinions of those scholars.

Mr. HELMS. I appreciate the Senator's clarification. I imagine he was referring to the Honorable Victor Li of Stanford University who appeared before the committee, and the Honorable Hungdan Chiu, of Maryland Law School, whom I quoted a few minutes ago.

Just so the record will show Dr. Li's position, I ask unanimous consent that his testimony, or a part of it, be printed in the RECORD at this point, in which he begins by saying:

> I believe the United States should make explicit that it regards Taiwan as a de facto entity with an international personality.

I might add, that is where I got the word "personality."

I have marked, Mr. President, the portion which I wish to have printed in the RECORD at this point.

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

STATEMENT OF VICTOR LI, STANFORD UNIVERSITY SCHOOL OF LAW, PALO ALTO, CALIF.

> I believe the United States should make explicit that it regards Taiwan as a de facto entity with an international personality. Such a stand accurately reflects the reality. Derecognition has not affected the autonomous manner in which the authorities of 17 million inhabitants of Taiwan manage their affairs.
>
> I should note that this approach does not violate the principle of one China. The de facto entity concept deals with present political realities, and does not require, or preclude, eventual reunification, or any other outcome. Indeed, Vice Premier Teng's recent indication that Taiwan may retain its political and economic systems as well as maintaining separate armed forces acknowledges the same realities.
>
> As a de facto entity with international personality, Taiwan can do virtually anything a de jure recognized state or government can do. American legislation does not make major distinctions between the de jure and the de facto entities. Judicial practice also holds few, if any, additional disabilities.
>
> Finally, one of the reasons for moving ahead with normalization is to bring American policy into accord with reality, a laudable goal. Structuring our dealings with Taiwan as though it were a subordinate unit of the PRC would be a departure from reality.
>
> I believe that the United States should make clear that it regards Taiwan as a *de facto* entity with international personality. Such a stand accurately reflects reality: de-

recognition has not affected the manner in which the authorities and 17 million inhabitants of Taiwan conduct their affairs. The United States simply is acknowledging the fact that Taiwan continues to manage its affairs in an autonomous manner.

I should note that the above suggestion does not violate the principle of one China. The *de facto* entity concept deals with present political realities, and does not require or preclude eventual reunification or any other outcome. Indeed, Vice-Premier Teng's recent indication that Taiwan may retain its own political and economic systems as well as maintain separate armed forces acknowledges the same realities.

The United States may derive some short term benefits from refusing to clarify the legal rationale for continued dealings with Taiwan. After all, explicitly calling it a *de facto* entity would aggravate the PRC, while adopting the successor government theory would damage Taiwan. This policy of intentional ambiguity may be difficult to maintain for an indeterminate time. In the years to come I suspect that we will see many situations where the PRC would attempt to assert its position as the successor. Each instance would set a precedent for future dealings.

Mr. HELMS. Mr. President, if my friend from Idaho would not object, I would like to raise a few questions with him and perhaps we can come to an understanding on this question.

Does the Senator believe the People's Republic of China has de jure sovereignty over Taiwan?

Mr. CHURCH. I think that the existing Government on Taiwan, the one we formerly recognized as the Republic of China, has the de facto jurisdiction over the people of Taiwan. It is the de facto government.

Mr. HELMS. So the answer to my question is "Yes"?

Mr. CHURCH. I would prefer to state the answer in my own words, if the Senator does not mind.

Mr. HELMS. I am not trying to——

Mr. CHURCH. Rather than say "Yes" I rely instead upon the answer that I gave the Senator to his question.

Mr. HELMS. Will the Senator repeat it?

Mr. CHURCH. My answer to the Senator's question was that the government in Taipei is the de facto government of Taipei. It is in charge and presently exercises jurisdiction over the people living on Taiwan.

Mr. HELMS. If it is a de facto government over Taiwan, then it obviously would have sovereignty. I understand what the Senator is saying.

As the Senator said earlier——

Mr. CHURCH. If the Senator would not mind my intervention at that point——

Mr. HELMS. Not at all.

Mr. CHURCH. I think that the subject of sovereignty is a broader subject, inasmuch as the government in Taipei as well as the government in Peking hold to the proposition that there is but one China and that Taiwan is part of that China.

So the argument having to do with the exact legal status of Taiwan under those conditions is one we prudently could leave to the Chinese.

It is a problem for them to resolve in the fullness of time. I believe it would be unwise for us to attempt to define the exact legal status of the Government in Taipei for purposes of this legislation.

Mr. HELMS. What we are doing with this legislation is understanding our position for ourselves here in the Senate. I take it that we are not attempting to dictate either to Peking or to Taiwan.

Mr. CHURCH. The Senator is correct. We are not.

Mr. HELMS. Let me ask the Senator this: Does Peking have the right to defend the people on Taiwan?

Mr. CHURCH. I believe that is a question that can be answered only by the Government in Peking. But the fact is that the Government in Taipei possesses the means to defend the island and its people, and it has expressed the determination to do so.

Mr. HELMS. That was my next question: Does the Government in Taipei have the right to defend the people of Taiwan?

Mr. CHURCH. The Government in Taipei asserts that right, and we do not quarrel with it. In fact, as the Senator knows, we have expressly included in this bill, as a part of the stated policy of the United States, that we will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character.

Mr. HELMS. I take it that the Senator will not seriously object to this Senator's assertion earlier that the people of Taiwan occupy a defined territory. Is that right?

Mr. CHURCH. I agree.

Mr. HELMS. And he would not object to my assertion that the people on Taiwan have effectively controlled that territory for 30 years.

Mr. CHURCH. I agree.

Mr. HELMS. And I take it that he would not dispute my assertion that the people on Taiwan have governing authority at this time.

Mr. CHURCH. I agree.

Mr. HELMS. I take it that he would not dispute that the people on Taiwan have carried on international relations for more than 30 years and are continuing to carry on international relations.

Mr. CHURCH. I agree.

Mr. HELMS. The Senator was good enough to say earlier that a government exists on Taiwan.

Mr. CHURCH. I agree. And is not that enough?

Mr. HELMS. No, sir.

Mr. CHURCH. Do we have to go further and attempt to define its exact status in international law, when that would complicate matters for us?

The purpose of this bill, as the Senator knows, is to serve the interests of the United States by continuing to maintain commercial and cultural relations with the people on Taiwan. It is not necessary that we define their legal status with precision.

Mr. HELMS. The Senator, I am sure, would acknowledge that the Senator from North Carolina is not trying to confuse the issue. My purpose is to try to make clear the status of Taiwan for the purposes of enacting this legislation.

Mr. CHURCH. And we do that, I say to the Senator.

Mr. HELMS. That is the purpose of this amendment.

Mr. CHURCH. We do that exceedingly well I think. My compliments to the committee and, indeed, to the Senator, himself. I think he contributed to the definition that we set forth on line 19, page 8, under title 1 of the bill, section 101(b), which reads:

> Except as provided in section 205(d) of this Act, the term "people on Taiwan", as used in this Act, shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979 as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it in the islands of Taiwan and the Pescadores.

I do not know how we could better define the people on Taiwan than in the words chosen by the committee.

Mr. HELMS. As the able Senator knows, the difficulty is not in what he and I may want. We are trying to obtain a piece of legislation that will escape being regarded as a sham.

I ask the Senator this: Does the withdrawal of diplomatic representation constitute withdrawal of recognition that the governing authorities of the people of Taiwan constitute an international entity?

Mr. CHURCH. I am unable to answer the Senator's question, because I do not believe it is within our power to define an entity for purposes of international law.

Mr. JAVITS. Mr. President, who has the floor?

Mr. CHURCH. I believe the Senator from North Carolina has.

Mr. JAVITS. I believe we should yield on our time.

Mr. HELMS. We can work that out.

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

Mr. CHURCH. I yield.

Mr. JAVITS. Mr. President, I rise because this is the particular point which it seems to me is critical. I ask the Senator from North Carolina to follow me carefully.

Mr. HELMS. I am delighted to do so.

Mr. JAVITS. It is a legal argument. We have proceeded on the theory that we are drawing a statute which will determine our action unilaterally.

Mr. HELMS. Precisely.

Mr. JAVITS. Whether we will give them arms, whether we will come to their defense, whether we will trade with them, whether we will give their people the right to sit in the gallery, whether we will give them a house and home here, like Twin Oaks, and so on. We have dealt with all that. Those are things we can do.

The thing that troubles me about this amendment——

The PRESIDING OFFICER (Mr. PRYOR). The time of the Senator from North Carolina has expired.

Mr. JAVITS. The Senator has yielded on our time. I yield myself 5 minutes on our time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. I say to the Senator that I have no intention of calling up another amendment, so perhaps we can have latitude in the disposition of time.

Mr. JAVITS. The thing that troubles me about this amendment is that the Senator from North Carolina wants us to say something we cannot say but which only they can say. That is the real sticking point.

We have defined the people on Taiwan as including the governing authorities on Taiwan. We say that in section 101 (b), page 8, line 21: "the term 'people on Taiwan,' as used in this act, shall mean and include the governing authority on Taiwan."

The Senator from North Carolina wants to say that this governing authority on Taiwan has the right to maintain its territorial integrity and sovereignty. We say, "We are sorry, Senator HELMS. We don't have to say that in order to do all the things we want to do for them in this act unilaterally."

So let them say that, if they wish; and if they want to fight with the People's Republic of China about that concept, that is their problem. We may or may not come to their defense if they do that. We said here that we have to go through our constitutional processes, and so forth, and we did not contemplate that kind of quarrel between them; because in the Shanghai communique they, too, said they were part of China. But if they want to do this, that is their pigeon, not ours.

That is the real sticking point in this thing. The Senator from North Carolina wants to do something which we cannot make or unmake; only they can do that. That defeats the whole concept of this legislation. That is why I cannot accept the amendment.

All the law we had cited to us says that the authorities on Taiwan, the people on Taiwan, are whatever we make it, whatever we say it is. If we say it can sue in the United States, it can sue. If we say it can own property, can trade, can have agents, can have an office, that is it. But we cannot say that these authorities on Taiwan have "the right to maintain its territorial integrity and sovereignity." That is not in our power; that is in their power, if they want to do it.

Mr. HELMS. Obviously, it is within their power.

Mr. JAVITS. Therefore, this amendment defeats the concept of what we are trying to deal with here, and that is why I would have to oppose it.

Mr. HELMS. I just do not see how it does defeat anything of interest to the United States; it merely makes explicit the implicit rationale of the bill.

I presume that I may ask a few more questions, even though the time situation is tight.

Mr. CHURCH. On our time.

Mr. JAVITS. There is no problem with that. Do not worry about that.

Mr. HELMS. Can the United States supply arms to an entity which we do not recognize?

Mr. JAVITS. Of course. Why not? There is no law of the United States that I know of, and we are making this one preempt everything, so even if there is one that I do not know about this preempts it. We have a full preemption clause in here which I wrote myself precisely for that reason, so there could be no question about it. Notwithstanding any other law, we say "was given sufficient arms." We can do it. That is something we control.

Mr. CHURCH. Besides we have on many occasions in the past furnished arms to groups that we did not officially recognize as governmental entities.

Mr. HELMS. Such as?

Mr. CHURCH. Such as the guerrilla forces during World War II in various countries, including Yugoslavia. The United States is not limited to dealing only with governments that it officially recognizes.

As the Senator from New York has pointed out, the very purpose of this bill is to establish an unofficial basis for continuing to do business with the people on Taiwan.

Mr. HELMS. I thank the Senator for his statement that the United States is not limited to dealing only with governments that it officially recognizes. If I could ask the Senator from New York, does he feel that with this legislation we are saying that Taiwan is subject to the sovereignty of Peking?

Mr. JAVITS. No. We are taking no position on that except whatever may be implied from the fact that we have recognized Peking. I do not know what that is. It is going to be very arguable. Nonetheless, that is something that in this world we cannot settle everything.

Mr. CHURCH. It is, after all, a Chinese question to be settled among the Chinese themselves.

Mr. JAVITS. That is right.

Mr. HELMS. The Senator understands that. I do not purport that we have the right to settle that question for China, either one of them, and I am pleased with the distinguished Senator's clarification that with this legislation we are not saying that Taiwan is subject to the sovereignty of Peking. I am just saying for our own purposes that this legislation should be clear as to the position of the United States, and it has not been sufficiently clear to me. That is my problem.

Mr. JAVITS. Let me restate my proposition, I say to Senator HELMS. My proposition is that there is an entity, a people, and a structure which satisfies the definition of 101(b), to wit, there are people and there are governing authorities on Taiwan.

Mr. HELMS. Therefore, a government.

Mr. JAVITS. Pardon?

Mr. HELMS. Therefore, a government.

Mr. JAVITS. I cannot say that. There are governing authorities. That is what we said here. There are governing authorities.

Now, then, whatever we wish to do with them we can do under our domestic law. We can say they can buy, they can sell, they can own, they can sue, they can sit in the gallery, and so on. That is complete as far as we are concerned.

But when the Senator is going to ask us to say that they have the right to maintain their territorial integrity and sovereignty, I say we do not.

Mr. CHURCH. That is an international issue.

Mr. JAVITS. This is not within our power or authority or the whole concept of this legislation. If they feel that way, they will do what they can about it, if anything. But we cannot give it to them. We cannot confer it on them, and we should not. And it is unnecessary to the purpose of this particular piece of legislation.

Mr. HELMS. It is not the intention of my amendment to confer status upon Taiwan—only to provide the rationale for this unique legislation. Will the Senator say that it is U.S. policy insofar as we are concerned to allow Taiwan to resist unification if it desires to do so?

Mr. JAVITS. I am not going to pass on that because it is unnecessary to the decision of this case, I say to the Senator from North Carolina. All that I say is that we will give them sufficient moneys to resist any effort to suffocate, suppress, or coerce them, and that is what we say and that is what we mean and we will do it. But as to their decision as to how they will deal with the People's Republic of China, no. We will give them the means, but they make the decision.

Mr. HELMS. The Senator from Idaho had some problem with the word "personality." Would he feel more secure if I inserted "entity" there instead of "personality"?

Mr. CHURCH. I do not think so. This amendment, I say with all due deference to the distinguished Senator, is fundamentally flawed.

Mr. HELMS. Just like this bill is.

Mr. CHURCH. Well——

Mr. HELMS. And that is the problem. It is going to be a lawyer's paradise, I will tell the Senator that.

Mr. CHURCH. The Senator may vote for or against the bill. I think the Senator is going to vote for it. I do not predict the Senator's vote, but I will be surprised if he does not vote for it, because it does many of the things that he and I both want to see done for Taiwan.

Mr. HELMS. It is the only game in town as the Senator knows.

Mr. CHURCH. And it is a bill that the committee has strengthened and improved. We bring to the Chamber with pride, and I commend the Senator for his part. He was a fellow architect of this bill. He joined with us in improving, strengthening, and perfecting this bill.

Mr. HELMS. I did the best I could.

Mr. CHURCH. Yes, the Senator did.

Mr. JAVITS. He did mighty well.

Mr. CHURCH. Now, the Senator goes too far with this amendment, because all we can do in this bill is to determine how as a matter of our domestic law we are going to deal with the people and governing authorities and other entities that exist in Taiwan. That is all the Senate has the authority to do. But the amendment offered by the Senator from North Carolina goes further and attempts to define the status of Taiwan under international law, which is beyond

the province of the Senate of the United States.

Mr. HELMS. This Senator has not done anything except state what international law is. I went down the four points generally accepted in international law and the Senator said yes to each one of them. So, in effect, what the Senator says was that the people on Taiwan have sovereignty. But we have made a pretty good legislative history here.

Is there no way that we could modify this amendment so that it would be more appealing to my friend? I will be willing to strike the word "sovereignty" and insert the word "security" if that will help.

Mr. CHURCH. Yesterday the Senator had more amendments accepted to this bill than any other Member of this body.

Mr. HELMS. I appreciated the distinguished chairman's cooperation and comity.

Mr. CHURCH. And I would appreciate it very much if as a reciprocal gesture the Senator would withdraw this amendment.

The PRESIDING OFFICER. All the time on the amendment has expired.

Mr. JAVITS. I yield him time on the bill.

Mr. HELMS. As I said earlier, Mr. President, there was a total period of 3 hours set aside for three amendments by the Senator from North Carolina, and I am willing to dispense with two of them provided we can ventilate this one a little bit.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I do not have any time, but I am sure the Senator from New York will yield time.

Mr. JAVITS. I yield time.

Mr. GOLDWATER. I have been listening to this debate, and I have read the Senator's amendment. I might say for the edification of my friend from North Carolina that I discussed this with the Taiwan people. In fact, I first discussed it when they were summarily tossed out of the United Nations.

You can very well call yourself another nation. You do not have to be a part of China.

And I took this matter up again in a friendly way with Ambassador Shen, and he did not make any comments about it.

I hate to find myself in the position of disagreeing with my friend, but I do believe that if Taiwan is to become a separate nation it is up to the people living on Taiwan to make that decision. I really do not think that we have the power. As I say, I have agreed with my two friends from the Foreign Relations Committee before but damn seldom, but I find myself in agreement with them this time.

Mr. HELMS. I say to the Senator, if the able chairman will yield to me, I do not propose nor does this amendment propose to stipulate what either China may do or be. This amendment is simply for the purposes of the U.S. Senate understanding the role of the U.S. Government in this thing.

I am perfectly willing to strike the word "sovereignty" and substitute therefor the word "security." I am not trying to take over any responsibility of either Peking or Taiwan.

This amendment does not declare Taiwan a nation. It only stipulates that it is an entity, which it is, and which has been admitted, acknowledged, on this floor. It is an entity with which we can legitimately deal.

I say to my friend from Arizona there is no disagreement between him and me. I shall always be distressed when there is.

But I say again that while the distinguished Senator from New York, the distinguished Senator from Idaho and some of the rest of us have worked hard on this thing, it is still going to be a lawyer's paradise. It could be described as the Lawyers' Relief Act of 1979.

The PRESIDING OFFICER. The question before the Senate, as the Chair sees it, is the Senator from North Carolina has requested that 2 hours on the other two amendments be transferred to the pending amendment before the Senate. Is there objection?

Mr. HELMS. Mr. President, we do not need that. I thought we could abandon the time, and we are just about through.

Mr. CHURCH. There are some other amendments we need to take up at some other time.

The PRESIDING OFFICER. The request is withdrawn.

Who yields time?

Mr. HELMS. I wish to speak frankly with the chairman and ranking Republican of the committee, and I ask that it be in order for me to suggest the absence of a quorum, with the time charged to no one.

Mr. GOLDWATER. Mr. President, can I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Do I understand that we vote on this matter by 5 o'clock regardless?

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. I thank the Chair.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

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

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

Mr. HELMS. Mr. President, I have been very pleased with the legislative history that has been made here in discussing this amendment. I think nothing more can be accomplished by a rollcall vote, whether it went with me or against me.

I want to say to my friend from Idaho and my friend from New York that I appreciate their candor in their effort to clarify certain issues, and I think they have.

With that in mind and with my gratitude to them, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHURCH. Mr. President, I want to thank the distinguished Senator from North Carolina for his cooperation. I am grateful to him for withdrawing the amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 44

(Purpose: To provide for the maintenance of the appropriate number of offices for the Taiwan Institute)

Mr. HATCH. Mr. President, I offer an amendment to permit the people on Taiwan to maintain the present number of offices they have in the United States. I take this action to promote what I see as one of the goals of the piece of legislation before us today. So I call up an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 44:

On page 13, line 25, insert the following new section:

SEC. 113. (b) The President is authorized to extend to the instrumentality established by the people on Taiwan—

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 13, line 25, insert the following new section:

SEC. 113. (b) The President is authorized to extend to the instrumentality established by the people on Taiwan, that in order to continue the present range of commercial, cultural, economic, and other relations with the people of Taiwan, the representatives of the people of Taiwan should be allowed to maintain the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979 upon the condition that the American Institute in Taiwan is reciprocally allowed such offices and personnel.

Mr. HATCH. I offer this amendment to permit the people of Taiwan to maintain the present number of offices they have in the United States. I take this action to promote what I see as one of the goals of the current piece of legislation before us today. The administration has been outspoken in its intent that all existing agreements with Taiwan, commercial, cultural and others, will continue in ef-

fect except for termination of the defense treaty. I point out to my colleagues that aside from the defense and mutual security agreements between the two parties, there are accords in the following fields: Agricultural commodities, atomic energy, aviation, claims, customs, economic and technical cooperation, education, finance, health and sanitation, investment guarantees, a language and area study school, maritime matters, narcotic drugs, postal matters, relief supplies and packages, scientific cooperation, surplus property, taxation, trade and commerce, and visas. In order to maintain all of these agreements, it would become necessary for both the United States and the people of Taiwan to maintain a large staff in each locality.

Mr. President, all of the agreements which I mentioned previously have led to a substantial investment by the U.S. business community in Taiwan. It is estimated that the total U.S. financial commitment in Taiwan is nearly $3 billion, including both government and private investments and loans. It is an acknowledged fact that the trade between the two nations has reached a significantly large amount. For these reasons I feel it becomes imperative that the people of Taiwan be able to maintain an adequate number of offices in this country to maintain the business and commercial as well as cultural and social ties that they have with the American community.

This issue came up in the hearings before the Foreign Relations Committee and I would like to relay a part of that debate to my colleagues here today. During these hearings, Senator STONE questioned Mr. Roger Sullivan of the State Department concerning the issue of the number of offices and their staffing that would be allowed the Republic of China. The dialog went as follows:

Senator STONE. Can I turn briefly, then, to Mr. Thomas? Mr. Thomas do you or Mr. Sullivan have any idea as to whether we are going to require a reduction in the number of staffing of offices that the Republic of China now maintains when and if they establish other relations with us? Are we telling them that they cannot have the same offices and the same number of personnel?

Mr. THOMAS. May I defer to Mr. Sullivan, please?

Senator STONE. Yes.

Mr. SULLIVAN. Yes, Senator. We have told them that they can keep four offices other than the main offices.

Senator STONE. How many do they have now?

Mr. SULLIVAN. I think they have 14.

Senator STONE. How can we continue to do $7 billion worth of business for which they have 14 offices by telling them they can have only 4?

Mr. SULLIVAN. We think 14 offices is excessive to their needs.

Senator STONE. But they think that 14 offices takes care of their needs.

Mr. SULLIVAN. They have specifically said, Senator, that one of the reasons why they need many of those offices is to maintain their relationship with the Chinese communities in those cities and we think it would be inappropriate to have a Chinese civil war imported into our cities.

Senator STONE. Is that what their offices are doing, maintaining a Chinese civil war?

Mr. SULLIVAN. Well, they have told me the purpose of some of their offices is to maintain contacts with the Chinese community, and we do not think it appropriate to allow them to have more offices than they need to maintain the practical relationships between us.

Senator STONE. Do you mean they can only have those offices which deal with American citizens, not with American citizens of Chinese origin?

Mr. SULLIVAN. American citizens. We do not make a decision between Americans of Chinese origin or any other origin.

Senator STONE. You just did.

Mr. President, I do not think that 14 offices is excessive in view of the large amount of trade between the two parties. The business community of the United States is widespread, and the headquarters of many large corporations are in various cities. In order to expedite matters of business it makes it simple to have offices and representatives in regionally located offices. Fourteen offices would be about the right number to achieve this goal.

The economic aspect of this problem is only one part of the issue. The administration has also stressed the continued culture and social relationship with Taiwan. A large number of the American-Chinese communities have ties in Taiwan. They look to the offices of Taiwan to nurture the Chinese culture they hold so dear. I would dare say they would find little assistance from the offices of the People's Republic of China, a Communist nation. Yet Mr. Sullivan of the State Department spoke of a Chinese civil war. I find this quite contradictory. We are writing safeguards for Taiwan's security into this legislation and refusing to allow them offices in this country on the grounds it will bring a Chinese civil war to American cities. What I think the real issue is, concerns more economic matters than those of a civil war. The People's Republic of China would like to eradicate all Taiwanese presence in this Nation. To them, the 14 offices might be a loss of the so-called oriental "face." It matters not that there might be a need for these offices. It matters not that both the American and Taiwanese business communities desire them. All it appears the administration is interested in doing is appeasing the Red Chinese. I think it is time we look at what we need from this agreement. Let us save our "American face."

Mr. President, as I understand it, the managers of the bill have agreed to take this amendment, as modified, and it will read as follows:

Section 113(b) the President is authorized to extend to the instrumentality established by the people on Taiwan, the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979, upon the condition that the American Institute in Taiwan is reciprocally allowed such offices and personnel.

I am very grateful to the managers of the bill for being willing to take this amendment in this form, and I would like to express that appreciation at this time.

Mr. CHURCH. Mr. President, the amendment in its modified form is acceptable to the managers of the bill. It was worked out in collaboration with the distinguished Senator from New York, the ranking Republican committee member. I therefore assume that I can speak for him as well as for myself in indicating the amendment is acceptable.

Therefore, I am prepared to yield back to the remainder from my time, if the Senator from Utah will do likewise.

Mr. HATCH. I yield back the remainder of my time and move the adoption of the amendment.

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

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATCH. I thank the managers of the bill for their cooperation.

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senate will soon be voting on final passage of S. 245 after 6 weeks of consideration in committee and on the floor. It has made some minor improvements in a bill which, in its original form, largely disavowed the Republic of China and left it to its own fate. In committee, it is important to note that a security section was included, as was a definition of the "people on Taiwan" that specifically cites the country's government. Similarly, a handful of constructive amendments were adopted on the floor. The Senate voted to create a Joint Commission on Security and Cooperation in East Asia, and to include a reference to Taiwan's membership in international organizations. It passed language that will secure to the ROC a steady supply of nuclear fuel from the United States. Reporting requirements were added under which the President will have to report to the Congress on prospective arm sales both to the Republic of China and to Peking.

So the legislation is slightly better. But it is still not good. In essence, the Senate made slight improvements within the framework sent to it by the President, but unfortunately stopped short of making any real changes in that framework itself.

There are two main aspects to the President's basic policy, both of which have emerged largely unscathed. One is the absence of any recognition of the ligitimacy of the Republic of China's Government. The other is the absence of a specific commitment to the security of Taiwan either from a military or from an economic point of view.

Mr. President, the announcement by President Carter which established the fundamental policy we have been elaborating was described by Dr. Ray Cline of the Georgetown Institute on Strategic and International Studies as a "hasty, ill-conceived decision * * * to sell out Taiwan lock, stock and barrel, territory and people to the Communist regime in Peking, the People's Republic of China."

Clearly, the Congress has no power to recognize or derecognize a country. That is strictly the prerogative of the Presi-

dent. Still, options were open to Congress which it unfortunately did not choose to pursue. It could have passed sense of Congress language urging the President to renew diplomatic relations with the Republic of China. At the very least, it could have established that United States-Republic of China relations would be conducted on a government-to-government level.

The most eloquent reason arguing in favor of the exchange of liaison offices is simple fairness. At the time that we did not recognize Peking, our relations with that country were conducted through liaison offices. Why not do so now with Taiwan? It is, moreover, the height of absurdity to suddenly adopt the legal position that there is no Republic of China; that the government which effectively controls the 17 million free Chinese on Taiwan has suddenly vanished into thin air.

I am similarly concerned about the absence of adequate language on the question of Taiwan's future security. We have had at least one opportunity to make a commitment to the survival of Taiwan in the context of a military threat. Last week, the distinguished Senator from Illinois (Mr. PERCY) introduced an amendment establishing as our policy that the use of force to settle the Taiwan issue was a "threat to the security interests of" the United States. In my view and that of others this was the very least we should have been prepared to approve. As the amendment's own sponsor asserted, it in no way even pledged us to defend Taiwan with our own military force.

But the administration opposed even this slight change in the wording. During consideration of the amendment we heard much rhetoric on this floor about the need to have a vote in support of the President, given the crucial negotiations he was engaged in in the Middle East. It is amusing that, as the distinguished Senator from North Carolina (Mr. HELMS) noted on the floor, that very morning a constituent had observed to him that this would be the very argument used to sway votes. In the end, the amendment of the distinguished Senator from Illinois was defeated.

Nor has Taiwan, in my opinion, been properly protected against the threat of embargoes by the PRC. This, Mr. President, is a very real threat. According to Robert B. Parker, president of the American Chamber of Commerce in Taiwan, it is already happening. The PRC, for example, refuses to honor American Express travelers checks because that company operates in Taiwan. At the same time, Pan American World Airways suddenly dropped its scheduled service to Taipei—and a few weeks later made a major hotel deal with Peking. According to Mr. Parker, Ambassador Leonard Woodcock has "inadvertently confirmed the existence of such a boycott when he said that Pan American is now the favored U.S. carrier in China and that no U.S. airlines will be granted landing rights on the mainland as long as it serves Taiwan."

So the problem exists. It has serious implications—and, although it is against the Export Administration Act for American companies to be parties to such boycotts, there has not been a single investigation of the matter that I am aware of by the U.S. Government. It is a positive contribution that, in the course of the colloquy on this floor, the Senate made legislative history that such economic boycotts be interpreted by the United States as a threat to the survival of Taiwan. Nevertheless, I regret that it was impossible to include language explicitly expressing that feeling, such as has been done by the other Chamber.

In summary, Mr. President, we have made some improvements in what has been described as the "unprecedented, indeed bizarre"—and certainly inadequate—proposal submitted to us by the President. We cannot measure our success, however, on the basis of relative improvement. The only significant yardstick is whether or not we have provided security for Taiwan's future territorial integrity. Sadly, in my opinion, we have not.

Mr. President, the decision, in effect, to disavow Taiwan will have serious repercussions throughout the world. At the very least, it will strengthen the already substantial concerns of many of our allies, encouraging them to give still more serious thought to political realinement. It is safe to say that, at this moment, leaders of many small countries which have heretofore been U.S. allies are asking themselves, "Will we be next?" We already know that the President's decision sent a tremor through Israel, making many of its leaders relutant to trust any U.S. guarantee of protection. Our new Taiwan policy has seriously affected the integrity of our international alliance system and our credibility worldwide as an ally.

The President's decision and its execution are as inept an exercise in foreign policy as we have witnessed for a long time. In the first place, all but the staunchest supporters of President Carter agree that he did little more than cave in to Chinese demands without making any real attempt to negotiate conditions favorable to Taiwan. It has been pointed out repeatedly that the terms which he accepted—and which he has been seeking to portray to us as constituting a diplomatic coup—are exactly the same as could have been accepted by Presidents Nixon or Ford some years ago, but which both rejected as being tantamount to a sellout. The White House affirms that we were involved in intense negotiations—but who, in fact, made all the concessions? The answer is obvious: We did. I challenge anyone to point out to me a single substantive concession we received from Peking. In every case, the side to cave in was the United States; and the victim in every instance will be Taiwan.

The White House aggravated its diplomatic mistake by the cavalier manner it adopted toward Taiwan immediately after the decision was reached. Both the President of the Republic of China and its ambassador to this country were given notice of only several hours of the December 15 announcement which has so radically altered the position of their country. During subsequent negotiations, it put increasing pressure on the ROC Government to accept all its terms, including the concept of strictly unofficial relations. Taiwan reluctantly accepted this arrangement, incidentally, only days before the old relations were to lapse altogether, and it is safe to assume that the fear of having no relations at all played a major role in its final acquiescence. Finally, in what can only be described as a petty gesture, the administration sought, through a legal maneuver, to hand the diplomatic real property of the Republic of China to the PRC.

Mr. President, I have been to Taiwan, and I have been impressed and inspired by the dedication and achievements of its people. As Dr. Ray Cline has stated,

> Taiwan is an island of hope, prosperity, and human liberty in an Asian sea of poverty and turbulence. There the best of American and Asian political philosophies and economic technologies have been blended to show how to modernize Chinese society without giving up freedom. The "modernization" of mainland China is a hope, a dream, quite possibly an impossible dream. In Taiwan it is a present reality.

I share Dr. Cline's grief that the United States has adopted a policy of premeditated murder of this gentle and prosperous land to use his words.

Mr. President, Senate consideration of the future of Taiwan will soon be history. Our new relationship with Taiwan will be inadequate regarding many fundamentals. The President made what has been described as a "morally shabby" deal with Peking, and, in many ways, our vote will serve to ratify that agreement. I can only hope that all of us will work diligently to protect Taiwan from the harrassment, large and small, it will inevitably suffer from the PRC in years to come, and that our actions in the face of real threat to the survival of the ROC will be in keeping with the spirit of commitment to its future which has been expressed so often on this floor.

Mr. President, the President of the United States and the Senate are about to present the ROC an empty box. It is a box which is gaily wrapped, a box festooned with ribbons of vague phraseology. But it is an empty box, Mr. President, because it is empty of sovereignty.

The Senate, apparently is about to endorse President Carter's giveaway of Taiwan to the Communists. Implict in the passage of this bill is the tacit acknowledgement of the Communists' contention that they own Taiwan.

Mr. President, I do not wonder that the world has fallen into chaos—that communism is everywhere on the advance. American leadership has lost its nerve—not her people, but her leadership.

Mr. President, I passed the statue of President Harry Truman as I entered the Chamber a few minutes ago. There was a man who called a spade a spade. There was a man who would have called President Carter's proposals just what they are: a shameless, cowardly sellout of a valuable ally.

I shall not assist now in papering over President Carter's mistake with the impressive but essentially meaningless phrases of S. 245. I shall vote against it in the hopes the Senate will cause the President to return to the bargaining table to secure better terms for our good friends in the Republic of China, that we should have secured in the first place, and cause the President to reverse his decision to conduct relations between our nations on less than a government-to-government basis.

UP AMENDMENT NO. 45

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 45, as follows:

On page 9, line 10, following the word Taiwan, insert the following: "by the people on Taiwan."

On page 12, line 3, following the word Taiwan, insert the following; "by the people on Taiwan."

Mr. McCLURE. Mr. President, this amendment merely states more explicitly what I believe is the obvious intention of this section of the bill. By making the bill clear, we shall prevent trouble that possibly could occur if the State Department claimed that the term "the law applied to Taiwan" means the law of the Communist regime on the mainland. Since the Carter administration wants the Chinese Communists to be viewed as the sole legal government of all China, including Taiwan—at least that is the legal framework for the agreement—it is important that the law which we pass be precise in saying that the law on Taiwan is the law which is recognized by the people on Taiwan. I think that that preserves and follows the format of the bill as presented to us.

I understand that the managers of the bill have the opportunity to look at this amendment and, while they do not necessarily embrace it with enthusiasm, they do not think it does violence to the bill. I hope that, if that is true, they can accept the amendment.

Mr. CHURCH. Mr. President, first of all, I think the record should be clear regarding the position of the United States. It is true that we have agreed in the Shanghai Communique entered into by President Nixon some years ago, and again at the time that President Carter normalized relations with the People's Republic of China, that the Peking government, as well as the Taipei government, both agreed that there is but one China, and Taiwan is part of that China.

The position of the Government of the United States is to acknowledge that the Chinese take this view. But the U.S. Government itself has not adopted this view, or any particular view regarding that matter.

As for the amendment offered by my able colleague from Idaho, I think that it bears out what the committee intended in the report on page 27 in the section-by-section analysis of the bill; namely, section 110.

The committee says:

This section provides that when the application of United States law depends upon foreign law, the law actually applied by the people on Taiwan shall be looked to for that purpose. The provision does not affect the enforceability of judgments rendered by the courts on Taiwan.

So it is clear that the law to which the language of the statute itself refers on line 3, page 12, of the printed text is meant to be the law actually applied on Taiwan.

I think that the amendment suggested by the Senator would eliminate any possible doubt on that score, and bring the text of the bill into full conformity with the intention of the committee and the explanations contained in the committee report.

For that reason, I have no objection to the amendment. I would like to hear from Senator JAVITS, the ranking Republican Member, before we proceed to a vote.

Mr. McCLURE. Mr. President, while we are awaiting the expression of the minority floor manager of the bill, I might just remark in passing that I appreciate the comment that has been made. I appreciate also the chairman's pointing out that the report does, in effect, say precisely the same thing that this amendment says.

Oftentimes, there is a gap between the enforcement of a statute when, after the passage of some time, people forget what was in the report and read only what is in the statute. It would seem to me, to preclude that possibility as far as it is humanly possible, the statute should conform to the intention that is expressed in the report. I do not think this does vary from that intention.

I appreciate what my colleague from Idaho has said. I hope that the Senator from New York will come to the same conclusion and that perhaps this amendment will then be accepted.

Mr. CHURCH. Mr. President, while the Senator from New York is studying the matter, I would suggest to the Senator from Idaho that the best way to settle this is for him to trade this amendment for the other amendment, in which case we have everything settled.

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

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. On the time of the bill.

The PRESIDING OFFICER. On the time of the bill.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHURCH. Mr. President, the able Senator from New York has suggested a slight modification of the amendment. I believe that the sponsor of the amendment (Mr. McCLURE) wishes to address that point.

The PRESIDING OFFICER. (Mr. METZENBAUM). The Senator from Idaho.

UP AMENDMENT NO. 45 (AS MODIFIED)

Mr. McCLURE. Mr. President, I ask unanimous consent that the wording of the amendment be changed to read "by the people on Taiwan." So that the wording on line 3 of page 12 with the change would be "The law applied by the people on Taiwan."

I would ask that a similar change be made in the second place that is referred to in my amendment, and that the amendment be modified accordingly.

Mr. JAVITS. That is the second page?

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Would the Senator be good enough to send his amendment to the desk?

Mr. McCLURE. Yes.

Mr. President, the amendment would then read as follows, and I will send it to the desk, that on page 9, line 10, following the word "applied" insert the following: "by the people".

On page 12, line 3, following the word "applied" insert the following: "by the people".

It has the same effect and is consistent with the words of art that are used throughout the bill and in the report.

Mr. JAVITS. Would the clerk state the amendment as modified?

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 9, line 10, following the word "applied" insert the following: "by the people".

On page 12, line 3, following the word "applied" insert the following; "by the people".

Mr. JAVITS. Mr. President, the amendment is acceptable to me.

Mr. CHURCH. Mr. President, as I already have indicated, the amendment is acceptable to me. If the Senator from Idaho will yield back the remainder of his time, we will yield back ours.

Mr. McCLURE. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 46

Mr. McCLURE. Mr. President, I have a second amendment, which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 46:

On page 14, line 6, following the word "peaceful", insert the following: "and voluntary".

Mr. McCLURE. Mr. President, section 114 of the bill expresses our grave concern for the military security of Taiwan. We should also point out that attempts to destroy the freedom and prosperity of free China which do not involve military invasion are also of concern to us. I think that throughout the debate we

have said so, in a variety of ways, in the bill and in the report. We have said that is what our concern is.

Economic strangulation could be attempted through political blackmail, boycotts, attempts to interfere with international trade of Taiwan or claim its foreign assets. These efforts will not succeed if major trading partners such as the United States and Japan refuse to go along. However, complicity on our part would put our longtime friend, the Republic of China, in the untenable position of having to submit to the Communists' demands or face economic collapse.

Therefore, I believe it is necessary for us to state clearly at the outset of our formal relations with Red China, that any such act, whether unilateral or through international organizations, will be opposed by the United States. By adding the word "voluntary" to this section, we put on notice the Communist rulers of the mainland and our friends in the State Department that any attempt to place the people of Taiwan under a Communist subjugation by military conquest or economic strangulation is of grave concern to the United States.

Mr. President, it is my understanding that there is some concern about this language. I hope that concern is expressed not in terms of the objective of this language, but I am perfectly willing to discuss with the managers of the bill the effects or the proposed effects of the terms that say that this should be voluntary.

It seems to me that that is really our intention as we go through the entire discussion of this bill over the last 2 or 3 days in the Senate. It will be my hope that it is not our intention, conversely, to say that the reunification or the joinder together of these two parts of China, as properly has been stated—both the government in Taipei and the government in Peking have indicated that is their view—will not be accomplished by means that are other than voluntary, according to the procedures in effect under the rubric used in this bill of "the people on Taiwan."

The question of whether or not the people on Taiwan may agree or disagree certainly should not detract from the basic premise upon which we proceed, that the people on Taiwan have an existence that is somewhat different from that of just another province of China. We certainly are not setting up a parallel procedure for dealing with other provinces of the People's Republic. Therefore, we do have a special relationship with the people on Taiwan; and without calling them a government, we have carefully called them, throughout, the people on Taiwan.

I am not trying to indicate by this that we establish that voluntarism by any means other than that which is acceptable and usual to the forms and the laws in effect, under the rest of the theory of the bill, with respect to the people on Taiwan.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, the objection we have to this amendment is that it again interjects us into a Chinese question.

The interest of the United States has nothing to do with whether the mainland and Taiwan are reunified as long as the Chinese decide that question peacefully. We have an interest in the peaceful resolution of that question. We recognize that it is a Chinese question, not an American question. Our only interest is that, when and if it is possible for the Chinese themselves to settle the question, it be settled peacefully.

That is what was said in the Shanghai Communique entered into by President Nixon in his much-praised opening to China. The same interest was reiterated by President Carter when he decided to consummate what Nixon began, with the recent normalization of relations between the United States and the government in Peking. The same terminology is used in the pending bill.

If this amendment were adopted, we would be interjecting for the first time a new word. I suggest that it is difficult, if not impossible, to know what that word means in the context of this particular question.

For example, the bill defines the people on Taiwan as, first, the governing authority on Taiwan, which was recognized by the United States prior to January 1, 1979, as the Republic of China, and also as its agencies, instrumentalities, and political subdivisions, and finally as the people governed by it in the islands of Taiwan and the Pescadores. So in the definition of "the people on Taiwan," we include both the governing authorities and the people. If we interject the word "voluntary" as the Senator from Idaho proposes, many questions would immediately arise.

How does the United States determine whether or not some future agreement between the Chinese has been voluntary? What, indeed, does "voluntary" mean when we are dealing with two authoritarian governments, neither of which rests upon the consent of the governed in the sense that our Government does?

Does "voluntary" refer to some future pact between the Taiwan authorities and their counterparts in Peking? Is it adequate if the authorities at the top voluntarily agree? Or is it necessary, before this standard is satisfied, that some kind of referendum be held and that the people give their consent in national elections? If one would go that far, then how could we ascertain whether those elections were in fact free?

It is obvious that this amendment is fraught with problems. I suggest that it would be unwise to adopt it, particularly in view of the assurance we give the people on Taiwan contained in subsection 1 of part (b) of section 114 of the bill, which reads:

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security or the social or economic system of the people on Taiwan.

What more can we do than that?

The committee has gone very far to give all the necessary assurances to the people on Taiwan, mindful as we have been all along of the alliance that has existed between those people and ourselves. This amendment would not clarify our intention; it would cloud our intentions with ambiguity.

Therefore, it is the feeling of the committee, insofar as I can speak for the committee as manager of this bill, that the amendment offered by the Senator from Idaho—though I am sure it is well intended—should not be approved.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, this amendment raises very much the same issue which we found so troublesome with the amendment of Senator HELMS, in the sense that it seeks to take us out of the area of unilateral declaration as to what we will do in given circumstances and makes us dictate or prescribe what the people on Taiwan will do.

And, the difference is the difference between a state of facts and a state of mind. A state of facts, which we can find out ourselves and objectively ascertain, is we believe there has been coercion or we believe there has been force or blockade or boycott. That is a state of facts which is perceptible by factual proof. On the other hand, the word "voluntary" is a state of mind of the people on Taiwan. God knows what secret, clandestine, Byzantine propositions may have influenced them so that it is involuntary and how much argument, almost theological, there can be as to whether it is voluntary or involuntary.

As Senator CHURCH, and I associate myself with everything he said, has properly outlined, what indicia are we going to have of voluntarism, a vote, a constitution, a plebiscite, a Harris poll? It simply puts us, in my judgment, in the untenable situation of trying to penetrate the mind of the Taiwanese, instead of allowing us to make our decisions based upon factual evidence, and those factual evidences are now fully incorporated in the bill. Therefore, in my judgment to add this additional qualification relating to the state of mind of 17 million people would make it impossible and would be cause for all kinds of controversy, mischief, claims, and counterclaims.

Hence, I really do not see how we can find our way out of this except by the Senate voting it up or down. I hope very much the Senate—having labored now through the process, and we have taken many amendments which have fortified, locked in, insured everything that we can do unilaterally to preserve the economic and social system on Taiwan—will not now undo everything it has done by adding this new test which depends upon the state of mind of the people on Taiwan and, therefore, would completely change and make impossible the administration of the concept upon which this bill is based.

Mr. McCLURE. Mr. President, I am not sure whether I thank my friends from Idaho and New York for their commentaries on the amendment, because I am not sure whether I understand what it is they have been trying to say, and that perhaps is my lack of understanding or perhaps the artfulness of their argument.

As I understand what they have tried

to say it is that everyone understands the words "force" and "coercion," but they do not understand the term "voluntary," and I can proceed to a dictionary and look up the term "force." I could raise some issues about what is force and what is not force and say there is all kinds of ambiguity in that term, but that is not so ambiguous that we cannot use it. I could get the definition of the term "coercion," and supply it for the Senate, and I could raise some questions about whether or not that term is precise or ambiguous, and apparently it is precise enough for some and too ambiguous for others.

And similarly the term "voluntary," and I understand what my friend from New York has said with respect to a state of mind, but certainly the actions that are taken tell what the state of mind of the legal authorities is. We do recognize legal authorities on Taiwan. We do that throughout. If they took actions pursuant to their laws that were set in conformance with their laws, to say that this reunification was what they desired to do, in accordance with their laws, not ours, their understanding, not ours, their state of mind, not ours, their judgment of their state of mind, not ours, it would satisfy the requirements of this amendment.

But I guess beyond that what concerns me is the unspoken, the other side of this issue. What happens if as a matter of fact the People's Republic of China attempts to enforce some action against the people on Taiwan and attempts to exert pressure to force them to give up their demand for independence? Would we then say that that was coercion?

Is my friend from New York prepared to say that the U.S. representatives to multinational organizations will resist the efforts made by the People's Republic of China to force the people on Taiwan to give up their claim of independence?

My understanding from the earlier debate is that no, we would not, that apparently the term "force or coercion" is ambiguous enough to permit them to use that kind of force and coercion. I might ask my friend from New York if that is correct.

Mr. JAVITS. Give me a minute and I will comment on it.

Mr. McCLURE. All right.

Perhaps my friend from Idaho would like to answer the question as to whether or not the U.S. representatives in international organizations will be instructed by this statute to resist the attempts to use membership in or activities of multinational organizations to protect the people on Taiwan against the attempts by the People's Republic of China to exert pressures on them toward their relinquishment of their independence.

Mr. CHURCH. I am sorry but I think I only heard part of the question and, therefore, I am not in position to respond.

Mr. McCLURE. I will try to rephrase the question, because it has been argued that the term "voluntary" is ambiguous but that the terms "force" and "coercion" are well understood and unambiguous. If, indeed, the terms "force" and "coercion" are so unambiguous that they do not need any further definition by the term "voluntary," then I would like to ask whether or not it is the understanding of the managers of the bill that the U.S. representatives being directed by the congressional expression in this statute, this bill before us today, S. 245, as amended, will resist the attempts if made by the People's Republic of China to exert pressures upon the people on Taiwan through multinational organizations, their memberships in those organizations, or their rights to be represented there.

Mr. CHURCH. As the Senator knows, the instructions given to our representatives in multilateral institutions are given by the executive branch of the Government. Therefore, I am not in a position to respond to the Senator's question.

However, I would draw his attention to the fact that on page 14, beginning on line 14, the phrase in question is:

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

In other words, the term "coercion" as used in the bill does not exist in a vacuum. It is related to the other words in the phrase, and those other words are directed toward the security of the people on Taiwan and toward their social or economic system.

The forms of coercion referred to are forms of coercion that would jeopardize their security, or the social or economic system that exists on the island.

Mr. McCLURE. Might I say to my friend, first of all, that indicates the term "coercion" is ambiguous and requires some understanding, and that it also would require a judgment on our part as to whether or not it would jeopardize the security or the social or the economic system of the people on Taiwan. That is a matter of judgment equally as grave and equally as difficult as the judgment of whether or not the action take is voluntary.

But let me point out beyond that that the section to which he refers is subsection (b), a subsection under that, in order to achieve the objectives of this section.

The section that I seek to amend is on the same page, line 6, in that expectation upon which this whole thing is premised. It has nothing to do with whether, a test of whether or not, we will recognize the action. As the Senator from New York has suggested, it has only to do with what is our expectation at this time of the matter by which the dissolution of the independence of the people on Taiwan might be effected in the future.

It seems to me that since that is our expectation we ought to be able to say that we think that whatever the process may be it will seek the voluntary action of the people on Taiwan, however, that may be expressed, pursuant to their own forms and their own laws.

If that is not our expectation—and certainly that must be read into the rejection of it—then we are saying, in effect, that there are some circumstances under which we would expect perhaps that the People's Republic of China would force the people on Taiwan to accept a change by means other than voluntary. That is one of the things that a number of us have been very concerned about and, as I had understood my colleague from Idaho to be concerned about, whether or not this could be a peaceful and voluntary evolution or whether or not it would be effected by other means.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I made the argument against this amendment. I think the argument still stands. It is much easier to legislate against such actions as may be coercive or forceful than it is to either define or enforce affirmative standards.

I have tried to explain the difficulties involved in knowing what is meant by "voluntary," given the circumstances of the case, and there is no need for me to reiterate those arguments at this time.

My colleague from Idaho has asked what American policy might be relative to membership by the Taiwanese in certain international organizations.

Earlier in the debate, either yesterday or late last week, an amendment by Senator HOLLINGS from South Carolina was approved making clear that nothing in this bill affects in any way American policy relating to Taiwan representation or Taiwanese representation in international organizations. The bill does affect this one way or another.

I think I came to a period, I am not quite certain, but I believe it was a complete sentence. [Laughter.]

Mr. McCLURE. If it is not I am sure the RECORD will be corrected to reflect it.

Mr. CHURCH. In any case, Mr. President, we are about out of time and I think we have made the argument against the amendment.

I believe it will be unwise of the Senate to adopt this amendment. It would add confusion and not clarification, and it would be at variance with the stated policy of this country under two administrations, one Republican, the other Democratic.

So, for these reasons I hope the Senate will reject the amendment.

Mr. JAVITS. Mr. President, I yield myself 3 minutes merely to point out that I state, as the draftsman, that the legislative intention, as I understand it, is that the words "by peaceful means" on page 14, line 6, exclude the facts or the situation referred to on page 14, lines 15 to 17, inclusive, to wit, "any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan." There will be no argument or question as to our construction of the words "will be by peaceful means," and the reason I say that is because I think this is, with all respect, a very bad amendment, because it depends on the state of mind of the people on Taiwan. We cannot go into that.

We can, and it is an absolutely normal and commonsense experience, make an assessment as to the use of force or

other forms of coercion that would jeopardize the security or the social or economic system of the people on Taiwan. Those are acts not states of mind. So I oppose the amendment.

Mr. McCLURE. Mr. President, I do not want to get this dialog locked into the framework of pride of authorship, pride of authorship on behalf of the committee that thinks they have considered every eventuality and take pride in their work product, or the pride of authorship of the Senator who offered this amendment who believes this is a constructive addition to the meaning by offering the word "voluntary," and I think that is where we have got ourselves locked in now.

The Senator from New York says he thinks it is a bad amendment, because he thinks it would be difficult to determine whether or not the actions are voluntary but, at the same time, we can assess the factor that there has been force or coercion.

To me, if you can assess the facts to determine whether it was voluntary you can assess the fact of whether there has been force or coercion. I do not want to get locked into that impasse of difference of approach to an identical problem, to an identical objective.

If I read correctly or hear correctly what the Senator from New York said in terms of what the word "peaceful" means, what it is to actually expect, and whether we use the term "peaceful" or whether we use the term "voluntary" our expectation is that whatever may be be done to resolve the issue of Taiwan—and that is the context of the language in this section—will be done as the result of the will of the peoples involved and not by force or coercion brought upon the people of Taiwan by any other force.

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

Mr. McCLURE. I am happy to yield to Senator from New York.

Mr. JAVITS. I cannot accept that. The words stated mean to me the will of the people on Taiwan. That is the toughest thing in the world to define. But let me state what I am saying. Any resolution of the Taiwan issue will be by peaceful means, and that includes any resort to force or other forms of coercion that would jeopardize the security or the social or economic system of Taiwan. That is out.

In other words, we incorporate that concept as the negative of the words previously mentioned.

Mr. McCLURE. I see.

Mr. JAVITS. If we stay with that, I am all with you, and that is the legislative intent.

Mr. McCLURE. I understand what the Senator is saying. He has repeated again the language of subsection (2).

Mr. JAVITS. Right.

Mr. McCLURE. And again the language of subsection (b)(1).

Mr. JAVITS. Right.

Mr. McCLURE. But he has done so in the context of a discussion of whether or not it is voluntary. If we can set aside for a moment—I used the term "the will of the people of Taiwan." I certainly would not want the record to indicate the Senator from New York is suggesting that this action be taken against the will of the people of Taiwan.

Mr. JAVITS. Of course not. And I did not say that.

Mr. McCLURE. All right. Second, I would like to point out that that same curious lack of a positive is apparent in the amendment to which my colleague from Idaho referred earlier, of Senator HOLLINGS. I read:

> Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of the people on Taiwan from continued membership in any international financial institution or any other international organization.

But it does not say that we will resist that exclusion.

I would think that in the context of this discussion, and again not to complicate the discussion, we are again saying that our expectation is that the resolution of the issue on Taiwan will be done without force or coercion, and I will not use the term "voluntary," I will not use the term "according to the will of the people on Taiwan," but express it in the opposite way, that says our expectation is that coercion and force will not be used. If that is our understanding of the terms that are meant, in the context of my having offered the word "voluntary," and that having caused some difficulty, I would be prepared to withdraw the amendment.

Mr. JAVITS. There is only one qualification, and that is coercion of the size, character, and quality that would jeopardize the security or the social or economic system of the people on Taiwan.

Mr. McCLURE. I understand what the Senator is saying, but again recognize that that requires a judgment, a judgment difficult to make, and perhaps just as subjective as what is in the state of mind of the people on Taiwan.

Mr. JAVITS. That is our criterion. Sure, it calls for a judgment, but at least a judgment based on acts. That is all I say, and that is what we are saying.

Mr. McCLURE. Again I would say to my friend from New York whether or not it is voluntary, you say, is in the minds of the people on Taiwan. That could be a judgment we make, based upon our evaluation of the way in which it has been expressed. The Senator rejects that. I have just as great difficulty with accepting the question of whether or not coercion is sufficient to threaten——

Mr. JAVITS. To jeopardize.

Mr. McCLURE. To jeopardize the security or the social or economic system of the people on Taiwan. That is still to be judged on the basis of the future facts. I hope that the record is clear that the United States is in a position not only to reject the attempts to coerce, but to resist the attempts to coerce. We have entered into a mutual defense treaty with a government that does not exist any more. We have given notice of the abrogation of that treaty, although I suppose under that treaty we are still bound to defend a government that does not exist for the year in which the treaty does exist, as I understand the legal figments under which we are operating here.

But, again, with the assurances of my colleague from Idaho and my friend from New York, I will withdraw the amendment.

Mr. CHURCH. Mr. President, I thank my colleague for withdrawing the amendment and engaging in the colloquy.

Mr. JAVITS. I thank the Senator also.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GOLDWATER. Mr. President, will the Senator from Idaho yield me a minute or two, so that I may explain my position on this measure?

Mr. CHURCH. Surely; I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, at the outset of these several days of debate on this matter, I said I would support the legislation. I rise to say, Mr. President, that I have changed my mind. I cannot support this, as much as I would like to support it.

We had several chances during the course of the debate to have cleared some things up that need clearing up badly, chief of which is the position of the Senate in future treaty negotiations, should they be created, on abrogating.

Because of the failure of several amendments to pass which I think would have added some muscle and strength and meaning to this measure, Mr. President, I very reluctantly have to say that I will vote against it.

That does not take away for one moment from my appreciation for the very hard work done by the managers of the bill. They have come up with something that was better than nothing; but it is not good enough.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I rise in support of S. 245, the Taiwan Enabling Act. My support, however, is not without reservations. The issues involved are complex and the implications of this legislation are enormous. In the final analysis, however, I concur in the opinion of the Senate Foreign Relations Committee that this "bill as amended and approved will, if implemented properly, enable the United States to continue to have a close and friendly relationship with the people on Taiwan while simultaneously developing a mutually beneficial relationship with the People's Republic of China."

Mr. President, let me make clear at the outset that I emphatically do not condone President Carter's withdrawal of diplomatic recognition from a longtime ally and friend, the Republic of China (Taiwan). As pointed out in the additional views of Senator HELMS of North Carolina to the report of the Senate Foreign Relations Committee on the Taiwan Enabling Act—

> This precipitant action not only was unnecessary, it came at the worse possible time. As the world looked to the United States for a demonstration of resolve and fidelity after a period of growing setbacks for American interests, the world saw instead vacillation, weakness and betrayal of friendship in the derecognition of the

Republic of China. It is not up to the Congress to change that action. The President may choose the Nations he wishes to recognize, and which he does not. The issue of derecognition may well be a matter to be dealt with in the 1980 Presidential Elections. That is a more proper form of settlement of that issue.

The essence of this legislation, S. 245, is to preserve existing commercial, cultural and other unofficial relations by authorizing the continuation of existing agreements, statutory programs and other relevant sections of U.S. laws.

This legislation creates an American Institute in Taiwan, a private nonprofit corporation which is the entity through which future relations between the United States and the people on Taiwan are to be primarily conducted. The activities of the Institute will be governed and controlled by a contract executed between the Institute and the Department of State. Although I would prefer that relations be handled through official channels; namely, liaison officers. I think the Institute is workable and therefore not a serious impediment to enactment of this legislation.

Mr. President, I feel that it is significant that this legislation provides for the continued security of Taiwan, both in an economic sense, and a military sense. Among other things, this legislation provides that all treaties and other international agreements in existence between the United States and the Republic of China (Taiwan) will remain in force. Thus, we may be assured that the strong cultural and financial ties between the People on Taiwan and the United States will continue.

Mr. President, the continued security of Taiwan is of grave concern to me. I am disappointed that the negotiations did not obtain firm assurances by the People's Republic of China that they would not try to reunite Taiwan with mainland China by use of force. Chinese leaders have recently made statements on a number of occasions indicating a desire for peaceful reunification, such as the statement made by Vice Premier Teng Hsiao-P'ing to the Senate Foreign Relations Committee during his recent visit to Washington that "so long as Taiwan is returned to the mother land, and there is only one China, we will fully respect the realities on Taiwan."

Other reports, however, are not so reassuring. The National Chinese News Agency recently reported that Teng stated on January 5 that "we cannot commit ourselves to use no other than peaceful means to achieve reunification of the mother land * * * we cannot tie our hands in this matter." The inherent instability of the present system of government in the People's Republic of China must be considered in dealing with that country. The instability of the present system is evident in the fact that Teng Hsiao-P'ing has been purged twice in the past and rehabilitated three times.

Caution must be exercised to avoid any policy that hinges on the personality of any individual who happens to be in power at this time. Moreover, there is no established mechanism for the transfer of power within the framework of the present Government of the People's Republic of China.

It is in this context that legislation is critically important to reaffirm the U.S. commitment to the freedom and security of the people on Taiwan so that future changes in the Government of the People's Republic of China will not have an adverse effect on Taiwan.

A military invasion of Taiwan seems unlikely given the present military strength of Taiwan and U.S. commitments to continue arms sales to Taiwan. However, I am concerned that the People's Republic of China may use other pressure tactics to force reunification, such as an economic boycott, a military blockade, seizure of the offshore islands, or nuclear blackmail. For these reasons, I view section 114 of the proposed legislation, which was added by the Senate Foreign Relations Committee, to be essential to this legislation. The importance of this section cannot be overemphasized:

SEC. 114. (a) It is the policy of the United States—

(1) to maintain extensive, close, and friendly relations with the people on Taiwan;

(2) to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;

(3) to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and

(4) to provide the people on Taiwan with arms of a defensive character.

(b) In order to achieve the objectives of this section—

(1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;

(2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character;

(3) the President is directed to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising therefrom; and

(4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

The language of the committee report explaining this section is of great significance, and therefore, Mr. President, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

[See exhibit 1.]

Mr. THURMOND. Mr. President, the language of the report makes it unequivocal that the United States will maintain its capacity to resist not only direct force, but indirect force as well, such as a blockade or boycott that would jeopardize the social or economic system of the people on Taiwan. The report also emphasizes the importance and necessity of assisting the people on Taiwan to maintain a sufficient defense capability through the provision of arms to that country. It is made clear that in assisting the people on Taiwan, the United States will not be limited solely to the supply of arms, but could assist in other appropriate ways. Thus, actions taken by the United States may be military if such actions would be in compliance with the war powers resolution. This does not, however, restrict the United States from using whatever means would be most effective to aid the people on Taiwan, whether such action be diplomatic, economic or in some other form.

Mr. President, I find this "New China Policy" objectionable not because of the recognition of the People's Republic of China, but rather because of the abandonment and sudden nature of the derecognition of a longtime friend and ally, the Republic of China (Taiwan). My foremost consideration here today is, therefore, the continuing interest of the United States in the security and the defense of the people on Taiwan.

The social, cultural, economic, and financial ties between our two countries should be preserved and to that end, I find this legislation to be necessary.

Congress must, however, keep a close oversight on the Institute to insure that it is used to preserve the freedom and independence of the people of Taiwan and not to destroy it. Section 402 of the Taiwan Enabling Act was adopted by the Foreign Relations Committee to aid Congress in fulfilling this mandate.

This provision requires that every 6 months, a report describing and reviewing economic relations between the United States and the people on Taiwan shall be transmitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, noting any interference with normal commercial relations. This requirement must be utilized by Congress not as a merely perfunctory exercise, but rather as a tool to enable Congress to insure the continuance of normal commercial relations between our countries.

The announcement made by President Carter of normalization of relations between the People's Republic of China and the United States on December 15 came as a surprise to the American people and to Congress. There was no meaningful prior consultations with Congress despite section 36 of the International Security Assistance Act of 1978 which called for prior consultation on any proposed policy changes affecting the continuation in force of the mutual defense treaty with Taiwan.

The additional views of Senator HELMS of North Carolina succinctly state the issues raised and the consequences of this precipitous action by the President as:

First, the perceptions of the world community, particularly among our allies is that the United States lacks any cohesive or comprehensive foreign policy, and abandons its friends and allies whenever the United States views it expedient to do so.

Second, the actions of the President are of doubtful legality and constitutional validity both because of the President's

failure to consult with Congress and for assuming authority to unilaterally terminate the 1954 mutual defense treaty with the Republic of China.

Senator HELMS' words on these issues were:

Needless to say, this unprecedented action has not gone without notice by allies and opponents alike around the world. Despite Administration protestations to the contrary, many of our allies rightfully question the value of the United States' mutual security commitments. Newspaper reports that the Ambassador to the United States from one nation bordering the Indian Ocean littoral has sought to be moved to Moscow because "that is where the power is" cannot be brushed aside as reportage of a mere diplomatic aberration. How much the Presidential decision to abandon the people on Taiwan affected the Ambassador's decision one only can speculate; but it is difficult to believe that it had no effect.

The Congress may not be the proper forum to deal with the specific issue of termination of the treaty, *per se*, although Congress certainly must deal with the broader issue of the defense of the people on Taiwan. Already, a court suit has been undertaken to deal with the particulars of the treaty termination matter. Its outcome will say much about the scope of the President's power to terminate a treaty with an ally, unilaterally and without prior consultation with and approval by the Congress. At a time when the American public is wary of overextension of Executive power, a proper resolution of the issues raised in the suit will do much to define the limits of Executive power.

Mr. President, I am gravely concerned about the President's actions. I supported the amendment offered by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) that would have stated that,

It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

Although this amendment was withdrawn, I am pleased that the Foreign Relations Committee has agreed to hold hearings on this matter and report back to the Senate by May 1, 1979. It is my understanding that this resolution will then be made the pending business of the Senate.

In sum, Mr. President, even though diplomatic ties with the People's Republic of China may be advisable, the price we paid, the abandonment of a longtime friend and ally, Taiwan, was too great. It is hoped that this legislation that we today consider will reaffirm the U.S. commitment to the continued independence, freedom and security of the people of Taiwan. Therefore, Mr. President, with the qualifications other Senators and I have outlined, during debate on this measure, I support S. 245, the Taiwan Enabling Act, and urge its enactment.

EXHIBIT 1

SECTION 114

This section was proposed and adopted unanimously as an amendment to the Administration's original bill by Senators Church, Pell, Glenn, Javits and Baker. Its purpose is to express the strong and continuing interest of the United States in a peaceful solution to the Taiwan issue. This is done through a unilateral statement of United States policy objectives in subsection (a), which is supplemented by subsection (b), which sets forth what the United States will do to achieve the policy objectives set forth in subsection (a). The Committee made clear that each part of both subsections must be read and interpreted in the context of all the other parts and of the entire section. Thus subsection (b)(1), providing that the "United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character", relates not only to the objective of subsection (a)(4), "to provide the people on Taiwan with arms of a defensive character," but also to the objective spelled out in subsection (a)(1), "to maintain extensive, close, and friendly relations with the people on Taiwan."

*Subsection (a)*

The Committee discussed extensively the language in 114(a)(3) in connection with an amendment offered to it by Senator Percy. He proposed that the words "of grave concern to the" be replaced by the words "to the security interests of" on the ground that this would provide a stronger and clearer statement of United States policy toward Taiwan. This view received support from some Members of the Committee. Other Members argued that the phrase "of grave concern to the" United States adequately conveyed the importance that the United States should attach to a peaceful settlement of the Taiwan issue, especially when taken together with the other provisions of the section, while at the same time allowing the United States to respond in a flexible manner to any effort to resolve the Taiwan issue by other than peaceful means. The amendment proposed by Senator Percy was defeated by a vote of 10–4. Senator Percy had earlier reserved the right to discuss his amendment on the floor of the Senate and possibly to offer it there if it were rejected by the Committee.

*Subsection (b)*

The Committee made clear in its discussion of subsection (b)(1) that the United States was concerned with external threats or coercion rather than with internal challenges to the security or to the social or economic system of the people on Taiwan. In discussing the matter of possible coercion, the Committee indicated that the United States would maintain its capacity to resist not only direct force but indirect force as well, such as a blockade or a boycott, that would jeopardize the social or economic system of the people on Taiwan. During the hearings, several Senators emphasized the applicability of the anti-boycott provisions of the Export Administration Act to the China-Taiwan context. Those provisions make illegal compliance by U.S. citizens or corporations with economic boycotts against Taiwan.

The Committee also stressed the importance of assisting the people of Taiwan to maintain a sufficient defense capability through the provision of arms of a defensive character. The Committee indicated, in discussing (b)(2), that in assisting the people on Taiwan to maintain a sufficient self-defense capability, the United States was not limited solely to the supply of arms, but could assist in other appropriate ways. The Committee also indicated that the United States retained the right to determine what was "sufficient".

Paragraph (3) of subsection (b) directs the President to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising from such a threat. The language comprehends threats both military and non-military in nature, deriving from any source external to Taiwan. It should not be construed to derogate from the provisions of section 3 of the War Powers Resolution, which requires the President in every possible instance to consult with the Congress before introducing the United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

Paragraph (4) of subsection (b), added by the Committee as proposed by Senator Glenn and modified by Senator Javits, requires that any action taken by the United States to meet any danger described in paragraph (3) comply with all applicable constitutional and statutory requirements.

No mutual security treaty to which the United States currently is a party authorizes the President to introduce the armed forces into hostilities or requires the United States to do so, automatically, if another party to any such treaty is attacked. Each of the treaties provides that it will be carried out by the United States in accordance with its "constitutional processes" or contains other language to make clear that the United States' commitment is a qualified one—that the distribution of power within the United States Government is precisely what it would be in the absence of the treaty, and that the United States reserves the right to determine for itself what military action, if any, is appropriate.

Thus, an "absolute" security guarantee for Taiwan would go further than any current mutual defense treaty to which the United States is a party. In addition, it is questionable whether, as a matter of constitutional law, an absolute security guarantee can be made—either by treaty or by statute. Because the Constitution vests the power to declare war in the Congress rather than in the President, it is doubtful whether the authority to make that decision can constitutionally be delegated to the President—i.e., whether he can be empowered prospectively to determine under what conditions the United States armed forces will be introduced into hostilities. Under the separation of powers doctrine, one branch of the government cannot, even willingly, transfer to another branch powers and responsibilities assigned to it by the Constitution.

Turning to the provision at hand, paragraph (4) of subsection (b), the Committee notes that the United States is not required or committed, under this provision, to take any action. The United States, and only the United States will determine the existence of any danger described in paragraph (3). If the United States determines that such a danger exists, it and only it will determine what response, if any, is appropriate. While action taken by the United States may be military—provided that that action is in compliance with the War Powers Resolution—it may also be diplomatic, economic, or of some other form—and, indeed, it may be the judgment of the United States that the most effective action, from the standpoint of the United States or the people on Taiwan or both, is no action. This broad discretion is reserved for the United States through incorporation of the reference to the United States' "constitutional processes"; by requiring that any action taken by the United States be in accordance therewith, this provision makes clear that no automatic response of any kind is required, since those processes may result in a decision to do nothing. The net effect is thus to make clear that the allocation of war-making power within the United States Government is precisely what it would have been in the absence of the provision—that the President has no greater authority to introduce the armed forces into hostilities than he would have had had the provision not been enacted.

This conclusion is bolstered by section 8 (a)(1) of the War Powers Resolution, which provides as follows:

"Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostili-

ties is clearly indicated by the circumstances shall not be inferred—

"(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

The consequence of this provision is twofold: (1) it precludes the President from inferring authority from paragraph (4) to introduce the armed forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances; and (2) it reinforces the non-automaticity of the United States' undertakings, since, unless the President were authorized to introduce the armed forces into hostilities, the United States could not be considered to have undertaken to respond, automatically, in the event of danger.

While the Committee inserted the reference to "procedures established by law" primarily to make clear that the War Powers Resolution is fully applicable to all actions taken in connection with this section, it would note that the reference is not legally necessary since all provisions of the Resolution are applicable under their own terms. Accordingly, the inclusion of this reference in this bill should not be construed, in the case of some other, similar statute enacted in the future, as suggesting in any way that the absence of any such reference in that statute has rendered the Resolution inapplicable. The provisions of the Resolution will continue to apply *ex proprio vigore*.

● Mr. WEICKER. Mr. President, this Nation's diplomatic recognition of the People's Republic of China is a welcome event which I wholeheartedly support. But the manner in which the Carter administration has handled that decision and the legislation before us falls short of the standards we should expect of American diplomacy.

On December 15 President Carter stated that we were establishing full relations with the PRC in recognition of "simple reality." It is certainly true that we are rectifying a diplomatic mistake dating back 30 years and realizing that there are nearly 1 billion Chinese people with whom we should have full relations.

But to glibly derecognize 17 million people of Taiwan in the process is not my idea of "simple reality." We as a people and as a government should do everything in our power to realize and recognize that we have two entities here, not one China.

The security arrangements of this agreement are clouded by reports that the Carter administration did not seek a guarantee from the mainland Chinese against military action against Taiwan. Based on that frank and forceful display of American dealings with our new friend, provisions in this bill which express our "grave concern" for the security of Taiwan do not amount to much. We know it and the Chinese know it.

In terms of the integrity of our word and system of government, the President's hastily engineered recognition reflects poorly on us and how we conduct ourselves in this democracy.

On the matter of the "American Institute in Taiwan," we are asked in this bill to enact a falsehood. The Carter administration tells us in one breath that first governmental relations with Taiwan must cease and second that the Congress must authorize and appropriate funds for an Institute to carry out those functions.

Mr. President, it is a hoax to call an institute which is conceived, authorized, funded by the U.S. Government "nongovernmental." I will have no part in devaluing our moral currency just to close this particular deal.

The integrity of our democratic system is challenged, Mr. President, when our Chief Executive Officer ignores the expressed intent of Congress. President Carter's failure to respect the unanimous vote of this body requesting prior consultation on any change in status in the Mutual Defense Treaty, damages the constitutional dynamics of our foreign policy decisionmaking, now and for the future.

Mr. President, by passing this bill in its present form, the Senate would certify a logic and morality which have no place in our foreign policy. When we deal realistically, forcefully and honestly with our own people and the people of the world we earn their respect. When we settle for expediency, compromise and gimmickry we cheapen everything the United States stands for and hopes to be.●

● Mr. BAYH. Mr. President, I will vote for passage of the Taiwan enabling legislation which we are considering today because it provides the best possible means for maintaining and assuring the the continued prosperity and security for the people of Taiwan. This is in our vital national interests to do.

I believe that the Senate Committee on Foreign Relations has produced a finely crafted bill which will enable both the United States and the Government of the Republic of China on Taiwan to continue to derive mutual economic, cultural and political benefit from a strong and stable relationship. The fact that Taiwan is the second most successful economic power in all of Asia after Japan and that our trade turnover with that island last year was over $7 billion indicates the significant role Taiwan plays in the stability and progress of the region.

The Government of Taiwan has also been a longtime ally and friend of the United States. We therefore have a moral responsibility to provide Taiwan with the defensive weapons it needs to maintain its own security and discourage the People's Republic of China for settling the final status of Taiwan unilaterally and by other than peaceful means.

The security section of the bill is very clear on this point. What is equally as clear is the strong support which the people of Taiwan enjoy in this country. If the PRC Vice Premier Deng Xiaoping learned anything from his trip to the United States, it was the continuing concern which Americans feel for the future of Taiwan. I believe the security section of S. 245 is appropriately worded so as to leave no doubt in the mind of any present or future PRC leader that to use military force against Taiwan puts China's relationship with the United States at great risk. While I do not believe that the PRC has either the military capability or political intentions to attempt an armed takeover of Taiwan now or in the foreseeable future, we must firmly state our expectations as to this regard. President Carter himself recently commented that nothing in the agreement to establish diplomatic relations with the PRC would prevent him or some future President from direct military support of Taiwan if attacked by the PRC or threatened from some other source.

Last Thursday, I voted with my colleagues to defeat an amendment to substitute language in section 114 which states specifically that any effort to resolve the Taiwan issue by other than peaceful means would be considered a threat to the peace and security of the Western Pacific area and of grave concern to the United States. The amendment which was defeated sought to state specifically that such efforts would not only be considered a threat to the peace and security of the Western Pacific area but also to the security interests of the United States. While I appreciate and share the concern of my colleagues who voted for this change, I concluded that this change in language was unnecessary since the security interests of the United States extend to the Western Pacific area. Despite the value of such a redundant statement for domestic political purposes, this small change in the wording of a paragraph in section 114 of the bill could not be decisive in terms of whether the United States would act if the time ever came when Taiwan came under attack from mainland China. Nothing in the legislation restricts the President from taking any action he deems appropriate to meet such a contingency. Everything in section 114 is an affirmative message to the people of Taiwan and the People's Republic of China that the United States will uphold our moral obligation to help assure their safety and security and protect our vital interests in the area.

Mr. President, I think the complexity of the issue S. 245 addresses should also impress upon us that the security of Taiwan means more than the ability to beat back an armed invasion attempt. Therefore, it is especially important that part of the security section of this bill specifically states that—

The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan.

The fact that Taiwan's economic system is so highly developed also makes it vulnerable to economic boycott and blackmail. While the prevailing economic conditions in the East and Southeast Asian area where Taiwan has extensive commercial relationships owning to its high level of technology intensive industries certainly make it hard to imagine what non-Communist countries would abet such an effort, it is important that the United States state clearly its concern and retain our capacity to help our friends on Taiwan resist such coercion. Because of my own concern, I cosponsored an amendment which was accepted

by the Senate to go further by adding a new section which provides that nothing in S. 245 shall be construed as a basis for supporting the expulsion or exclusion of the people of Taiwan from continued membership in international financial and other international organizations.

The importance of the Asian Development Bank, the World Bank, the International Monetary Fund, and other multilateral economic institutions cannot be stressed too strongly in a world growing increasingly dependent upon financial cooperation in undertaking development projects. How tragic it would be if one of the foremost examples of an underdeveloped nation becoming a highly developed one and good customer for American products were to be systematically excluded from participation in these important enterprises.

Because the legislation we are considering seeks to assist the President in doing something literally without precedent in our diplomatic history, I believe it is also only right that Congress be a full partner in this process. Accordingly, I also cosponsored and the Senate accepted an amendment establishing a Joint Commission for Security and Cooperation in East Asia. Again, the importance of this oversight when I refer to our considerable mutual economic interests with Taiwan and when we realize that the instrumentality to carry forward this relationship—the American Institute in Taiwan—is untested.

The commission will have 12 members, 6 from the House and 6 from the Senate and would monitor and report on the full range of policy concerns expressed in the bill, including the operation and procedures of the instrumentality responsible for our relations with Taiwan, the degree of success in maintaining free and unfettered cultural, commercial, and other relations between Taiwan and the United States; and human rights.

Finally, Mr. President, the normalization of our relations with the People's Republic of China has required a "derecognition" that the Government of the Republic of China on Taiwan is the sole and legitimate government for all of China. To insist that we could succeed or devise a plan under the present circumstances where we could impose upon the PRC acceptance of the political fiction of the Government of the Republic of China's claim is wholly inconsistent with the Shanghai Communique of 1972. But it is more than that. It is an unhelpful impulse to see the world as we would wish it to be and not as it truly is. While some critics of this course would dismiss such a realization as a retreat by the United States, I would strongly disagree. On the contrary, the decision to establish formal ties with the PRC signals a renewed U.S. commitment to participate in the process of peace and stability in Asia and the Pacific basin. It enhances our influence in the area and helps us assure the security of Japan, our principal ally in the region and the real anchor of our security interests in East Asia. I say this to point out that a peaceful settlement of the Taiwan issue is not just in the interest of the United States but important to the other nations committed to peace, progress, and stability in the region.

In short, the "derecognition" of the Government of the Republic of China on Taiwan is not and, as long as I am in the Senate, will not be an abandonment of the people of Taiwan. I cannot tell my colleagues in this Chamber what the precise future of the people on Taiwan will be in terms of their final political status. But I can say a determination of that status will come about through the process of negotiation rather than through force of arms, because of the dedication and concern for the future of these brave people shared by my colleagues and the American people whom we represent.●

● Mr. SCHMITT. Mr. President, after a great deal of consideration, I have reluctantly decided to vote for final passage of S. 245, the Taiwan Enabling Act. I shall vote for S. 245 because there is no realistic alternative at this time. This issue has been handled poorly from the beginning.

The failure of the President to consult with the Congress prior to his surprise December 15 announcement can only indicate that the President does not recognize the constitutional and political role of Congress in the formulation of foreign policy which has evolved over the years. His decision to terminate the Mutual Defense Pact is particularly troubling. I am certain, Mr. President, that many nations are now reconsidering the value of a treaty with the United States. It is of grave concern to me that if the President's decision on this treaty is allowed to stand, this President or any future President can unilaterally terminate any treaty such as the NATO Treaty, the SALT Treaty, or the Mutual Defense Pact with the Republic of Korea.

Mr. President, while I support the recognition of the People's Republic of China, there is absolutely no reason why that recognition was contingent on the derecognition of the Republic of China and the abrogation of the Mutual Defense Pact. The normalization of relations with Peking is of greater benefit to the PRC than to the United States. It is absurd that the United States made the greater concessions in the negotiations.

Be that as it may, the legislation to provide for relations with the people and Government on Taiwan which was submitted by the President did not even adequately provide for the security of the island. Only after extensive reworking by the Senate Foreign Relations Committee has the legislation become somewhat acceptable. It has, however, been obvious that only certain changes in the bill will be tolerated. Efforts to strengthen the security guarantees to our allies on Taiwan have been defeated. The argument has been that these amendments "would weaken the office of the President." Since when, Mr. President, do guarantees for the security of our friends weaken the Presidency? If the improving of this legislation does, in fact, weaken the Presidency, then we certainly do not need this bill.

Mr. President, I supported the amendment to establish a liaison office in Taipei since one existed in Peking for a number of years. This amendment was defeated. I supported the amendment to more clearly define the term "people on Taiwan." This amendment was defeated. I supported the amendment to send a loud and clear message to Peking that no threat to the security of Taiwan will be tolerated at any time in the future. This amendment was also defeated. At that point, it was obvious that the Senate failed to write the type of bill which was beneficial to the long-term interests of both the United States and Taiwan and of our allies everywhere.

The reality of the situation, however, is that we must establish some type of relationship with the people and Government on Taiwan. Due to the poor handling of the situation by the administration and due to the hurried timetable which the administration arbitrarily imposed, Taiwan is today left without any type of formal or informal relations with the United States. In an effort to resolve this embarrassing situation, I shall reluctantly support S. 245.●

SINO-AMERICAN RELATIONS

● Mr. PERCY. Mr. President, we have been fortunate in the foresight of the leaders and diplomats who have made possible the dramatic breakthrough in diplomatic relations between China and the United States.

First there was Chairman Mao and Premier Zhou on the Chinese side and President Richard Nixon and Secretary of State Henry Kissinger for the United States who succeeded in negotiating the Shanghai Communique of 1972.

Ambassador Huang Zhen, who later became the first Chinese Ambassador to be stationed in Washington, was Ambassador to France in 1972 and promoted relations between the two countries through his contacts with his counterpart, U.S. Ambassador to France Arthur K. Watson.

These important initial meetings were followed by meetings with President Ford and Henry Kissinger, President Jimmy Carter, Secretary Cyrus Vance, and Assistant to the President for National Security Zbigniew Brzezinski, together with such congressional leaders as Mike Mansfield, Hugh Scott, TED KENNEDY, and many others who have traveled to Beijing to speak directly to Chinese leaders. U.S. Ambassador Leonard Woodcock, an established expert in labor negotiations, played a key role in the final weeks of progress. Both Chairman Hua Guofeng and Vice Chairman Deng Xiaoping have provided the leadership necessary on their side to see our negotiations culminate in full diplomatic relations. And former Ambassador Huang Chen, former Deputy of the PRC liaison office Han Xu, as well as His Excellency Chai Zemin, China's new Ambassador to the United States, have all played important roles in establishing our new relations.

We owe a great deal to these distinguished leaders on both sides of the Pacific and to many others, both Republicans and Democrats, who have continued to work toward normalization of relations between our two nations. Normalization is in the best interest of the United States.●

Mr. KENNEDY. Mr. President, the Congress is now completing a historic process begun last December 15. On that date, President Carter announced our Nation's recognition of the People's Republic of China. Since then, we have demonstrated our ability to adopt a realistic policy toward the nearly 1 billion people on the Chinese mainland. We have recognized the fact that Peking has governed these people for nearly three decades. We have made it possible to move forward, at long last, toward normal and enduring relations between our two countries.

At the same time, we are behaving with responsibility to the people of Taiwan. Through the Taiwan Enabling Act (S. 245), the Congress will demonstrate our ability and our readiness to maintain a full range of unofficial relations with Taiwan. Our ties with its people should remain unimpaired, because they should remain the same in substance even though they change in form. The Taiwan Enabling Act will maintain "commercial, cultural, and other relations with the people on Taiwan," on unofficial instead of official terms.

This achievement is due in no small part to the careful and thorough work of the Committee on Foreign Relations and its chairman, Senator CHURCH.

I was pleased to be able to testify before the committee and contribute to its work. I welcome particularly its subsequent incorporation of section 114, designed to help insure the future security of the people on Taiwan.

This section reflects the full substance of the Taiwan Security Resolution (S.J. Res. 31) introduced by 30 Senators, including Senator CRANSTON and myself, as well as by Congressman WOLFF and 106 Members of the House. As a result of its incorporation in the Taiwan Enabling Act, we have made legislative provision for substantive continuity in our relations with the people on Taiwan in the vital security sphere—also on unofficial terms, in a manner consistent with our new diplomatic relationship with the People's Republic of China.

Mr. President, I am confident that our ties with the people on Taiwan will not only remain unimpaired, but will actually be enhanced in the months and years ahead. We have finally removed Taiwan as a diplomatic issue between China and the United States. No longer do the Chinese feel dutybound to object to official relations based on our past pretense that the government of 17 million controls a nation of almost 1 billion. In turn, the Chinese have agreed to continue unofficial ties between us and Taiwan—ties which should expand and strengthen just as Japan's did after it normalized relations on the same basis in 1972. It is no accident that Japanese trade with Taiwan as well as with the mainland has quintupled since normalization, from roughly $1 billion each in 1971 to over $5 billion each in 1978.

The senior Senators from Virginia and Arizona (Senators BYRD and GOLDWATER) and others resurrected their argument last week that the President lacked authority to give 1 year's notice of termination of our Mutual Defense Treaty with Taiwan—in spite of that treaty's explicit provision for such termination under its article X, which states that—

> Either party may terminate it 1 year after notice has been given to the other party.

They argue, furthermore, that the consent of two-thirds of the Senate or a majority of both Houses of Congress is required for the termination of any mutual defense treaty concluded by the United States. These arguments are of great interest to members of the Committee on the Judiciary, which I have the privilege of chairing.

I have carefully examined the constitutional and historical basis of these objections, and I am personally convinced that the President had full authority to take the actions he did to normalize relations with Peking, including termination of the defense treaty with Taipei. I am confident that the President's decision will not be reversed, either by the courts or by the Congress, and I look forward to the debate on this issue in committee and on the floor later this spring.

While focusing on the exact terms of normalization for both Taiwan and the Chinese mainland, I believe that we should all bear in mind the broader context in which these terms have become possible.

There are some who say that normalization was a reflection of American weakness. I say the opposite. Normalization is a reflection of American strength: Our strength to recognize the reality of nearly 1 billion people controlled not by Taipei but by Peking. Our strength to act with responsibility to the 17 million people on Taiwan, with whom we have enjoyed close ties for over three decades. Our strength to consolidate and strengthen relations with the creative, industrious and rapidly modernizing Chinese people, and thus to contribute to the peace and stability not only of Asia but of the world.

Mr. President, last week I received very thoughtful statements on the implications of normalization from academic, business, civic, religious, and other community leaders throughout the United States. I would like to share some of these statements with my colleagues, who I believe will find them as helpful as I have in assessing the broader implications of our China policies now and in the future. I request that the statements be printed at this point in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENTS

Prof. Harlan Cleveland, Director, Program in International Affairs, Aspen Institute for Humanistic Studies, Austin, Tex.

"Normalization of relations with the PRC was overdue. But our debate about it risks making this move look a lot more than it is. Let's be clear about three things that normalization is not:

"1. It is not the dawn of a nice, easy, comfortable relationship. Diplomatic relations don't protect us against unpleasant surprises—not on China's southern border and not in the Middle East or Africa or the Persian Gulf either.

"2. It is not the end of Taiwan's chance to live its own life. The Japanese have already shown how to conduct business as usual without an embassy in Taipei.

"3. It is not an anti-Soviet move. The rift between Moscow and Peking was not made in Washington. Our cue is to get along with both the Soviet Union and China, even if they elect not to get along with each other."

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Prof. Okira Iriye, Department of History, University of Chicago, Chicago, Ill.

"I am in favor US–PRC normalization as it facilitates greater commercial and cultural interactions between the two countries. They have a great deal to offer to each other. I do hope, however, that normalization will not lead to any kind of military alliance which will unnecessarily create tensions among the countries of the Far East, especially between the US and the Soviet Union. I favor normalization in the hope that it will lead to lessening of tensions and eventual arms reduction in Asia, rather than to increased chances of war."

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Prof. Victor H. Li, Stanford University, U.S.-China Relations Program, Stanford, California.

"I am delighted that normalization of relations with the People's Republic of China has finally taken place. The announcement of December 15, 1978 marks a fundamental point in developing cooperative ties with that major country.

"But it should be stressed that normalization, in and of itself, does not lead to full friendly relations. Many political and legal issues must still be resolved. For example, in the short term we must consider the means by which normal dealings with China could be enhanced—including how to cope with the unrealistically high expectations for trade and investments held by some persons. More importantly, we must examine the long-term strategic effects that improving US-China relations would have on our relations with the Soviet Union, Japan, and other areas. In addition, the normalization process has successfully avoided confronting the Taiwan problem. Yet that problem must be dealt with eventually. As the people on Taiwan go about the difficult and potentially disruptive business of deciding their future course, the US will likely face a series of politically and morally troublesome decisions concerning our dealings with China and with Taiwan."

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Mr. Winston Lord, President, Council on Foreign Relations, New York, N.Y.

"As one who has been directly involved from the outset in the opening to China, I strongly favor improved relations with that country. I believe this process can lessen tensions and strengthen stability in Asia and the world, improve our overall international position, and bring cultural, economic and other bilateral benefits. Normalization of relations with Peking is a significant step in that process which I support, although the crucial factor in our relationship will remain the vision and steadiness of our world role. We also have a deep obligation to the people on Taiwan, who have been loyal friends and have behaved with great decency and restraint through troubled times. Thus I welcome firm Congressional expressions of concern for the future security and prosperity of the people on Taiwan. These add an important element of reassurance to the series of actions announced by the Administration since December."

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Mr. Richard A. Melville, President, and Chief Executive Officer, Allied Bank International, New York, New York.

"I believe that normalization between the U.S. and the People's Republic of China, the country with the largest population on earth and both countries situated with long coast lines on the periphery of the Pacific Ocean (the U.S. with its 50th State and other pos-

sessions, such as Guam, Samoa, almost in the middle of the Pacific) is essential for the peaceful development within the Pacific basin and this normalization has been held off for too long.

"Only by being able to communicate directly with the Chinese government will we be able to influence China's movements and developments of which perhaps hydrogen power and weaponry may be the most important.

"China, I believe, is clearly afraid of now being encircled by Russia also from the south, in addition to their long mutual border in the north. This may well be at least part of their quick agreement to normalization of their relations with the U.S.

"For this reason, I do not believe that they would undertake any drastic measures to incorporate Taiwan politically and economically into China anywhere in the near future. I believe militarily they could not handle it and they know it would be a devastating blow to their new relationship with the U.S. With the history of thousands of years behind them another few years are of little significance.

"With the new leadership in Peking, the old traditional ideology of self-development and self-reliance appears to have been put aside for the time being and new development plans seem to be surfacing almost everyday. Within the next two or three decades, this huge country is to catch up with the industrial world, and the old American businessman's dream of eyeing the hundreds of millions of Chinese as potential customers may still become reality. From the technological point of view, they need just about everything, and with the United States growing interest in expanding its exports it is of the utmost importance for us to establish as quickly as possible economic, political and cultural relations to build up our trade. If we do not act now, we will find that we have lost this enormous market to aggressive Japanese and European competition."

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Dr. Shirley Sun, Executive Director, Chinese Cultural Foundation, San Francisco, California.

"As an Asian American and an Asian art historian, I fully support President Carter's enlightened and sensible policy in the normalization of relations between the US and the PRC.

"This policy, so late in coming, is finally dealing with global reality. At the same time, it will open up avenues of profitable exchange between the US and China that we cannot afford to ignore—in the areas of science, culture and trade that will greatly benefit the lives of all Americans, not to mention the importance it will bring to the maintenance of world peace."

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Dr. James C. Thomsen, Curator, Nieman Foundation for Journalism, Harvard University, Cambridge, Massachusetts.

"The Carter Administration, with deft skill and fine timing, has successfully concluded the overdue process of normalization of relations between the United States and China that Presidents Nixon and Ford made possible. It has done so in a way that assures the security and well being of the people of Taiwan while averting the creation of a self-styled second "China" whose status would be constantly under threat. The people of Taiwan will now be as well protected as before; and Chinese-American relations can at last proceed on a rational and peaceful basis after nearly thirty years of largely unnecessary hostility."

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Dr. Franklin J. Woo, China Program Director, Division of Overseas Ministries, National Council of Churches of Christ in the USA, New York, N.Y.

"Generally speaking constituent members of the National Council of the Churches of Christ in the USA welcome the normalization of diplomatic relations between the PRC and USA. There does not seem to be objection to the abrogation of the Mutual Defense Treaty of 1954, which was based on cold war assumptions. Obligation is not to a treaty or to a government which purports to be the sole legitimate government for all of China, but to the people of Taiwan, whose life and destiny is a concern of all people of good will. The Churches of the National Council are concerned about the right of the people of Taiwan to have a say in their life and destiny."

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League of Women Voters of the United States.

"League of Women Voters President Ruth J. Hinerfeld has heralded the establishment of the U.S. diplomatic relations with the People's Republic of China as a bold and historic step. She disclaims any direct connection between President Carter's dramatic announcement on December 15 and her early December trip to the People's Republic of China with a prestigious delegation of civic and world affairs leaders. What is 'right on target', the League's president readily admits, is the credit frequently given the LWV for its vanguard role over a decade ago in paving the way for normalization of U.S. relations with the PRC.

"In early 1969, three years before the Shanghai Communique, the League's member study culminated in a forward looking position. In that position, the League called for U.S. initiatives to facilitate PRC participation in the world community and to relax tensions between the U.S. and China. The League recommended a range of policies to encourage normalization of relations—through travel, cultural exchanges and unrestricted trade in nonstrategic goods. The League also urged the U.S. to withdraw its opposition to PRC representation in the UN and to move toward establishing diplomatic relations with the PRC.

"Ms. Hinerfeld stresses that the League was aware from the outset of the need for political astuteness and careful timing, and its actions during the late 60s and early 70s were carefully calculated to support various Presidential and Congressional initiatives at the most propitious times. She also emphasizes the pride League members take in their role in helping to open the diplomatic doors between the most populous and the most powerful nations.

"The League stands ready to support such legislative proposals as most-favored-nation treatment of the PRC."

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am not aware of any other Senator who wishes to offer an amendment.

Mr. JAVITS. Nor am I.

Mr. CHURCH. I believe the Senate is prepared to move now to a final vote on the bill. I make the following parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Under the unanimous-consent agreement, was the vote to come at or before 5 o'clock this afternoon?

The PRESIDING OFFICER. No later than 5 o'clock.

Mr. CHURCH. Is it in order, then, to begin the vote at this time?

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHURCH. Mr. President, it might be appropriate at this time for me to express my very deep appreciation to the members of the staff of the Foreign Relations Committee who worked so very hard to organize the hearings and to draft for the committee various amendments that, in my judgment, greatly improved this bill.

When the legislation first came to us from the administration, it was inadequate. I said at that time that it was woefully inadequate, and I do not believe that I overstated the case. But in the course of the committee's deliberations the bill was amended. It now gives fully adequate protection to the property holdings of the authorities on Taiwan and the people of Taiwan, and to the corporate entities in Taiwan that may be located here in the United States. It was also amended to give the people an access to the courts of this country, and to sue or to be sued.

The question of extending appropriate privileges and immunities to those who will represent Taiwan in the institution which they are expected to establish was dealt with through committee action.

Finally, and most importantly, a very strong unilateral statement was included in the bill giving full recognition to the continuing responsibility that the committee felt this country owed the people on Taiwan by virtue of our long alliance with them. Thus we removed any basis for the charge that has previously been made that the United States has walked away from an old ally in order to do business with mainland China.

The various weaknesses which were apparent in the administration's bill have been corrected, and I think the posture of the United States is honorable and strong.

Throughout this debate I have said, as have others who support this legislation, that we commend the President of the United States for having at last faced up to the realities in Asia, for having had the political courage and conviction necessary to consummate the opening of mainland China that President Nixon initiated in 1972.

Finally, Mr. President, we are on course again in Asia. The old policy of self-deception, which created for us a posture of endemic weakness respecting Asia, which contributed to our involvement in two indecisive wars and cost us very dearly, is over. Even though we are late coming to the recognition that it is in our national interest to have direct dealings with China, in a government that exercises jurisdiction over one-quarter of the human race, it has, in fact, occurred at long last. For this I commend the President of the United States.

Mr. President, the various changes in this bill to which I have referred, made by the committee and made by the Senate as a whole in the past few days in the amendments that we have adopted, present, when taken together, a good bill in which we can take justifiable pride.

I want to pay my respects to those

members of the committee staff who assisted us throughout our deliberations: Mr. William Bader, the director of the staff; Patrick Shea and William Barnds, who have been with me here on the floor of the Senate throughout the debate; Mr. Michael Glennon, our counsel; Mr. Peter Lakeland, the special assistant to our ranking member, Senator JAVITS, along with Ray Werner and Hans Binnedijk, who worked extensively on preparing the briefing books for the hearings.

Mr. JAVITS. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. JAVITS. I would like to add the name of Fred Tipson, who has been working on this legislation.

Mr. CHURCH. Yes. He definitely should be included. I thank the Senator for mentioning his name.

Mr. JAVITS. Mr. President, may I say that I consider this piece of legislation to be statesmanlike, just, and well within the compass of our implementation, with every promise that it can work. What we have done is to base the legislation on what we are able to do and what we are able to judge and perceive. We have, I feel, avoided all of those amendments which would have sought to substitute us for the authorities on Taiwan. That is why I think this can work and work effectively, giving deep assurance and safeguards to the people on Taiwan. Just as we are having normal relations with the People's Republic of China, so within the limits of that policy we can have normal relations and express the morality as well as the practicality of our solicitude for the security and, very importantly, the social and economic system of the people on Taiwan as they design it as time goes on.

I thank my colleague for his cooperation and for the magnificent work which he has done in the management of this bill.

Mr. CHURCH. Mr. President, may I say to the ranking minority member (Mr. JAVITS) that had it not been for his own initiatives it would never have been possible for the committee to finally reach a unanimous vote on this bill, recommending it favorably to the Senate, nor would it have been possible to have achieved so commanding a majority in connection with the language dealing with the future security of the people on Taiwan. To him I am especially indebted, as well as to all the other members of the committee who have participated so actively in bringing this matter to a final vote.

It was once predicted that this would be extraordinarily divisive, that the committee itself would be unable to reach a consensus, and that the Senate would be deeply divided. I think all of those pitfalls have been successfully avoided and that the Senate will, in fact, endorse this measure by an overwhelming vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I believe this request has been cleared on the other side of the aisle:

I ask unanimous consent that when H.R. 2479 is received from the House it be considered as having been read twice, that the Senate proceed to its immediate consideration, and, without any intervening debate or motion, that all after the enacting clause be stricken, that the text of S. 245 as passed by the Senate, as we expect it to be passed shortly, be substituted in lieu thereof, that without any further amendment or intervening motion or debate the bill be read a third time and passed, that that action be deemed as having been reconsidered and laid on the table, that the Senate insist upon its amendments, request a conference with the House and that the Chair be authorized to appoint the conferees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. Will the Senator from Idaho yield to his colleague 1 minute on the bill before the vote?

Mr. CHURCH. Yes, but before I do that, may I express my thanks to the majority leader for the extremely helpful way in which he intervened on more than one occasion in the course of this debate to assist us when we needed his help, and for the effectiveness with which he did so. I appreciate it.

Mr. JAVITS. And my thanks, as well, as the minority manager.

Mr. BAKER. Mr. President, as we conclude the debate on this difficult and important legislation which establishes the foundation on which to build a new relationship with Taiwan, I would like to take this opportunity to commend the distinguished ranking member of the Foreign Relations Committee for the role that he has played in its passage. In both the committee, and then on the floor, he has managed to blend widely divergent points-of-view, and he has protected well the rights of those on this side of the aisle who desired to contribute to this legislation. It was a demanding responsibility performed extraordinarily well, as I am certain it will be performed during the difficult issues ahead.

Mr. ROBERT C. BYRD. Mr. President, the establishment of full diplomatic relations with the People's Republic of China is a step that is both realistic and in the national interest of the United States. In addition to meeting these basic criteria for American foreign policy, this action—opening official relations with the largest and one of the most important nations in the world—enhances U.S. credibility in the international arena. Relations between the United States and China are also an important counterbalance in the triangular relationship involving our two countries and the Soviet Union.

Normalization of relations was the logical extension of a policy which was set in motion by President Nixon during his visit to China in 1971. That policy, expressed in the Shanghai Communique, was subsequently carried forward by President Ford and then by President Carter, who reached agreement with the Peking Government on normalization.

While I have strongly supported this continuum in our foreign policy, I also have been concerned about assuring the continuing prosperity and security of the people of Taiwan.

We want to maintain commercial, cultural, and other relations with Taiwan, and that is the purpose of the legislation which has been before the Senate in recent days. This bill, the Taiwan Enabling Act, provides the mechanism by which those relations will be administered and carried out.

This mechanism, the American Institute in Taiwan, will, I believe, prove to be a workable instrument for administering United States-Taiwan relations. The Committee on Foreign Relations added important provisions to the legislation in order to assure appropriate congressional oversight of the Institute.

In addition to our cultural and commercial relations with Taiwan, the future security of the people of Taiwan is a matter of particular concern to us. This was reflected in the extensive discussion within the Committee on Foreign Relations as well as within the Senate.

The committee's amendment to the bill submitted by the administration makes absolutely clear to the People's Republic that its new relationship with the United States would be severely jeopardized if there is any use of force or other coercion against Taiwan.

The assurances provided by Vice Premier Deng Xiaoping during his visit here earlier this year considerably allayed my concern for Taiwan's security. Deng said Taiwan would retain its autonomy as a governmental unit, its armed forces and the management of those forces, and its trade and commerce.

In my discussion with him, Deng said that the People's Republic would not impose leaders on Taiwan and that the people living on Taiwan could select their own leaders. The one point upon which Deng insisted very strongly is that there is one China, and that Taiwan is part of China. This, of course, is something the United States acknowledged in the Shanghai Communique in 1972.

I believe that the leaders of the People's Republic recognize that any attempt to resolve the reunification question by other than peaceful means would be both extremely costly and counterproductive.

Mr. President, the amendment by the Committee on Foreign Relations, and other Senate actions during our consideration of this bill, have left no room for doubt as to our continuing concern about the well-being of the people of Taiwan, notwithstanding our recognition of the People's Republic.

The committee, under the leadership of its chairman, Mr. CHURCH, has made a significant contribution to this legislation. I want to commend the chairman, along with Senator JAVITS, the ranking minority member, and Senator GLENN, who helped manage this bill, for their efforts. A number of other Senators have taken active roles in the lengthy debate which has occurred here. The result is a bill which is deserving of our support and which will serve U.S. foreign policy interests.

Mr. CHURCH. I thank the Senator very much. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I first of all want to state my concern that the

bill may not have accomplished what we set out to accomplish. I think it is very clear that if the United States is committed to resist economic pressure against Taiwan, that that economic pressure would not succeed. If, however, we fall short of that commitment it is only a question of time, and that may only be a short period of time. That would be my concern and the reason why I will not support the legislation. I thank the managers of the bill for the courtesy which they have extended to me throughout the debate. I do not mean to imply any personal criticism in my criticism of the result.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 50

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of S. 245 in accordance with the order of the Senate, the agreement that has just been entered into, the Senate proceed to the consideration of Calendar Order No. 39, Senate Resolution 50.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, what is it?

Mr. ROBERT C. BYRD. It is a resolution disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

Mr. HELMS. I have no objection.

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

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the committee amendment in the nature of a substitute, as amended.

Has the Senator from New York asked for a rollcall only on passage?

Mr. JAVITS. Only on passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. 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 it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

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

The PRESIDING OFFICER (Mr. LEVIN). Are there any Senators wishing to vote who have not voted?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—90

| | | |
|---|---|---|
| Armstrong | Glenn | Percy |
| Baker | Hart | Pressler |
| Baucus | Hatch | Proxmire |
| Bayh | Hatfield | Pryor |
| Bellmon | Heflin | Randolph |
| Bentsen | Heinz | Ribicoff |
| Biden | Helms | Riegle |
| Boren | Hollings | Roth |
| Boschwitz | Huddleston | Sarbanes |
| Bradley | Inouye | Sasser |
| Bumpers | Jackson | Schmitt |
| Burdick | Javits | Schweiker |
| Byrd, | Jepsen | Simpson |
| Harry F., Jr. | Johnston | Stafford |
| Byrd, Robert C. | Kassebaum | Stennis |
| Cannon | Kennedy | Stevens |
| Chafee | Leahy | Stevenson |
| Chiles | Levin | Stewart |
| Church | Long | Stone |
| Cochran | Lugar | Talmadge |
| Cohen | Magnuson | Thurmond |
| Cranston | McGovern | Tower |
| Culver | Melcher | Tsongas |
| Danforth | Metzenbaum | Wallop |
| Dole | Morgan | Warner |
| Domenici | Moynihan | Weicker |
| Durenberger | Muskie | Williams |
| Durkin | Nelson | Young |
| Eagleton | Nunn | Zorinsky |
| Exon | Packwood | |
| Ford | Pell | |

NAYS—6

| | | |
|---|---|---|
| DeConcini | Goldwater | Laxalt |
| Garn | Humphrey | McClure |

NOT VOTING—4

| | |
|---|---|
| Gravel | Mathias |
| Hayakawa | Matsunaga |

So the bill (S. 245) was passed, as follows:

S. 245

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Taiwan Enabling Act".

TITLE I

SEC. 101. (a) Whenever any law, regulation, or order of the United States refers or relates to a foreign country, nation, state, government, or similar entity, such terms shall include, and such law, regulation, or order shall apply with respect to, the people on Taiwan.

(b) Except as provided in section 205(d) of this Act, the term "people on Taiwan", as used in this Act, shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979, as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it or the organizations and other entities formed under the law applied on Taiwan in the islands of Taiwan and the Pescadores.

SEC. 102. (a) No requirement for maintenance of diplomatic relations with the United States, or for recognition of a government by the United States as a condition of eligibility for participation in programs, transactions, or other relations authorized by or pursuant to United States law, shall apply with respect to the people on Taiwan.

(b) The rights and obligations under the laws of the United States of natural persons on Taiwan and the Pescadores, and of the organizations and other entities formed under the lw applied by the people on Taiwan, shall not be affected by the absence of diplomatic relations between the people on Taiwan and the United States or by lack of recognition of the United States.

SEC. 103. The instrumentality referred to in section 108 of this Act and the authorities on Taiwan shall have access to the courts of the United States: *Provided*, That the United States and the American Institute in Taiwan have access to the courts on Taiwan. In the case of any action brought in any court of the United States on behalf of or against the people on Taiwan prior to the effective date of this Act, the authorities on Taiwan shall continue to represent the people on Taiwan.

SEC. 104. For all purposes, including actions in all courts in the United States, the Congress approves the continuation in force of all treaties and other international agreements entered into between the United States and the Government recognized as the Republic of China prior to January 1, 1979, and in force until December 31, 1978, unless and until terminated in accordance with law.

SEC. 105. Whenever authorized or required by or pursuant to United States law to conduct or carry out programs, transactions, or other relations with respect to a foreign country, nation, state, government, or similar entity, the President or any department or agency of the United States Government is authorized to conduct and carry out such programs, transactions, and other relations with respect to the people of Taiwan, including, but not limited to, the performance of services for the United States through contracts with commercial entities in Taiwan, in accordance with applicable laws of the United States.

SEC. 106. (a) Programs, transactions, and other relations conducted or carried out by the President or any department or agency of the United States Government with respect to the people on Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through the American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia (hereinafter "the Institute").

(b) To the extent that any law, rule, regulation, or ordinance of the District of Columbia or of any State or political subdivision thereof in which the Institute is incorporated or doing business impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

(c) In carrying out its activities, the Institute shall take all appropriate steps to strengthen and expand the ties between the people of the United States and all the people on Taiwan and to promote full human rights for all the people of Taiwan, and to provide adequate personnel and facilities to accomplish the purposes of this section.

SEC. 107. Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to enter into, perform, enforce, or have in force an agreement or arrangement relative to the people of Taiwan, such agreement or arrangement shall be entered into, or performed and enforced, in the manner and to the extent directed by the President, by or through the Institute.

SEC. 108. Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to render or provide to, or to receive or accept from, the people of Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the Presi-

dent, be rendered or provided to, or received or accepted from, an instrumentality established by the people on Taiwan.

SEC. 109. Whenever the application of a rule of law of the United States depends upon the law applied on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

SEC. 110. (a) For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights, or interests in, properties, tangible and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978, or thereafter acquired or earned by the people on Taiwan. For the purposes of this section 110, the term "people on Taiwan" includes organizations and other entities formed under the law applied on Taiwan.

(b) Any contract or property right or interest, obligation or debt of, or with respect to, the people on Taiwan heretofore or hereafter acquired by United States persons, and the capacity of the people on Taiwan to sue or be sued in courts in the United States, shall not be abrogated, infringed, modified, or denied because of the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition of a government by the United States.

SEC. 111. (a) Notwithstanding the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961, the Overseas Private Investment Corporation ("the Corporation") in determining whether to provide any insurance, reinsurance, loans or guaranties for a project, shall not restrict its activities with respect to investment projects in Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans or guaranties with respect to investment projects on Taiwan, the Corporation shall apply the same criteria as those applicable in other parts of the world.

(c) Not later than five years after the date of enactment of this Act, the President shall report in writing to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives concerning the desirability of continuing this section in force in light of economic conditions prevailing on Taiwan on the date of such report.

SEC. 112. (a) The President is authorized and requested, under such terms and conditions as he determines, to extend to the instrumentality established by the people on Taiwan and the appropriate members thereof, referred to in section 108, privileges and immunities comparable to those provided to missions of foreign countries, upon the condition that privileges and immunities are extended on a reciprocal basis to the American Institute on Taiwan at not less than the level authorized herein with respect to the instrumentality referred to in section 108.

(b) The President is authorized to extend to the instrumentality established by the people on Taiwan the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979, upon the condition that the American Institue in Taiwan is reciprocally allowed such offices and personnel.

SEC. 113. (a) It is the policy of the United States—

(1) to maintain extensive, close, and friendly relations with the people on Taiwan;

(2) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;

(3) to consider any effort to resolve the Taiwan issue by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and

(4) to provide the people on Taiwan with arms of a defensive character.

(b) In order to achieve the objectives of this section—

(1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;

(2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character;

(3) the President is directed to inform the Congress promptly of any threat to the security or the social or economic system of Taiwan and any danger to the interests of the United States arising therefrom; and

(4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

SEC. 114. The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on or before November 15 of each year a report on the status of arms sales of major defense equipment of $7,000,000 or more or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year and which are proposed for or requested by the people on Taiwan.

SEC. 115. Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of the people on Taiwan from continued membership in any international financial institution or any other international organization.

SEC. 116. Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission or department to make a finding of fact or determination of law under the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978, to deny an export license application or to revoke an existing export license or nuclear exports to the people on Taiwan.

TITLE II

SEC. 201. Any department or agency of the United States Government is authorized to sell, loan, or lease property, including interests therein, to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to departments and agencies under this section shall be credited to the current applicable appropriation of the department or agency concerned.

S53. 202. Any department or agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such departments and agencies from the Institute may be effected without regard to such laws and regulations normally applicable to the acquisition of services by such departments and agencies as the President may specify by Executive order.

SEC. 203. Any department or agency of the United States Government employing alien personnel in Taiwan is authorized to transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by law or regulation for the retirement of employees, under which such personnel were covered prior to the transfer to the Institute: *Provided*, That employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, shall be currently deposited in the system's fund or depository.

SEC. 204. (a) Under such terms and conditions as the President may direct, any department or agency of the United States Government is authorized to separate from Government service for a specified period any officer or employee of that department or agency who accepts employment with the Institute.

(b) An officer or employee separated under subsection (a) of this section shall be eligible upon termination of such employment with the Institute to reemployment or reinstatement in accordance with existing law with that department or agency or a successor agency in an appropriate position with attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(c) An officer or employee eligible for reemployment or reinstatement rights under subsection (b) of this section shall, while continuously employed by the Institute with no break in continuity of service, continue to be eligible to participate in any benefit program in which such officer or employee was covered prior to employment by the Institute, including programs for compensation for job-related death, injury or illness; for health and life insurance; for annual, sick and other statutory leave; and for retirement under any system established by law or regulation: *Provided*, That employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, shall be currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in service or retirement from the service for the purposes of any employee or survivor benefits acquired by reason of service with a department or agency of the United States Government.

(d) Any employee of a department or agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this title for the period of such service.

SEC. 205. (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 204(c) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue

Code of 1954, the Institute shall be treated as an organization described in sections 170 (b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

(c)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by section 204(c) of this Act, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

(d) For the purpose of applying section 102 of this Act to the Internal Revenue Code of 1954, and to any regulation, ruling, decision, or other determination under such Code, the term "people on Taiwan" shall mean the governing authority on Taiwan recognized by the United States prior to January 1, 1979, as the Republic of China and its agencies, instrumentalities, and political subdivisions; except that when such term is used in a geographical sense it shall mean the islands of Taiwan and the Pescadores.

(e) The Institute shall not be an agency or instrumentality of the United States. Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

SEC. 206. (a) The Institute may authorize any of its employees in Taiwan—

(1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens;

(3) to render assistance to American vessels and seamen; and

(4) to perform any other duties in keeping with the purposes of this Act and otherwise authorized by law which assist or protect the persons and property of citizens or entities of United States nationality.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized to perform such acts.

TITLE III

SEC. 301. In addition to funds otherwise available for the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEC. 302. The Secretary of State is authorized to use funds made available to carry out the provisions of this Act to further the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis. The Secretary may provide such funds to the Institute for expenses directly related to the provisions of this Act, including—

(1) payment of salaries and benefits to Institute employees;

(2) acquisition and maintenance of buildings and facilities necessary to the conduct of Institute business;

(3) maintenance of adequate security for Institute employees and facilities; and

(4) such other expenses as may be necessary for the effective functioning of the Institute.

SEC. 303. Any department or agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

SEC. 304. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. Such rules and regulations shall be transmitted promptly to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

TITLE IV

SEC. 401. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudical to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the Taiwan authorities or the instrumentality established by the Taiwan authorities; and

(2) any agreement entered into between the Institute and departments and agencies of the United States.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements were made by or through the department or agency of the United States on behalf of which the Institute is acting.

SEC. 402. During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, every six months, a report describing and reviewing economic relations between the United States and the people on Taiwan, noting any interference with normal commercial relations.

SEC. 403. The President shall notify the chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives thirty days prior to the issuance to the People's Republic of China of any license required under section 38 of the Arms Export Control Act.

TITLE V—JOINT COMMISSION ON SECURITY AND COOPERATION IN EAST ASIA

SEC. 501. (a) There is established a joint congressional commission known as the Joint Commission on Security and Cooperation in East Asia (hereinafter in this title referred to as the "Joint Commission") to exist for a period of three years, which period shall begin upon the date of enactment of this Act.

(b) The Joint Commission shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and the people on Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(c)(1) The Joint Commission shall be composed of twelve members. Of the members provided for under the preceding sentence—

(A) six shall be Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, four of whom shall be selected from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the House of Representatives, from the minority party; and

(B) six shall be Members of the Senate to be appointed by the President pro tempore of the Senate, four of whom shall be selected, upon the recommendation of the Majority Leader of the Senate, from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the Senate, from the minority party.

(2) In each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Chairman of the Joint Commission, and the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Vice Chairman of the Joint Commission. In each even-numbered Congress, the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Chairman of the Joint Commission, and the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Vice Chairman of the Joint Commission.

(d)(1) Members of the Joint Commission shall serve without compensation but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Joint Commission.

(2) The Joint Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(e) The Joint Commission may, in carrying out its duties under this title, sit and act at such times and places, hold such hearings, take such testimony, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Joint Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Joint Commission, or any member designated by him, may administer oaths to any witness.

(f)(1) The Joint Commission shall prepare and transmit a semiannual report to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the President on—

(A) the progress achieved by the United States in maintaining full and unimpeded cultural, commercial, and other relations with the people on Taiwan, and

(B) the legal and technical problems arising from the maintenance of such relations, together with recommendations for legislation to resolve such problems and recommendations for strengthening such relations and for carrying out the commitment of the United States to human rights in East Asia.

(2) The Joint Commission shall provide information to Members of the House of Representatives and the Senate as requested.

(g)(1) There are authorized to be appropriated to the Joint Commission for each

fiscal year and to remain available until expended, $550,000 to assist in meeting the expenses of the Joint Commission for the purpose of carrying out the provisions of this title. Such appropriations shall be disbursed by the Secretary of the Senate on vouchers approved by the Chairman of the Joint Commission, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(2) For each fiscal year for which an appropriation is made the Joint Commission shall submit to the Congress a report on its expenditures under such appropriation.

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Joint Commission shall be deemed to be a joint committee of the Congress and shall be entitled to the use of funds in accordance with the provisions of such section.

TITLE VI

SEC. 601. This Act shall have taken effect on January 1, 1979.

SEC. 602. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Subsequently on the next calendar day, March 14, 1979, in accordance with the foregoing order, the passage of S. 245 by the above Rollcall Vote No. 17 Leg. was vitiated, and H.R. 2479, as amended by the substitution of the text of S. 245, was considered to have been passed by Rollcall Vote No. 17 Leg.)

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 245.

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

Mr. CHURCH. Mr. President, I ask that the clerk report the amendment to the title that was reported by the committee.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title to read as follows:

A bill to promote the foreign policy of the United States by authorizing the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes.

The PRESIDING OFFICER. Without objection, the title is so amended.

Mr. CHURCH. Mr. President, I ask unanimous consent that, consistent with the previous order, the Chair be authorized to appoint conferees.

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

The conferees will be appointed at the appropriate time, after the House bill is received.

Mr. CHURCH. I thank the Chair.

Mr. STEVENS. Mr. President, would it be possible to have a succinct explanation of the amendments that were made during the consideration of the bill, to be prepared by the staff?

Mr. CHURCH. Mr. President, in response to the question of the distinguished minority whip, I will be glad to request that the staff prepare an explanation of the amendments adopted by the Senate during the consideration of S. 245. As soon as that explanation is prepared, I will see that it is included in the RECORD.

Mr. JAVITS. It will be prepared, I assume, in concert with us on the minority side.

Mr. CHURCH. Of course.

Mr. STEVENS. I thank the Senator from New York and the Senator from Idaho.

## ARRIVAL OF THE PRESIDENT AT ANDREWS AIR FORCE BASE

Mr. ROBERT C. BYRD. Mr. President, buses will depart the Senate steps at 11:30 p.m. this evening to go to Andrews Air Force Base. The President is scheduled to arrive at Andrews at 12:45 a.m. tomorrow. Buses will depart Andrews immediately after the President departs by helicopter for the White House. The buses will return to the Senate steps.

## DISAPPROVAL OF PROPOSED BUDGET DEFERRAL

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar No. 39, Senate Resolution 50, which will be stated by title.

The legislative clerk read as follows:

Resolution (S. Res. 50) disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

The Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, may we have order in the Senate? The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, I ask the majority leader if he has asked unanimous consent that the Senate proceed to the consideration of the bill.

Mr. ROBERT C. BYRD. That has been done, and the matter is before the Senate.

I ask the distinguished chairman of the Appropriations Committee, for the benefit of other Senators, if he anticipates any rollcall vote on this measure tonight.

Mr. MAGNUSON. No, I do not.

Mr. ROBERT C. BYRD. Does anyone else?

I see no indication of such, so I will state, Mr. President, that there will be no further rollcall votes today.

Mr. MAGNUSON. Mr. President, Senate Resolution 50 deals with a deferral of the budget authority relating to NOAA, the National Oceanographic and Atmospheric Administration.

The Appropriations Committee voted unanimously to reject the deferral of Saltonstall-Kennedy funds for American fisheries development research. This is money that is collected under the Saltonstall-Kennedy Act of 1954, which I believe is familiar to most Senators.

Under the Budget Act, one House can reject the deferral and add the money. In this case, it is $12 million that must be released. This promotes and develops fishery products and research in the United States.

I strongly recommend the adoption of the resolution.

● Mr. HOLLINGS. Mr. President, in October 1978, OMB deferred $12,060,000 from the Saltonstall-Kennedy reserve fund for fiscal year 1979. Presently, $6,579,000 of Saltonstall-Kennedy funds are still being deferred. Approximately 21 fisheries development projects across the Nation are not being funded, because of the deferral. These programs are designed to help American fishermen develop new techniques for harvesting and processing, and to develop new and underutilized fisheries.

American fishermen need our assistance if they are to compete effectively with foreign fishermen in our 200-mile fishing zone. As a cosponsor of Senate Resolution 50, I urge the Senate to vote favorably on it.●

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

Mr. MAGNUSON. I yield.

Mr. KENNEDY. Mr. President, I commend the chairman, Mr. MAGNUSON, for the strong support he gave to our resolution in the committee and for the strong support we received from all the members of the committee. I understand that there was a unanimous vote in committee. I believe this was as a result of the knowledge and understanding of the importance of these limited, but very important, resources to the development of our fisheries.

Even though it is a small amount of money, it has had an enormous impact in assisting fisheries in the East—in my own State of Massachusetts as well as all of New England—and on the west coast. it relates to legislation that was originally sponsored by then Senators John Kennedy and Leverett Saltonstall.

It has been a small but vital resource to help our fishing industry. I think the results from these limited resources will be benefits many times over in terms of budget, in terms of tax revenues, and in terms of supporting an extremely important and vital industry.

I congratulate the Senator from Washington and thank him for the strong leadership he has shown in this matter.

Mr. MAGNUSON. I point out to the Senator from Massachusetts that these are funds that are collected from custom duties on imported fishery products, and they are supposed to be used for research and development of the American fishing industry. I do not know why the administration made this deferral. I cannot understand it. These are funds that are supposed to be expended. It has nothing to do with taxation or the budget or things of that kind. The funds are supposed to be expended. The deferral of this money has held up many important development projects across the country, including projects to utilize domestic species in Puget Sound and to develop underutilized species in Alaskan waters.

Mr. KENNEDY. Mr. President, I would like to address one brief inquiry to my friend and colleague from the State of Washington.

I understand the administration intends to abolish this fund for the next fiscal year. I hope with this unanimous vote in the Senate it will be a very clear indication of the strong sense of support

of not only the chairman but of the distinguished Senator from Alaska, Senator STEVENS, and my colleagues, my junior colleague in the Senate, Senator TSONGAS, and others. This vote should be a very clear indication of the sense of the Senate on this matter. I hope that it will encourage the administration to reconsider any attempt to abolish the Saltonstall-Kennedy fund.

Mr. MAGNUSON. Mr. President, it should be. It is my understanding that they are attempting to take this out of the trust fund category and put it in the general fund. It was never intended for that. It was intended for a specific purpose: To promote and develop American fisheries resources. It should be continued to be used that way.

It is small enough as it is. The fishing industry deserves double and triple this amount of support.

Mr. KENNEDY. I thank the chairman.

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

Mr. MAGNUSON. I yield.

Mr. PELL. Mr. President, I should like to echo the words of the senior Senator from Massachusetts, and I commend the Senator from Washington for his leadership and initiative with respect to this measure.

It is important at this time, when the 200-mile economic zone has just gone into effect. This is the time when our fishermen need all the help they can get from various techniques in order to exploit and develop properly the new resources that are available to us. This is the time the money should be spent, not next year or the year after that.

Mr. MAGNUSON. With the passage of the 200-mile limit legislation, these funds are more important than ever. Despite the establishment of the 200-mile limit, there is still a $2 billion negative balance of payments for fish products.

Mr. PELL. Exactly.

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

Mr. MAGNUSON. I yield.

Mr. YOUNG. Mr. President, I fully approve this. It was approved by the committee by unanimous vote.

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

Mr. MAGNUSON. I yield.

Mr. CHAFEE. Mr. President, I commend the chairman and the ranking minority member of the Appropriations Committee for the action they have taken.

As the Senator from Massachusetts and the senior Senator from Rhode Island pointed out, this is extremely important to the entire fisheries industry. This is the time to use the money. There are plenty of problems associated with it, as we have discovered with respect to the extension of the 200-mile limit.

With this money, which wisely was included—I believe it started in 1954—I think we can make some very substantial steps forward, and I thank the chairman for this action.

Mr. MAGNUSON. I remember well when we started. We started with small amounts. We have not gotten as much as we like. But the small amount surely is well deserved.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, there has been no one in the Senate who has shown the leadership in terms of protecting American fishermen as much as my good friend and neighbor from Washington, Senator MAGNUSON.

The 200-mile bill that is mentioned several times in the Senate Appropriations Committee report on this deferral was Senator MAGNUSON's bill.

That bill, in fact, has led to a process by which we are easing out of our 200-mile limit foreign fishermen who are fishing for stocks that our American fishermen are capable of harvesting.

The Saltonstall-Kennedy Act fund was created to promote the development of the American fishing industry. It is the new techniques for harvesting and processing and marketing new and underutilized fisheries that are most important in terms of the use of this fund.

I, too, congratulate the chairman of the Appropriations Committee for his action and on behalf of all my Alaska fishermen I say God bless you and thank you very much.

Mr. MAGNUSON. I thank the Senator from Alaska.

Mr. President, I move the Senate adopt the resolution.

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

Mr. MAGNUSON. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, the State of Virginia, speaking through its junior Senator, wishes to associate herself with his remarks and commend him for speaking out on behalf of the fishermen of the United States.

The Saltonstall-Kennedy fund was established in 1954 for the purpose of promoting the free flow of domestically produced fishery products. Congress intended that the Saltonstall-Kennedy funds to be used for many purposes among which have been market development, research, and education dealing with fish products.

The proper use of the Saltonstall-Kennedy fund would provide manifold benefits to America's economic system. Principal benefit would be to increase new fishery development which would go a long way toward reducing America's annual trade deficit which is attributable to fisheries import alone. Currently this deficit stands at $2.1 billion.

Senate Resolution 50 would also create new jobs in the fishing industry and stimulate America's economy. For these reasons and more I support Senate Resolution 50.

I thank the chairman and I wholeheartedly endorse the resolution.

Mr. MAGNUSON. I renew my motion to adopt the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to as follows:

*Resolved*, That the Senate disapproves the proposed deferral of budget authority (Deferral D79-6) to promote and develop fishery products and research pertaining to American fisheries set forth in the special message transmitted by the President to the Congress on October 2, 1978, under section 1013 of the Impoundment Control Act of 1974.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. MAGNUSON. I yield.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes with Senators permitted to speak therein up to 10 minutes each.

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

The Senator from Massachusetts.

## DIRECT ELECTION

Mr. KENNEDY. Mr. President, I am pleased to join with Senator BAYH in urging favorable Senate action on Senate Joint Resolution 1. This proposed amendment to the Constitution will provide for the direct popular election of the President and Vice President of the United States. By eliminating the electorial college, Senate Joint Resolution 1 finally will place the crucial decision of selecting the leaders of our Nation where that decision belongs—directly in the hands of the American people.

The supporters of the Senate resolution comprise a long and prestigious list, including the ABA, the U.S. Chamber of Commerce, the United Auto Workers, Common Cause, League of Women Voters, National Federation of Independent Business, and the National Small Business Association. And there are over 37 cosponsors for this bill.

The views of the American people are strongly supportive of this constitutional amendment, and while I ordinarily do not place great weight in opinion polls, it seems to me that the manner in which Americans want their votes to be counted cannot go ignored. Immediately after the 1976 Presidential elections a Gallup poll was taken. Over 80 percent of the American people who expressed their opinion approved of the direct election amendment.

The poll showed that support for direct election was not confined by geographical, philosophical, or political boundaries; 82 percent of the people in the East, 81 percent in the Midwest, 76 percent in the South, and 81 percent in the West think direct popular election is both desirable and necessary. The survey also showed that 78 percent of those identifying themselves as liberals favor direct election while 71 percent among the self-identified conservatives endorsed it. Finally, 74 percent of those who voted for Ford and 79 percent of

those who voted for Carter supported direct election.

Other approaches to dealing with the archaic electoral college system do not address the basic injustice perpetuated by that system. Direct election is clearly the fairest and most democratic alternative proposed. Adoption of Senate Joint Resolution 1 would be the final step in the constitutional evolution which began with the declaration that all men are created equal, and continued with the assertion that no citizen may be denied the right to vote for arbitrary reasons.

Since 1826 there have been repeated efforts to end the electoral college. Some reasons have been highlighted in recent findings of a special American Bar Association commission assigned to conduct an exhaustive yearlong study of the present system:

First. The winner of the most popular votes in a State, regardless of his percentage of the votes cast, receives all of that States electoral votes. All votes for the losing candidate are not refuted in any electoral votes, while those for the winner are multiplied in value.

Second. Success in 12 key States will give a candidate an electoral majority, regardless of his margin of victory in those States and regardless of whether he has received any votes in the other 38 States.

Third. Three times in our history—1824, 1976, and 1888—the popular vote loser was elected President.

Fourth. In another 15 elections a shift of less than 1 percent of the national vote cast would have made the popular vote loser the President.

In 1976, had there been a shift of 3,687 popular votes in Hawaii and 5,559 in Ohio, or 2.1 percent of the votes cast in these States (0.0113 percent of the total in the Nation), Gerald Ford would have had 269 electoral votes, Jimmy Carter 268, and Ronald Reagan 1, and the election would have gone to the House of Representatives.

Fortunately, such a crisis was narrowly avoided, but 1976 was our third close call in the last 20 years. In 1960 John Kennedy was the winner with 100,000 popular votes. Yet a shift of less than two-hundredths of a percent would have given the electoral college victory to Richard Nixon. In 1968, only a seven-hundredths of a percent switch was needed to deprive the popular vote winner of an electoral college majority.

Fifth. The 1976 figures also dispute any general theory that the present electoral system favors the small States, because each State receives two electoral votes regardless of size. If one looks at States with eight or fewer electoral votes, it becomes clear that not every small State is favored by its two bonus votes. The ratio of electoral votes to the State winner's popular vote in 1976, for example, ranges from 1 to 23,851 in Alaska, to 1 to 36,843 in Hawaii, to 1 to 84,477 in Utah.

But the impact of the system's unfairness hits hardest on the middle population States, since the ratio in Minnesota was 1 electoral vote per 107,044 popular votes, in Wisconsin 1 per 94,566, and in Massachusetts 1 per 102,105.

Also, in 1976 nearly twice as many people voted in Utah as in Hawaii, yet each State cast the same number of electoral votes. Approximately a half million more people voted in Minnesota than in Georgia, yet Georgia cast almost 50 percent more electoral votes.

Finally, in the last three Presidential elections in 1968, 1972, and 1976, electors have cast their vote for a candidate other than the one selected with the most popular vote in the elector's State. In the State of Washington, during the last Presidential election, an elector cast his ballot for Ronald Reagan—with every legal right to do so when a majority of those he was elected to represent had cast their popular vote for Gerald Ford.

These findings show that our Presidential elections have almost become a game of chance. We are gambling with the integrity of our country, and the stakes are high. That we have survived Vietnam, Watergate, and other various scandals in recent years can be attributed to the strength of our institutions. That we have not elected a President in recent years who was not the majority of the people's choice can be attributed only to luck.

This country cannot afford a Presidential election fiasco. Our national pride and respect would be severely undermined if a President was elected without a popular majority. This country's highly valued ideals of fairness and equality would plummet.

Mr. President, we have a responsibility to insure that this does not happen. The effects of an election of a President who did not receive a majority vote would not only challenge America's confidence in its institutions, but would also lead other countries throughout the world to do the same.

As long ago as 1953, the late Hubert H. Humphrey well understood this important point:

> It is our duty to the world as well as to our citizens to perfect our form of democracy until it is beyond criticism of principle without execution. We must be the example to the free world—not only in our words and ideals, but in our actions and our conduct. We must mean what we say when we dedicate ourselves to a government in which its strength, integrity, and sovereignty are those of its people as expressed in free untrammeled elections.

Those who oppose the direct election amendment claim that there has been insufficient consideration of the various alternative proposals. A cursory history of this resolution shows that this would be futile; direct election is the most fully debated and most carefully studied proposed amendment in our Nation's history.

The Subcommittee on Constitutional Amendments began the first hearings on February 28, 1966. During 18 days of hearings more than 50 witnesses testified concerning all of the various plans for reform of the electoral system. The hearing record totaled nearly 1,000 pages.

Following the election of 1968, the subcommittee heard 49 witnesses and compiled a second hearing record of more than 1,000 pages. Once again, the subcommittee heard testimony on all the various plans for reform. In the 93d Congress the subcommittee conducted 2 more days of hearings on September 26 and 27, 1973.

Even with this substantial history of study and debate, 9 more days of hearings on the abolition of the electoral college were held in 1977. Senator BAYH personally conducted 5 days of hearings in January and February with more than 40 witnesses offering testimony on Senate Joint Resolutions 1, 8, and 18.

The subcommittee has had a total of 43 days of hearings, 179 witnesses, and 3,735 pages of testimony, surely enough to make a judgment on this matter. In addition to subcommittee consideration of electoral college reform, the full Judiciary Committee has debated the issue on numerous occasions over a 13-year period.

In 1970 the proposal reached the Senate after receiving an overwhelming 339–70 (or 80 percent) favorable vote in the House of Representatives. It was reported favorably by the Judiciary Committee during the last Congress, but a vote by the full Senate on the issue has never even been allowed.

Mr. President, just last August we approved a constitutional amendment to grant congressional representation for the District of Columbia. Senator THURMOND, on August 22, 1978, eloquently stated the case:

> Mr. President, I support the amendment. In the first place I think it is a fair thing to do. We are advocating one-man, one-vote. We are advocating democratic processes in this country. We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideals of democracy.
>
> If we propose this amendment, and that is what we are doing, it still has to be ratified by the States. If the people in the States do not like the amendment, they will not ratify it. If they like the amendment, they will ratify it. If they do ratify it, then that is what the people want. So we leave it to the States, after we act here. The States will have the power to make the final decision.

The ideals of one-man, one-vote, of holding ourselves up as an exemplary nation, and of giving the States the final consideration of the amendment underlie the direct election amendment as well. The consistency of our basic principles of equality and democracy should be firmly and finally established for all of our elections.

Some who question the wisdom of this resolution also claim that direct election would destroy the two-party system. But this argument does not withstand close analysis. Election of legislators and executives by plurality votes from single-member districts is the chief cause of any two-party system. Almost every country in the world using this type of system has only two major parties, while countries that use multimember districts and proportional representation have a multitude of parties. And, because Senate Joint Resolution 1 contains a contin-

gency for a runoff election between only the two strongest national tickets in the event that a candidate fails to capture a 40-percent plurality, encouragement of third-party candidates is extremely slight.

Direct election of the President would no more necessarily lead to the destruction of our two-party system or to the spawning of splinter parties than the direct election of U.S. Senators and Governors. In fact, the present electoral college system sometimes encourages regionally based third parties, because of the possibility that capturing small pluralities in a few States may give a party the balance of power in the electoral college. Gov. George Wallace's 1968 Presidential campaign is a very good example of this kind of strategy.

Elimination of the electoral college may actually serve to strengthen our two-party system in States historically subject to one-party dominance. Under the current system there are few incentives for either party in such States trying to increase their percentage of the vote, or the voter turnout, because the size of their victory or defeat is irrelevant. The proposed amendment would give all votes an equal weight—no matter where they are cast—making increased part activity likely in what are now essentially one-party States.

Senate Joint Resolution 1 eliminates the problems caused by the electoral college, and provides safeguards to prevent candidates with less than a plurality of popular votes from being elected President. Implementation of direct elections would give every Presidential ballot equal weight in deciding the outcome of our most important national election. Votes would not be divided by State. The archaic unit rule would not prevail. No longer would the "losers" votes in each State be discarded. No voters, no States, no regions would be written off. For the first time, the votes of every American citizen would count fully and equally—in the election of the President of the United States.

## NATIONAL GIRL SCOUT WEEK

Mr. BAYH. Mr. President, this week we are celebrating National Girl Scout Week.

More than 3 million Girl Scouts will mark their organization's 67th anniversary during Girl Scout Week.

Mrs. Jane C. Freeman, who presented the organization's 1978 annual report to Congress today—and who is well known to all of us—is the newly elected national president of this splendid youth serving organization. We all know her for the significant contributions she has made as a citizen in many ways. We all join in heartfelt congratulations to a wonderful woman, and wish her endeavors every success.

Since it was founded, March 12, 1912, in Savannah, Ga., by Juliette Gordon Low, Girl Scouts of the U.S.A. have been dedicated to helping improve the quality of our community life by giving valuable self-development opportunities to our young people.

I am personally familiar with many of the endeavors that are going on continuously.

In my home State of Indiana, for example, Girl Scouts and their leaders are doing many things. For example:

We know that social drinking is very much a part of our society, and alcoholism has become a problem among our Nation's teenagers. Alcoholism is probably the No. 1 social problem confronting us today. The Girl Scouts of Singing Sands Council in Indiana, in cooperation with St. Joseph County Council on Alcoholism, have developed a program for teenagers to inform them on the use and abuse of alcohol. Through a brochure for parents, a guide for leaders, background information and other materials, they are helping girls and adults to become familiar with facts concerning the nature and effects of alcohol on the body and to recognize the warning signs of alcoholism. They are involving girls in appropriate projects related to the use and misuse of alcohol in our society.

Another Girl Scout council—Tulip Trace in Bloomington, Ind.—has emphasized physical fitness by holding a "mini-Olympics" event. Here, 800 participants—Girl Scouts and their families—enjoy a day of competitive events, such as basketball, volleyball, swimming, gymnastics, and track and field, with ribbons awarded to those who "placed." Recreation also included crafts and other noncompetitive activities. The day opened and closed with ceremonies patterned after the world Olympics.

Another event, in another council—Wapehani in Daleville, Ind.—was the annual "snow-blast"—planned for family fun. More than 800 persons enjoyed old-fashioned sledding, ice skating, snow sculpture, scavenger hunts, bonfires, and topped it all off with hot chocolate. Held at four campsites on January 14, this was an outstanding experience for members of Girl Scout families. We need more such families, in my judgment.

Children of migrant workers in Scott County had the experience of attending day camp activities sponsored by Tulip Trace Girl Scout Council. Formal education programs, provided by State-licensed teachers, were conducted during the morning. Lunch was served, and afternoons were spent in informal recreation.

This type of program affords an opportunity for these girls, who are virtually homeless and rootless, to find a place in the community where they can "belong." Girl Scouting in fact, across the board, helps those young people and others find friends and become a part of the community wherever they go.

I think it is incumbent upon all of us in the Senate to say "thank you" to the Girl Scouts. Indeed, I think the Nation owes the Girl Scouts a deep debt of gratitude. The Girl Scouts themselves perform a tremendous function. They depend upon enthusiastic, self-sacrificing leadership and adult counsel. Without this fine adult leadership, Scouting would not be what it is today. So to the Girl Scouts and to the Girl Scouts who are just a little bit older but provide the leadership, we say:

Thank you. Thank you not only for providing this opportunity for the young girls and youth of today to have a meaningful experience, but thank you also for the long-range contribution you make by developing character which turns the young Girl Scouts of today into the leadership we so desperately need tomorrow; leadership in all walks of life, not the least of which will provide leadership for the next generation of Girl Scouts, which will make America an even better place to live.

Mr. CHURCH. Mr. President, I want to join with the distinguished Senator from Indiana in extending congratulations and good wishes to the leaders of the Girl Scouts who are present in the Chamber this afternoon. We are all aware of the wonderful work that they do and the contribution they make to the well-being of some hundreds of thousands of young girls here in this country—young women who will be better citizens for the experience that they have had in the Girl Scout movement.

## PRINTING "ENACTMENT OF A LAW" AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution, which is being sponsored on behalf of myself and Messrs. PELL, BAKER, and HATFIELD, and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolution (S. Res. 100) to print "Enactment of a Law" as a Senate document.

*Resolved*, That Senate Document Numbered 152, Ninety-fourth Congress, second session, entitled "Enactment of a Law" relative to the procedural steps in the legislative process, be revised by the Parliamentarian of the Senate, under the direction of the Secretary of the Senate, and be reprinted as a Senate document.

SEC. 2. There shall be printed eleven thousand additional copies for the use of the Committee on Rules and Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of that resolution.

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

There being no objection, the resolution (S. Res. 100) was considered and agreed to.

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

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT OF PARAGRAPH 3(b) OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution and ask it be stated by the clerk. I also ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. RES. 101

*Resolved*, That paragraph 3(b) of Rule XXV of the Standing Rules of the Senate is amended by striking out of the item relating to Aging, the number "10" and inserting in lieu thereof "12".

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

Mr. STEVENS. There is no objection.

There being no objection, the resolution (S. Res. 101) was considered and agreed to.

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

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MAJORITY PARTY APPOINTMENTS TO SPECIAL COMMITTEE ON AGING, 96TH CONGRESS

Mr. ROBERT C. BYRD. Now, Mr. President, I send to the desk another Senate resolution and ask it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. RES. 102

*Resolved*, That Senator Burdick of North Dakota be, and he is hereby, assigned to service on the Special Committee on Aging to fill a Democratic vacancy on that committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

There being no objection, the resolution (S. Res. 102) was considered and agreed to.

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

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MINORITY MEMBER APPOINTMENTS TO THE SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. RES. 103

*Resolved*, That the following minority Members are appointed to the Special Committee on Aging for the 96th Congress: DOMENICI, PERCY, HEINZ, KASSEBAUM, and COHEN.

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

There being no objection, the resolution (S. Res. 103) was considered and agreed to.

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

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ALASKA LANDS LEGISLATION

Mr. STEVENS. Mr. President, as you know, one of the most important issues facing the State of Alaska during this session of Congress is the final disposition of Alaska's d-2 lands. The decisions made in the next year or so will have a tremendous impact, not only on Alaskans, but on all Americans.

A recent article concerning this issue appeared in the Willamette Collegian. The author of "Alaska 'd-2' Significant Legislation" is Mr. Larry Houle. As a former intern in my office, Larry gained an excellent grasp of the subject and I recommend his story most highly.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

ALASKA "d-2" SIGNIFICANT LEGISLATION

(By Larry J. Houle)

Of the literally thousands of bills introduced in our national Congress each session, very few are of any real substance.

With regard to "legislation of substance," this student of political science proposes that ten or twenty years from now we will, in retrospect, label the Alaska Lands Act the most significant legislation of the 96th Congress.

As a result of the 95th Congress' inaction on a compromise d-2 bill (the Alaska Lands bill or "d-2" comes from Section 17(d)(2) of the 1971 Alaska Native Claims Settlement Act). Secretary of the Interior Cecil Andrus, citing emergency conditions, used the Federal Land Policy Management Act of 1976 to close development of 121 million acres in Alaska for three years. This is the first emergency withdrawal under the act; if this is an indication of things to come, just how long will it take to lock up the entire west? Why were emergency conditions cited? Surely the most distinguished Interior Secretary knows that these lands were already protected under Section 17(d)(1) of the Alaska Native Claims Settlement Act.

About the same time, President Carter also invoked the Historic Sites and Antiquities Act to set aside 56 million acres for national monuments. It is worth mentioning here that since the Act was passed in 1906 only about 9.5 million acres have been set aside for this purpose.

Many people cannot visualize 56 million acres. It is roughly the size of Oregon. The 121 million acre withdrawal is approximately 20 million acres larger than the state of California.

How can legislation pertaining to the ice and tundra of Alaska possibly be labeled the most significant legislation of the 96th Congress? Alaska Land legislation, if passed, will set the precedent. This bill alone will be the norm for western land and natural resource policy for generations to come.

A recent Wall Street Journal editorial very clearly recognized the thrust of today's lock-up land policies. "The lock-up of public and private lands in the western states is a result of intense lobbying pressure, and we doubt that the public understands the consequences. The Independent Petroleum Association says that as a result of law or administrative procedures, about 500 million acres, roughly one-fourth of the U.S., are off limits to oil and gas development. At a time when we are growing increasingly dependent on unstable foreign sources of energy, the most rapidly growing aspect of the American economy is the land and resources that are being removed from development."

Lock-up land policies do much more than prevent oil and gas development, as stated in the Wall Street Journal article. In many cases they also prohibit effective and essential development activities such as resource inventories, fisheries rehabilitation, agricultural enhancement, public access, and public recreational facilities, to name a few.

To take public land away from a nation's resource base is a role proper for Congress. I am uncomfortable with the thought that one man—even the President—can make such a unilateral decision, when it is best left to the people's elected representatives.

## BANK CHARTERING

Mr. PROXMIRE. Mr. President, I want to commend John Heimann, the Comptroller of the Currency, for his efforts to bring a greater measure of free enterprise to the banking system. This is a move that I have long recommended.

Today, Mr. Heimann told the Independent Bankers Association of America that he favors greater freedom of entry into banking. This is one industry where in order to get in you have to be able to prove that the community needs your presence. If you want to start a garage, a haberdashery, a steel mill, you just go out and do it if you have the ability, and so forth, to do it, and that is it. But this has not been true of banking. Banking has a very strong restriction on entry and, to some extent, I think it is unwarranted, and I think Mr. Heimann has stated it exactly the right way. He said that he has directed his staff to consider ways of easing the barriers to entry. Hopefully, that means that the Comptroller's Office is prepared to jettison the vague and inconsistent "convenience and needs test" that it currently applies in deciding charter applications. That test challenges the business judgment of those honest individuals who wish to establish a new bank and insulates existing banks from competition.

Mr. Heimann's announcement comes as the staff of the Committee on Banking, Housing, and Urban Affairs is completing a thorough review of the chartering policies and practices of the Comptroller's Office. The staff, which undertook the study at my direction last year, will soon issue a report. The committee will hold hearings this spring on a new policy to reduce the obstacles to granting new national bank charters.

Under that policy, charter applications will be considered on objective criteria such as adequacy of capital and management. Congressional action is required to formalize a freer chartering policy. For under current law, any change in policy by the Comptroller can be reversed by the next Comptroller.

A new approach to bank chartering is long overdue. Chartering policy for the past 50 years has restricted entry into banking and protected established banks. It has been, in a word, anticompetitive. The bank chartering process has been a classic case of Government overregulation where investors willing to risk their money on a new banking venture have frequently been prevented from taking that risk.

The word "risk" should no longer send shudders through the banking world. Today, Federal deposit insurance protects the depositor if a bank should fail and guarantees the integrity of the banking system. The bank regulatory agencies should make it their established policy to encourage greater competition in banking and place the burden of risk where it rightly belongs—on the investor. This will bring new growth and vitality to the banking industry and the communities banks serve.

## CHAD: A NEW NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last Wednesday, a New York Times article reported that more than 800 Moslems were killed by rioting groups of black youths in southern Chad. The violence against the Moslem minority had been going on for 3 days with neither government nor foreign intervention. In the city where the main rioting was, and possibly still is, taking place, scarcely 2 percent of the inhabitants are Moslem Arabs, the rest being Christians or animists.

Mr. President, these killings are a serious violation of human rights and may well constitute genocide. The numbers are hardly insignificant. Yet the State Department voice for our Government said only that we are "greatly saddened at the loss of life in Chad." Greatly saddened. Where are our convictions? Is it not the duty of our country to speak out with strength when hundreds of innocent people are murdered?

It is no wonder that our country does not always speak with authority in the realm of human rights. We are yet to ratify an international treaty which would protect the most basic human right of every human being—whether it is in the United States or in Chad: The Genocide Convention.

I ask unanimous consent that the text of the New York Times article be printed in the RECORD.

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

MORE THAN 800 REPORTED KILLED IN NEW STRIFE IN CHAD

PARIS, March 6—More than 800 Moslems were killed in the sub-Saharan country of Chad over the weekend by groups of black youths, Government officials reported today in Ndjamena, the capital.

The killings were said to have taken place in the southern city of Moundou, some 300 miles from the capital of the African nation. Of the 45,000 people living there, 1,000 were Arabic-speaking Moslems, and almost all the city's traders, storekeepers and moneylenders belonged to the Moslem minority, most of whom are Arabs. Most of the Moundou's inhabitants are Christian or animist blacks.

French authorities in Moundou said that the violence, lasting for three days, had been exclusively directed against the Moslem minority. No Europeans were molested, according to these accounts, but some 250 French and other European residents, virtually the entire non-African population of the town, were evacuated to Ndjamena today.

Chad's 4.5 million people are divided almost equally between the Moslem north and the Christian or animist South. The landlocked former French colony has long been plagued by the ancient antagonism between the two communities, and has never been fully at peace since French rule ended in 1960. The violence has paralyzed all normal activity, with communications between Ndjamena and outlying areas being poor except in the few northern areas where French soldiers are stationed.

Diplomatic sources and refugees from Moundou said in Ndjamena that the violence in the southern city had been caused by the deaths in recent weeks of about 100 black southerners and by a rumor that the Moslems were plotting to turn Chad into a militant Islamic republic.

The sources said that the groups of black youths surged through Moundou and neighboring settlements, killing any Moslems they could find, looting the victims' property and destroying their mud-brick homes.

The Government made no official announcement or comment on the Moundou massacre. For weeks it has been paralyzed by fighting between Chad's Christian President, Felix Malloum, and the Moslem Prime Minister, Hassen Habré. In the capital, more than 2,000 French soldiers are maintaining an uneasy cease-fire between the hostile forces there.

Mr. Malloum, Mr. Habré and leaders of various rebel factions are to meet in Kano, in neighboring Nigeria, tomorrow in an attempt to settle their disputes that is being arranged by the Nigerian Government. Nigerian troops were expected to arrive in Ndjamena later in the week to help police the cease-fire.

The sources in Ndjamena reported that troops and policemen loyal to President Malloum had stood by without intervening to halt the violence. Refugees said that the troops, nearly all southerners, sympathized with the rioters but did not participate in the killing.

Chadian officials said the army could not stop the killings because it was hopelessly outnumbered by the rioters. Most of Mr. Malloum's army is deployed in and around Ndjamena, facing Mr. Habré's Moslem forces.

Meanwhile, in the northern part of the country, French troops and forces loyal to President Malloum today repulsed a strong attack by a Libyan-backed rebel group of Islamic tribesmen, French sources said.

Mr. PROXMIRE. Mr. President, I yield the floor.

## FIRST AMENDMENT RIGHTS FOR ELECTRONIC MEDIA

Mr. PRESSLER. Mr. President, as a member of the U.S. Senate Committee on Communications, I rise to say I am becoming a cosponsor of Senator PROXMIRE's bill (S. 22) to deregulate the equal time rule and fairness doctrine and other regulations on our radio and television stations.

I do this with the hope that such legislation will move forward, be open to amendment, and pass this Congress. I have been very concerned about media monopolies in the United States. I will offer that amendment to limit this deregulation to markets where there is competition. In South Dakota we have a particularly competitive radio market. Regulations are chilling and stiffling our small radio stations. In fact excessive regulations probably cause monopolies by driving out small independent stations.

I think if we had sufficient competition we would not need the level of Government regulation we have, Government regulation forces out many small entrepreneurs who might express competing viewpoints.

Let me say if we do have an informational conglomerate or media monopoly that monopolizes an area, it would be very difficult to totally deregulate. But, indeed, as I study and look into many of our small radio stations in South Dakota they are being forced out of business by the cost of Government regulation. We are all for fairness and equal time but, in fact, these doctrines have chilled the first amendment expression in many cases where a small station just cannot afford a lawyer on the staff.

I have great confidence in our press and great confidence in the ability of our media to report. I am increasingly concerned at the level of Government regulation, and I think this would be a step forward.

I am happy to cosponsor that bill and I look forward to having hearings on it. As a member of the Communications Committee of the Senate, let me say I shall be advocating this approach, greater competition, more players in the act, diversity of reporters, and less regulation. I have a great regard for the first amendment, having cosponsored the Drinan bill in the House. And I believe that if we have competition, we should eliminate as much Government redtape as possible.

Mr. PROXMIRE. Mr. President, will the Senator from South Dakota yield?

Mr. PRESSLER. Yes, I yield the floor.

Mr. PROXMIRE. I am delighted to have the Senator's support for the bill, S. 22. I introduced a similar bill last year.

What this bill really does is provide that the electronic media—radio and television—have the same first amendments rights we now give to the printed media.

Think of it: Here we have a most sacred provision of the Constitution, freedom of the press, and freedom of the press does not work three quarters of the time in this country. Polls indicate that most of the people get their reports of the news from radio and television, and radio and television are subject to control by the Government that cannot, under any reasonable interpretation, be justified.

There was once some justification for such controls, perhaps, due to a limitation of the number of frequencies available for radio and television, but that is rapidly disappearing. We now have a situation in which there are more television and radio stations than newspapers

in virtually every city of the country. Think of that. Yet the newspapers are uncontrolled, and television stations are controlled. Moreover, Mr. President, we now have cable television, FM radio, and many frequencies available that people are not asking for, because there are so many available.

Mr. President, in New York City there are something like 50 radio stations, 10 television stations, and only three or four newspapers, and yet the newspapers are safeguarded by the first amendment from the heavy hand of the Government coming in and interfering with them.

Mr. President, this is not just an academic theory. It is a fact that the Nixon administration and the Johnson administration repeatedly—and I can document it; I have done so in the past and can do it again—interfered with radio and television stations, and threatened to withdraw licensing; and we know that the freedom of television to engage in the kind of investigation that has been featured in the newspapers in recent years is greatly inhibited by the fact that they have to be concerned about equal time and the fairness doctrine, which makes it extremely expensive for them to do it.

So I welcome the support of the Senator from South Dakota, and I am especially delighted because he is not only an able Senator, but a member of the Communications Subcommittee of the Committee on Commerce, Science, and Transportation, ably manned by the Senator from South Carolina (Mr. HOLLINGS). In the past he has not been sympathetic to our proposal, and it is great to have a member of the committee supporting it. So I say to Senator PRESSLER, we are delighted with his support and very grateful for his fine statement.

Mr. President, I yield the floor.

## COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication, transmitted by the Assistant Secretary for Resource Applications, Department of Energy, relative to the Nuclear Non-Proliferation Act of 1978, be jointly referred to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources.

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

EC-807. A communication from the Assistant Secretary, Resource Applications, Department of Energy, reporting, pursuant to law, a delay in submittal of the report by the President to the Congress in response to requirements of the Nuclear Non-Proliferation Act of 1978 (NNPA); to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-808. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4349(a) of title 10, United States Code, to provide that the companies of the Corps of Cadets at the United States Military Academy may be commanded by commissioned officers of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

EC-809. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4346(d) of title 10, United States Code, to permit the Secretary of the Army to prescribe the oath to be taken by appointees to the United States Military Academy; to the Committee on Armed Services.

EC-810. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improved Executive Branch Oversight Needed for the Government's National Security Information Classification Program," March 9, 1979; to the Committee on Armed Services.

EC-811. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during January 1979 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC-812. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of November 1978 on (1) the average number of passengers per day on board each train operated, and (2) the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC-813. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36746 (Sub-No. 75), Freight, All Kinds, Savannah, Georgia to Shenandoah, Georgia, within the initially-specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC-814. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Summary of Rental Refunds and Credits, Baltimore Canyon, Mid-Atlantic Oil and Gas Leases"; to the Committee on Energy and Natural Resources.

EC-815. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on lands determined not suitable for disposal under the Federal Land Policy and Management Act; to the Committee on Energy and Natural Resources.

EC-816. A communication from the Director, Office of Congressional Affairs, United States Nuclear Regulatory Commission, transmitting, pursuant to law, its fourth annual report, covering its activities from October 1, 1977 through September 30, 1978; to the Committee on Environment and Public Works.

EC-817. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, to make certain administrative improvements, and for other purposes; to the Committee on Finance.

EC-818. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, a report on the proposed increase in the resources of the Inter-American Development Bank (IDB); to the Committee on Foreign Relations.

EC-819. A communication from the Chairman, Federal Energy Regulation Commission, transmitting, pursuant to law, a report of proposed new system of records; to the Committee on Governmental Affairs.

EC-820. A communication from the Director, Office of Administration, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on a proposed new system of records; to the Committee on Governmental Affairs.

EC-821. A communication from the Chairman, Federal Deposit Insurance Corporation, reporting, pursuant to law, on the administration of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-822. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Cost Principles Are Often Not Applied in Grants and Contracts With State and Local Governments," March 12, 1979; to the Committee on Governmental Affairs.

EC-823. A communication from the Vice President, Chesapeake and Potomac Telephone Company, transmitting, pursuant to law, a report of receipts and expenditures for the year 1978; to the Committee on Governmental Affairs.

EC-824. A communication from the Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-825. A communication from the Acting Executive Director, National Capital Planning Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-826. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-827. A communication from the Supervisory Copyright Information Specialist, Copyright Office, Library of Congress, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-828. A communication from the Executive Director and Deputy Executive Director, Federal Labor Relations Authority, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-829. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-830. A communication from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-831. A communication from the Director, Community Relations Service, Department of Justice, transmitting, pursuant to law, a report of its activities for fiscal year 1978; to the Committee on the Judiciary.

EC-832. A communication from the Freedom of Information Officer, Pennsylvania Avenue Development Corporation, reporting, pursuant to law, relating to the administra-

tion of the Freedom of Information Act; to the Committee on the Judiciary.

EC-833. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-834. A communication from the Chairman, National Commission for Manpower Policy, transmitting, pursuant to law, a report entitled "An Enlarged Role for the Private Sector in Federal Employment and Training Programs," Report No. 8; to the Committee on Labor and Human Resources.

EC-835. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

EC-836. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on programs of assistance authorized by the Health Maintenance Organization Act; to the Committee on Labor and Human Resources.

EC-837. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families and for other purposes; to the Committee on Veterans' Affairs.

EC-838. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

EC-839. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise and clarify eligibility for certain health care benefits; to revise and clarify the Department of Medicine and Surgery personnel system; to revise medical resources utilization, and for other purposes; to the Committee on Veterans' Affairs.

EC-840. A communication from the Comptroller General of the United States, reporting, pursuant to law, on the President's fifth special message for fiscal year 1979 transmitted to the Congress pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Foreign Relations, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-86. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 136

"Whereas, the Joint Legislative Audit and Review Commission and a legislative study committee found in their review of the State Military Reservation at Camp Pendleton and of adjacent communities that beachfront facilities are a major recreational need in the Commonwealth, especially in the vicinity of Virginia Beach; and

"Whereas, in the City of Virginia Beach, the federal government owns fourteen miles of beachfront property, most of which is closed to public use; and

"Whereas, Fort Story Military Reservation, a U.S. Army base located on Cape Henry in Virginia Beach, contains 1,451 acres; and

"Whereas, 727 acres of the Fort Story property, including 3,440 feet of beachfront on the Chesapeake Bay, was formerly part of Seashore State Park and was condemned in 1943 for an expansion of Fort Story; and

"Whereas, the United States paid the Commonwealth $131,350 which was significantly less than the appraised value of the property; and

"Whereas, the Virginia General Assembly objected to the condemnation action and in 1944 stipulated that the proceeds of the condemnation be used to repurchase the acreage of Seashore State Park taken by the United States; and

"Whereas, the Department of Defense has indicated that it will not transfer to the Commonwealth any portion of Fort Story for public purposes despite infrequent use of the beachfront for military purposes; now, therefore, be it

"Resolved by the Senate of Virginia, the House of Delegates concurring, That the General Assembly does hereby memorialize the Virginia delegation to the Congress of the United States to initiate legislative action to return that portion of Seashore State Park, including 3,440 feet of Chesapeake Bay beach, which was condemned and taken by the government of the United States in 1943; and, be it

"Resolved further, That the Governor is requested to work to secure the return of the portion of Seashore Park which was condemned and taken by the United States in 1943; and, be it

"Resolved finally, That the Clerk of the Senate is directed to prepare and send a copy of this resolution to the Governor and to each member of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this body."

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POM-87. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"HOUSE RESOLUTION NO. 220

"Whereas, the State of Hawaii currently depends on imported foreign petroleum to supply over 92 per cent of the State's energy requirements and is therefore particularly vulnerable to dislocations in the world oil supplies; and

"Whereas, in view of this dependence Hawaii has instituted a comprehensive program to develop the State's abundant renewable alternate energy resources; and

"Whereas, in addition to geothermal energy, Hawaii's wind energy potential appears to be one of the most promising renewable alternative energy resources; and

"Whereas, various studies and assessments have shown that Northeast tradewinds blow almost continuously across the Hawaiian Islands, that approximately 10 per cent of Hawaii's 6,000 square miles of land areas is considered prime for wind power conversion, and Hawaii's wind currents represent the most consistent and reliable wind pattern in the United States; and

"Whereas, during a recent wind energy symposium at the University of Hawaii, the renowned scientist, Dr. Edward Teller, noted that if wind energy is successful anywhere in the United States, it will be proven successful in Hawaii; and

"Whereas, Kahuku, on the island of Oahu, has recently been selected as the location for the best long term potential for a "wind machine farm" which could generate an estimated 20 to 25 per cent of the electrical power needed for Oahu; and

"Whereas, however, research, in particular laser beam research, for sophisticated wind analyses, is needed to exactly pinpoint locations for the wind machines; and

"Whereas, it has been recently reported that the federal government has reduced the funding for wind laser technology research; and

"Whereas, wind laser technology research is not only desirable for Hawaii's wind energy development program, but would also contribute to national and world efforts to develop renewable alternate energy resources; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Congress and the President of the United States are respectfully requested to restore funding of the wind laser technology research program to its previously designated level; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, Secretary of Energy, and to each member of Hawaii's delegation to the United States Congress."

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POM-88. A resolution adopted by the Legislature of the State of Texas; to the Committee on the Judiciary:

"HOUSE RESOLUTION NO. 40

"Whereas, In the McCarran-Ferguson Act acted in 1945 (15 U.S.C. Sections 1011-1015), Congress determined 'that the continued regulation and taxation by the several States of the business of insurance is in the public interest'; and

"Whereas, Federal government officials have publicly, although unofficially, recommended amending the McCarran-Ferguson Act to limit State regulation of the insurance industry; and

"Whereas, It is becoming increasngly clear that the establishment of federal regulation is not a panacea but increases the cost of government, adds confusion and delay, and often increases the cost of products and services without providing any offsetting benefits to the consumer; and

"Whereas, It is often necessary, subject to State regulations, to combine the resources of several insurance companies in order to provide effective insurance coverage in an efficient manner at a reasonable cost and to promote innovation whereby new products and services are made available; and

"Whereas, There has been no evidence that individual States cannot continue to effectively regulate the insurance industry or that federal regulation of the industry and application of Federal anti-trust laws will have a favorable effect upon the insurance industry or benefit the public; now, therefore, be it

"Resolved, That the House of Representatives of the 66th Legislature of the State of Texas hereby memorialize the Congress of the United States to reject any legislation amending the McCarran-Ferguson Act (15 U.S.C. Sections 1011-1015) which would limit State regulation or increase Federal regulation of the business of insurance; and, be it further

"Resolved, That official copies of this resolution be prepared and forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

POM-89. A resolution adopted by the legislature of the State of Hawaii; to the Committee on Armed Services:

"HOUSE RESOLUTION NO. 433

"Whereas, proposals to institute a system of national service or to resume compulsory military registration and conscription for both sexes have been discussed and introduced in the Congress of the United States; and

"Whereas, present military requirements are being met by an all-volunteer system initiated in January, 1973, when induction of draftees ceased; and

"Whereas, President Ford by proclamation suspended military registration on March 29, 1975; and

"Whereas, President Carter has proposed a substantial increase in funds for the Selective Service System in the fiscal 1980 budget which he has recently sent Congress; and

"Whereas, Acting Director Robert Shuck of the Selective Service System recently recommended that registration of 18 year olds be resumed to meet new mobilization requirements; and

"Whereas, Acting Director Shuck has contacted the Internal Revenue Service and the Social Security Administration to explore the possibility of using their data for military conscription purposes; and

"Whereas, the use of federal data for compiling a data bank or list of names for conscription purposes would, according to American Civil Liberties spokesman John Shattuck, violate the federal Privacy Act of 1974; and

"Whereas, President Carter presently retains the power to proclaim the rules and regulations for registering for the draft; and

"Whereas, proposals to institute a program of national service or to resume compulsory military registration are premature in peacetime and may be interpreted by the international community as indicative of an aggressive political or military stance on the part of the United States; and

"Whereas, alternatives to compulsory military registration or compulsory national service have not been thoroughly explored or tested, and the all-volunteer draft has not been found to be completely deficient in meeting present military needs; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Congress and the President of the United States are respectfully requested to cease and desist any present attempts to institute a compulsory national service plan or to re-institute compulsory military registration and conscription; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, President of the U.S. Senate, Speaker of the U.S. House of Representatives, Acting Director of the Selective Service System, and to each member of Hawaii's delegation to the United States Congress."

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POM-90. A resolution adopted by the Legislature of the State of North Carolina; to the Committee on Finance:

"SENATE JOINT RESOLUTION 146

"Whereas, Congress created the Medicare program as a federal system of providing for the health care of our older citizens; and

"Whereas, Congress later created the Medicaid program as a joint federal and state system of providing for the health care of our citizens in need; and

"Whereas, having two separate systems leads to duplication, confusion, and administrative inefficiency; and

"Whereas, the General Assembly would like a health care program where the maximum amount is spent on services;

"Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

"Section 1. The Congress is urged to merge the payment system of the Medicare Program (Title XVII of the Social Security Act) with the payment system of the Medicaid Program (Title XIX of the Social Security Act), so as to better facilitate coordination, cooperation, and better administrative and legislative control.

"Sec. 2. The Congress is urged to provide a mechanism for the merger of the payment system in the individual states in advance of the implementation of Section 1 nationwide, when requested by the individual state legislatures. This resolution shall constitute such a request.

"Sec. 3. Copies of this resolution shall be sent to each member of the North Carolina Congressional Delegation, to the Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the Secretary of the Department of Health, Education, and Welfare.

"Sec. 4. This resolution is effective upon ratification."

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POM-91. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 227

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

"Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, there is provision in Article V of the Constitution of the United States for amending the Constitution by the Congress, on the application of the legislatures of two-thirds (⅔) of the several states, calling a convention for proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths (¾) of the several states, or by conventions in three-fourth (¾) thereof, as the one or the other mode of ratification may be proposed by the Congress; now therefore,

"Be it resolved by the Legislature of Alabama, both houses thereof concurring, That the Legislature of Alabama hereby petitions the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the Alabama Legislature requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Be it further resolved, That, alternatively the Alabama Legislature makes application and requests that the Congress of the United States call a constitutional convention, pursuant to Article V of the Constitution of the United States, for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Further resolved, That the legislatures of of each of the several states comprising the United States are urged to apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such amendment to the Federal Constitution.

"Further resolved, That the Clerk of the House is directed to send copies of this Joint Resolution, to the Secretary of State and presiding officers of both Houses of the Legislatures of each of the other States in the Union, the Clerk of the United States House of Representatives, Washington, D.C., and the Secretary of the United States Senate, Washington, D.C., and to each member of the Alabama Congressional Delegation."

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POM-92. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 151

"Whereas, the Commonwealth of Virginia has always held in belief and practiced responsible fiscal management of public funds as a foremost principle of good government; and

"Whereas, the government of the United States has consistently appropriated an increasing share of the national income and overexpended its revenues; and

"Whereas, the annual federal deficit has grown from less than five billion in nineteen hundred fifty to over sixty billion in recent years; and

"Whereas, continuing deliberate inflation constitutes a covert form of taxation which may be nearly confiscatory over prolonged periods and this taxation strikes unevenly and places an onerous burden on groups who are least able to afford it, such as those living on savings and fixed incomes; and

"Whereas, the record of the past twenty years shows that despite public promises, it seems practically impossible for the federal executive or legislative branches to produce voluntarily a balanced budget; and

Whereas, excessive government involvement in regulating the various aspects of our lives hampers our ability to develop into self-reliant, productive citizens; and

"Whereas, the share of national income appropriated by governments has more than doubled in the last forty years; now, therefore, be it

"Resolved by the Senate, the House concurring. That the General Assembly does hereby memorialize the Congress of the United States to take steps immediately to amend the Constitution to provide that total federal government revenues as a percent of national income be reduced and that in no year shall total federal government expenditures exceed revenues."

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POM-93. A joint resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"A JOINT RESOLUTION

"Whereas, the Ninety-second Congress of the United States of America, at its second session, in both houses, by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America, in the following words, to-wit:

"JOINT RESOLUTION

"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, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE—

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Section 3. This amendment shall take effect two years after the date of ratification,'; and

"Whereas, the Forty-eighth Legislature of the state of South Dakota ratified the proposed amendment relating to equal rights for men and women as submitted by the Ninety-second Congress and under the terms and conditions developed by the Ninety-second Congress as shown on pages 212 and 213 of the Senate Journal for 1973 of the state of South Dakota and pages 1047 and 1048 of the House Journal for 1973 of the state of South Dakota; and

"Whereas, the Ninety-fifth Congress ex post facto has sought unilaterally to alter the terms and conditions in such a way as to materially affect the congressionally established time period for ratification which extended from March 22, 1972 to March 22, 1979; and

"Whereas, the purpose for establishing a clear time period for consideration of ratification by the states is to permit consideration of the substantive amendment by a reasonably contemporaneous group of legislatures in the several states in the absence of a clear determination of the ability of a state legislative to rescind a ratification of a proposed amendment which has not been ratified by the constitutionally required three-fourths of the several states; and

"Whereas, if the Congress of the United States ex post facto can unilaterally alter the terms and conditions under which a proposed amendment to the Constitution of the United States is submitted to the several states for ratification, in the absence of a clear determination of the ability of a state legislature to rescind a previous ratification, the effect will be to inhibit state legislatures from acting promptly on any proposed amendment for fear of transferring the power to amend the Constitution of the United States to a small minority of the several states, and, perhaps, even a small minority of several generations, and

"Whereas, the opinion that the Congress of the United States ex post facto has the power to unilaterally alter the terms and conditions under which it submits proposed amendments to the Constitution of the United States would necessarily inhibit debate on the merits of the proposed amendments and force each legislature to consider the probability and timing of the possible ratification of other state legislatures because of the uncertainty caused by the perpetual possibility of a sudden change in the Constitution of the United States due to a shift of opinion in a small number of states:

"Now, therefore, be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Section 1. In the event that the amendment proposed by the Ninety-second Congress of the United States relative to equal rights for men and women as ratified by the Forty-eighth Legislature of the state of South Dakota is not ratified by the constitutionally required three-fourths of the several states under the terms and conditions shown on pages 212 and 213 of the Senate Journal of 1973 of the state of South Dakota and pages 1047 and 1048 of the House Journal for 1973 of the state of South Dakota, including the condition that the constitutionally required majority be obtained on or before March 22, 1979, the Legislature of South Dakota hereby withdraws its ratification of such proposed constitutional amendment as of March 23, 1979, which action renders any previous ratification null and void and without any force or effect whatsoever without further resolution or act of the Legislature of the state of South Dakota.

"Section 2. That certified copies of this preamble and joint resolution be forwarded by the secretary of state, to the Secretary of State of the United States, to the presiding officers of both houses of the Congress of the United States, and to the administrator of the United States General Services Administration."

## EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Francis J. Meehan, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Czechoslovak Socialist Republic.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Francis J. Meehan.
Post: Ambassador to Czechoslovakia.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: Margaret K. Meehan, none.
3. Children and spouses names: Anne Werthmann (Robert), Catherine Doehner (Sven), Frances Meehan, James Meehan, none.
4. Parents names: Deceased, none.
5. Grandparents names: Deceased, none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Joan Margaret Clark, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Malta.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Joan Margaret Clark.
Post: Malta.
Contributions, amount, date, and donee: (if none, write none)
1. Self, none.
2. Spouse, single.
3. Children and spouses names, none.
4. Parents names: deceased (father 1960; mother 1975, none).
5. Grandparents names: Deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

By Mr. CHURCH, from the Committee on Foreign Relations:

Loren E. Lawrence, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to Jamaica.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Loren E. Lawrence.
Post: U.S. Ambassador to Jamaica.
Contributions, (if none, write none) amount, date, and donee:
1. Self: Loren E. Lawrence, none.
2. Spouse: Barbara L. Lawrence, none.
3. Children and spouses names—Christopher W., Timothy E. and Kevin A. Lawrence, none.
4. Parents names: Thelma D. Lawrence, none.
5. Grandparents names: deceased.
6. Brothers and spouses names: none.
7. Sisters and spouses names: Phylis A. Francke (Mr. and Mrs. Fred Francke), none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Dick Clark, of Iowa, to be Ambassador at Large and U.S. Coordinator for Refugee Affairs.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Richard C. Clark.
Post: Ambassador-at-Large.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

By Mr. CHURCH, from the Committee on Foreign Relations:

Richard Elliott Benedick, of California, Coordinator for Population Affairs, for the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Richard E. Benedick.
Post: Ambassador.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Mr. CHURCH. Mr. President, as in executive session, I also report favorably sundry nominations in the Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on February 9, 1979, at the end of the Senate proceedings.)

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Gordon Vickery, of Washington, to be Administrator of the U.S. Fire Administration.

S. Lee Kling, of Missouri, to be a member of the Board of Directors of the National Railroad Passenger Corporation.

Thomas P. Salmon, of Vermont, to be a member of the Board of Directors of the U.S. Railway Association.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I also report favorably sundry nominations in the National Oceanic and Atmospheric Administration and the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD on January 23, February 9, and March 5, 1979, at the end of the Senate proceedings.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Richard W. Yarborough, of Texas, to be a Member of the Foreign Claims Settlement Commission of the United States.

Gary Louis Betz, of Florida, to be U.S. attorney for the middle district of Florida.

Sidney A. Diamond, of Arizona, to be an Assistant Commissioner of Patents and Trademarks.

Henry S. Dogin, of New York, to be Administrator of Law Enforcement Assistance.

Louis Nunez, of Maryland, to be Staff Director for the Commission on Civil Rights.

Carlon M. O'Malley, Jr., of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Abraham D. Sofaer, of New York, to be U.S. district judge for the southern district of New York.

Robert E. Keeton, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

Phyllis A. Kravitch, of Georgia, to be U.S. circuit judge for the Fifth Circuit.

John Joseph McNaught, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

David Sutherland Nelson, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

John G. Penn, of Maryland, to be U.S. district judge for the District of Columbia.

## ORDER FOR STAR PRINT OF S. 90

Mr. CHURCH. Mr. President, I ask unanimous consent that a star print of my bill S. 90 be printed in accordance with the corrected language. This is necessary to correct several printing errors that were made in the first printing.

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

## ORDER FOR JOINT REFERRAL OF S. 252

Mr. GLENN. Mr. President, I ask unanimous consent that S. 252, the Antiarson Act of 1979, which has been referred to the Committee on the Judiciary, be referred jointly to the Committee on the Judiciary and the Committee on Government Affairs.

This has been cleared with both committee chairmen and with the majority and minority leaders.

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

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GOLDWATER (for himself, Mr. BAYH, Mr. EAGLETON, Mr. GARN, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. JEPSEN, Mr. MOYNIHAN, Mr. ROTH, and Mr. SIMPSON):

S. 631. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 632. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 65 or older or who are recipients of benefits under title XVI of the Social Security Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLURE (for himself, Mr. MCGOVERN, Mr. SIMPSON, Mr. WALLOP, Mr. DECONCINI, Mr. BAUCUS, and Mr. HAYAKAWA):

S. 633. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 634. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 635. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974 had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 636. A bill to authorize and direct the Secretary of the Army to undertake, through the Chief of Engineers, certain engineering work for a water pipeline in South Dakota, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McGOVERN:

S. 637. A bill entitled the "Marginal Railroad Main Line Service Assurance Act of 1979"; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 638. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River basin project; to the Committee on Environment and Public Works.

By Mr. HEINZ (for himself and Mr. SCHMITT):

S. 639. A bill to amend the Internal Revenue Code of 1954 to permit small businesses to elect to depreciate not more than $100,000 annually on a 3-year straight line basis; to the Committee on Finance.

By Mr. CANNON (for himself and Mr. INOUYE) (by request):

S. 640. A bill to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 641. A bill to amend the National Forest Management Act of 1976 to classify the State of Alaska as all other States are classified with respect to the building of certain roads by the Secretary of Agriculture for purchasers of timber qualifying as "small business concerns"; to the Committee on Agriculture, Nutrition, and Forestry.

S. 642. A bill to amend title 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee and its affiliated organizations; to the Committee on Governmental Affairs.

By Mr. KENNEDY:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 644. A bill to establish a voluntary program to provide farmers protection against loss of farm production when natural or noncontrollable conditions adversely affect such production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ (for himself and Mr. BAYH):

S. 645. A bill to prohibit purchases with Federal funds of articles or materials originating in countries which are not parties to or which are violators of a multilateral international agreement prescribing a code of Government procurement; to the Committee on Governmental Affairs.

By Mr. HUDDLESTON:

S. 646. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 647. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (for himself, Mr. NELSON, and Mr. HELMS):

S. 648. A bill for the relief of Marlin Toy Products., Inc.; to the Committee on the Judiciary.

By Mr. TSONGAS:

S. 649. A bill for the relief of Elizabeth Cheng; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 650. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain employee's trusts organized to invest in real estate; to the Committee on Finance.

By Mr. MATHIAS (by request):

S. 651. A bill for the relief of Sara Padilla Guerrero; to the Committee on the Judiciary.

By Mr. HELMS:

S. 652. A bill for the relief of Gerardo Madrazo and Rosemelia Madrazo; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. BAYH, Mr. EAGLETON, Mr. GARN, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. JEPSEN, Mr. MOYNIHAN, Mr. ROTH, and Mr. SIMPSON):

S. 631. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne; to the Committee on Banking, Housing, and Urban Affairs.

JOHN WAYNE GOLD MEDAL

Mr. GOLDWATER. Mr. President, I send to the desk a bill which would authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne.

I send this to the desk on behalf of myself and 10 other Senators and ask that Senators interested in joining as cosponsors might add their names at the desk.

Mr. President, this action is not suggested, because John Wayne has been an eminent actor. In fact, we have recognized other people of that profession by similar action in this body. But I would point out that he has been honorary chairman, or chairman of so many worthwhile endeavors in this country that they cannot be enumerated. One that comes to mind immediately is the American Cancer Society.

I believe his service to his country in the production of and acting in films that relate to our country, to history, and its place in the world, makes him deserve one of these medals.

He has encouraged Americanism. He makes us understand America. He makes us understand patriotism. He makes us understand courage.

Mr. President, I hope that the committee will expedite hearings on the bill so it might be acted upon without delay.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 631

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President of the United States is authorized to present, on behalf of the Congress, to John Wayne, a gold medal of appropriate design in recognition of his distinguished career as an actor and his service to the Nation. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $5,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation than current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary, except that any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States fully for the payment required by this section.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

By Mr. MOYNIHAN:

S. 632. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 65 or older or who are recipients of benefits under title XVI of the Social Security Act; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. MOYNIHAN. Mr. President, on March 1, the food stamp reforms that are a part of the 1977 farm bill took effect across the country. While those reforms accomplish must that is good, it seems to me that they have failed in certain respects to take into account the diversity of human needs in the United States. In particular they appear not to account adequately for the distinctive situation of people on low incomes who happen to live in high rent cities such as New York. Today I am introducing a bill that would move toward more equitable treatment of needy food stamp recipients, beginning with the blind, the disabled, and the elderly. My good friend and colleague PETER PEYSER has already introduced it in the House, and I am most pleased to join him.

The 1977 farm bill put an $80 cap on the shelter allowance deduction for the purpose of calculating food stamp eligibility. My bill would set aside that cap and effectively hold harmless the blind, disabled, and elderly. Now I recognize that other needy persons are today facing cuts in their food stamp allotments that they can ill afford. It is my hope that in time we would also be able to recognize and accommodate these regional differences for them, too, especially for families with dependent children.

This bill represents a much needed first step toward practicing a principle that I have enunciated in numerous ways for many years: Poverty is a national problem which manifests itself in different ways in different places. To highlight this point I ask unanimous consent that an article from the New York Times describing the effects of the food stamp reforms on poor families in my own State be printed in the RECORD.

Now I know that few of us in the Senate are eager to reopen the complexities of the food stamp program, which we comprehensively revised in the last Congress. But this institutional reluctance should be no excuse for turning an indifferent shoulder to the unquestioned needs of the poor and less fortunate.

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

NEW FEDERAL RULES CURB METING OUT FOOD STAMPS

(By Peter Kihss)

New Federal regulations will cause a typical four-person welfare family in New York City to lose about $10 a month in food-stamp benefits starting today, with similar losses upstate, according to state and city officials.

Throughout the state, 15,000 welfare and other poor families will lose food stamps entirely, Barbara Blum, the state's Commissioner of Social Services, reported. She said the state had opposed the changes, pending since 1977, "because of their harm to New York State's neediest residents."

The cut in food stamps comes at a time that Mayor Koch and some state legislative leaders have been urging an increase in basic welfare benefits because of inflation. Such benefits have been unchanged since 1974.

Statewide, two-thirds of a total of 570,000 households—about 1.4 million people—in the current food-stamp program will be hurt by the new rules imposing new limits on eligibility, Mrs. Blum said.

In New York City, 436,167 families were participating in January, of whom 289,876 were welfare cases, 94,561 were aged, blind and disabled poor enrolled for Supplementary Security Income, and 51,730 were low-income working families. (There were 345,852 cases on welfare, including 887,695 individuals, but many did not sign up for food stamps).

Blanche Bernstein, the city's Human Resources Administrator, said more than 8,200 welfare families—about 25,000 people—would lose food stamps entirely in the city. Two-thirds of other welfare families may average a $10 monthly reduction, she said, and one-third may get increased benefits.

A welfare family of four with maximum rent allowances, utilities and telephones could have gotten $103 in food stamps here during February, but would be cut to $92 a month starting in March.

In addition to hardship on clients, Commissioner Blum said the changes had "fiscal implications, since each dollar of Federal food stamp benefits generates $4 in food industry jobs and wages." Last year, New Yorkers received $400 million in federally subsidized food stamps.

Mrs. Blum said tightening of deductions for rent in calculating food-stamp eligibility meant clients in high-rent areas faced greater losses in benefits. In Westchester County, 14 percent of the food-stamp cases will be closed.

Dr. Bernstein said those hit hardest here would be welfare mothers who were working and who under an incentive program can keep the first $30 a month they earn plus one-third of the remainder.

Under former rules for calculating income eligibility, such a family could deduct all work-related expenses, such as taxes, pension contributions and child care, according to Herb Rosenzweig, deputy Human Resources administrator for income maintenance.

The family also formerly could deduct medical expenses in excess of $10 a month

and could deduct tuition and other fees for school attendance. It could also deduct rent and utility expenses that exceeded 30 percent of net income.

Under new rules, there is a standard earned-income deduction of 20 percent of gross income, and there is a standard deduction of $65 a month for all cases. There is no deduction for medical expenses, and rent and utility costs may be deducted only if they exceed 50 percent of net income, with an $80 limit on deductions for child care and excess rent and utility costs combined.

Commissioner Blum said food-stamp recipients with questions can telephone a toll-free statewide number—(800) 342-3710.●

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By Mr. McCLURE (for himself, Mr. McGOVERN, Mr. SIMPSON, Mr. WALLOP, Mr. DECONCINI, Mr. BAUCUS, and Mr. HAYAKAWA):

S. 633. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

FARM WATER ACT OF 1979

● Mr. McCLURE. Mr. President, Senator McGOVERN and I are today joining together in introduction of the Farm Water Act of 1979 which we believe provides for a reasonable approach for revision of the Reclamation Act of 1902.

This legislation is a direct outgrowth from the regulations proposed by Secretary of the Interior Cecil Andrus in August 1977—proposed regulations which touched off widespread concern in the 17 Western States served by Bureau of Reclamation water diversion projects. Those proposed regulations were the administration's interpretation of the principles established in the 1902 act, but they caused us to reassess those principles and consider revisions. We believe this legislation deserves careful review by Congress, because it is legislation that presents a West-wide consensus in all of its basic principles. These principles reflect the evolution of reclamation law in the 77 years since inception of the original act.

This bill was developed in cooperation with the Farm/Water Alliance. It has support, in principle, from the Western States Water Council; the National Association of State Departments of Agriculture; the National Water Resources Association; the Water Resources Congress; the Upper Missouri Water Users Association comprised of water users in North and South Dakota, Montana, and Wyoming; the Idaho Water Users Association; the Oregon Water Users Association; the Montana Water Development Association; the American Bankers Association; the National Association of Realtors; American Agriwomen; and other organizations.

In sponsoring the Farm Water Act of 1979 we recognize that were we each to introduce a bill tailor-made for our own constituency and the problems experienced in our State, it would probably be a somewhat different piece of legislation than what we have here. However, at the same time we recognize that in an area as large and as varied as the 17 reclamation States, a consensus supported by all concerned would be extremely difficult to achieve.

We sincerely believe that this particular bill goes further toward striking this kind of consensus than any other. This does not mean it is the "final word" on this subject. The Congress, through our committee hearing process and floor debate, will refine it. We will be considering this bill's provisions alongside provisions in other legislation addressing the same subject.

We are particularly mindful of the legislation introduced by the distinguished chairman of the Senate Subcommittee on Energy and Development, Senator FRANK CHURCH. We find much of his bill, S. 14, which we can support. But, we think it fair to say that S. 14 does not address all the issues requiring resolution at this time. Senator CHURCH recognizes this.

What we are doing with this Farm Water Act proposal is providing a basic format for consideration of some practices of reclamation which we believe need to be considered and we will be working very closely with Senator CHURCH on this.

We feel there is a spirit of conciliation at work in the Western States today—a spirit which will make it possible for us to develop a bill to bring peace to the West without sacrificing the basic principles of reclamation law.

Each of us would now like to set forth the principles we see "at work" in this legislation so that our colleagues might more clearly understand what this legislative initiative is about. We invite other Members of the Senate to join with us in becoming cosponsors of this legislation.

Mr. President, I ask unanimous consent that the summary of the bill and its text be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 633

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be a supplement to the Act of June 17, 1902, and Acts supplementary thereof and amendatory thereto (47 U.S.C. 371) hereinafter referred to as the Federal reclamation laws, and this Act may be cited as the "Farm Water Act of 1979".

PREAMBLE

SEC. 2. The purpose of this Act is to—

(1) encourage and preserve the pattern of viable family farm operations within Federal reclamation projects;

(2) permit a wide distribution and enjoyment of the benefits of farmlands within said projects and recognize that all taxpayers of the Nation contribute to project costs and that none of those who so contribute should be disqualified from sharing the benefits thereof;

(3) provide for recognition of variations in climate and soil classification in Federal reclamation project service areas; and

(4) aid in the maintenance and enhancement of the fiscal integrity of Federal water projects which provide irrigation benefits and encourage payment of water charges and construction costs, where feasible, without subsidy.

DEFINITIONS

SEC. 3. As used throughout this Act, the following terms are defined as, and shall mean:

(a) "All written representations" shall mean all written representations, opinions, and administrative interpretations and rulings which relate to a "contract" as hereafter defined or other implementation of Federal reclamation laws.

(b) "Contract" shall mean a contract with the United States of America concerning a project or a division or unit thereof, constructed or operated pursuant to Federal reclamation laws, as amended and supplemented or executed pursuant thereto, whether or not repayment is involved including, without limitation, construction, irrigation, drainage or storage contracts.

(c) "Contracting entity" shall mean any irrigation district, water users, or water user entity, individual or other entity that contracts with the United States of America concerning a project or a division or unit thereof, constructed or operated pursuant to Federal reclamation laws, as amended and supplemented, whether or not repayment is involved.

(d) "Landowner" shall mean any person that is a United States citizen or any entity, public or private, that is owned by a United States citizen, or combination of one or more such persons or entities, that owns land within a contracting entity.

(e) "Project" shall mean a project constructed or operated for the production, storage, impoundment, release, or delivery of irrigation water under the authority of or pursuant to the Federal reclamation laws, as amended and supplemented.

(f) "Project water" shall mean water which, but for the construction of the project facilities, would not have been available for irrigation of land within a project service area, which exceeds the amount of water available for irrigating land within said service area prior to construction of the project's facilities and is the subject of a contract with a contracting entity. All other water shall be deemed to be nonproject water.

VALIDATION

SEC. 4. Except to the extent that they are inconsistent with the provisions of this Act, all provisions of contracts relating to the acreage limitation provisions of Federal reclamation law and all written representations relating thereto, which were in effect or made prior to the effective date of this Act by the Secretary of Interior, Commissioner or contracting officer of the Bureau of Reclamation (formerly Reclamation Service) or their authorized agents on behalf of the United States with or for the benefit of a contracting entity, or a landowner, are hereby verified, ratified and confirmed as of the date of execution of the contract or the making of said representation.

ACREAGE LIMITATIONS AND EQUIVALENCY

SEC. 5. (a) Notwithstanding any other provisions of the law to the contrary, the amount of nonexcess land held in private ownership by any one landowner which is eligible to receive project water from each contracting entity shall be three hundred and twenty acres of class I irrigable land or the equivalent thereof in other lands of less productive potential, as determined by the Secretary of Interior, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, adequacy of water supply, crop adaptability, costs of crop production, and length of growing season. The Secretary shall establish an acreage equivalency formula for each project service area, including those cases where preproject land classification surveys already exist. The Secretary shall hold public hear-

ings in the area affected before establishing an equivalency formula and making an equivalency determination. There shall be no enforcement of the acreage limitation in a particular project or unit thereof, by way of withholding water deliveries, increase in water rates or otherwise, until an equivalency classification shall have been made for the affected service area.

(b) If excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, or become excess by reason thereof, project water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing unless, or until, the transfer thereof is completed to a landowner duly qualified to secure project water therefor. The sale price thereof shall be without regard to the provisions of section 9 or 10 of this Act.

(c) A landowner which is a corporate or other trustee may collectively hold land eligible to receive project water in a fiduciary capacity, notwithstanding the acreage limitation of this section 5: *Provided*, That with respect to such holding, the beneficiary or beneficiaries thereof are in compliance with the acreage limitation provisions of the Federal reclamation laws.

(d) A landowner which is other than a natural person may hold up to three hundred and twenty acres of land eligible to receive project water: *Provided*, That the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation law in the same manner and with substantially the same rights as a landowner.

APPLICATION OF ACREAGE LIMITATIONS

SEC. 6. In the case of any project, or unit or division thereof including those which were authorized before the effective date of this Act:

(a) The acreage limitation provisions of the Federal reclamation law shall not apply to—

(1) land within a contracting entity with respect to which the contracting entity makes the lump-sum payment of, or has otherwise paid, the balance remaining due on a contractual construction obligation incurred for project water;

(2) excess land within a contracting entity, with respect to which such contracting entity has agreed to pay interest periodically in accordance with subparagraph (b) of this section, on the balance remaining due on a contractual construction obligation incurred for project water;

(3) land within a contracting entity receiving project water on a temporary basis and pursuant to a contract which provides for recapture of such water for municipal or industrial purposes at a later time;

(4) land receiving water made available by project facilities which does not exceed the amount of water that was diverted and used for irrigating land within a contracting entity service area prior to construction of the project facilities, or water which is merely regulated by the project facilities;

(5) land utilizing project water which occurs as a result of unavoidable seepage or deep percolation from the irrigation or from the drainage of lands within a service area of a contracting entity;

(6) land utilizing water which, after having been used for some other project purpose, is used for groundwater recharge;

(7) land receiving project water for which nonproject water has been exchanged or substituted or receiving project water as a substitute supply for water otherwise available to the project area;

(8) land receiving project water, whether commingled with other water or not, which is used to supply less than 25 per centum of the irrigation water necessary for that land as computed in a year of average precipitation or other supply of nonproject water; or

(9) land owned by any state or political subdivisions or agencies thereof.

(b) The interest rate applicable for purposes of this section shall be computed on a project-by-project basis in accordance with the specified project interest rate or, if none exists, such rate shall be equal to the average rate paid by the United States on its marketable long-term securities issued during the construction period of each project. For the purpose of this section, the determination of the construction costs and rates to be charged for water, if not otherwise provided by law for a specified project, shall be in accordance with generally accepted utility rate making standards.

CERTIFICATION

SEC. 7. Within ninety days of the effective date of this Act if repayment has previously occurred, or within ninety days following payment, the Secretary of Interior shall issue a certificate in recordable form to the contracting entity or landowner acknowledging that the land is free of the limitations of section 5 of the Reclamation Act of 1902, as amended or supplemented, and the acreage limitations of the Federal reclamation laws.

WATER EQUIVALENCY

SEC. 8. For the purpose of determining whether a landowner holds 320 acres of class I land or its equivalent as provided in Section 5 of this Act, the number of irrigable acres of each tract supplied with project water shall be divided by a percentage which equals the percentage that project water would constitute of the total irrigation water supply to the tract in a year of average precipitation or other supply of nonproject water: *Provided*, That, if less than 25 per centum of the total irrigation supply of water is supplemental project water, as computed in a year of average precipitation, such acres shall not be counted at all.

EXCESS LAND CONTRACTS

SEC. 9. (a) No irrigable land held in private ownership by any one landowner in excess of three hundred and twenty acres of class I land or its equivalent as provided in Section 5 or modified in Section 8 of this Act, shall receive project water if the landowner thereof shall refuse to execute a valid recordable contract for the sale of such land within a period of ten years of execution thereof at a price which does not reflect project benefits.

(b) An excess landowner may designate which land shall receive project water as nonexcess land.

(c) No recordable contract need be signed until project water is delivered to the land with respect to which such contract is required.

(d) If excess land is sold by a landowner or pursuant to a recordable contract, the landowner shall be entitled to transfer the land to a landowner of his choice duly qualified to receive project water therefor and receive the fair market value of the land sold at a price which does not reflect project benefits.

(e) Excess land subject to a recordable contract, which is not sold within the ten-year period, shall continue to be eligible to receive project water until said land is sold by the landowner or otherwise disposed of under the terms of the recordable contract.

(f) Upon sale or other disposition of excess land under recordable contract or otherwise pursuant to the Federal reclamation laws, in addition to such sale or other disposition being subject to then existing easements and rights-of-way, the seller shall not retain any interest in the land other than (1) the right to explore for and produce minerals therefrom, including geothermal water, coal, oil, gas, associated hydrocarbons, and other fossil fuels, (2) the right to use the surface for purposes other than agricultural crop production, and (3) a purchase money mortgage or other purchase money security interest.

(g) Other provisions of this Act notwithstanding, and only with respect to excess lands subject to recordable contracts between the United States and owners of such lands as had been entered into prior to the effective date of this Act, the period of time during which such owners may dispose of the lands thereby encumbered shall remain as specified in such contracts; provided however, that the period of time during which the Secretary of Interior has suspended, or in fact not generally processed approvals of dispositions of excess lands, whether by virtue of court order or otherwise, shall be added to the period provided by such contracts, together with such additional period of time as may reasonably be required to complete such disposition.

ANTISPECULATION

SEC. 10. (a) Excess land sold after the effective date of this Act, shall be eligible to receive project water only if title to the land is subject to a condition that the land shall not be sold at a price greater than the landowner's cost for the land, plus the value of any crops or improvements, increased only by the rate of increase of the Consumer Price Index for the period between the date of that landowner's purchase and his sale of the land: *Provided*, That if a landowner, or any subsequent landowner taking title by gift or devise from such landowner, has continuously owned the land as nonexcess land for a period of ten or more years prior to sale, the sale price of the land may thereafter be, at the fair market value thereof without reference to this section.

(b) The Secretary of the Interior is authorized to effect compliance with this section by approving or disapproving the price of land sold subject to this section.

RESIDENCY NOT REQUIRED

SEC. 11. Section 5 of the Act of June 17, 1902 (32 Stat. 389), is hereby amended by substituting in the second sentence "320 acres" for "160 acres" and deleting from the second sentence the words: "and no such sale shall be made to any landowner unless he shall be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land.".

APPLICATION

SEC. 12. (a) This Act shall apply both to existing Federal reclamation projects and to projects or units thereof constructed in the future, except where the contrary is expressly indicated by this Act or by contract.

(b) Nothing in this Act shall repeal or amend other statutory exemptions from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from or modified application of acreage limitation provisions heretofore in effect may elect to continue to be governed by such provisions: *Provided, however*, That no such election shall preclude the options available to a landowner by section 6 of this Act.

(c) The Secretary of the Interior shall, upon the request of a contracting entity or of a landowner as to any land of such landowner within a contracting entity, amend any contract to conform to the provisions of this Act.

(d) Upon proof of fraudulent representation as to the true consideration or ownership involved in sales subject to the acreage limitations of Federal reclamation laws, a court of competent jurisdiction, upon application by the Secretary of the Interior, is authorized to cancel the right to receive project water or any water right attaching to the land involved in such fraudulent sales.

(e) Except to the extent that they are in-

consistent with the provisions of this Act, the other Federal reclamation laws, including those provisions relating to the implementation of the acreage limitations, shall remain in full force and effect.

(f) Nothing contained in this Act shall be construed to impair the ability of any state government or contracting entity to administer the development and delivery of water (whether or not defined herein as project water) within their respective jurisdictions or to recover the cost of such administration or delivery.

CONSENT TO SUE

SEC. 13. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States. The United States, when a party to any suit, shall be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and shall be subject to the judgments, orders, and decree of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances.

CONSTRUCTION CONTRACT

SEC. 14. Section 46 of the Act of May 25, 1926 (44 Stat. 636), is hereby amended to read as follows: "No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than fifty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction which shall be binding upon the parties thereto including the United States: *Provided*, That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payments.".

Mr. McCLURE. Mr. President, I have sponsored the Farm Water Act of 1979 for a number of reasons. This legislation addressess all the developed practices of reclamation law that must be considered if we are to pass a responsible bill. As a cosponsor of Senator CHURCH's bill, S. 14, I have already committed myself to working toward a solution to the 160-acre problem and by introducing the Farm Water Act today, I am making certain we have all the concepts before us as we begin the task of developing an updated version of the 1902 Reclamation Act.

I am a strong supporter of our reclamation program. Its benefits are visible throughout our Western agricultural States and the ever widening economic circles it affects. Reclamation has proven a wise investment for our country and I believe we can continue to gain from it if we can change its practical implementation to better meet today's farming needs.

In recognizing the overall perspective of the reclamation program, we should all be reminded that no other Federal programs undergo the kind of cost-benefit scrutiny as water projects. This test has always been one of measuring direct benefits against cost, that cost being repaid by the direct beneficiaries. There are many indirect benefits derived from such projects that are never calculated but have provided much in terms of recreation, flood control, and wildlife enhancement. In the history of our reclamation program to date, we have expended only $7.5 billion since 1902. HEW lost that much of their 1978 budget due to waste, fraud, and abuse. The return on that $7 billion investment is great, but even more significant when you realize the loss of $7 billion in 1 year with no hope of any recovery or return at all.

Idaho has over a million acres under irrigated agriculture. Idahoans have developed a pattern of family farming through the reclamation program that should be protected and continued into the future. The basic purposes of the reclamation program are embodied in Idaho's agriculture communities. But those farmers, in trying to keep up with today's inflation and market demands, must be given flexibility in which to manage their operations. The Farm Water Act provides for this kind of flexibility while assuring that the benefits of these Federal projects reach as many farmers as possible.

The basic concepts that I support and that I believe carry out the purposes of the reclamation program are covered in the Farm Water Act and S. 14. My goal will be to work at a bill that encompasses a combination of the following principles:

First, a farmer must have the opportunity to expand and have some flexibility in his ability to operate his farm. The Farm Water Act limits a farmer to 320 acres ownership with unlimited leasing. This acreage limitation can only be acceptable with no limit on leasing. Any kind of ceiling on leasing must be considered with an increased ownership figure. I am not against a 1,600 limit if we place an overall ceiling on the operational farm size. This allows for any kind of ownership combination to occur. Family partnerships, small businesses and family corporations should all be possible under the reclamation program as they are tools from which the modern family farmer can best operate. The 1974 Bureau of Census report shows that in all farming today, less than 3 percent of our production is from publicly traded corporations yet family corporations are increasing and account for 10 percent of our food production. The rest of our agriculture production comes from individual farmers.

Second, I strongly believe that the contracts between the Secretary of the Interior and the individual water districts should be honored as well as other written representations of the Federal Government. There are over 50 contracts in the State of Idaho alone, that guarantee at payout, the project is no longer subject to on acreage limitation. This concept should be honored in existing contracts and be an option in all future irrigation projects. I also believe that a gradual payout of the project cost with interest should be possible. This allows the farmer the ability to increase his farm size in relation to the amount of repayment he makes. If recouping the Federal subsidy is the primary goal of the administration, then by allowing the farmer the ability to pay that subsidy back, the Government would be recovering their investment without endangering the validity of irrigated farming.

Third, commingled waters, water available before the project was built mixed with conserved water as a result of the project, should be carefully defined in reclamation law. No farmer should pay for water that he had a valid right to use before a project was built. The Farm Water Act defines project water with respect to nonproject water and presents a solution to the commingled problem by exempting from acreage limitations lands that receive 25 percent or less of their irrigation needs from project water.

Fourth, residency is no longer a practical application of reclamation law and should be eliminated. There are too many families today who, for a number of personal reasons, do not live on their farms but depend on the income of that operation. There is no reason to require a disruptive residency requirement in reclamation law today as the purpose of perpetuating the family farm is being met in other provision in the Farm Water Act.

Fifth, an equivalency formula is necessary if areas of lower productive potential, due to such factors as geology, crop economics and climate, can receive water on more than 320 owned acres. The bill allows this equivalency to be applied to a project by project service area as well as on the existing reclamation-wide basis.

Sixth, it is my belief that a farmer should have the right to sell his property at fair market value. There have, however, been concerns that a buyer can purchase a farm at a lower, Government-approved price and immediately sell at a higher market value. This act would prevent such a windfall by requiring the landowner to retain the property for 10 years before selling it for more than the cost-plus inflation value.

Seventh, there are several exemptions from reclamation law that should be clearly spelled out before we pass any legislation on this subject. This bill addresses many concerns of present day farmers by exempting the following kinds of water sources from applying to reclamation law; water from temporary projects, water only regulated by project facilities and water made available by seepage and ground water recharges. I also support an exemption for lands receiving water from Corps of Engineers projects as their purpose is entirely different than that established under reclamation law.

Lastly, this bill covers other areas of reclamation practice that should be con-

sidered as we discuss reclamation law. It has a section allowing non-federal entities, the right to sue the Federal Government for purposes of resolving conflicts in law. It allows the seller of excess lands to retain rights to the property for nonagricultural purposes and the sellers right to select the buyer of excess property.

Again, these are solutions to problems that have surfaced as a result of the threat of restrictive regulations proposed by the Secretary of the Interior. They should be seriously considered by the Congress as they have evolved directly from the very farming communities that we propose to protect and perpetuate in readdressing reclamation law.

I am proud to be a sponsor of this comprehensive piece of legislation that attempts to practically solve the problems we face. I understand there have been discussions underway with the Department of the Interior on provisions in this legislation that the administration is willing to consider. I am looking forward to working with them, with Senator CHURCH and the other Members of the Congress in coming to grips with the direction future reclamation programs should take through the enactment of a new reclamation law.

FARM WATER ACT OF 1979

A BILL

The enacting clause of the Farm Water Bill of 1979, specifies that the Act would amend and supplement the acreage limitation and residency provisions of the federal reclamation laws, which are comprised primarily of the Reclamation Act of 1902 and the Omnibus Adjustment Act of 1926.

*Preamble*

Section 2 states the purpose of the Act: to encourage and preserve viable farm operations in reclamation project areas. The Act places reasonable restrictions on federal project water recipients in return for the use of the public investment. This section recognizes that all taxpayers contribute to project costs and that none should be barred from the opportunity to share the benefits.

*Definitions*

Section 3 defines certain terms used throughout the Act.

*Validation*

Section 4 stipulates that all federal written representations, rulings, opinions relating to the acreage limitation provisions upon which districts and land owners have previously relied, will remain in effect—providing for consistency and fairness in government.

*Acreage limitation and equivalency*

Section 5 increases the ownership limit on land eligible to receive project water to 320 acres in each water district—acknowledging the economic and technological changes that have occurred since the 160 acreage limit was set in 1902. A second major thrust of this section introduces an equivalency concept allowing areas with lower productivity potential, due to such factors as geology, crop economics and climate, to receive water on more than the 320 owned acres. This provision emphasizes fair application of the federal benefits to the users. A third aspect of this section preserves present law by allowing lenders that acquire property by foreclosure to sell within a five-year period without government price approval.

*Application of acreage limitation*

Section 6 defines certain exemptions from federal reclamation law. Introduces a payout plan that gives reclamation districts the opportunity to repay the public investment in full or in periodic payments with interest, thereby relieving the land within the district from acreage limitations. Exempts from acreage limitations land that receives 25 percent or less of its irrigation needs from project water.

Also exempts from acreage limitations, depending on water sources, certain lands including: those receiving water from temporary projects; those within U.S. Army Corps of Engineers projects constructed primarily for flood control purposes; lands on which water is merely diverted or regulated by project facilities; and lands receiving project water unavoidably through seepage, deep percolation or ground water recharges.

The water rates and contract costs would be determined in accordance with generally accepted utility rate-making standards.

*Certification*

Section 7 concerns projects for which the public investment has been repaid, and provides for a certificate that can be recorded for lands within those projects, declaring that they are free of the acreage limitations.

*Water equivalency*

Section 8 provides that if less than 25 percent of the total irrigation supply of water to a tract is supplemental project water, the basic entitlement of 320 acres can be increased in proportion of the decreasing supply of project water. It allows more acres if less than 25 percent of project water is needed to complete a farm supply.

*Excess land contracts*

Section 9 stipulates provisions under which owners of land in excess of the 320 acreage limitation can receive project water, and provision under which excess lands can be sold. Those provisions include the private property owner's right to select the buyer and to sell the excess land at its fair market value, without reference to project water. Also, this section provides that for lands held in excess of 320 acres, project water can be delivered if a recordable contract for the sale of the land has been executed under reclamation law. Upon disposition of excess lands, the Act further stipulates that the seller can retain rights to the property for non-agricultural purposes; and provides an extension of the ten-year recordable contract in which excess land must be sold, for the period that sales are not permitted either administratively or by court order.

*Anti-speculation*

Section 10 prevents land speculation in reclamation areas by removing the opportunity, under present law, for a buyer to purchase at the low, government approved price and resell immediately at the higher market value. This section prevents windfall profits to speculators and abuses of the federal benefit by requiring that landowners retain the property within a family for ten years before selling it for anything more than cost plus an inflation allowance. Lack of compliance makes the land ineligible to receive project water.

*Residency not required*

Section 11 amends the acreage limitation and repeals the outdated requirement of the 1902 Act (which was ignored in the 1926 Act) that required homes to be located in the neighborhood of the farm receiving project water. This section frees the private property owner from a government edict as to where the owner must reside.

*Application*

Section 12 specifies that the Act applies both to existing and future federal reclamation projects and stipulates that any exemptions or modifications of acreage limitations previously afforded will be honored by this Act.

*Consent to sue*

Section 13 grants landowners and other entities contracting with the federal government for project water the right to bring the United States of America into court for purposes of resolving conflicts in reclamation law—thereby helping to insure the integrity of government action.

*Construction contract*

Section 14 restates certain language existing in federal reclamation law that is consistent with the Act concerning the maintenance and enhancement of the fiscal integrity of federal water projects.●

● Mr. MCGOVERN. Mr. President, Senators MCCLURE, BAUCUS, DECONCINI, SIMPSON, WALLOP, and I are today introducing legislation we call the Farm Water Act of 1979. At issue is what is commonly referred to as the 160-acre limitation upon land ownership within irrigation projects constructed with Federal assistance through the U.S. Bureau of Reclamation in the 17 Western States.

This issue has heated up slowly in the 77 years since passage of the 1902 Reclamation Act. That act set forth various principles to be used in applying Federal assistance toward settlement of the West through encouragement of irrigated agriculture in the arid Western States. I think it is fair to say that the boiling point on this issue has been reached within the last few years. Right now it simmers on the Department of Interior's back-burner while they assess the impact of their strict enforcement of the 1902 act and its amendments based upon their recent interpretation of what is required.

The problem, at least as I view it, is that the Department is attempting to solve acknowledged problems where abuses of the act have occurred in some specific sections of the West. But in pursuing their goal, they are creating a "stew" which will be unpalatable to the diverse irrigation interests elsewhere throughout the Western States. Because what is actually involved are the principles endemic to the Reclamation Act, my colleagues and I feel the time has come to reassess those principles in light of present realities and see whether or not an adjustment can be made to meet the needs the Department sees to reassert the role Federal assistance is to play while at the same time remaining flexible enough to meet the needs of irrigators and waterusers on reclamation projects everywhere.

The philosophic root of this issue is the amount of Federal subsidy which is provided reclamation irrigators through Government assistance in the financing and construction of their projects.

Before explaining how the Farm Water Act addresses this fundamental issue let me make one thing clear to those of my colleagues who are not overly familiar with the reclamation program. While we are talking about a subsidy it must be remembered that it is eventually repaid by the beneficiaries, with interest. This feature makes reclamation irrigators unique among beneficiaries of Federal assistance. The subsidy, if that is what you insist it be called, is best thought of as seed money. It gets the irrigators started in business, but once

they become self-sufficient, they repay our investment in their operations.

If any individual Senator were to attempt to meet this issue with narrow parochial interests in mind, we would repeat the spectre of so many bills being introduced that we would be unable to cope with them through our normal hearing process. That is why this year I see an effort to arrive at an equitable balance of interests in addressing this question. While there is no magic formula available to resolve this issue once and for all, I believe we are moving very close to settling this matter. The Energy and Natural Resources Committee's Subcommittee on Energy and Development, ably chaired by our distinguished colleague Senator CHURCH, is about to consider legislation introduced by him on this matter. I personally find much in his bill which I can support, yet at the same time my colleagues and I feel the need to at least attempt surfacing other facets of this issue which are not addressed in his proposed legislation. In this way I feel our effort complements his and I want to stress that we are vowed to work very closely with him in this regard.

Whereas in most cases the points of disagreement among different pieces of legislation become all important in resolving an issue, in this instance the fact that there are points of agreement become as, if not more so. On the following principles we are agreed.

First, there should be a limit on the amount of land owned by an individual receiving federally subsidized irrigation water. While the Farm Water Act sets that limit at 320 acres instead of the present 160 acres, there is nothing particularly magic about this figure. It is best not viewed alone. Instead, it should be viewed in the context of all the other principles embodied in this legislation. Yet it is important for two reasons: It says, in effect, 160 acres is not a realistic limitation in most cases today, and second, by setting a low figure some adjustments upward can be made as circumstance warrants.

Second, there should be an acreage equivalency formula in judging excess ownership which recognizes differences in climate and soil conditions among States and projects. In this way the higher productivity, longer growing season and annual multiple crop harvests on California and Southwestern projects is recognized and in effect separated away from the other Western States.

Third, speculation of reclamation projects should not be allowed. This is a Federal program for farmers, not realtors and land speculators out for profits from land sales. They should look for them in other markets, not on Federal irrigation projects.

Fourth, foreign ownerships should not be allowed on Federal irrigation projects. I do not think this point needs elaboration.

Fifth, all prior written representations and contracts made by and between the United States and irrigation or water-user districts and individuals should be honored. This will be viewed by some as sanctioning past abuses. In response to that I have to say there is simply too much diversity in this question to provide a better formula for its resolution. This issue must be resolved on a case-by-case, district-by-district, contract-by-contract basis as circumstance warrants and in compliance with reclamation law at the time. I feel this legislation will give the Department the handle they need to deal with flagrant abuses.

Sixth, reclamation law should not be applied to Corps of Engineers projects. We do not believe there is sufficient justification for linking the Corps' program with the reclamation program. Their missions are clearly different. On those few occasions where justification for linkage can be found, provisions for application of the principles of the one program to the other must be made on a case-specific basis. Many of us feel that universal linkage of these two programs will set unfortunate, far-reaching precedent affecting too wide a range of circumstances elsewhere in the Western States.

Seventh, public corporations and conglomerates should not be allowed to acquire or lease land on reclamation projects in excess of what can be owned or leased by individual farmers. If there is a single issue which has contributed to national attention being focused on this matter, this is the one. There are varying analyses as to how significant this concern really is, but this principle should be clear: Reclamation projects are to benefit family farmers and to stabilize American agriculture through support of this basic unit of farming. There can be no denying a corporate presence in American agriculture and one can think what one will as to the benefits or dangers of that fact, but in the case of reclamation projects it should be clearly understood that the Federal Government does not intend to subsidize corporate entry into agriculture.

Eighth, the residency requirement should be eliminated as a test of compliance with Reclamation Act requirements. The concept of requiring residency within certain geographic limits is an approach toward eliminating the presence of paper irrigators on reclamation projects, which relates to the principle stated above. While this may presently be the only means the Department sees available today to fight a corporate presence on reclamation projects, we feel that the Farm Water Act approaches this problem from a better perspective. We believe that as soon as a geographic formula is proposed to remedy this problem in a particular section or project in the West, it will create new problems in other areas where geographic presence is more relative and not an indication of abuse of reclamation law.

Finally, farmers, including family farming corporations, should be allowed to own or lease land in excess of the land receiving the original subsidized water price—provided they are willing to pay more than the basic subsidized cost of the water to be used on those additional lands.

While there is no such formula in the Farm Water Act, it is something which concerns me personally and I wanted my colleagues to know I am working on a method of accomplishing this. I feel a sliding scale can be used to accommodate the growth of some irrigation operations, but at the same time insure that the Federal Government is not subsidizing that growth in the same manner it is subsidizing the original irrigation.

What is at issue is again the amount of subsidy an individual irrigator receives. There are those who to my mind rightfully contend the Government should not continually subsidize growth of irrigation operations—that there should be a cutoff point—the idea being one or two operations should not make up an entire project. Yet, there are those who also rightfully contend that economies of scale should prevail—that some operations need some growing room in order to make most efficient use of the irrigation opportunity. To me, setting a high ceiling on the acreage limitation to meet this latter argument works some injustice upon the smaller operator. Setting a low ceiling is unjust to others. Neither approach seems satisfactory.

As I view it, we are best advised to set a low ceiling at the outset where the full subsidy is received. This will allow entry to anyone able to put the necessary capital together. It would make some subsidy available to an irrigator wanting to adjust his operation upwards a little, but the larger he would get the less subsidy he would receive until such time as he is paying the full cost of water service. To me this meets the philosophic premise of Federal subsidy head on, but allows some necessary flexibilitiy.

In closing, I want to emphasize that I am sponsoring this legislation with an eye toward the future of reclamation irrigation. That is where South Dakota's irrigation future lies. I am not sponsoring it because it helps reclamation irrigators in South Dakota per se because they are presently in compliance with the original act. My interest is the national interest and the continued viability of reclamation irrigation development in the West. I would hope my colleagues are similarly motivated in considering this legislation.●

● Mr. WALLOP. Mr. President, I am pleased to join Senator MCCLURE in introducing the Farm Water Act of 1979. It is a responsible and comprehensive approach to modernization of the acreage limitation provision of reclamation law. Moreover, its passage will invalidate the Department of Interior's proposed regulations, which, if implemented, would ignore the realities of modern agriculture, and go far beyond the intent of Congress when it enacted the law over 75 years ago.

In cosponsoring this bill, I am mindful of S. 14, the Reclamation Reform Act of 1979, which has been introduced by Senator CHURCH. That bill embodies many fine principles which I support, and in several respects parallels the thrust of the Farm Water Act of 1979.

The principles upon which we agree are

more significant than those upon which we disagree. While each of us could fashion and staunchly support bills which perfectly suit the problems of our individual States, to do so would play into the hands of those who would rejoice in seeing our reform measures fail. As this matter is considered by the Senate, I am confident that we can work with Senator CHURCH and the cosponsors of S. 14 to fashion a reclamation reform measure which fairly treats the needs and problems of all reclamation projects.

HISTORY OF THE PROBLEM

The Reclamation Act of 1902 was designed to make the arid West bloom and settle as many family farmers as possible on productive, irrigated land. To that end, it provides that water from Federal reclamation projects will only be delivered to 160-acres per land owner, with additional lands being declared excess.

This 160-acre, or excess lands provision, as it is sometimes called, has been enforced by the Department of Interior through a series of Solicitor's Opinions which served to interpret the law. However, in August, 1976, a group known as National Land for People Incorporated, sued the Department of Interior and obtained a court order requiring the Department to formally issue regulations to enforce the acreage limitation requirements of the 1902 act. A year later, in August, 1977, the Department issued proposed regulations. However, in addition to limiting acreage, the regulations proposed that strict residency requirements be imposed, leasing be limited, sale of excess lands by lottery be required, and the qualifications of excess land purchasers be limited. None of these provisions are expressly required by the Federal reclamation laws upon which the regulations were based.

The proposed regulations caused serious concern to many of us who believe them to be an unauthorized extension of the acreage limitation requirements of the 1902 act. I consider them to be inequitable, beyond the scope of the court order which prompted their publication, and in the long run a formula for agricultural disaster in America.

However, in December 1977, still another court determined that the regulations would constitute a "major Federal action significantly affecting the quality of the human environment." Therefore, the National Environmental Policy Act requires that an environmental impact statement be prepared before they become final. This insures that the regulations will not go into effect until early 1980, and not at all if Congress acts first to amend the reclamation laws.

THE NEED FOR REFORM

Proponents of strict acreage limitations and residency requirements contend that they are necessary to promote family farming, prevent windfall profits and unintended subsidies, and are not contrary to economic realities. I totally disagree, and believe it is evident that in most areas the present limitation is contrary to good sense and the economics of modern agriculture. Several studies support that opinion.

The U.S. Department of Agriculture has prepared an economic impact analysis of the Department of Interior's proposed acreage limitation regulations. It concludes that if implemented, they would lead to higher average production costs and loss of economic efficiency. The Department of Agriculture's analysis found that a 160-acre irrigated farm in the Columbia River Basin could possibly provide annual returns exceeding the median family income, but in both the Imperial Valley in California and along the North Platte River in Nebraska and Wyoming, a farm size of at least 32 acres would be needed to give a return equal to the median family income. The report also included that because of price variability, rising production costs, and other risks, "larger operating units may be necessary to maintain a viable farming operation over time," and that in all regions, "larger farm operations were more efficient."

In the Columbia Basin, it has been shown that average production costs decreased by 8 to 12 percent as farm size increased from 160 to 320 acres. Costs decreased by an additional 6 percent as farm size increased from 320 to 640 acres. In the Imperial Valley, a 640-acre farm was found to be 14 to 16 percent more efficient than a 160-acre farm. An increase in acreage from 640 to 2,500 acres resulted in a further decline in costs. Average production costs for sugar beets, corn alfalfa, malting barley, and dry beans along the North Platte River in Wyoming and Nebraska were 15 to 20 percent higher on a 160-acre than on a 480-acre farm. The analysis shows that efficient farm size is considerably greater than 160 acres in most regions, including Wyoming.

A Montana State University study conducted in 1977 indicates that economies of scale also exist on irrigated farms in Montana. In the Helena Valley and Milk River Valley, researchers found that only farms in excess of 600 and 450 acres respectively were economically feasible or capable of supporting a family.

Calculation of production costs for farms in the Huntley Valley in Montana showed that if a 320-acre farm was divided into two 160-acre irrigable units, there would be a net loss in profit of around $12,000 per year. The report concluded that the 160-acre limitation encourages economic inefficiency in agriculture.

A California State Governor's task force also concluded that the 160-acre farm was usually unprofitable, and that the break-even point was from 300 to 400 acres for various crops. Their report recommends an increase in the acreage limitation from 160 to 640 acres per owner with provision for a further increase in the limitation every 10 years, if economic or technological changes indicate that it would be appropriate.

Related studies have been done by Douglass Agee at the University of Wyoming. These studies have determined the average production costs for various crops in different areas of Wyoming. The average size farm is used in these studies, since without Government interference, the farmer will usually operate at the size which is more profitable and efficient. The average size farms for growing sugar beets, malting barley, alfalfa, dry beans and corn in Worland, Torrington-Wheatland, Riverton, and Powell areas are 480, 400, 320, and 400 acres, respectively. These sizes of irrigated farms represent the economically feasible unit to the farms and attempts to restrict farm size in Wyoming would reduce efficiency.

No uniform acreage limitation can be applied equally to broadly differing reclamation projects. One hundred and sixty acres of California land may be equivalent in productive potential to a much greater acreage in the State of Wyoming. Differences in climate, geology, and crop economics must be taken into account on a project-by-project basis in determining total acreage which is eligible to receive project water.

The Bureau of Reclamation has estimated that the average gross crop value per irrigated acre on all reclamation projects is $458. However, in Wyoming, where the growing season is shorter and the altitudes are relatively high, that average is only $199 per acre. In Utah, South Dakota, and Montana, gross crop values per irrigated acre are even less. The same standard cannot be equitably applied to lands in these States and to reclamation lands in California where gross crop values are in excess of $750 per acre.

THE FARM WATER ACT OF 1979

The Farm Water Act of 1979 attempts to modernize our reclamation law in a comprehensive fashion. It is the only bill yet introduced which addresses the varied circumstances which farmers face in the Western United States. It recognizes the realities of modern agriculture and insures that farmers will at least have the opportunity to earn an adequate living for their families. At the same time, it prevents speculation and windfall profits at the expense of the American taxpayer.

This is not a perfect bill, but it is a good one. It fairly considers the majority of diverse circumstances found in our 18 reclamation States, and deals with the differing problems which enforcement of the current law and proposed regulations would only serve to exacerbate.

There are eight points in this bill which I believe are of critical importance to Wyoming.

First, the acreage limitation is increased to reflect the economic and technical changes which have occurred since 1902. Under the Farm Water Act of 1902, 320 acres of class I land per owner may receive project water.

Equivalency for lands of lower productive potential is provided on a project-by project basis. Where climate, crop economics, and geology warrant, more than the 320 owned acres, as determined by the project's equivalency formula, would be eligible to receive project water.

Consistent with the Reclamation Act of 1902, leasing of additional lands would

not be restricted by the Farm Water Act of 1979.

Fourth, it removes residency requirements by repealing the 1902 provision that the landowner must reside in the neighborhood of the land.

The use of commingled irrigation water suppy is taken into consideration in determining what portion of a landowner's irrigated land is subject to the acreage limitation. The ratio of total irrigated land to land subject to the acreage limitation is the same as the ratio of total water supply to project supplied water.

Lands would be released from the excess lands limitations upon payment of a lump-sum equal to the balance on contractual construction obligations due the Federal Government for project water. Excess lands would also be exempted if interest on the balance due on the lands is paid.

Land speculation is discouraged within reclamation areas by removing the opportunity for a buyer to purchase at a low Government approved price, and resell immediately at a higher market price. Windfall profits are prevented by requiring that landowners retain the property within a family for 10 years before selling it for anything more than cost, plus an inflation allowance.

And finally, the act waives the sovereign immunity of the United States in matters relating to this act. Landowners and other entities contracting with the Federal Government for irrigation water supply may force the United States into court to resolve conflicts in reclamation law.

Mr. President, I urge all of my colleagues to consider the complicated nature of the reclamation program, and the impact irrigated agriculture has upon the entire Nation. The Farm Water Act of 1979 is important not only to the West, but the Nation as a whole. Almost 9.5 million acres were irrigated in 1976 on reclamation projects, producing enough to meet the annual food requirements of 37.7 million people. The total crop value of $4.3 billion, or an average of $458 per acre, was produced by over 146,000 farms. The national effects of disruptions of these agricultural production units cannot be taken lightly.

Many of my colleagues believe that the best answer would be to abolish all acreage limitations on existing projects. The primary purpose of the 1902 law, to promote the settlement of the arid West, has been achieved. The overriding public purpose now should be to foster productive agricultural units upon which families will be able to make a reasonable living. I tend to believe such an approach would most likely be in vain. The Farm Water Act of 1979 represents an approach which is both viable and equitable.

While fraud, windfalls, and unintended subsidies must be guarded against, both the administration's proposed regulations and suggested amendments to protect against these abuses of the 1902 act, unnecessarily overregulate and are inequitable. We must be no less concerned that residency and lottery sale requirements may force the breakup of some family held farms, cloud farmers' titles to their property, and restrict parents' ability to transfer their farms to their children. Commingled water and previously existing direct flow water rights must be considered, and previously relied upon contracts ratified. Most important of all, the future growth potential of the capable farmer must be assured, while the bad husbandman must be allowed to fail.

Mr. President, the Farm Water Act of 1979 would implement a reclamation policy which is both just and economically sound. I am pleased to cosponsor this measure, and encourage my colleagues to examine it and support it.●

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By Mr. MATHIAS:

S. 634. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Finance.

PRODUCT LIABILITY PARTIAL SELF-INSURANCE ACT OF 1979

● Mr. MATHIAS. Mr. President, I am introducing the Product Liability Partial Self-Insurance Act today. The purpose of this bill is to change the Internal Revenue Code to enable small business owners to set up partial self-insurance funds to cover product liability. The bill would also allow certain professional people—architects and other design engineers—to set up similar tax-free funds. This limited class of professionals has been included in this bill because, like manufacturers, architects and engineers have a tangible product that is in the stream of commerce, be it a building, a road, or a bridge.

Some progress was made in this direction with the tax code amendments enacted late last year, but much remains to be done. Today, the tax code gives substantial tax advantages to the purchasers of commercial insurance but penalizes those who must self-insure against product or professional liability risk.

The bill I introduce today is a refinement of the Product and Professional Liability Insurance Tax Equity Act, S. 2864, which I introduced on April 10, 1978. I developed the current text after consultation with Representatives PRITCHARD and PEASE, and it grows out of a merger of S. 2864 and Senator CULVER's Product Liability Self-Insurance Act, S. 3049, introduced on May 9, 1978, and reintroduced March 5, 1979, as S. 542.

In the last Congress, a special ad hoc panel, chaired by former Representative Whalen, studied the product liability insurance problem and presented its findings to the House Small Business Committee in April 1977. The study found that small manufacturers were suffering from dramatic increases in product liability insurance costs. There was an average cost increase of 944.6 percent over a 6-year period, while the increase in sales volume was 162 percent. That means that the premiums grew at a rate almost 6 times that of sales.

The panel also found that 21.6 percent of the companies surveyed said they were involuntarily operating without any commercial insurance coverage for product liability. And other companies told us they were forced to buy policies with very high deductibles, paying exorbitant premiums for only partial coverage of their risk.

Mr. President, it has become obvious that many small businesses are operating either wholly or partially outside the product liability insurance market. Congressman Whalen's study concluded that one of every three companies surveyed said it had been forced to increase the price of at least one product line as a direct result of increased product liability premiums. His study also showed that one of every six firms surveyed has been forced to abandon at least one product line as a direct result of product liability problems.

Now, while many large companies have the resources to deal with the liability insurance problem, including simply buying or beginning their own captive insurance companies, the small business owner or the privately practicing professional cannot afford these high-priced options. And increasingly, because of IRS rulings, even captive insurance companies are being pressured to enter the competitive insurance market, with the result that larger companies, too, are starting to look into self-insurance.

Of course, there is nothing in current law that stops anyone from starting the type of trust fund our bill envisions. However, the small business owners and professionals have a hard time putting aside enough money to cover themselves because of the Federal tax bite. This bill will allow them to deduct from gross income all money they put into a self-insurance fund. In addition, to counter inflation, it would allow interest to accumulate in the trust fund tax free. In other words, they could deduct the money paid into the fund as a cost of doing business, just as an insurance premium can be.

The object, then, of the Product Liability Insurance Tax Equity Act was to put the self-insurer on equal tax footing with the commercial insurance purchaser. The various bills to this end were discussed throughout the 95th Congress, and hearings were held in the House Ways and Means Committee and before the Senate Finance Subcommittee on Taxation and Debt Management.

The measures met with some success—with the invaluable assistance of my distinguished colleague from Iowa, Mr. CULVER—and we amended the tax code last year. It is now lawful for a corporation to build up a loss reserve account for product liability. But it still must be done with after-tax dollars, and use of the option is limited to corporations with severe product liability problems.

A second change made in the tax law last year was to extend from 3 to 10 years the carryback of losses attributable to product liability. However, as Congressman Whalen explained in the CONGRESSIONAL RECORD of July 21, 1978, this

feature, which was proposed by the Carter administration, is of very little help to the small companies with the most severe problems.

Mr. President, I have read and reflected on the mass of testimony received by the Ways and Means Committee and the Subcommittee on Taxation, and I have reviewed the likely impact of the recent changes in the Internal Revenue Code. I have also met with representatives of industry and the design profession, and I think that the time has come to eliminate this inequity in the tax laws. In our increasingly complex society, it is more and more often the case that disputes must be resolved by litigation. We must protect businesses and certain professionals from the damaging and possibly destructive liability suits they may from time to time encounter.

We must realize that in the end we all suffer if they are forced to curtail their activity or even go out of business because of their inability to get adequate protection for themselves, their businesses, and their families.

I urge the Senate to act quickly and decisively on this important issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 634

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled*, That this Act may be cited as the "Product Liability Partial Self-Insurance Act of 1979".

SEC. 2. (a) Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as subsection (j) and by inserting immediately after subsection (h) the following new subsection:

"(i) SELF-INSURANCE FOR PRODUCT LOSSES AND EXPENSES.—

"(1) GENERAL RULE.—In the case of a taxpayer engaged during the taxable year in a trade or business which involves the manufacture, importation, distribution, lease, or sale of a product or products with respect to which the taxpayer may incur any product liability, at the election of the taxpayer, there shall be allowed as a deduction under subsection (a) the sum of—

"(A) any amounts transferred by the taxpayer for such taxable year to his product liability trusts, including net income earned on the corpus of that trust and net gains realized from the sale or exchange of trust assets so transferred, and

"(B) any amounts paid by the taxpayer for such taxable year to a captive insurer with respect to the product liability of the taxpayer.

"(2) DETERMINATION OF AMOUNT.—

"(A) TAXPAYER WITH SEVERE PRODUCT LIABILITY INSURANCE PROBLEM.—In the case of a taxpayer who has a severe product liability insurance problem (as defined in paragraph (11)) for the taxable year, the maximum amount for such taxpayer determined under paragraph (1) shall not exceed the smallest of—

"(i) 5 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability,

"(ii) the amount which when added to the sum of—

"(I) the balance of the taxpayer's product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any,

equals 15 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, or sale of such product or products during the base period, or

"(iii) $100,000.

"(B) OTHER TAXPAYERS.—In the case of a taxpayer who does not have a severe product liability insurance problem for the taxable year, the amount determined under paragraph (1) shall not exceed the smallest of—

"(i) 2 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability,

"(ii) the amount which, when added to the sum of—

"(I) the balance of the product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any,

equals 10 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, lease, or sale of such product or products during the base period, or

"(iii) $25,000.

"(C) BASE PERIOD.—For the purpose of this paragraph, the term 'base period' means the shorter of—

"(i) the period beginning with the most recent preceding taxable year for which the taxpayer elected to have this subsection apply which is immediately preceded by a taxable year for which the taxpayer did not so elect and ending with the current taxable year, or

"(ii) the 5-fiscal-year period of the taxpayer which ends with or within the taxable year.

"(3) DISALLOWANCE OF DEDUCTION FOR CERTAIN LOSSES.—In determining the amount of the deduction allowable for the taxable year under subsection (a) to a taxpayer who has elected to have this subsection apply, no deduction shall be allowed for any product liability loss sustained by the taxpayer during the taxable year except to the extent that the aggregate amount of such losses during such year exceeds the sum of—

"(A) the amount in the product liability trust of the taxpayer at the beginning of such taxable year, plus

"(B) the aggregate amount of payments by the taxpayer to such trusts within the taxable year which are allowable as a deduction under paragraph (1).

"(4) USE OF FUNDS OF TRUST FOR INAPPROPRIATE PURPOSE.—

"(A) IN GENERAL.—If any amount in a product liability trust is, during a taxable year, used for any other purpose other than purpose set forth in paragraph (9)(D)(iii)—

"(i) an amount equal to the amount so used shall be included in the taxable income of the taxpayer for the taxable year, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter for such taxable year shall be increased by an amount equal to 10 percent of the amount so used.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to amounts paid out of any product liability trust not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for the taxable year to the extent the amount of such payment is not more than the excess of—

"(i) the aggregate amount of payments by the taxpayer to such account for the taxable year, over

"(ii) the maximum amount of such payments which may be deducted under paragraph (2).

"(5) TIME WHEN PAYMENTS TO ACCOUNT DEEMED MADE.—For the purposes of this subsection, a taxpayer shall be deemed to have made a payment to his product liability trust on the last day of the preceding taxable year if the payment is made on account of such taxable year and not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for such taxable year.

"(6) PAYMENTS TO TRUST TO BE IN CASH OR CERTAIN OTHER ITEMS.—No deduction shall be allowed under paragraph (1) with respect to any payment to a taxpayer's product liability loss reserve account other than a payment in cash or in items in which the assets in said account may be invested under paragraph (10).

"(7) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) IN GENERAL.—For the purpose of paragraph (2)—

"(i) in the case of any taxpayer who, during a calendar year, is a member of a controlled group of corporations, only gross receipts properly attributable under section 482 to such taxpayer for such year shall be taken into account; and

"(ii) the aggregate deductions under this subsection taken by all of the members of a controlled group of corporations for each taxable year shall be limited to the amount that would be permitted under paragraph (2) if all the component members of such group were considered to be a single taxpayer.

"(B) DEFINITION OF CONTROLLED GROUP.—For the purpose of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by paragraphs (1), (2), and (3) of subsection (a) of section 1563, except that the determination of whether a taxpayer is a component member of a controlled group of corporations at any time during a calendar year shall be made on December 31 of such year.

"(C) CONTROLLED GROUPS CONTAINING PERSONS OTHER THAN CORPORATIONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of taxpayers under common control where one or more of such taxpayers is not a corporation.

"(8) ELECTION, TERMINATION, AND WITHDRAWAL OF FUNDS.—

"(A) MAKING ELECTION; TERMINATING ACCOUNT.—The Secretary shall prescribe by regulations—

"(i) the time, manner, and conditions under which the election under paragraph (1) shall be made by a taxpayer;

"(ii) the time, manner, and conditions under which a taxpayer may terminate his product liability trust, and the funds accumulated therein, if any, may be distributed to the taxpayer without being subject to the penalty under paragraph (4); and

"(iii) the time, manner, and conditions under which a taxpayer may withdraw all, or any portion of, the funds from his product liability trust without penalty under paragraph (4).

"(B) SPECIAL REQUIREMENTS.—The regulations prescribed by the Secretary regarding the election under paragraph (1) shall require the taxpayer to indicate whether he is electing to transfer all, or any portion, of (i) the net income earned on amounts previously transferred to his product liability trust and (ii) the net gains realized on the sale or exchange of trust assets to that

trust. Such amounts which the taxpayer does not elect to transfer to his product liability trust may be withdrawn from the trust without penalty under paragraph (4).

"(C) WITHDRAWAL OF FUNDS.—The regulations prescribed by the Secretary regarding the withdrawal of funds from a taxpayer's product liability trust without penalty under paragraph (4) shall permit such withdrawal when the taxpayer has no outstanding product liability claims or lawsuits asserted against him and no reasonable expectation that any product liability claims and lawsuits will be asserted against him.

"(D) INCLUSION IN INCOME.—Amounts distributed to a taxpayer from his product liability trust without penalty under this paragraph shall be included in the net income of the taxpayer in the taxable year in which the distribution is made.

"(E) TRANSFERS TO ANOTHER TRUST.—In the case of a transfer of an amount from a product liability trust to another product liability trust, the maximum amount of deduction allowable to the taxpayer under paragraph (2) shall, for the taxable year of the transfer, be increased by an amount equal to the amount included in the income of the taxpayer for such year under subparagraph (D).

"(F) OTHER REGULATIONS.—The Secretary shall prescribe such other regulations as may be necessary to carry out the purposes of this subsection.

"(9) Definitions.—For purposes of this subsection—

"(A) PRODUCT.—The term 'product' includes any service provided by the taxpayer in the professional design, planning, evaluation, preparation of specifications, or administration of a contract, for the construction or modification of any building or structure on real property.

"(B) PRODUCT LIABILITY.—The term 'product liability' includes—

"(i) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, attributable to negligence in, breach of warranty regarding, or defects in any product manufactured, imported, distributed, leased, or sold by the taxpayer, but only if

"(ii) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(C) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means any loss attributable to the product liability of the taxpayer.

"(D) PRODUCT LIABILITY TRUST.—The term 'product liability trust' means any trust—

"(i) established in writing which is created or organized under the laws of the United States or of any State (including the District of Columbia) by the taxpayer;

"(ii) the trustee of which is a bank (as defined in section 581) or another person (other than the taxpayer or any component member of a controlled group of corporations, within the meaning of paragraph (7), of which the taxpayer is a member) who demonstrates to the satisfaction of the Secretary that the manner in which that other person will administer the trust will be consistent with the purposes for which the trust is established;

"(iii) the exclusive purpose of which is to satisfy, in whole or in part, the product liability losses sustained by the taxpayer and the expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, and to pay the administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against the taxpayer;

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund (as defined in section 584) and will only be invested as permitted in paragraph (10); and

"(v) the assets of which may not be borrowed, used as security for a loan, or otherwise used by the taxpayer for any purpose other than those described in clause (iii).

"(E) CAPTIVE INSURER.—The term 'captive insurer' means any insurer—

"(i) which is directly or indirectly—

"(I) wholly or partially owned or controlled by the taxpayer, or

"(II) wholly owned or controlled by an association of which the taxpayer is a member, and

"(ii) which is licensed to provide product liability insurance to the taxpayer under the laws of a State of the United States, including the District of Columbia.

"(F) NET CONTRIBUTIONS OF TAXPAYER TO CAPTIVE INSURER.—The term 'net contributions of taxpayer to his captive insurer' means the sum of all premiums paid by the taxpayer to his captive insurer for product liability insurance, less all amounts paid by his captive insurer for claims against the taxpayer for compensation with respect to the product liability of the taxpayer.

"(10) RESTRICTIONS ON INVESTMENT OF ASSETS.—The assets of a product liability trust may not be invested in anything other than—

"(A) public debt securities of the United States,

"(B) obligations of a State or local government which are not in default as to principal or interest, or

"(C) time or demand deposits in a bank (as defined in section 581) insured by the Federal Deposit Insurance Corporation, a savings and loan association insured by the Federal Savings and Loan Insurance Corporation, or an insured credit union (as defined in section 101(6) of the Federal Credit Union Act) located in the United States.

"(11) SEVERE PRODUCT LIABILITY INSURANCE PROBLEM.—A taxpayer has a severe product liability insurance problem for a taxable year if, for such taxable year—

"(A) the taxpayer is unable to obtain a premium quotation for product liability insurance, with coverage of up to $1,000,000, from any insurer other than a captive insurer; or

"(B) the lowest insurance premium quotation for product liability insurance, with coverage of up to $1,000,000, obtained by the taxpayer was equal to more than 2 percent of the gross receipts of the taxpayer for such taxable year.

"(12) DEDUCTIBILITY OF AMOUNTS PAID TO CAPTIVE INSURER AS AN ORDINARY AND NECESSARY BUSINESS EXPENSE.—The deductibility, in whole or in part, of amounts paid by a taxpayer to a captive insurer for product liability insurance coverage under this subsection shall not affect the deductibility of such amounts under section 162 (relating to ordinary and necessary business expenses), except that such amounts shall not be deducted more than once.

"(13) DICHARGE OF INDEBTEDNESS OF TAXPAYER BY PRODUCT LIABILITY TRUST.—For the purpose of section 61 (relating to gross income), the payment by the trustee of a taxpayer's product liability trust of product liability losses sustained by the taxpayer, expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, or other expenses permitted to be paid by the trustee of such trust under paragraph (9), shall not be included in the gross income of the taxpayer.".

(b) ACCUMULATED EARNINGS TAX.—Paragraph (4) of section 537(b) of the Internal Revenue Code of 1954 (relating to the accumulated earnings tax) is amended to read as follows:

"(4) PRODUCT LIABILITY LOSS RESERVES OR INSURANCE.—Amounts accumulated in a taxpayer's product liability trust and amounts paid by a taxpayer to his captive insurer for liability insurance shall be treated as amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent those amounts are deductible under the rules of section 165(i). The accumulation of reasonable amounts, in addition to amounts deductible under section 165(i), for the payment of reasonably anticipated product liability losses (as defined in section 165(i)(9)(C)), as determined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

(c) EFFECTIVE DATE.—The provisions of this Act apply to taxable years beginning after September 30, 1979.

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By Mr. DOMENICI:

S. 635. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974 had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Human Resources.

● Mr. DOMENICI. Mr. President, today I have introduced S. 635 which addresses a serious inequity created by Congress in the passage of the Railroad Retirement Act of 1974.

The principal purpose of the Railroad Retirement Act Amendments of 1974 was to restore the program to a sound financial posture. However, in the process we have deprived many former railroad employees of the benefits they had come to expect under the prior law.

Under the provisions of the 1937 act, former railroad employees and their dependents were eligible for railroad retirement benefits as well as social security annuities if they worked the minimal 10 years for the railroad industry. Usually these employees, with at least 10 years of railroad experience, later worked many years accruing social security benefits. The 1974 amendments, however, require at least 25 years railroad service to be eligible for the dual benefit program.

The bill I am proposing today would allow those employees who worked less than 25 years, but more than 10 years, for the railroads prior to the 1974 amendments to be eligible for full benefits under the railroad retirement program and the Social Security Act. In addition, this change would be made retroactive to January 1, 1975, the effective date of the 1974 amendments.

Mr. President, we in Congress cannot change laws adversely affecting thousands of Americans and expect their continued faith and support in government. Surely changes in laws are necessary, but we should also be mindful of those overlooked in the process.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 635

*Be it enacted by the Senate and House of Representatives of the United States of Amer-*

*ica in Congress assembled,* That (a) section 3(b)(1) of the Railroad Retirement Act of 1974 is amended by striking out "clause (C)" and inserting in lieu thereof "clause (A)", and by striking out "or (h)(2)" each time it appears therein.

(b) Section 3(h) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1) and by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively;

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "(A)" and all that follows through "and (B)" from subdivision (3), by redesignating clauses (C) and (D) of such subdivision (3) as clauses (A) and (B), respectively, and by redesignating such subdivision (3) as subdivision (2);

(4) by striking out subdivision (4) and all that appears therein; and

(5) by striking out "subdivision (1), (2), (3), or (4)" from subdivision (5) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (5) as subdivision (3).

(c) Section 4(b) of such Act is amended by striking out "clause (C)" each time it appears in the first proviso and inserting in lieu thereof "clause (A)" and by striking out "or (e)(2)" each time it appears in the first proviso.

(d) Section 4(e) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1), by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively, and by striking out "section 3(h)(5)" from the proviso to such subdivision (1) and inserting in lieu thereof "section 3(h)(3)";

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "or 3(h)(2)" and "or (2)" each time they appear in subdivision (3), by striking out "section 3(h)(5)" from each subdivision (3) and inserting in lieu thereof "section 3(a)(3)", and by redesignating such subdivision (3) as subdivision (2); and

(4) by striking out "subdivision (1), (2), or (3)" from subdivision (4) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (4) as subdivision (3).

(e) Section 4(g) of such Act is amended by striking out "(e)(3)" each time it appears therein and inserting in lieu thereof "(e)(2)".

(f) Section 4(h) of such Act is amended by striking out "or (2)" from the proviso thereof.

(g) Section 6(d)(1) of such Act is amended by striking out "or 3(h)(2)".

(h) Section 204(a) of Public Law 93-445 is amended by striking out "section 3(a)(3)" from paragraph (4) and inserting in lieu thereof "section 3(h)(2)".

(i) Section 206 of such Public Law is amended by striking out "4(e)(2)" from paragraph (3) and inserting in lieu thereof "4(e)(2)".

(j) The amendments made by the preceding subsections of this section shall be effective as of January 1, 1975.●

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By Mr. PRESSLER:

S. 636. A bill to authorize and direct the Secretary of the Army to undertake, through the Chief of Engineers, certain engineering work for a water pipeline in South Dakota, and for other purposes; to the Committee on Environment and Public Works.

● Mr. PRESSLER. Mr. President, I am today introducing legislation to direct the Army Corps of Engineers to design and engineer a pipeline to carry water from the Missouri River in South Dakota eastward to the James River Valley in South Dakota.

This bill does not authorize the full construction of such a pipeline. Rather it directs the engineering, requires that the Corps submit a fully defined project to Congress for our consideration, and allows some additional work to proceed after engineering during that period when Congress is making its judgment.

This bill will enable us to begin to find a solution to the long unresolved issues involving the transfer of Pick-Sloan waters from the Missouri to areas of need, areas where the water can be put to beneficial use.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 636

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a)(1) the Pick-Sloan Project, as authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887), is modified to direct the Secretary of the Army, acting through the Chief of Engineers, to undertake the Phase I advanced engineering and design of a pipeline that would transmit necessary quantities of municipal and industrial water from the Missouri River eastward to the James River Valley, South Dakota. Such project shall be undertaken under the terms of the Water Supply Act of 1958 (72 Stat. 297).

(2) There are authorized to be appropriated to the Secretary of the Army $1,000,000 to carry out the provisions of this subsection.

(b)(1) The Secretary of the Army is authorized to undertake further work to complete all design activities and to initiate construction on the project described in subsection (3) upon completion of the Phase I design memorandum stage of such project, if the Secretary of the Army finds, and transmits to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives a report setting forth the finding, that such project would be without substantial controversy and would be undertaken substantially in accordance with the conditions recommended for such project, and that such further work would be compatible with any project modifications that may be under consideration.

(2) There are authorized to be appropriated to the Secretary of the Army $2,000,000 to carry out the provisions of this subsection.●

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By Mr. McGOVERN:

S. 637. A bill entitled the "Marginal Railroad Main Line Service Assurance Act of 1979"; to the Committee on Commerce, Science, and Transportation.

● Mr. McGOVERN. Mr. President, I am pleased to introduce today the Marginal Railroad Mainline Service Assurance Act of 1979.

NATIONAL RAIL CRISIS

Mr. President, our Nation is in the throes of an immense rail transportation crisis. The industry's overall rate of return on investment has hit rock-bottom and the reliability and quality of rail service in many regions of this country continues to decline at staggering rates. The harsh weather of this past winter has taken a great toll on the railroads in the Upper Plains States and in the Northwest causing, at times, traffic to come to a total halt. Given that the railroads hold the greatest promise for energy efficient and low cost transportation, the present situation is indeed a great tragedy.

The crisis we are facing varies considerably from region to region. Some observers have called it a disease creeping from the Northeast on the heels of the Penn Central bankruptcy and the formation of ConRail to the Midwest where, to date, two carriers have already filed for bankruptcy. Those observers also believe that this crippling illness will reach the comparatively health Sun Belt railroads, who are currently riding the wave of the expanding economic and industrial development of the South and West.

Mr. President, the administration recently announced that the railroads' situation has become so critical that the industry will experience a capital needs shortfall as high as $16 billion over the next few years. The administration has also gone on record stating that the Federal Government will not be able or willing to step in and bail out the industry with this level of Federal assistance. In point of fact, the President has developed a plan that he believes will allow the industry to largely resolve its own problems. This plan calls for significant deregulation of the rail industry, in hopes that rate freedom, fewer merger constraints and relaxed regulations for exit will provide the necessary revenues to restore some degree of health to this century-old industry.

Although I contend this program will not provide the hoped for miracle cure, we must allow the railroads to the extent possible, without creating hardships for captive shippers or allowing rate freedom where market dominance is evident, to achieve the necessary flexibility to compete head to head with other transportation modes. I certainly hope that the administration's plans will be able to halt further serious deterioration of our Nation's railroads.

THE MIDWEST DILEMMA

Unfortunately, there is nothing in the administration's proposals to remedy the situation with which we are faced in the Midwest. Two of our major carriers are already bankrupt and many observers have called other midwestern railroads likely candidates for bankruptcy. Our bankrupt railroads are faced with the awesome task of trying to reorganize their plant and operations in order to emerge as viable carriers. It has become increasingly evident that a midwestern ConRail is completely unacceptable not only to the Federal Government which has so heavily subsidized the Northeast with little success, but also to the rail users in the Midwest who have heard the

grim tales of ConRail's declining ability to provide adequate service.

The Department of Transportation has on many occasions stated that in order for the midwestern railroads to survive as we know them, considerable elimination of excess plant must occur, in order that a leaner system may profitably take advantage of the declining traffic levels. Accordingly, the Department has undertaken a number of restructuring programs in this region through titles 4 and 5 of the Railroad Revitalization and Regulatory Reform Act of 1976. And, in order that States may preserve branchline service which they deem to be necessary and in the public interest, the Department has provided such assistance.

While the Department's efforts in these programs have been admirable, critical gaps exist which could result in the elimination of essential, although marginal, lines, which could result in tremendous economic hardships in several Midwestern States—and indeed, deny those regions access to vital domestic and international markets for their products and for their needs.

A prime example of this inequity is readily apparent in the bankrupt Milwaukee Railroad's efforts to reorganize.

THE MILWAUKEE RAILROAD

The Milwaukee Railroad filed for a chapter 8 bankruptcy in December of 1977. This is the third bankruptcy and reorganization faced by this carrier. Vast portions of the Milwaukee's system consists of duplicative trackage, uneconomic light density rail. Its entire system stretches from Indiana to the west coast.

In August of 1978, the court appointed trustee of the Milwaukee made a preliminary determination that if the railroad was able to reorganize at all, it would not be able to reorganize as a transcontinental carrier. Consequently, it was entering into negotiations with other railroads for the sale of portions of its transcontinental line in the Pacific Northwest. The trustee further stated that it did not seem possible to successfully complete reorganization without eliminating all service west of Minneapolis, Minn.

By the end of the following month the trustee provided further confirmation in issuing a system map that portrayed a massive part of their rail system as lines that the carrier would seek to discontinue or that were under study for abandonment.

Mr. President, many of my colleagues and I understand the Milwaukee's and other bankrupt carriers needs to liquidate sizable segments of their system, to consolidate their plant in order to have access to the funds necessary to begin operations once again in the private sector.

At present the Milwaukee is receiving considerable assistance from the Federal Railroad Administration to restructure its most viable corridors while eligible States are receiving the maximum assistance allowable to salvage essential branchline operations. However, the Milwaukee contains a marginal main line corridor which is not eligible for either kind of assistance. This mainline corridor extends from Minneapolis, Minn., to the west coast. Although the Milwaukee is presently negotiating with other carriers for the sale of lines between the western edge of Montana and the west coast, the remaining stretch of their transcontinental line—nearly 1,000 miles—stands to be eliminated through their reorganization process.

IRREVERSIBLE ECONOMIC IMPACT

This is not some decrepit, light density branchline, Mr. President. This is a mainline corridor, a line that provides the the backbone for all rail service in my State of South Dakota. This line provides our sole rail access to the west coast, to crucial domestic centers and export markets. It is a fact that the economy of South Dakota could suffer an irreversible economic spiral if portions of this line were lost.

Beyond my own State's borders however, are equally serious dilemmas. Three utilities representing several States 2 years ago constructed one of the largest coal fired generating plants in the entire region along this mainline. This 425 megawatt plant, which was constructed at a cost even greater than the Milwaukee Railroad's total debt of $40 million, is solely dependent on this line for its coal supply. Without unit train coal service on this line, the plant would be closed. And, according to congressional testimony provided by the owning utilities it could cause their bankruptcy as well. This plant directly serves almost 200,000 customers in the States of North Dakota, Minnesota, and South Dakota. The utilities have testified that it may well be impossible to purchase the additional power necessary from another source to fill the needs of its customers.

The States of Minnesota and Montana face additional problems. Both States have an undeniable need for efficient rail access to the west coast for important export markets. The efficiencies of shipping to the Orient and East Asia through west coast ports as opposed to using the Mississippi and gulf ports and the Panama Canal are easily evident in the rate differences. In addition the many export ports for grain are at or are rapidly reaching their capacity. During every major grain sale that I can recall, we have experienced substantial bottlenecks at east and gulf coast ports.

Mr. President, the necessary determinations by the Milwaukee regarding their reorganization plans have placed us in a situation in which there is no applicable Federal statute to assist us and where assistance is mandated by the economic ramifications of total loss of this line.

In point of fact, there has been no other case in the history of railroading in this Nation, in which a coal mainline has been abandoned.

And yet, I am well aware and generally supportive of the mandate the administration has handed this Congress to cut Federal spending levels and to trim the Federal budget. With this in mind I have prepared legislation which will provide a minimally acceptable alternative to the elimination of this line, at the lowest possible cost to the Federal Government and which places a major burden on the affected States.

Mr. President, the Marginal Railroad Main Line Service Assurance Act cuts to the heart of a dilemma which occurs when a truly essential, and potentially viable main line must continue to provide service because there is no alternative to the elimination of service. Its applications are very limited in order that it does not become a panacea for numerous railroads desiring assistance. This bill could only be implemented in cases where the public interest is paramount and where loss of service would generate irreversible economic damage.

More importantly, under the provisions of this bill, the level of assistance would decline as the line becomes stronger and self-sustaining. With the announced coal development in States served by the Milwaukee main line and the anticipated major increases in the volume of grain moving to west coast ports and imports arriving at west coast ports there is little doubt in my mind that with a few years of assistance this line in particular would not require further Federal or State assistance.

Above all, this could never be described as a Federal handout program; it requires an enormous commitment on behalf of the affected States in order to be implemented.

SECTION-BY-SECTION ANALYSIS

The Marginal Railroad Main Line Service Assurance Act amends the Railroad Revitalization and Regulatory Reform Act by adding a new title to that act.

Section 1003 authorizes the Secretary of Transportation to make assistance available under certain conditions to the trustee of a bankrupt railroad for the continuation of service on a main line that would not otherwise be included as part of a plan for reorganization. Federal assistance for this purpose cannot exceed 70 percent of the cost of maintaining the line's operations. The remainder of the cost would be shared by the affected States.

Section 1003 establishes the criteria which must be met in order that the Secretary may authorize assistance for a given line. Lines cannot be eligible unless:

The line is presently operated by a bankrupt carrier and has been designated by the trustee of that carrier as not likely to survive reorganization, and has been certified by the Trustee as not likely to be salable to any qualified carrier or qualified organization.

The region served by the applicant line is without reasonable rail alternatives as determined by the Secretary in consultation with the affected States.

The Secretary has determined that the applicant line is unlikely to be approved for abandonment before the Interstate Commerce Commission under the Commissions' present abandonment criteria.

The Secretary, after consultation with the Governors and the shippers of the affected States has determined that con-

tinuation of service on that line is essential.

The Secretary has determined that loss of the line would deny or substantially limit those States access to national and international markets for their products and their needs.

The Secretary after consultation with the Trustee and the affected States determined that the applicant line is potentially viable in the private sector.

The provisions of section 1003(e) provide the notification procedure to the affected States of what their proportionate share in the cost of providing service will be based on a formula that takes into account: first, the amount of mileage of the affected line in each State; second, the amount of revenue generated by such line in each affected State, and third, the number of shippers in each affected State who are dependent upon the line for service.

Section 1003(g) requires that the railroad furnish all appropriate information in order to assist the Secretary in making the determination of the amount of assistance needed in order that cash outlays equal cash input attributable to the line.

Under the terms of sections 1003(h), the applicant carrier is notified and begins to drawdown the amounts necessary to sustain operations on a quarterly basis.

Section 1004 establishes the guidelines for Federal assistance after the first year of operation. This provision does not require the carrier to submit additional applications but does require the Secretary to assure that the line continues to be eligible under previous sections in the bill. If the line continues to be eligible, the carrier submits the necessary information to the Secretary in order that it may begin to draw down additional funds. In the event that the Secretary determines that the line does not meet eligibility criteria, the assistance is terminated.

Section 1006 establishes the terms of payback for both the Federal and State assistance. In any year that the line for which assistance is being provided returns to the carrier cash in excess of cash outlays, 30 percent of the surplus shall be applied as a partial repayment of the assistance received, with 10 percent of the surplus to be made payable to each affected State proportionate to each State's share, and the remaining 20 percent to be paid to the Federal Government. At such time when the line returns cash to the carrier in excess of cash outlays for four consecutive quarters, the Secretary shall determine the line to be self-sustaining and the assistance shall be terminated. Upon termination of assistance the carrier will begin to make regular payments to both the Federal Government and the affected States in a manner satisfactory to both parties.

Section 1007 of the bill establishes various reporting requirements in order that the carrier supplies ongoing necessary information to the Secretary and to the affected States.

Section 1008 authorizes that $30 million be authorized to carry out the provisions of the act in fiscal year 1980, that $25 million be authorized for fiscal year 1981, and $22 million in fiscal year 1982.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.

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

S. 637

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Marginal Railroad Main Line Service Assurance Act of 1979".

SEC. 2. That the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801) is amended by adding at the end thereof the following new title:

"TITLE X—MARGINAL RAILROAD MAIN LINE SERVICE ASSURANCE ACT OF 1979

"FINDINGS

"SEC. 1001. The Congress hereby finds and declares—

"(1) that many regions of the United States are experiencing a critical rail transportation crisis which has resulted in the bankruptcy of some rail carriers and may result in future rail bankruptcies;

"(2) that such bankruptcies and bankruptcy reorganization proceedings may necessarily result in the elimination of marginal, interstate main rail lines in order that the carrier may successfully achieve reorganization.

"(3) that such marginal interstate main rail lines which may be potentially viable and which may be eliminated through reorganization may deny the affected regions the services of efficient and reasonable access to national and international markets, creating serious and unacceptable economic hardships throughout the region; and

"(4) that the public interest and potential economic hardship dictate that service must be continued on the line through a combination of State and Federal assistance.

"DEFINITIONS

"SEC. 1002. As used in this title the term—

"(1) 'Secretary' means the Secretary of Transporation;

"(2) 'Department' means the Department of Transportation;

"(3) 'Trustee' means the court appointed Trustee of a bankrupt rail carrier;

"(4) 'Main Line' means an interstate rail line which carries over 5 million gross ton miles annually, and which generates less than 50 percent of the revenue necessary for line revenues to equal line costs;

"(5) 'owning carrier' means the rail carrier that owns the line eligible for or receiving assistance;

"(6) 'affected State' means any State in which the eligible line provides service; and

"(7) 'cash outlay' means the carrier's operating expenses less depreciation attributed to the eligible line.

"ASSISTANCE PROGRAM

"SEC. 1003. (a) The Secretary is authorized, pursuant to the provisions of this title, to provide assistance to any railroad or railroads for the purpose of maintaining marginal main line railroad operations which would not be otherwise included by a bankrupt railroad as part of a plan for reorganization, and where the Secretary has determined that the need for assistance is warranted pursuant to subsection (c).

"(b) Federal assistance under this title shall not exceed 70 percent of the cost of maintaining operations on a marginal main line.

"(c) Margin rail main lines shall not be eligible for Federal assistance as provided under this title unless the Secretary has determined—

"(1) that the line is presently operated by a rail carrier which is presently under bankruptcy reorganization proceedings, has been designated by the Trustee as not likely to survive as a part of the carrier when reorganization has been completed and has been certified by the Trustee as not likely to be saleable to any other qualified carrier or qualified organization based on the Trustee's attempts to initiate sale negotiations;

"(2) that in consultation with the affected States the region served by the applicant line is without reasonable rail alternatives;

"(3) that the applicant line is unlikely to be approved for abandonment before the Interstate Commerce Commission under the present abandonment criteria of such Commission, were the Trustee to seek abandonment;

"(4) after consultation with the Governors and designated rail agencies of the affected States, that continuation of service on the line is essential to those States;

"(5) after consultation with present and prospective shippers and users of the applicant line, that continuation of service over such line is essential in absence of a reasonable rail alternative;

"(6) after consultation with the affected States served by the applicant line that the States served would be denied or experience substantially limited access to national and international markets for their products and their needs, if such line were to be eliminated;

"(7) after consultation with the Trustee and the affected States, that the applicant line may be potentially viable;

"(8) that the carrier will undertake operation of the eligible line in a cost-efficient manner; and

"(9) after consultation with the affected States, that loss of service on the affected line would result in more than a 15 percent increase in Federal-State highway expenditures annually.

"(d) Not later than 180 days after receipt of a request for assistance from the Trustee of an eligible carrier, the Secretary shall make the determinations required by subsection (c) and issue a determination regarding the eligibility of the application.

"(e) Upon a determination by the Secretary that the application meets the requirements of subsection (c), the Secretary shall notify the Governors of any affected States. The Secretary shall include with such notification the estimated cost of providing such assistance for each State.

"(f)(1) The Secretary shall determine the share each State must pay in accordance with a formula to be developed by the Secretary which shall take into consideration the amount of mileage of the eligible line in each State, the amount of revenue generated by such line within each State, and the number of shippers who are dependent on such line for service in each State.

"(2) Upon receipt of the information as provided for in subsection (g) and any other information deemed necessary for the Secretary in order to provide assistance to the owning carrier, the Secretary shall immediately notify the affected States regarding the specific amount of each State's share.

"(3) If the revenue cash outlay and input attributable to the eligible line indicate a continuing serious erosion of such line's revenue base the Secretary may request the af-

fected States to increase their share by an amount not to exceed 5 percent.

"(4) In the event that any affected State cannot obtain the necessary resources to provide the first payment of their share in a timely fashion, but has provided the Secretary with assurances that the State is making a good faith effort to establish the needed resources, the Secretary may make available loans or loan guarantees to those States for such purpose and for the purpose of covering the State share of a nonparticipating State. The Secretary shall establish the necessary guidelines for repayment of such assistance.

"(5) At the time assistance is made available to the owning carrier of the eligible line, each State shall become liable to pay its share on a quarterly basis directly to the owning railroad.

"(g) Upon notification that the applicant line is eligible for assistance, the Trustee of the owning carrier shall submit to the Secretary—

"(1) the appropriate records indicating the cash outlays and cash inputs attributable to the eligible line for the calendar year preceding the application;

"(2) current forecasts of projected cash outlays and cash inputs attributable to the eligible line's operation for the first year in which assistance shall be provided;

"(3) any and all studies and forecasts conducted by or for the owning carrier indicating the short and long term cash outlays and cash inputs necessary to provide service on the eligible line; and

"(4) a report indicating that the owning carrier will actively solicit new business for the years in which assistance may be made.

In the event that quarterly cash forecasts provided by the carrier for the preceding quarter are inaccurate or insufficient the carrier shall so notify the Secretary and amend future forecasts accordingly.

"(h) where the Secretary achieves agreement with each of the affected States regarding the terms of payment for each State's share, the Secretary shall advance to the owning carrier the first quarter of the first year's assistance as determined by the Secretary and as according to the cash shortfall forecast provided by the carrier pursuant to subsection (g). The amount of the assistance shall be the difference between cash outlay and cash input for the eligible line. The Secretary shall advance all remaining assistance for the remainder of the first year on a quarterly basis and according to quarterly cash forecasts to be provided by the owning carrier.

"CONTINUING ASSISTANCE

"SEC. 1004. In order to receive assistance beyond the first year, the Secretary must find that the eligible line continues to meet all requirements for assistance pursuant to this title. If the Secretary determines that the requirements of section 1003 (c) and (g) have been met, the owning carrier need not submit a new application for continuing assistance. The owning carrier shall submit for each year of assistance the information required under section 1003 (f)(2), (g), and (h).

"TERMINATION

"SEC. 1005. If the Secretary determines that the requirements pursuant to section 1003(c) cannot be met or if the affected States do not elect to provide their proportionate share, the Trustee may proceed as necessary, to protect the interest of the creditors including the elimination of the applicant line through bankruptcy reorganization proceedings, or through proceedings before the Interstate Commerce Commission.

"REPAYMENT

"SEC. 1006. (a) In any year that the line for which assistance is being received, such line returns profits to the carrier a minimum of 30 percent of the surplus shall be applied as a partial repayment of the assistance received, with 10 percent of the surplus to be made payable to each affected State in proportion to each State's share, and the remainder to be paid to the Federal Government. At such time when the line for which assistance is being received returns profits for 4 consecutive calendar quarters, the Secretary shall determine the line to be self-sustaining and the assistance shall be terminated.

"(b) At the time of termination of assistance, the aggregate unpaid principal amount of all obligations to the Federal Government and to the affected States:

"(1) shall have maturity dates satisfactory to the Secretary and the affected States, but not to exceed 30 years;

"(2) shall provide for payments by the obligor satisfactory to the Secretary and the affected States and shall begin immediately upon the Secretary's determination that the line has become self-sustaining;

"(3) shall bear interest (exclusive of charges for the guarantee and services charges if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable.

"(c) No interest charges on any assistance shall accrue until such assistance is paid to the applicant.

"REPORTS

"SEC. 1007. At the end of each year for which assistance was made available, the owning carrier shall submit a report to the Secretary detailing—

"(1) how any assistance received by the carrier was applied to the eligible line;

"(2) the ways in which the owning carrier solicited new business for such line and the result of the carrier's efforts; and

"(3) any service disruptions or other factors that caused the carrier to operate at a loss.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1008. There are authorized to be appropriated to carry out the provisions of this title $30,000,000 for the fiscal year ending September 30, 1980, $25,000,000 for fiscal year ending September 30, 1981, $22,000,000 for the fiscal year ending September 30, 1982.

"REGULATIONS

"SEC. 1009. The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this title.".●

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By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 638. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River Basin project; to the Committee on Environment and Public Works.

● Mr. EAGLETON. Mr. President, Missouri voters disapproved by a 2 to 1 margin continuing construction of the Meramec Park Lake project in a referendum on August 8, 1978. In response to that overwhelming disapproval, I am introducing, along with Senator DANFORTH, this bill to deauthorize the Meramec Dam project. The referendum ended the heated controversy over the fate of the dam; but we must now face the question of what to do with approximately 28,000 acres of land acquired for the project.

Ordinarily, the disposition of such property would be determined in a deauthorization process extending over a decade. I do not believe such a protracted process would be either fair or beneficial in the case of the Meramec project. The fate of the dam is sealed; there is no chance that it will be revived during the next several years, and therefore no reason to wait for deauthorization. On the contrary, there are very good reasons to move ahead quickly with this special deauthorization bill. The withdrawal of 28,000 acres of land from local tax roll has had a major adverse impact on local governments in the Meramec Basin, and the uncertainty over disposition of the lands continue to hamper planning and development.

Furthermore, I do not think the normal deauthorization process, whereby various government agencies get first opportunity to claim the land on a catch-as-catch-can basis is equitable in this instance. This land was taken from local control with the promise that a dam and reservoir would be built. If these are not to be built, I think it is only fair that local people pay a primary role in determining the land's final disposition.

To accomplish these ends, the bill I have introduced also directs the Corps of Engineers to coordinate a 1-year study of possible disposition of the project lands. The corps will consult with a broad range of public and private interest groups, including but not limited to the local and county governments; the State government of Missouri; appropriate Federal departments such as Agriculture and Interior; private groups which have demonstrated an interest in the project; and local business and agribusiness leaders. Input from these groups will be solicited at public hearings to be held in the area. All views of those consulted will be incorporated into the corps' report to Congress along with an assessment of the options. Once we have all of the necessary facts compiled in this manner, it will be possible to reach a decision on the final disposition of the Meramec property. I hope my colleagues will support this bill as a first step in a process designed to bring about a resolute conclusion of the Meramec Dam controversy.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Provides for the deauthorization of the Meramec Park Lake project in Missouri, a Corps of Engineers reservoir and dam project, originally authorized in 1938. The deauthorization of Meramec Park Lake is effective immediately upon enactment of this bill into public law.

Section 2. Provides for interim management and maintenance by the Corps of Engineers of the deauthorized project until such time as a statute enacted by Congress provides for the further disposition of the works, structures and interests in the lands acquired for the Meramec Park Lake project following the submission to Congress of the study provided for in Section 3. The "works, structures and interests in lands related to the project" are to be understood to give the Corps of Engineers maximum flexibility in the interim management and maintenance of the project lands. This will not preclude the Corps from taking acceptable and ordinary management actions in the public interest which involve the property of the United States (both real property and incidental

personal property) owned in connection with th Meramec Park Lake project. The Corps would be precluded, however, from taking any management actions which would significantly alter the character of the project area.

Section 3. Provides for a one year investigation and study and assessment by the Corps of Engineers of alternative uses of the lands acquired for the Meramec Park Lake project. Provides further that the Corps shall consult with interested and affected individuals, groups and entities both directly and through area public meetings. The recommendations of those consulted shall be included in the study. The study shall be submitted to Congress for review and action.

Section 4. Provides that the obligations which are necessarily incurred on civil works projects will be honored by the Corps. This covers not only relocation assistance benefits which may be outstanding, but also covers such other contingencies that may arise, such as a deficiency judgment and an award in a condemnation proceeding.

Section 5. Provides authorization for appropriations in such amounts as are needed to carry out the provision of this bill. It makes clear that the activities authorized by this bill can be undertaken immediately with available funds.●

● Mr. DANFORTH. Mr. President, I am pleased to cosponsor with my colleague, Senator EAGLETON, legislation to deauthorize the Meramec Park Lake project in our State. As I stated in my campaign for the U.S. Senate, the Meramec Dam is an idea that has outlived its usefulness. In 1977 and 1978 I succeeded in having appropriations for the dam project struck from the Corps of Engineers budget.

On August 9, 1978, two out of three Missouri voters in a special referendum said no to continued construction of the $130 million dam project. As a result Senator EAGLETON and I introduced legislation to deauthorize the park lake project. Again, this year, we are introducing similar legislation. There is one major addition. Congressman ICHORD intends to submit similar legislation in the House of Representatives.

No longer do Missourians have to worry about the construction of a dam project that will flood 12,600 acres to save 11,800 acres. No longer will Missourians have to worry about the destruction of one of Missouri's most valuable free-flowing rivers. On August 8, 1978, the verdict of Missourians was clear: The project's costs far exceeded its benefits. Meramec Dam should be stopped. This legislation accomplishes what Missourians by their referendum asked for. I anticipate early hearings and look for early passage of the legislation.●

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By Mr. HEINZ (for himself and Mr. SCHMITT):

S. 639. A bill to amend the Internal Revenue Code of 1954 to permit small businesses to elect to depreciate not more than $100,000 annually on a 3 year straight line basis; to the Committee on Finance.

JOB CREATION ACT OF 1979

● Mr. HEINZ. Mr. President, the small business community has enjoyed a partnership with the American people and our Government that has made our economy the world's strongest, and it is this strength which provides the viability of the private enterprise system. To preserve that strength it is crucial that the Government adopt policies which encourage the expansion of the private sector, particularly the small business community, which has served us all so well.

Today, the small business community faces a very real crisis, a crisis precipitated by the fact that small businesses cannot raise sufficient capital to modernize and expand. Allowing this capital formation problem to erode the economic viability of the small business community would have a profound impact on the national economy because of the tremendous role that small business plays in every dimension of the economy. Over 97 percent of the 14 million businesses in the United States can be classified as small businesses.

Small business accounts for over 43 percent of the gross national product. Almost one half of the American work force, over 40 million people, are employed by small businesses. Clearly, the small business community plays a substantial, vital role in moving the national economy forward, but it can play a greater role. It can participate in the solution of many of our national problems.

For example, if each small business in the United States would hire only one additional employee, the unemployment problem which has plagued us for so long could be solved. But, jobs, permanent jobs in the private sector which give the unemployed the skills necessary to achieve the standard of living they deserve, can only be created through capital investments.

Today, America's small businesses must invest on an average over $20,000 in order to create a single job. This statistic, a $20,000 investment per job, dramatically underlines the severity and impact of the capital formation problem.

In sum, expansion of private sector employment opportunities can only be undertaken through capital formation incentives which means new tax policies which will strengthen the small business community and allow it to grow.

Through such tax policies we can further the entrepreneurial spirit which is the essence of our economy. Through such tax policies we can provide more jobs for American workers, and we can enable millions of small businesses to compete and to thrive. The legislation I introduce today, the Small Business Revitalization Act of 1979, is a positive step forward toward a stronger, more competitive small business community.

The Small Business Revitalization Act of 1979 would provide well-focused tax relief for the small business community. It would simplify the tax provisions applicable to depreciation by providing that any business may depreciate the first $100,000 of machinery or equipment purchased each year over the following 3 years using the straight-line method.

The bill further provides that electing the 3-year depreciation will not influence the scope of the investment tax credit. That credit will be available based on the useful life of the property. Thus, if the 3-year depreciation is taken on property with a normal useful life of 8 years, the full investment tax credit would be available.

The Joint Committee on Taxation has estimated that this bill would reduce tax revenues as follows:

[In billions of dollars]

| | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|---|---|
| Calendar year | −0.9 | −3.0 | −5.8 | −6.8 | −5.9 | −5.1 | −4.3 |
| Fiscal year | −0.2 | −1.5 | −4.1 | −6.5 | −6.5 | −5.6 | −4.8 |

There is a pressing need for the simplification of the depreciation provisions of the code because the existing asset depreciation range system, while helpful to certain important segments of American industry, is simply too complex for the majority of small businesses. The Small Business Revitalization Act would not eliminate the ADR or other depreciation schemes; it would simply allow taxpayers to elect a less complicated depreciation method. Statistics on the usage of the ADR schedules clearly establish that the system is used primarily by large businesses and minimally by small businesses.

According to the Treasury Department, ADR is used by 63 percent of the corporations with $1 billion in assets, 33.5 percent of the firms with over $100 million in assets, and only 1.2 percent of the corporations with under $5 million in assets. The simplified depreciation schedule embodied in the Small Business Revitalization Act would enable small businesses to take better advantage of the provisions of the Internal Revenue Code which are intended to stimulate investment and economic growth.

Through its positive effects on investment and, therefore, on the growth of productivity, this bill could be an important element in our total efforts to bring inflation under control. The slow growth of the productivity of American industry, that is, output per work hour, has contributed to the inflationary spiral of ever-increasing prices and wages. Increasing productivity growth rates will reduce relative labor costs and the consequent upward pressures on prices and help to bring inflation under control. The following comparative statistics make the severity of this problem clear:

| | (1) | (2) | (3) |
|---|---|---|---|
| Japan | 32.0 | 8.4 | 8.3 |
| France | 22.8 | 5.7 | 4.8 |
| Netherlands | 23.7 | 6.9 | 4.6 |
| Belgium | 21.8 | 6.9 | 4.0 |
| Germany | 24.8 | 5.5 | 4.0 |
| United States | 17.5 | 2.7 | 3.5 |

[1] Average annual business investment as a percent of GNP.

[2] Average annual percent increase in productivity.

[3] Average annual percent increase in real GNP.

Statistics recently released by the Department of Labor reconfirmed the necessity of increasing the productivity of American industry. The Department reported that productivity only grew four-tenths of 1 percent in 1978. The President's Council of Economic Advisers estimated in its most recent annual report that productivity will grow only 1.5 percent annually in the near future. In order to effect an increase in productivity, American industry must invest more capital in the modernization of plants and equipment. This bill will encourage such investments by extending to millions of small businesses the advantages of simplified, accelerated depreciation.

The "Small Business Revitalization Act" would be an important step forward toward providing small business with the capital needed for expansion and modernization. It would enable small business to continue to play a crucial role in the national economy, to provide jobs for millions of Americans, and to maintain the delicate competitive balance in the marketplace which results in lower prices for consumers. This legislation is needed. It is well-focused. It will help small business to remain strong and through that strength will help all of us.●

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By Mr. CANNON (for himself and Mr. INOUYE) (by request):

S. 640. A bill to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, the legislation I am introducing today at the administration's request would authorize appropriations for the fiscal year 1980 for the maritime programs of the Department of Commerce.

Section 209 of the Merchant Marine Act of 1936, provides that there are authorized to be appropriated for the maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law. The bill, therefore, contains specific authorizations for the following programs: Construction-differential subsidy, $101,000,000; operating-differential subsidy, $256,208,000; research and development, $16,360,000; maritime education and training, $25,874,000; and operations, $35,598,000. The authorization levels for these programs are those recommended by the administration.

Mr. President, these programs are necessary to assure that our merchant marine remains a strong link in our chain of national security. They also help assure that our merchant marine will continue to make a substantial contribution to the national economy.

A major study prepared last year for the Maritime Administration, entitled "Economic Impact of the U.S. Merchant Marine and Shipbuilding Industries," found that domestic maritime operations accounted for: 480,000 American jobs; $16.6 billion in sales in the economy; $6.8 billion input to the gross national product; $4.8 billion in personal income; $1.6 billion in corporate income; and another $1.6 billion in Federal, State, and local tax revenues.

Significantly, the study revealed that each dollar of sales by our merchant marine produces a total output of $1.80 in sales throughout the economy. Each dollar of sales by the shipyard industry produces a total output of $2.10 in the economy. It was further concluded that up to one-half of the subsidy outlays are returned to the U.S. Treasury in the form of tax accruals.

Mr. President, these economic benefits to the Nation far outweigh the average annual $550 million Federal ship construction and operation subsidy outlays of recent years.

Mr. President, I ask unanimous consent that the letter of transmittal from the Secretary of Commerce and the bill be printed in the RECORD at the conclusion of these remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 640

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000;

(2) For payment of obligations incurred for operating differential subsidy, not to exceed $256,208,000;

(3) For expenses necessary for research and development activities, not to exceed $16,360,000;

(4) For maritime education and training expenses, not to exceed $25,874,000, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, not to exceed $6,785,000 for financial assistance to State marine schools, and not to exceed $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1126(c)); and

(5) For operating expenses, not to exceed $35,598,000, including: not to exceed $6,377,000 for reserve fleet expenses, and not to exceed $29,221,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

THE SECRETARY OF COMMERCE,
*Washington, D.C., February 28, 1979.*

Hon. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed are six copies of a bill "To authorize appropriations for the fiscal years 1980 and 1981 for certain maritime programs of the Department of Commerce, and for other purposes.", together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress and further that enactment would be in accord with the program of the President.

Sincerely,

JUANITA M. KREPS,
*Secretary of Commerce.*

Enclosures.

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STATEMENT OF PURPOSE AND NEED OF THE DRAFT BILL

Section 209 of the Merchant Marine Act, 1936, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law. This draft bill authorizes appropriations for those activities listed in Section 209 for which the Department of Commerce proposes to seek appropriations for fiscal years 1980 and 1981.

"(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships not to exceed $101,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981."

Construction subsidies are based on the difference between United States and foreign shipbuilding prices. These sums are paid to shipyards so that U.S. operators can purchase American-built vessels at prices equivalent to prices for similar foreign-built vessels.

The request for construction subsidies for fiscal year 1980 is $101,000,000. This, when added to $23,000,000 of carry-over funds, will provide for a program level of $124,000,000, which will fund four ships: one LASH (lighter aboard ship) and three dry bulk carriers. The dry bulk ships represent anticipated requirements in conjunction with the Dry Bulk Vessel Legislative Initiative which the Administration currently has under review.

"(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $256,208,000 for fiscal year 1980, and such sums as may be necessary for fiscal year 1981."

Operating subsidies are based upon the difference between United States and foreign vessel operating costs and are paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services. Essential services are defined as those ocean services, routes and lines, and bulk carrying services essential for the promotion, developemnt, expansion, and maintenance of the foreign commerce of the United States. Operators receiving subsidies for the provision of such services must operate American-built vessels manned by American crews. The fiscal years 1980 and 1981 authorization request will finance operating subsidies to qualified U.S.-flag operators in order to support the continuation of essential American merchant marine services.

An estimated $306,714,000 in subsidy will be paid to U.S.-flag operators in 1980. Approximately $50,506,000 of this amount is projected to become available from 1979

balances brought forward to 1980. Estimated payments during 1980 include $243,071,000 for 147.4 ship years of liner ship operations, $28,383,000 for 19.2 ship years of bulk carrier ship operations, and $35,260,000 for balances of subsidy estimated to be due for ship operations through 1979.

"(3) For expenses necessary for research and development activities, not to exceed $16,360,000 for fiscal year 1980, and such sums as may be necessary for fiscal year 1981."

The purpose of the research and development program is to advance technological development to enable U.S. shipyards and ship operators to become more competitive.

The program level for 1980 includes projects for the development of improved and more efficient shipboard machinery, improved ship design and construction methods, and the improvement of shipboard operations and shipping systems for greater productivity and safer operations. These activities will assist U.S. shipping and shipbuilding companies in competing in world trade. Cost-sharing and participation by industry in research and development projects assure that projects have practical and meaningful objectives, increase potential for industry implementation, and enhance the research effort by obtaining a larger return for the Federal investment.

"(4) For maritime education and training expenses, not to exceed $25,874,000 for fiscal year 1980, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $6,785,000 for financial assistance to State marine schools, and $1,957,000 for supplementary training courses authorized under Section 216(c) of the Merchant Marine Act, 1936, and such sums as may be necessary for fiscal year 1981."

The 1980 maritime education and training program includes operation of the United States Merchant Marine Academy, continuing assistance to the six State marine schools, and supplementary training for eligible merchant marine personnel. Funding requested for the Merchant Marine Academy will provide for the purchase of equipment now leased for use in the upgraded diesel engine curriculum, increased maintenance and operating requirements, and continuation of the modernization program. The State marine school program, established by the Maritime Academy Act of 1958, assists States in the operation and maintenance of maritime academies for the training of merchant marine officers. Assistance is provided to participating States (California, Massachusetts, Maine, New York, Michigan, and Texas) in the form of annual grants, allowances to cadets, and maintenance and repair of ships on loan for use as training ships.

Funding in 1980 provides for increased allowances due to reduced attrition, reduction of the backlog of work on State marine school schoolships, and the installation of improved habitability and training features on the schoolships. Supplementary training provided under Section 216(c) of the Merchant Marine Act, 1936, as amended, provides training courses in the use of shipboard collision avoidance radar, gyro compass operation and maintenance, use of LORAN C, field exercise training in shipboard firefighting, and operation and maintenance of medium and slow speed marine main propulsion diesel engines. The 1980 budget includes an increase to fund increased demand by industry for attendance at marine diesel engine propulsion training courses at the Federal academy.

"(5) For operating expenses, not to exceed $35,598,000 for fiscal year 1980, including not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses, and such sums as may be necessary for fiscal year 1981."

The reserve fleet program provides for preservation maintenance and security of ships in the National Defense Reserve Fleet and for administration of the ship transfer and scrap ship sales programs. The National Defense Reserve Fleet provides a viable inventory of ships preserved in such manner as to facilitate activation to meet requirements for additional shipping capacity in times of national emergency. The 1980 budget requests additional funding for Maritime Administration expenses in the joint Navy-Maritime Administration Ready Reserve Fleet program.

Funding authorized under the category "other operating expenses" provides for the direction and administration of all Agency programs other than the Merchant Marine Academy, supplementary training and reserve fleet programs and for all program costs not separately authorized above. In 1980, additional resources are requested for study of foreign maritime aids and for radar training schools. An overall decrease in requirements for other operating expenses results from reductions consistent with the President's objective of reducing Federal employment.

Section 3 of the draft bill would authorize to be appropriated for 1980 and 1981, additional supplemental amounts for the activities for which appropriations are authorized under section 2 of the bill to the extent necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. The purpose of this section is to provide authorization for supplemental appropriations for these purposes.

Also requested is necessary authority for supplemental appropriations, should they be needed, for uncontrollable cost increases in public utilities, food services and other expenses at the Merchant Marine Academy at Kings Point, New York.●

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By Mr. STEVENS:

S. 641. A bill to amend the National Forest Management Act of 1976 to classify the State of Alaska as all other States are classified with respect to the building of certain roads by the Secretary of Agriculture for purchasers of timber qualifying as "small business concerns"; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. STEVENS. Mr. President, today I am introducing a bill which would amend the National Forest Management Act, Public Law 94–588, to allow lumber companies in Alaska which qualify as small business concerns to request that the U.S. Forest Service construct logging roads.

This bill simply classifies Alaska in the same category as the rest of the States in the Union. When the National Forest Management Act passed in the 94th Congress, the act allowed in section 14(i)(1) timber companies, which qualify as small businesses in the rest of the United States, to request that the Forest Service construct logging access roads for them. However, Alaska was excluded during the conference committee which was held on this bill. No explanation was given in the bill or its report for this exclusion and there is no justification for this exclusion. Therefore, I am introducing this bill to correct the matter.

Congress will be faced with legislation that would impact all the forest-producing States. The U.S. Forest Service roadless area review and evaluation II (RARE II) recommendation will soon be before this body. The Forest Service has recommended that 15 million acres be put into wilderness—5 million of those acres are in Alaska. Much of the 11 million acres in the further planning category is also located in Alaska. On the Tongass National Forest this may mean a drop in the annual allowable cut from the current levels of around 500 million board feet to below 300 million board feet.

These figures only relate to the RARE II areas and do not take into full consideration the Alaska land legislation that is now before the Senate. It is important to note that the proposed wilderness will push the existing timber harvesting into more environmentally sensitive areas and into economically marginal areas to harvest. The legislation that I propose today would address these problems.

Assistant Secretary of Agriculture Rupert Cutler told the House Interior Committee on February 13 of this year during his testimony on the Alaska land legislation that the administration budget officials have agreed to provide increased funding for timber development in southeast Alaska to compensate for land that would be withdrawn as wilderness. Additional funds will be needed to put into place the road system that will be needed to provide for augmented timber output, according to the Assistant Secretary. I want to point out to my colleagues that the administration has testified that these funds will not come at the expense of other national forests throughout the country.

The testimony by Assistant Secretary Cutler illustrates the need for Congress to consider and act on the legislation that I am now introducing. Alaskan timber companies must be put on the same footing as the rest of the country. My legislation would not grant Alaska special compensation but simply eliminate an exclusion that was put onto my State without proper consideration of the issues.

Loggers in Alaska need the benefits of this provision as much, if not more, than other States, since our cost of living is much higher. Also it costs Alaska loggers much more than their competitors to ship to markets.

It is extremely important to Alaska to give our developing timber industry the same advantages as the rest of the United States. In order for Alaskan industry to compete in the national market we must not hinder their access to the resources. Allowing the Forest Service to construct logging roads for small timber companies in Alaska will not only allow them to compete economically, it will also insure that the roads are built in the most ecologically sound manner possible.

I hope to see quick consideration for this bill during this session.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 641

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 14(1)(1) of the National Forest Management Act of 1976 (P.L. 94-588; 90 Stat. 2949) is amended by striking out the colon and all remaining material in paragraph (1) and substituting in lieu thereof a period.

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By Mr. STEVENS:

S. 642. A bill to amend title 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee and its affiliated organizations; to the Committee on Governmental Affairs.

Mr. STEVENS. Mr. President, I am introducing a bill which would allow inclusion of the U.S. Olympic Committee, its national governing bodies, its affiliated multisport organizations, and the Lake Placid Olympic Committee in the category of nonprofit organizations entitled to the special postal rate. This consists of less than 50 organizations, some of which already have the special rate and would, we believe, cost of Postal Service no more than $500,000 per annum. A few of the organizations entitled to the special rate under my bill have interests in areas unrelated to Olympic sports. Such organizations will be entitled to use the preferred rate only where their mail matter involves amateur sports.

Promotion of high standards in athletic competition is a worthy goal and enjoys widespread support as evidenced by the enactment of the Amateur Sports Act into law in the 95th Congress. The national and international sports organizations deserve our commendation and support for their efforts in bringing more and more young people into competitive sports and training them to be world class athletes.

The President's Commission of Olympic Sports, on which I was privileged to serve, identified lack of funding as one of the key impediments to a fully developed amateur sports program. The competition our athletes face from other countries is often heavily financed by those governments. A savings on postage costs for our sports organizations would free funds for those groups to use in developing a better U.S. Olympic team and assisting young athletes in their training.

The special rate would constitute a significant savings. For instance, under the present system ineligible organizations are charged 8.4 cents per piece of mail sent third class as compared to 2.7 cents per piece under the special rate. For books and catalogs, they are charged 36 cents per pound as compared to 14 cents per pound under the special rate. For bulk third class other than books, they are charged 41 cents per pound as compared to the special rate of 17 cents per pound. As you can see, savings would be significant in each category.

Considering that educational organizations are already eligible for the special rate, it would be wise to extend this rate to organizations which perform a valuable educational function—training and assisting amateur athletes.



Finally, Mr. President, to dispel fears that this provision sets a precedent for an onslaught of organizations clamoring for the preferred rate, amateur sports organizations were recently considered nonprofit, tax-exempt organizations by the Internal Revenue Service. Although the Postal Service is not bound by IRS rulings, as a general rule the preferred postage rate is given to such nonprofit, tax-exempt organizations.

It does not make any sense to allow tax-exempt organizations.
organizations if we turn around and take that advantage away by requiring that the organizations pay full postage costs which are not required by similar organizations.

Mr. President, our Olympic teams continually need help. I ask that the Senate recognize this need by voting for my bill.

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By Mr. KENNEDY:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

REFUGEE ACT OF 1979

Mr. KENNEDY. Mr. President, I am pleased to introduce today a bill that establishes for the first time a comprehensive U.S. refugee resettlement and assistance program, which concludes a personal goal of mine for many years—reforming the discriminatory and outdated refugee provisions of the Immigration and Nationality Act of 1952.

I am introducing this bill—as jointly submitted by the Secretary of State, the Attorney General, and the Secretary of HEW—not simply by request but with enthusiasm and strong support. It reflects the close working relationship I and others in Congress have had with administration officials in drafting this important legislation. It also reflects the essential elements of a bill (S. 2751) I introduced in the 95th Congress—and in nearly every Congress since 1969—reforming our Nation's refugee policies and practices.

Mr. President, the Immigration Act of 1965, for which I served as floor manager in the Senate, repealed the discriminatory national origins quota system and commenced needed steps to reform basic policy governing one of the oldest themes in our Nation's history.

Since then, while some additional reform measures have been enacted, much more needs to be done. The bill I am introducing today accomplishes one of the most important reforms of our immigration law that has long been needed—the law governing the admission and resettlement of refugees in the United States.

The bill accomplishes four basic objectives:

First, it repeals the current law's discriminatory treatment of refugees by providing a new definition of a refugee that both recognizes the plight of homeless people all over the world, and accords refugee admissions the same immigration status given all other immigrants.

Second, it raises the annual limitation on regular refugee admissions from 17,400 to 50,000. This is accomplished without really increasing overall annual immigration to the United States in recent years.

Third, the bill provides an orderly but flexible procedure to meet emergency refugee situations and any other situations of special concern to the United States, if the resettlement needs of the homeless people involved cannot be met within the regular 50,000 ceiling.

Fourth, it provides for Federal support of the refugee resettlement process—and extends coverage to all refugees entering the United States.

Mr. President, there are several other features of the bill that are important, and which are outlined in the section-by-section analysis I shall ask to be printed in the RECORD.

Hearings on this bill are scheduled to begin tomorrow, March 14, by the Committee on the Judiciary in room 2228, Dirksen Senate Office Building. We will hear testimony from the executive branch, led by former Senator Dick Clark, who is now the President's Coordinator for Refugee Affairs. We will also receive testimony from representatives of the American Council of Voluntary Agencies, representatives of State and local agencies, and others.

Mr. President, over many years, the American people have responded generously and compassionately to the needs of homeless people, and I share the view of many that our national policy of welcome to refugees has served our country and traditions well. The basic purpose of the bill I introduce today is to update the law—and to help insure greater equity in our treatment of refugees and displaced persons and to establish a more orderly procedure for their admission into the United States in reasonable numbers.

Mr. President, I ask unanimous consent that the text of the bill and the section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 643

*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,* That this Act may be cited as the "Refugee Act of 1979."

TITLE I—PURPOSE

The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

The objective of this Act is to provide a

permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for temporary and transitional assistance to those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means any person who is outside any country of his nationality or, in the case of a person having no nationality, is outside any country in which he last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion."

(b) Chapter I of Title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES

"SEC. 207. (a)(1) Subject to the provisions of paragraph (2), the number of refugee admissions granted in any fiscal year shall not exceed 50,000, to be made available in accordance with a determination made by the President regarding the number of admissions to be allocated to each group or class of refugees the President determines to be of special concern to the United States. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year.

"(2) The number of refugees who may be admitted under this section may exceed 50,000 in any fiscal year if the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of 50,000 is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special concern to the United States who will be in need of resettlement. These additional admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President. In the course of the consultation provided for in this paragraph, the designated representatives of the President shall furnish the Committees on the Judiciary a description of foreseeable numbers of refugees who will be in need of resettlement during the coming fiscal year and an explanation of the reasons for believing that the admission of more than 50,000 refugees of special concern to the United States is in the national interest.

"(3) Subject to the numerical limitation established pursuant to paragraph (1) or (2), the Attorney General may, in his discretion and pursuant to such regulations as he may prescribe, admit for lawful permanent residence any refugee who is not firmly resettled in any foreign country, is within a group or class of refugees determined to be of special concern to the United States, and is admissible as an immigrant under this Act, except for the fact that he does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(b)(1) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to that of a lawful permanent resident the status of any alien who—

"(A) makes application for such adjustment;

"(B) has been physically present in the United States for a period of at least two years prior to application for such adjustment; and

"(C) is a refugee, is not firmly resettled in any foreign country, and is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(2) When an alien has been granted adjustment of status to that of a lawful permanent resident under paragraph (1), his spouse and child may also be granted such status, in the discretion of the Attorney General and under such regulations as he may prescribe, if such spouse or child makes application for such status and is admissible as an immigrant except for the fact that he does not satisfy the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(3)(A) Upon approval of an application pursuant to paragraph (1), the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date, as established by the alien to the satisfaction of the Attorney General, that he became a refugee in the United States: *Provided*, that such date shall not be more than two years prior to the date of approval of such application.

"(B) Upon approval of an application pursuant to paragraph (2), the admission of the spouse or child of a refugee shall be recorded as of the same date as that of the refugee.

"ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 208. (a) If the President determines, after consultation by the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that (1) an unforeseen emergency refugee situation exists; (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest; and (3) that the admission into the United States of these refugees cannot be accomplished under section 207, the President may fix a number of refugees to be admitted into the United States in response to the emergency refugee situation. In the course of the consultation provided for in this subsection, the designated representatives of the President shall furnish the Committees a description of the unforeseen emergency refugee situation, an estimate of the number of refugees to be admitted under this section, and an estimate of the cost of their resettlement.

"(b) The admissions authorized by subsection (a) shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President.

"(c) Subject to the numerical limitation established pursuant to subsection (a), the Attorney General may conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien who is a refugee within a group or class designated pursuant to subsection (b) and who is not firmly resettled in any foreign country.

"SPOUSES AND CHILDREN OF REFUGEES

"SEC. 209. A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of any alien who qualifies for admission under section 207 or 208 shall, if not otherwise entitled to admission under such section, be entitled to the same admission status as such alien if accompanying, or following to join, such alien, and upon the spouse's or child's admission into the United States, such admission shall be charged against the numerical limitation established in accordance with the section under which the alien qualifies for admission. A spouse or child who is admitted for lawful permanent residence in accordance with this section shall be required to establish admissibility to the United States as an immigrant except for the requirements of paragraphs (14), (15), (20), (25), or (32) of section 212(a).

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES

"SEC. 210. (a) Notwithstanding any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209:

"(1) whose admission has not been terminated by the Attorney General pursuant to such regulations as he may prescribe;

"(2) who has not acquired permanent resident status; and

"(3) who has been physically present in the United States for at least two years.

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission into the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer or after a hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination except for the fact that the alien does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a) shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival."

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(a) by inserting in subsection (a) after the words "Except as provided in subsection (b)" the following: "and subsection (c)"; and

(b) by adding a new subsection (c) at the end thereof to read as follows:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States for lawful permanent residence under Section 207.".

SEC. 203. (a) Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151 (a)) is amended to read as follows:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who come within the provisions of sections 207, 208, and 209, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional en-

tries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum in subsection (e) (2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (c) as paragraph (7).

(c) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a) (2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8);

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254 (d)) are amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended to read as follows:

"(h) The Attorney General is authorized to withhold the deportation or return of any alien (other than an alien described in section 241(a)(19)), subject to such terms and conditions as he may prescribe, to any country where such alien's life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group of political opinion."

(f) Section 5 of the Act of October 5, 1978 (P.L. 95-412) is amended by striking out "September 30, 1980" and inserting in lieu thereof "the effective date of the Refugee Act of 1979."

(g) Any reference in any law to section 203(a)(7) of the Immigration and Nationality Act shall be deemed a reference to section 207.

SEC. 204. Any alien determined to be eligible for admission for lawful permanent residence under section 207(b)(1) of the Immigration and Nationality Act who acquired that status under the provisions of the Immigration and Nationality Act prior to the effective date of this Act may, upon application, have his admission for permanent residence recorded as of the date, as established by the alien to the satisfaction of the Attorney General, that he became a refugee in the United States: *Provided*, That such date shall not be more than two years prior to the date of approval of such application. Upon application, the admission for lawful permanent residence of the spouse or child of such refugee, if eligible for the lawful permanent residence under section 207(b)(2) of the Immigration and Nationality Act, may be recorded as of the same date as the date recorded for the refugee.

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

SEC. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit, private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to state and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and

"(G) for income maintenance and medical assistance, except that if a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

"No payment shall be made under paragraph (C), (D), (E), or (G) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services, other than a Cuban refugee who entered the United States before October 1, 1978.

"(2) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42))."

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15(a)(1)(A) of the Act of August 1, 1956, as amended (22 U.S.C. 2680(a)(1)(A)).

SEC. 302. Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is amended by striking out "25,000,000" in paragraph (2) and inserting in lieu thereof "$50,000,000".

TITLE IV—EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b), this Act shall become effective on October 1, 1979.

(b) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this Act, shall not apply with respect to any individual who before the effective date of this Act was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202 (e)(7) of the Immigration and Nationality Act, if applicable), as in effect immediately before such date, nor shall it apply to any alien paroled into the United States before the effective date of this Act who is eligible for the benefits of section 5 of the Act of October 5, 1978 (P.L. 95-412).

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THE PROPOSED REFUGEE ACT OF 1979—MEETING THE NEED FOR A COMPREHENSIVE LONG-TERM POLICY ON REFUGEES

(Prepared by the Department of State)

The basic provisions of the proposed Refugee Act of 1979 and the need for its prompt enactment into law can best be understood by first reviewing the current state of the law and the problems that have arisen under existing statutory provisions.

Under the present law there are two ways refugees may enter the United States. The first is under section 203(a)(7) of the Immigration and Nationality Act, which provides for the conditional entry of 17,400 persons. These people must be examined by an Immigration Officer in a non-Communist or non-Communist dominated country. They must show that they have fled from a Communist or Communist-dominated country, or a country in the Middle East, and that they fear to return to that country because they have been, or fear they will be, persecuted there on account of race, religion, or political opinion.

The second way refugees may currently enter the United States is under section 212(d)(5) of the Act, which gives the Attorney General discretionary authority to parole, for emergent reasons or reasons deemed strictly in the public interest, any alien applying for admission into the United States. Through a legal fiction, an alien who has been paroled into the United States is deemed to be in the same legal position as an alien who is still at the border seeking admission.

The law as it stands does not work well in many circumstances. The 17,400 conditional entry numbers are always oversubscribed. At the same time, because of the ideological and geographical limitations, many refugees from countries in the Western Hemisphere are precluded from using the conditional entry provision. As a result, the section 212(d)(5) parole authority must be and has been resorted to repeatedly over the past 23 years.

Although portions of the legislative history suggest that the parole power was originally intended for individual cases, it has been used to admit sizeable refugee groups over the years, including the well-known Hungarian, Cuban and Indochinese refugee groups. Though not required by law, a procedure for the exercise of the parole power has developed. This procedure usually is initiated by a recommendation of the Secretary of State, after which the Attorney General consults with appropriate members of the House and Senate Judiciary Committees. Such consultations have been repeated and frequent, most recently with regard to refugees from Indochina, the Soviet Union and South America. In recent years both the Congress and the Executive Branch have become increasingly dissatisfied with this use of the parole power as a sporadic short-term reaction to impending disasters. Thus, the Administration and Congress have seen a need for a comprehensive long-term policy on the admission and resettlement of refugees. Building on Congressional initiatives last session, the proposed Refugee Act of 1979 represents the Administration's views on the most appropriate way to provide such a policy.

The proposed Act defines the term "refugee" in substantial conformity with

the definition contained in the United Nations Convention and Protocol Relating to the Status of Refugees, thereby removing the ideological and geographical limitations of the present conditional entry provision. However, because the total number of refugees far exceeds the capacity of the United States to provide resettlement opportunities, the bill provides that refugee admission numbers will be allocated by Presidential determination among groups of refugees who are of special concern to the United States.

The proposed Act has two distinct procedures for the admission of regugees: one for what has become the more or less predictable "normal flow" of refugees each year, another for unforeseen emergency group admissions. The normal flow provision allows the admission of up to 50,000 of special concern annually, with the President to decide on the allocation of the numbers. There is also authority for the President, before the beginning of the fiscal year, to adjust the normal flow limit to a fixed higher number, after consultation with the Congress, should he determine that the higher number is necessary in the national interest based on his review of foreseeable resettlement needs. The authority to use the emergency group admission procedure is also vested in the President. However, the use of this second procedure is limited to unforeseen refugee emergencies, again following consultations with the Congress. Under the group admission provision the President must determine that admission of the refugees is not possible under the normal flow of provisions and is justified by grave humanitarian concerns or is otherwise in the national interest.

The advantages of the two admission procedures in the proposed Act can be readily perceived when compared with existing law. The normal flow provisions will in effect replace the conditional entry procedure. The antiquated ideological and geographical limitations of the conditional entry provision will be eliminated. The unrealistically low 17,400 anual limitation will be replaced by a 50,000 figure which is more in accord with the nation's recent experience. However, the Administration proposal will provide additional, but carefully structured, flexibility by enabling the President to exceed the figure of 50,000 if he specifies the extra numbers needed prior to the beginning of the fiscal year, after consulting with Congress regarding the need for the additional admissions. This latter provision will avoid any situation in which the Executive Branch foresees a need to admit more than 50,000 refugees in the next fiscal year, but because of a rigid numerical limitation must strain the statutory framework by declaring an "emergency" in order to justify admitting the number in excess of 50,000 under the group admission procedures.

The emergency group admission provisions will essentially replace the use of the Attorney General's parole authority to admit large groups of refugees. However, it might be more accurate and descriptive to say that the group admission provisions will be filling a void which the repeated stretching of the parole authority never successfully filled. Under the Administration proposal the United States, for the first time, will have clearly stated statutory procedures and criteria for the emergency group admission of refugees. For the first time the important role of the Congress will be recognized by statute, in that consultation with the cognizant congressional committees will be required before a group admission is authorized. Moreover, the type of information to be furnished the committees is specified in the draft bill in order to ensure that such consultations are productive. Finally, the use of the group admission procedures will be limited to unforeseen emergencies, as compared to the previous practice of a dire emergency, but simply because they could not be accommodated under the unrealistically low ceiling on conditional entry numbers.

This legislative proposal has a special urgency attached to it because the current parole program for Indochinese refugees expires on May 1, 1979. Without new legislation the continued stopgap use of the parole authority will be required to cope with the increasing flow of refugees of special concern to the United States.[1]

Another significant feature of the proposed legislation is elimination of the two-year conditional status for normal flow refugees. The conditional provision has not effectively served its original purposes of allowing additional time to screen admitted refugees and avoid permanent admission of ineligible aliens. In fact, we have in most instances been able to perform thorough screening before a refugee enters, and virtually no refugees have been returned because they were found ineligible during the two-year review.

At the same time, the conditional status has in many instances impeded a refugee's ability to secure a desired job or otherwise to become a full member of his new community. And the two-year review has generated paperwork far out of proportion to the benefits of the added screening. For these reasons, under the proposed legislation, normal flow refugees enter as lawful permanent residents from the day of their admission.

In keeping with the Administration's comprehensive approach to refugee policy the proposed Refugee Act of 1979 also contains provisions aimed at establishing a more uniform basis for the provision of assistance to refugees coming to and already in the United States. These provisions are set forth as amendments to the Migration and Refugee Assistance Act of 1962. That Act contains the basic authority under which assistance is furnished to Cuban and Indochinese refugees coming to and already in the United States. Besides broadening the provisions so that they apply equally to all refugees, the amendments made by this portion of the draft bill make few substantive changes from current administrative practice under the Act. These amendments reflect the experience gained by the departments and agencies involved in the administration of refugee assistance since the original enactment of the Migration and Refugee Assistance Act of 1962. One major substantive addition, however, is the establishment of express limitations on the period for which the Federal government will pay the full cost (rather than applying the generally applicable Federal-State cost sharing rules) of cash and medical assistance under programs authorized by the Social Security Act. The draft bill will specify that, except for unaccompanied refugee children, the Federal government will bear the full cost of new refugees for only the first two years after their arrival in the United States. After that, States will be expected to provide whatever assistance would be available to any other of its residents, with the same allocation of cost between the Federal and State governments.

Specific assistance programs authorized under the draft bill are as follows:

Payments to public or to private voluntary agencies for their work in the placement and resettlement of refugees;

Funding for projects to aid refugees in securing employment;

Support for special educational services, particularly training in English, through the elementary and secondary education system;

Use of funds for child welfare services; and

Funding for cash and medical assistance.

The Administration and Congress are very much concerned both with the nation's immediate refugee needs and with the need for a sensible and sound long-term solution, weighing the role of the legislative and executive branches. The prompt enactment of the Refugee Act of 1979 will help provide that long-term solution and ease immediate refugee needs. Prompt action is required because the refugee problem shows no signs of simply fading away. The fact is that the problem is growing at an alarming rate and, notwithstanding some success in our extensive diplomatic efforts to persuade other nations to accept larger numbers of refugees, the United States will soon be called upon to accept more refugees. At present our response must be that we are limited to the conditional entry process and a fully subscribed parole program which expires on May 1, 1979.

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[1] A good illustration of what the practical effect of the proposed Act would be may be drawn from the unfolding history of the Indochinese refugees. Following the fall of South Vietnam in the spring of 1975, 133,000 Indochinese were paroled into the United States within a few months. In 1976, 11,000 Indochinese were paroled in the United States, followed by 15,000 in 1977 and 7,000 in the first half of 1978. We are now in the final stages of the most recent parole program which authorized the entry of an additional 25,000 Indochinese refugees between June of 1978 and May 1, 1979, augmented by an additional parole of 21,875 announced in December, 1978. Even though it became apparent soon after the initial 1975 parole program that a steady, fairly predictable stream of refugees would be leaving Indochina for the foreseeable future, the Executive Branch was forced to wait repeatedly until the number of refugees in the countries of first asylum reached crisis proportions and then declare an "emergency" which required yet another special parole program. If the proposed Act had been in effect since 1975, the emergency group admission provisions would have been employed only for the initial mass exodus of 1975. The succeeding periodic "emergencies" would have been handled under the normal flow provisions without the need for repeated ad hoc consultations with Congress in an atmosphere of crisis. Upon enactment of the Administration's proposal, our future efforts to deal with the Indochina refugee situation will be greatly rationalized and facilitated. The President will have the authority to set the number of normal flow admissions for Indochinese refugees in advance of each fiscal year. If our estimates indicate a high flow of Indochinese and other refugees of special concern to the United States, such that the national interest requires admission of more than 50,000 in a given year, the President may, after consultation with the Congress, adjust admissions to a fixed higher number. Should an unforeseen emergency create the need for more admissions than provided for under the annual normal flow estimate, the group admission procedures will be available.

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SECTION-BY-SECTION ANALYSIS OF THE "REFUGEE ACT OF 1979"

Title I sets forth the purpose of the bill, which is to provide a permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for assistance to those refugees who are admitted.

Section 201(a) of the bill provides a new refugee definition which will be added to the Immigration and Nationality Act. This definition basically conforms to that used under the United Nations Convention and Protocol Relating to the Status of Refugees, and eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203(a)(7) of the Immigration and Nationality Act.

Section 201(b) of the bill adds new sections 207, 208, 209, and 210 to the Immigration and Nationality Act. These sections deal with admission procedures for refugees.

Proposed section 207(a)(1) provides for a normal flow not to exceed 50,000 refugees per year except as provided in section 207(a)(2). The admission numbers will be allocated to groups of refugees of special concern to the United States, as determined by the President. (In recent years, the refugees who have been of special concern to the United States have included Cubans, Soviets, Eastern Europeans, and Indochinese.)

The President will report annually to the Judiciary Committees of the Congress regarding the foreseeable numbers of refugees in need of resettlement during the coming fiscal year and regarding the estimated allocation of refugee admission numbers.

Section 207(a)(2) provides for the 50,000 admission level to be raised if the President determines that a specified higher number is justified by humanitarian concerns or is otherwise in the national interest based upon the foreseeable numbers of refugees of special concern to the United States who will be in need of resettlement during the coming fiscal year. This determination must be made before the beginning of the fiscal year and only after consultation by the President's designees with the House and Senate Judiciary Committees. Allocation of these additional numbers by group or class will be made by the President in the same manner as described in section 207(a)(1) for the 50,000.

The 50,000 annual numbers will be obtained by reallocating to refugees 20,000 numbers from the worldwide limitation of 290,000. (17,400 of these numbers are currently allocated to conditional entrants under section 203(a)(7), which the bill eliminates.) In addition, 30,000 numbers will be added over and above the current worldwide limitation. As a result, total immigration subject to numerical limitation will be 320,000 annually, except in those years when refugee admissions are increased by Presidential determination.

Under proposed section 207(a)(3), normal flow refugees will be admitted as lawful permanent residents; the present two-year conditional period will be eliminated. Applicants for refugee admission would be required to establish that they meet the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible as immigrants under the Act except for the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a) (20) and (21) of the Act, the literacy requirements of section 212(a) (25) of the Act, or the provisions of section 212(a)(32) of the Act pertaining to alien physicians.

Proposed section 207(b) provides that up to 5,000 of the 50,000 normal flow refugee admission numbers may be used to adjust the status of refugees present in the United States under provisions other than section 207, 208, or 209 (such as asylees or visitors whose home government has changed during their absence and who would be subject to persecution if they are returned). Applicants must establish that they have been here for two years, that they meet the refugee definition and that they are not firmly resettled in any foreign country. Such adjustment of status would be without regard to the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a) (20) and (21) of the Act, the literacy requirements of Section 212(a)(25) of the Act, or the provisions of section 212(a) (32) of the Act pertaining to alien physicians. Aliens would have the opportunity to establish that their adjustment of status should operate retroactively to the date, not more than two years prior to approval of the application, upon which they became refugees within the United States. Spouses and children of refugees adjusted under this provision would also qualify for adjustment.

Proposed section 208 provides procedures for the admission of refugees in unforeseen emergency situations. If the President determines, following consultation with the Judiciary Committees, that an emergency refugee situation exists, that admission of refugees in response to the situation is justified by grave humanitarian concerns or is otherwise in the national interest, and that admission cannot be accomplished under section 207, he may fix a number of refugees to be admitted. Allocation of those admissions will be in accordance with a Presidential determination. Thereafter, the Attorney General will admit to the United States conditionally emergency situation refugees who establish that they meet the refugee definition and that they are not firmly resettled in any foreign country.

Proposed section 209 allows the spouse and children of a refugee admitted for lawful permanent residence or admitted conditionally under the bill to qualify for the same admission status as the principal alien if not so entitled in their own right. Such spouse or child would be charged against the appropriate refugee numerical limitation.

Proposed section 210(a) provides lawful permanent resident status for any conditionally admitted refugee who has been physically present in the United States at least two years, who has not otherwise acquired lawful permanent resident status, and whose conditional entry has not been terminated by the Attorney General. Under proposed section 210(b) the conferring of such lawful permanent resident status shall be without regard to the labor certification requirement of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a)(20) and (21) of the Act, the literacy requirements of section 212(a)(25), or the provisions of section 212(a)(32) of the Act pertaining to alien physicians. Aliens who are found inadmissible to the United States will be dealt with in exclusion proceedings in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act. The foregoing procedures are basically a completion of the inspection process which was begun at the time of the alien's conditional admission into the United States. They require no application on the part of the alien and no fee. Once granted, the lawful permanent resident status operates retroactively to the date of the alien's arrival in the Untied States. Therefore, in terms of eligibility for naturalization the conditional entrant refugee is not disadvantaged by the waiting period.

In connection with its administration of the benefits to be provided under Title III of this bill, the Department of Health, Education, and Welfare has asked that aliens admitted as refugees carry documentation that provides evidence of their refugee status and shows their date of admission to this country. The INS will work with HEW to provide the necessary identification administratively, for both normal flow and emergency situation refugees; it is not necessary to include such provisions in the legislation itself.

Sections 202 and 203 of the bill provide various conforming amendments to the Immigration and Nationality Act. In addition, section 213(e) revises the provisions of section 243(h) of the Act, relating to withholding of deportation based on fear of persecution, to allow the Attorney General to withhold the deportation of aliens who are in exclusion, as well as deportation, proceedings.

The Attorney General's parole authority under section 212(d)(5) of the Immigration and Nationality Act would remain unchanged. Once the bill takes effect, however, the Attorney General will not use his authority with respect to refugees unless he determines that compelling reasons in the public interest related to the individual refugee require that that refugee be paroled into the United States, rather than be admitted in accordance with proposed sections 207 or 208.

Section 204 of the bill contains a "rollback" provision. This allows any alien who is eligible for retroactive lawful permanent resident status under proposed section 207 (b) of the Act, but who has already obtained lawful permanent resident status under other sections of the law that do not provide for retroactivity, to have his admission for lawful permanent resident status recorded as of the date when he became a refugee in the United States.

Title III of the bill contains amendments to the Migration and Refugee Assistance Act of 1962, the underlying source of authority for funding special activities and assistance for Cuban and Indochinese refugees in the United States, as well as for assistance provided overseas.

Section 301 of the bill would amend section 2(b) of the Act. Subparagraphs (A) and (B) preserve, with minor technical changes, the authorities for overseas assistance now appearing in sections 2(b)(1) and 2(b)(2) of the Act.

Subparagraphs (C) through (G) authorize funding for various kinds of assistance and services to refugees in the United States. While these are generally within the scope of the existing law and would not affect our continuing commitment with respect to Soviet refugees, the amendments would serve to clarify the activities intended to be funded, and the limits on that funding.

More specifically:

Subparagraph (C) would authorize payments to public or to private voluntary agencies with respect to their work in connection with the placement, resettlement, and care of refugees;

Subparagraph (D) would provide funding authority for projects to aid refugees in securing employment and other short-term projects to increase their self-reliance—English as a second language, vocational training, refresher training for professionals, services to assist refugees in attending recertification within the United States, and other such employment and social services;

Subparagraph (E) would authorize support for special educational services, including particularly training in English, and other educational services, through the elementary and secondary education system;

Subparagraph (F) would allow the use of funds for child welfare services for two years after the arrival of the refugee child, or, in the case of a child who enters the United States unaccompanied by a parent or other close relative, until the child reaches age 18 (or whatever higher age may be specified in the State's child welfare services plan);

Subparagraph (G) would authorize funding for cash and medical assistance during the first two years following the refugee's arrival in the United States. If the refugee's family were eligible for assistance under the State's program of Aid to Families with Dependent Children (part A of title IV of the Social Security Act) or for medical assistance under the State's Medicaid program (title XIX of the Social Security Act), funds under this authority would only be used for the non-Federal share of those programs.

Funding under this title for refugees within the United States (other than unaccompanied children) would be limited to the first two years after the refugee's entry into the country. That limitation would not apply to Cuban refugees who entered the United States prior to October 1, 1978; they are subject to the currently effective 6-year phase-down. All Cuban refugees entering after that date, however, would be subject to the provisions of this draft bill and treated in the same way as all other refugees.

Paragraph (2) specifies that the term "refugee" will have the same meaning as in paragraph (42) of section 101(a) of the Immigration and Nationality Act, added by section 201 of this bill—the definition derived from the Protocol and Convention Relating to the Status of Refugees.

Section 301(b) is a technical provision making it clear that this legislation does not disturb the requirement for annual authorizing legislation established by the act that furnishes basic authority for the Department of State.

Section 302 amends section 2(c) of the 1962 Act, which establishes the Emergency Refugee and Migration Assistance Fund. It raises the authorized funding level from $25,000,000 to $50,000,000, in order to assure that adequate amounts would be available from the Emergency Fund if needed for an admission of refugees in response to an emergency refugee situation, under section 208 of the Immigration and Nationality Act.

Section 401 provides that the Act will take effect on October 1, 1979. It also contains a savings clause that preserves the rights of those aliens who had been admitted conditionally under section 203(a)(7) of the Immigration and Nationality Act, or paroled into the United States under section 212(d)(5) of the Act, before the effective date.

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By Mr. HEINZ (for himself and Mr. BAYH):

S. 645. A bill to prohibit purchases with Federal funds of articles or materials originating in countries which are not parties to or which are violators of a multilateral international agreement prescribing a code of government procurement; to the Committee on Governmental Affairs.

● Mr. HEINZ. Mr. President, soon the President will send to the Congress for its approval a package of international trade agreements which he has been negotiating in Geneva. One of the agreements expected to be submitted is an International Government Procurement Code.

This Code, which will specify international rules for government procurement, was negotiated in response to the restrictive practices of most nations to limit competition for government procurement to each country's domestic firms. Such practices include the U.S. Buy American Act which establishes a preference for American companies in competition for U.S. Federal procurement. Other nations generally use closed bidding systems and bureaucratic bias to exclude foreign firms from competition for government purchases.

The result of these practices is that governments rarely award contracts to firms other than to their own domestic companies. To many, these restrictions are a nontariff barrier to international trade; and a reduction of these barriers will result in the long-range economic benefit of all nations.

This is the purpose and objective of the International Government Procurement Code. By prescribing rules which, if followed, will allow maximum worldwide competition, the Code is expected to open up government procurement to the many benefits of international trade.

Last year, I held 4 days of hearings on our own domestic preference statute—the Buy American Act of 1933. Testimony presented at those hearings revealed that while our Buy American Act and its implementation allows significant foreign competition for procurement with U.S. Federal funds, other nations' practices tend to completely exclude competition from American firms.

Our negotiators have worked long and hard to reduce these barriers and write a code which will provide significant opportunities for American competition for other countries' government purchases.

In its coverage, however, that code is expected to be quite specific. It will cover only the purchases of signatory countries and only the purchases by specified governmental agencies of those signatories. Therefore American companies can expect to benefit only from purchases by the governments who subscribe to the code and not to benefit from purchases by nonsignatories.

It follows, Mr. President, that fairness would dictate that firms of countries who do not sign the code should not benefit from U.S. Government purchases. But under the present Buy American Act, this is not assured as our hearings document.

Therefore, I am today, introducing a bill which would prohibit Federal funds from being used to purchase goods originating in countries which are not parties to the International Government Procurement Code.

This code will also contain enforcement provisions which are expected to insure that all obligations of signatory nations will be honored and maximum international competition for government procurement will be obtained. If these enforcement provisions are to have any real effect, it is extremely important that they carry strong sanctions. The bill I am introducing requires that violators of the code as well as nonsignatories, also be prohibited from benefiting from U.S. Government procurement.

I believe this bill is essential if the hard-won objectives of our international trade negotiators are to be achieved. I offer it therefore as a strong suggestion to be included in the implementing legislation that will accompany the International Government Procurement Code.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 645

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, except as provided in Section 2, whenever the United States is a party to a multilateral international agreement prescribing a code for procurement by governments which are parties thereto—

(a) no material produced or mined in a foreign country which is not a party to such agreement or which is in violation of such code, and no article manufactured in such a foreign country, may be procured by a Federal agency or with Federal funds: and

(b) no such material or article may be used for the construction of any public building or public work under any contract entered into by a Federal agency, or by any person or government if federal funds are to be paid under the contract.

(c) For purposes of subsection (a), materials or articles shall be considered to be procured with Federal funds only if 50 per centum or more of all sums paid for such materials or articles are derived, directly or indirectly, from Federal funds. For purposes of subsection (b), Federal funds shall be considered to be paid under a contract only if 50 percent or more of all sums to be paid under such contract are derived, directly or indirectly, from Federal funds. For purposes of this section, Federal funds means funds appropriated out of the Treasury of the United States.

SEC. 2. Section 1 shall not apply to—

(a) any material which is not mined or produced in the United States in sufficient quantity or of satisfactory quality or to any component item not manufactured in the United States in sufficient quantity or of satisfactory quality; or

(b) contracts for the procurement of materials and articles for use outside the United States, contracts for the construction of public buildings or public works outside the United States, or subcontracts under such contracts.●

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## ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 79

At the request of Mr. HELMS, the Senator from Kentucky (Mr. FORD) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 79, a bill to amend the Internal Revenue Code of 1954 to reinstate the nonbusiness deduction for State and local taxes on gasoline and other motor fuels.

S. 100

At the request of Mr. PACKWOOD, the Senator from Georgia (Mr. TALMADGE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 100, to amend the Internal Revenue Code of 1954 to provide for a deduction for reforestation and for other purposes.

S. 104

At the request of Mr. SCHMITT, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 104, the Regulatory Reduction and Congressional Control Act.

S. 112

At the request of Mr. DOLE, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 112, a bill to repeal certain provisions regarding carryover basis.

S. 219

At the request of Mr. MOYNIHAN, the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. JAVITS), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 219

At the request of Mr. PACKWOOD, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 219, to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 377

At the request of Mr. RIBICOFF, the Senator from New York (Mr. MOYNIHAN) and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 377, to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes.

S. 388

At the request of Mr. STEWART, the Senator from Montana (Mr. BAUCUS), the Senator from Alaska (Mr. GRAVEL), the Senator from Texas (Mr. BENTSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 388, the Small Business Employee Ownership Act.

S. 414

At the request of Mr. BAYH, the Senator from Nebraska, (Mr. ZORINSKY), and the Senator from Vermont, (Mr. LEAHY), were added as cosponsors of S. 414, the University and Small Business Patent Procedures Act.

S. 460

At the request of Mr. STAFFORD, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 460, a bill to encourage bicycling and physical fitness by assuring greater safety for bicylces parked at Federal Office Buildings.

S. 484

At the request of Mr. RIEGLE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 484, a bill for the relief of Antoinette Slovik.

S. 598

At the request of Mr. BAYH, the Senaator from Louisiana (Mr. LONG), the Senator from Nebraska (Mr. EXON), and the Senator from Minnesota (Mr. DURENBERGER), were added as cosponsors of S. 598, the Soft Drink Interbrand Competition Act.

S. 621

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 621, a bill to provide for further research and services with regard to victims of rape.

S. 622

At the request of Mr. GOLDWATER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 622, the Telecommunications Competition and Deregulation Act of 1979.

SENATE JOINT RESOLUTION 22

At the request of Mr. GARN, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Joint Resolution 22, proposing an amendment to the Constitution of the United States for the protection of unborn children and for other purposes.

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. GOLDWATER, the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Tennessee (Mr. BAKER), and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Senate Concurrent Resolution 2, to uphold the separation of powers between the executive and the legislative branches of Government in the termination of treaties.

SENATE RESOLUTION 83

At the request of Mr. WALLOP, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 83, relating to national water resources policies.

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## SENATE RESOLUTION 98—SUBMISSION OF A RESOLUTION RELATING TO THE STANDBY GASOLINE RATIONING PROGRAM

Mr. BENTSEN submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 98

Whereas, any Stand-by Gasoline Rationing Plan should reduce gasoline consumption equally for all consumers to the extent administratively possible;

Whereas, the Stand-by Gasoline Rationing Plan submitted to the Congress on March 1, 1979, would result in an unnecessarily inequitable reduction in gasoline consumption by residents of the various States;

Whereas, this inequitable reduction in gasoline consumption would create a substantial and unwarranted redistribution of income between States;

Whereas, adequate data and administrative mechanisms are available to equalize gasoline curtailments from rationing on a state-by-state basis; and

Whereas, the Congress desires that gasoline curtailments be imposed to the extent possible in an equitable and fair manner on each State should gasoline rationing be necessary: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President withdraw the Standby Rationing Gasoline Plan submitted to the Congress on March 1, 1979 and resubmit such plan amended to remedy the interstate inequities with regard to the distribution of gasoline rationing coupons.

Mr. BENTSEN. Mr. President, today I am submitting a resolution expressing the sense of the Senate that the President should withdraw and amend the standby gasoline rationing program which he submitted to the Congress earlier this month. The plan as it is currently drafted is an outrage and blatently unfair to many States and regions of the country, and would result in a monumental transfer of income among the States through a legalized "white market" in gasoline rationing coupons.

The President's plan does not ask each State to share equally in the hardships that would occur under gasoline rationing conditions.

It would allocate rationing coupons among the States according to national average gasoline consumption rates rather than according to average consumption figures for the individual States. The net result of this approach would be major inequities in the distribution of coupons.

For example, assuming a rationing based on a 25-percent reduction in gasoline supplies, the States of Hawaii, Pennsylvania, North Dakota, and Rhode Island would receive coupons for 97.9 percent, 94.6 percent, 92.2 percent and 90.8 percent respectively of their normal supplies while the States of Missouri, South Carolina, West Virginia and Texas would receive only 63.6 percent, 64.6 percent, 65.6 percent, and 65.9 percent respectively of their normal supplies. States with historically high per capita gasoline use would receive punitive treatment under the proposed plan.

I would like to assure my colleagues that the citizens of Missouri, South Carolina, West Virginia and Texas are no more wasteful of gasoline than other American consumers. They pay the same high prices, and they feel the same desires and incentives to conserve. But the physical differences of their surroundings, the greater distances they must travel to and from work, the needs of farming and rural communities, and the lack of alternative means of transit all contribute to their greater daily requirements for gasoline. It makes no more sense to allocate gasoline without considering local use patterns in those States than it would to allocate residential fuel oil without considering the special needs of the North and Northeast.

This fact has been recognized by a number of experts who have studied gasoline rationing programs. A 1978 study by Oak Ridge National Laboratory concluded:

> It does not appear that differences in state consumption rates can be attributed to extravagant or frivolous gasoline use by residents of certain high consumption states such as Wyoming, New Mexico, and Texas. Instead, it appears that state consumption rates are the result of the complex interaction of environmental, demographic and economic factors. These state-to-state differences should be considered in developing any national conservation policy, such as gasoline rationing, which will have differential impacts on the states.

Although the so-called "white market" envisioned by DOE would permit drivers in under-allocated States to purchase additional coupons from drivers in over-

allocated States, the net effect of the proposed plan would be to create a Government sanctioned system of income transfer from one state to another and one region to another. According to DOE's own estimates, the income losses in some States would be staggering. Texas consumers, for example, stand to forfeit $116 million per month, or more than $1.3 billion if the program is operated for a year. This assumes rationing under a 20-percent shortfall, and an estimated value of $1.22 per coupon. If the shortfall is greater, or if the rationing coupons assume a higher white market, Texas consumers would lose even more.

Similar fates would befall 24 other States and the District of Columbia. Furthermore, it appears that those States hardest hit by the inequities of this plan are among the Nation's lowest in per capita income. For example, seven States alone—Texas, Mississippi, Georgia, Tennesee, Arkansas, South Carolina, and Louisiana—will account for more than 70 percent of the income lost to the white market while an almost equal amount will be gained by California, Ohio, Pennsylvania, New York, Connecticut and Washington. The average per capita income for these seven big losers is $5,816, while the average income for the big winners is $7,522. Under this plan the white market would become a Robin Hood in reverse, taking from the poor and giving to the rich.

There should not be winners and losers in gasoline rationing. It is a simple enough matter to develop a plan which is free of interstate bias; a plan in which all States are asked to share equally in the hardships of gasoline shortages. I, therefore, urge the President to withdraw his support of this ill founded plan and to send to Congress an amended version that treats each State in a fair and evenhanded manner.

I am aware that my colleagues on the Senate Energy Committee have waited a long time for this plan to reach their hands, but unless the President offers significant improvement I am prepared to send it right back marked rejected. The plan is an outrage, and I will do everything I can to defeat it. I am sure that many Members of this body share my feelings, and I urge them to join as cosponsors of my resolution expressing the Senate's disapproval of the gasoline rationing plan as submitted by the President.

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## SENATE RESOLUTION 99—SUBMISSION OF A RESOLUTION RELATING TO THE STATUTE OF LIMITATIONS APPLICABLE TO WAR CRIMES

Mr. CRANSTON (for himself, Mr. STAFFORD, Mr. MATHIAS, Mr. LEVIN, Mr. COHEN, Mr. HEINZ, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. NELSON, Mr. DOLE, Mr. SARBANES, Mr. METZENBAUM, Mr. JOHNSTON, Mr. DURKIN, Mr. WILLIAMS, Mr. PELL, Mr. ZORINSKY, Mr. STEVENSON, Mr. BOSCHWITZ, Mr. MCGOVERN, Mr. BAYH, Mr. PRESSLER, Mr. RIBICOFF, Mr. WARNER, Mr. CHILES, Mr. BRADLEY, Mr. STONE, Mr. TSONGAS, Mr. DECONCINI, Mr. EXON, Mr. LEAHY, Mr. BAUCUS, and Mr. HUMPHREY) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 99

Whereas in the 20th century there took place the most horrendous mass slaughter in the history of civilization wherein millions of human beings were systematically murdered on the basis of their political, racial, or religious backgrounds;

Whereas the identification and the prosecution of Nazi war criminals would serve to bring to justice those individuals personally responsible for such crimes and also serve to remind the world of the enormity of those crimes and of the need to prevent any reptition of such crimes;

Whereas worldwide efforts to locate and bring Nazi war criminals to justice recently have been intensified and could lead to the discovery of important new evidence against many suspected war criminals;

Whereas the Government of the Federal Republic of Germany has recognized its responsibility in bringing all war criminals to justice by amending its statute of limitations in 1965 and 1969;

Whereas the Federal Republic of Germany's statute of limitations applicable to war crimes will expire on December 31, 1979, and will prevent thereafter the prosecution of those people who committed war crimes prior to May 8, 1945, against whom proceedings have not already been initiated; Now therefore, be it

*Resolved*, That the Senate urges the Government of the Federal Republic of Germany to abolish its statute of limitations relating to the prosecution of war crimes or to amend such statute of limitations to allow a period of time sufficient for the prosecution of war criminals.

Sec. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Government of the Federal Republic of Germany.

Mr. CRANSTON. Mr. President, I am submitting a resolution today—joined by 32 of my colleagues—which calls on West Germany to abolish or extend its statute of limitations applicable to the prosecution of war crimes. Unless the West German Parliament acts, the statute of limitations will expire on December 31, 1979. Only those Nazi criminals or other war criminals against whom proceedings were instituted before the end of this year can be prosecuted.

West Germany has extended its statute of limitations on murder—which also applies to war crimes—twice before, in 1965 and 1969. In so doing, the West German Government has recognized its responsibility to see that all those who participated in the Holocaust against the Jews or in other heinous war crimes should be brought to justice. War criminals should not be permitted to go unpunished merely because a statute of limitations has expired. Because of the enormity of their crimes, I believe there should be no limit on the time in which they may be apprehended and brought to justice.

The West German statute is running out at a time when worldwide efforts to locate and bring to justice those who participated in war crimes have intensified. Our own Government is stepping up its efforts against suspected war criminals living in the United States, and a special litigation unit in the Justice Department has been established to direct investigations and prosecutions. Failure to extend the statute of limitations could not only lessen these recent efforts but make useless newly discovered evidence. War criminals who have escaped detection and prosecution thus far would be able to find a haven in West Germany and live openly without fear of punishment.

The decision to abolish or extend the statute of limitations involves important moral and legal questions. I am aware that opinion in West Germany is deeply divided. Responsible and respected leaders in West Germany have come down on opposite sides of this issue. Since the showing of "Holocaust" in West Germany, however, public opinion has been moving toward the abolition of the statute of limitations. And I am very encouraged that last week West German Chancellor Helmut Schmidt publicly expressed for the first time his support of the SPD initiative in the German Bundestag to lift the statute of limitations for murder—and thus for Nazi crimes. In fact, Chancellor Schmidt also announced that he had signed the draft bill now under consideration in his capacity as a Bundestag deputy.

Mr. President, Chancellor Schmidt has said that he and others in the West German Parliament will listen to the advice and comments offered by Germany's friends in Israel and in other countries. Poland and Israel have already expressed strongly their views that the statute should be extended once more or abolished entirely. The California State Assembly adopted a resolution in January urging the repeal of the statute of limitations. In the House of Representatives, Congresswoman HOLTZMAN has taken the lead and introduced a resolution making recommendations similar to those in the resolution we are introducing today.

In closing Mr. President, I urge the U.S. Senate to make its voice heard in this call for justice, and I hope that our resolution will be adopted.

Mr. PRESSLER. Mr. President, I would like to take this opportunity to speak on behalf of Senate Resolution 99, a sense of the Senate resolution asking that the Federal Republic of Germany abolish or extend its statute of limitations applicable to war crimes. I am an original cosponsor of that legislation.

On December 31, 1979, the Federal Republic of Germany's statute of limitations applicable to Nazi war criminals will expire. This provision has been extended on two previous occasions. If the West German Government does not act, war criminals not prosecuted before January 1, 1980, will be allowed to go free.

This century has seen a most horrendous mass slaughter in the history of civilization—the Holocaust—wherein millions of human beings were systematically murdered on the basis of their political, racial, and religious backgrounds. Worldwide efforts to locate and bring to trial the perpetrators of this heinous crime, have intensified in recent years. The possibility for new discoveries and indictments are significant

and worthy of continued efforts. But these efforts will be in vain should the statute of limitations expire on December 31 of this year.

There are many people who have banded together behind the effort to extend the statute of limitations, particularly as it relates to war crimes and crimes against humanity. I would like to personally congratulate West German Chancellor Helmut Schmidt for his recent statments indicating support for such a movement.

Chancellor Schmidt should be particularly commended for his actions in light of significant opposition among West German politicians and his electorate. These forces should not be automatically condemned. The West German people have experienced a great deal of worldwide embarrassment and emotional pain. However, it is my hope that the West German people will once again act forthrightly and support a third extension.

I would like to join today with several of my colleagues from both sides of the aisle, in asking the Senate to act decisively and positively in supporting Senate Resolution 99.

## AMENDMENTS SUBMITTED FOR PRINTING

### AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979—S. 413

AMENDMENTS NOS. 103 THROUGH 105

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. JAVITS submitted three amendments intended to be proposed by him to S. 413, a bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, to provide assistance to airwith noise standards, and for other purposes.

● Mr. JAVITS. Mr. President, I am submitting today three amendments to S. 413, the Aviation Safety and Noise Abatement Act of 1979, reported today by the Commerce Committee. The first would strike the additional authority given to the Secretary of Transportation to waive the FAR–36 noise standards. The second would provide additional funds for grants to implement noise compatibility programs. And the third would require that the standards for measuring aircraft noise be compatible with those for measuring and rating the impact of environmental noises in general.

I have long been deeply concerned about the adverse impact of aircraft noise on the more than 6 million Americans affected, one-quarter of whom live around the major New York airports. In the past two Congresses I have introduced legislation to assist the airline industry in financing the substantial cost to bring their aircraft into compliance with the Federal Aviation Administration's fleet noise rules, the so-called FAR–36 noise standards. With the airlines in a period of prosperity, such assistance is not at present necessary. Therefore, I believe Congress should turn its efforts to ensuring strict compliance with the fleet noise rule and to assisting communities in implementing noise compatibility programs.

My amendments today would work toward these ends. The first amendment I am introducing would strike sections 303 and 304 of the bill, giving the Secretary of Transportation additional authority to waive compliance dates. Under FAR–36, one-half the two- and three-engine fleet would have to meet the noise standards by the beginning of 1981; the other one-half by 1983. Four-engine planes have 2 additional years: one-half the fleet must be in compliance by 1983 and the other half by 1985. Airline operators have been on notice since 1976 of these compliance dates. And as early as 1969 the airline industry was on notice that retrofit would be required when the technology became available.

The bill reported by the Commerce Committee would provide two types of waivers—for "good cause" and for "new technology." The "good cause" waiver sets no standards to protect the public interest. Rather, it requires only that the Secretary find that the operator made a "good faith effort" to comply and that "good cause" exists for a waiver. And how does the committee bill define "good cause"—inability to obtain supplies, burdens on the operator that are unreasonable compared to burdens imposed on other operators, and "any other circumstances the Secretary deems appropriate."

Nowhere is the public interest mentioned as a test.

Striking the "good cause" waiver will not leave the Secretary of Transportation helpless to meet unusual circumstances. The FAA already has the power to waive any and all of their regulations; but they may do so only where such a waiver is in the public interest. And if a waiver is to be made of the noise rule, it may be made only if the Administrator of the Environmental Protection Agency concurs.

I submit that the public interest should be the test, not any reason that the Secretary might deem a "good cause," and the Environmental Protection Agency, charged with protection of our environmental health, should assist in being the judge. Therefore, my amendment would strike the "good cause" waiver clause.

The second waiver section my amendment would strike—the new technology waiver—directs the Secretary to provide a waiver to any operator who meets three requirements: First, has a replacement schedule approved by the Secretary; second, has a contract for an aircraft meeting FAR 36–Stage 3 noise standards signed by the compliance date (1983 for 2 and 3 engine planes, 1985 for 4 engine craft); and third, has delivery scheduled within a reasonable period of time.

At first blush this seems like an acceptable provision. By giving the airlines a few extra years, they will have an incentive to purchase Stage 3 aircraft, which are quieter and more fuel efficient than those aircraft that meet the fleet noise rules of the 1983 and 1985 deadlines. But with sharply rising fuel costs and even fuel shortages coupled with the need for additional seating capacity caused by the large increase in air travel today, the airlines already have great economic incentives to order the latest technology planes.

The possible crunch at the production end of the process can be alleviated under the 1976 FAA regulations. Airlines that have compliance plans approved by FAA will receive waivers for new technology aircraft provided delivery is scheduled by January 1, 1985. The committee bill has no similar 1985 deadline, only a "reasonable time," which could be 3 or 4 years after the 1983 deadline.

Four engine aircraft with a 1985 deadline date do not present the same logistical difficulties as 2 and 3 engine craft and therefore airlines do not need extensions of time. Sufficient retrofit kits and replacement engines can be built by 1985 to bring the craft into compliance. For airlines desiring to replace older 4 engine craft, the new technology planes will be available in sufficient numbers by 1985 if planning is not delayed. And should unforeseen circumstances arise that delayed the new technology, the FAA has the power to waive the 1985 deadline if they and EPA determine that it is in the public interest to do so.

I urge my colleagues to stand firm in support of the fleet noise rule and reject the unnecessary and perhaps even harmful waivers permitted by the committee bill. The FAA already has a new technology incentive with a deadline set at 1985. If the bill were enacted with its "new technology" waiver, the deadline for compliance would be set at only a reasonable time. The people of New York have waited long enough for relief. We can ill afford further extension of these important deadlines.

Quieter planes will not eliminate the noise problems for those living under the flight paths of our Nation's airports. We must also work to mitigate the impact through noise compatibility programs for affected property. Therefore, my second amendment would authorize the expenditure of $500 million in each of fiscal years 1981 through 1984 from the Airport and Airways Development Trust Fund for noise compatibility activities.

The committee bill gives the Secretary of Transportation the authority to award grants to airport operators and local governments for implementation of noise compatibility programs. Grants could be made not only for implementation of systems such as preferential runways that would reduce the noise over the most densely populated areas, but also for soundproofing of buildings and acquisition of land and interests in land for conversion to uses more appropriate to a noisy area. For example, schools and homes could be soundproofed so that lessons and homework would not be constantly disrupted by the din of planes overhead. Labor-intensive businesses might be converted to less labor intensive purposes such as conversion to warehouse use. The creative genius of the American people working coopera-

tively in neighborhoods severely affected by noise will, I am sure, result in many worthwhile uses for the funds.

Because the trust fund authorization expires at the end of 1980, the authorization made by my amendment is contingent on the reauthorization of the trust fund. But I feel Congress should declare now its intention to make the noise compatibility program a major effort in the years ahead by dedicating the $2 billion of the $3 billion surplus in the ADAP Trust Fund to this program.

My third amendment would require that the Secretary of Transportation consult with the Administrator of the Environmental Protection Agency in establishing a single noise measuring standard. It would also require that the single standard be compatible with EPA's standards for measuring the impact of environmental noises generally except where the Secretary determines that safety or other special characteristics of aircraft noise require a different measurement.

I feel it is important to use the EPA standard absent overriding factors. The Environmental Protection Agency, as a result of a 1972 congressional directive, has established a standard system for measuring and rating environmental noise. Such a uniform standard is particularly useful in measuring noise where it arises from several sources such as at an airport. If a separate standard were to be developed for aircraft noise, data obtained from the field would be much more difficult to analyze. We do not need such additional obstacles in the way of managing the noise problem.

I urge my colleagues to give every consideration to these amendments when S. 413 is considered by the Senate.●

## DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT—SENATE JOINT RESOLUTION 28

AMENDMENT NO. 106

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to Senate Joint Resolution 28, a joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

## NOTICES OF HEARINGS

HEARINGS ON REGULATORY REFORM LEGISLATION

● Mr. RIBICOFF. Mr. President, on Tuesday, March 20, the Governmental Affairs Committee will begin its hearings on major regulatory reform bills pending before the committee. The focus of the March 20 hearings will be S. 262, the Reform of Federal Regulation Act. This far-reaching regulatory reform measure now has the support of 25 Members of the Senate, including six committee chairmen.

The hearing will commence at 10 a.m., in room 3302 of the Dirksen Senate Office Building.

I am pleased to announce that our first witness will be Frank T. Cary, chairman of the board, International Business Roundtable's task force on government regulation, will testify on behalf of the business roundtable. In addition, he will present the major findings and conclusions of the roundtable's recent completed cost of regulation study. Assisting Mr. Cary in that regard will be Vic Millar from Arthur Andersen & Co. Mr. Millar provided overall direction for the roundtable cost study.

The second witness will be Mr. William Ross, who is head of the administrative law section of the American Bar Association. Mr. Ross will testify on the proposals contained in S. 262 to amend the Administrative Procedure Act. I am also hopeful that a representative of the ABA commission on law and the economy will also provide testimony at this hearing.

This will be the beginning of what will be a careful and deliberate consideration not only of S. 262, but of the other regulatory reform bills which have been or will be referred to our committee.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry has scheduled hearings to consider possible legislative reforms in the Federal crop insurance program.

The U.S. Department of Agriculture has submitted draft legislation to the Congress on this subject, and Senator DOLE has introduced S. 399. In addition, I plan to introduce several other bills prior to the hearings, and testimony on these bills will be welcome.

The hearings will be held on March 20 and 29 beginning at 9 a.m. in room 324, Russell Building. Due to time constraints, a limited number of witnesses will be heard at this set of hearings, but additional public hearings will be scheduled at a later date.

It is requested that witnesses summarize their oral statements in 10 minutes, but written statements may be of any length and will be inserted in the hearing record in their entirety.

Submission of written statements from all interested parties is encouraged and should be addressed to Denise Alexander, hearing clerk, Agriculture Committee, room 324, Russell Building.

Anyone wishing further information should contact the committee staff at 224-2035.●

SELECT COMMITTEE ON ETHICS

● Mr. STEVENSON. Mr. President, the Select Committee on Ethics will meet Thursday, March 15, 1979, at 2 p.m. in room S-206 of the Capitol to hear motions argued relating to the Senator HERMAN E. TALMADGE investigation.●

## AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Environment, Soil Conservation, and Forestry Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, March 20, 1979, beginning at 2:30 p.m. to hold a hearing on USDA's plans to abolish the Great Plains program and the resource conservation and development program. This request has been cleared with the other side of the aisle.

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

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on the reinstitution of procedures for registration under the Military Selective Service Act. This request has been cleared on the other side of the aisle.

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

SUBCOMMITTEE ON REVENUE SHARING, INTERGOVERNMENTAL REVENUE IMPACT AND ECONOMIC PROBLEMS SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Revenue Sharing, Intergovernmental Revenue Impact and Economic Problems Subcommittee of the Committee on Finance be authorized to meet during the Session of the Senate today beginning at 2 p.m. to hold a hearing on the administration's proposal for targeted fiscal assistance to State and local governments.

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

SUBCOMMITTEE ON HEALTH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate today to consider hospital cost containment legislation.

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

## ADDITIONAL STATEMENTS

## THE SOUTH DAKOTA LEGISLATURE SAYS "NO" TO A DEPARTMENT OF NATURAL RESOURCES

● Mr. McGOVERN. Mr. President, I rise to call attention to the growing number of organizations and individuals who are joining to oppose the proposed transfer of the U.S. Forest Service to a renamed Department of Interior.

Twenty-one members of the South Dakota legislature have joined in sponsoring a resolution that would oppose this transfer, and I shall submit that resolution for the RECORD.

Further, Congressmen AL ULLMAN and ROBERT DUNCAN have informed President Carter that they intend to oppose the reorganization scheme. I submit their letter for printing in the RECORD.

The material follows:

HOUSE CONCURRENT RESOLUTION No. 1005

Whereas, President Carter has approved a plan to study whether federal responsibilities for natural and environmental programs are effectively organized and to consider possible improvements; and

Whereas, the scope of the study includes a proposal to transfer the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior; and

Whereas, the United States Department of Agriculture has a long history of land management with resource capabilities for carrying out land programs and related activities and has the expertise and facilities for carrying out such programs and related activities on a cooperative basis with ranchers and farmers; and

Whereas, there is a close relationship between land resources and the production of food and fiber which has been historically administered by the United States Department of Agriculture; and

Whereas, when land and water resource management is viewed as the mutual responsibility of government and the private sector, the United States Department of Agriculture is centrally involved, in that ninety percent of the land area of this nation is affected by its programs and policies for conservation and its use of renewable resources; and

Whereas, it is in the interest of all of the residents of South Dakota to consider the impact of legislation concerning federally owned land and privately owned land contiguous thereto; and

Whereas, the United States Department of Agriculture has historically managed to balance the demands on public lands and has more experience in the multiple use concept of public land than any other Federal department or agency; and

Whereas, such actions as are being proposed which concern the transfer of certain functions of the United States Department of Agriculture to other departments will relegate said department to less than a cabinet-level department of the Federal Government and leave it without a voice concerning the economic growth of this Nation:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-fourth session of the State of South Dakota, the Senate concurring therein, that the South Dakota Legislature hereby opposes the transfer of the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior and requests that the Federal Government move cautiously in its deliberations regarding any change in the organization for management of the Nation's renewable resources.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 1, 1979.*

Hon. JIMMY CARTER,
*The President,*
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We are writing to express our concern about the possible impact on Oregon of a reorganization of the Federal Government's natural resource management agencies. Specifically, we have grave doubts about the advisability of placing the government's two major land resource managers in one new Federal department.

As you may know, Mr. President, 52 percent of the land in Oregon—more than 32 million acres—is owned by the federal government. The vast majority of this total is managed by the U.S. Forest Service and the Bureau of Land Management, with each agency responsible for more than 15 million acres. Located on these lands are some of the most productive softwood forests in the world, along with some of the most spectacular scenery. Forests and scenery are bases for two of our state's most important industries—forest products and tourism. Needless to say, the outcome of the natural resources reorganization effort will be critical to the state.

We have supported most of your efforts to achieve efficiencies in federal operations, and we expect to continue to do so. We are not convinced, however, that combining the Forest Service with Interior Department agencies would produce the desired result.

In our judgment, Oregon has derived significant benefits from the division of federal land management responsibilities between two separate agencies. First, the management practices of the Forest Service and Interior agencies can be and are compared and contrasted. This results in improved management practices as well as healthy competition among agency managers.

Second, and more important, the existence of management agencies in two separate cabinet-level departments provides a measure of insulation against political winds and whims which, in a brief period, can have adverse, long-term impacts on lands and resources. Management of federal lands in Oregon has been prudent over the years, despite wide variance in the inclinations of various cabinet secretaries.

Finally, we believe that the U.S. Forest Service, while consistently underfunded, has been a uniquely effective agency of the Federal government since it was created in 1905. Its personnel display professionalism that is seldom matched in the federal establishment. This is due, in no small measure, to the relative independence of the agency within the Department of Agriculture and to the singular nature of the congressional mandate to this agency.

While there are many improvements that can be made in Forest Service operations—as well as those of Interior Department agencies—we believe that improvements can best be achieved by dealing with major federal land managers separately.

We are grateful for your attention to these matters, and thank you for your courtesy.

Sincerely,

AL ULLMAN, M.C.●

## RELATIONS WITH MEXICO

● Mr. GOLDWATER. Mr. President, concern for U.S. relations with Mexico is growing in almost direct proportion to our concern with threatened shortages of energy supply.

Recently, President Carter made a trip to Mexico for the specific purpose of improving relations. And although it cannot be said the President's trip was crowned with significant success, I must say that the mere fact that an American President finally went to the trouble of visiting our sister nation had some good effect.

The people of my State of Arizona which borders on Mexico are especially concerned over the development of better relations with the Mexican people and the Mexican Government. Because of this concern, the State Senate of Arizona has adopted a memorial resolution urging President Carter to review our relations with Mexico in the light of Mexico's petroleum reserves and to establish mutually beneficial arrangements for the purchase of Mexican petroleum products.

Mr. President, I ask that the following memorial resolution be printed in the RECORD:

SENATE MEMORIAL 1002

Whereas, evidence indicates that Mexican petroleum reserves range from one hundred fifty billion to over two hundred billion barrels; and

Whereas, currently the United States is too dependent on receiving petroleum products from an unstable Middle East; and

Whereas, sale of Mexico's petroleum products to the United States will reduce this country's dependence on Middle Eastern petroleum products; and

Whereas, Mexican petroleum could be an important factor in holding down world energy prices; and

Whereas, the United States is the natural market for Mexico's petroleum products; and

Whereas, a significant percentage of American money spent for Mexican petroleum products would, in turn, be used for purchases in this country; and

Whereas, development of Mexican petroleum reserves would serve to reduce poverty in Mexico and so reduce illegal immigration into this country.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the President consider the importance of Mexican petroleum reserves during his review of United States-Mexico relations.

2. That the President offer further assistance to Mexico for the development of Mexico's petroleum reserves.

3. That the President work to establish mutually beneficial arrangements for the purchase of Mexican petroleum products by the United States.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States and to each Member of the Arizona Congressional Delegation.●

## GSA BUILDING PROJECTS

● Mr. STAFFORD. Mr. President, on the motion made by Senator MOYNIHAN—in which I joined—the Committee on Environment and Public Works yesterday morning voted to place a moratorium on approvals by the committee of all nonemergency projects of the Public Buildings Service of the General Services Administration. The moratorium will extend for the duration of this session of this Congress.

Under statute, approval by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation is required for GSA proposals for construction, alteration and repair, leasing and lease renewals that exceed $500,000 in cost.

Mr. President, this action is one among several taken by the committee in recent months to get to the bottom of the grievous problems at GSA. While not enumerating them all at this time I do want to call to the attention of the Senate the additional views of Senators RANDOLPH, MOYNIHAN, CHAFEE, and myself—and my own supplemental views—which were printed last August in the committee's first report to the Senate on Public Building Proposals.

Mr. President, I ask that these views be printed in the RECORD.

The views are as follows:

ADDITIONAL VIEWS OF SENATORS RANDOLPH, MOYNIHAN, STAFFORD, AND CHAFEE

Our committee has long discussed and intends to pursue its objective of improving the Federal building approval process under its jurisdiction. This includes, renting, or

renovation of workspace housing Federal officeworkers. The procedures adopted by the committee when it approved the building prospectuses discussed in this report are only the most recent effort by the Senate Committee on Environment and Public Works to responsibly exercise its jurisdiction over Federal buildings (rule XXV(1)(h)(12)). They extend the existing procedures previously adopted by the committee.

There have been recent disclosures in the press of management failures, waste, and improprieties within the General Services Administration, which have been reviewed in hearings before a subcommittee of the Governmental Affairs Committee subsequent to the action discussed in this report. These disclosures are but one symptom of the need for clear policy direction and competent execution of defined programs—a need long evident to those who must deal with the agency. They expose, however, the urgency of attacking the fundamental problems which plague the agency—ranging from a coherent buildings policy to possible reorganization.

The committee acknowledges its responsibility in this area. It expects to address those problems which fall within its jurisdiction, and seeks the cooperation of the agency and the executive branch in this effort.

JENNINGS RANDOLPH.
ROBERT STAFFORD.
DANIEL P. MOYNIHAN.
JOHN H. CHAFEE.

SUPPLEMENTAL VIEWS OF MR. STAFFORD

I was glad to sponsor, with Senator Moynihan, the two new committee procedures described in this report. Following discussion by the committee, the first part of our proposal was adopted unanimously and the second part by a vote of 9–3. These first two steps should be viewed, however, as only the constructive beginning of the measures which must be taken.

As the ranking minority member of the committee, I have long believed that the prospectus process may no longer be adequate or appropriate. I have been equally concerned over the proper congressional role in building projects.

Our committee should carefully review not only the Nation's buildings policy, but specifically GSA management procedures and controls over building construction, leasing, alteration, and repair. I believe and expect the committee will pursue its concerns in these areas—areas that have been neglected by both the Executive and the Congress. To this end, I expect to introduce legislation which I hope will serve as a focal point for discussion, and a point of departure for full oversight of the agency's buildings, program, its management controls and procedures, and the Nation's building policy.

There has not been, so far as I have observed, a coherent Federal policy on buildings. The policies that do exist appear to be in a state of continual change, if not increasing disarray and advanced deterioration. This lack of direction, and of defined policy, may be a failure of successive administrations and Congresses, as well as of the agency itself. It is painfully clear, however, that a policy must now be developed and adopted, logically defined and clearly enunciated. To protect its integrity, safeguards must be provided to assure that the chosen policy and program is then carried out, and firmly adhered to.

Before a coherent buildings policy can emerge, a number of issues must be addressed. I hope they may receive the prompt and close attention not only of the committee but also of the executive branch. Among the questions that may have a profound effect on the management of GSA and the buildings program are these:

Is the Federal buildings fund functioning in the manner intended when established by the Congress in 1972? If not, why, and what should be done?

What is the first purpose of a building policy, and which are the ancillary purposes, or compatible subsidiary goals? For example, how should functional efficiency, work effectiveness, urban policy, and "consideration" rank in prority?

Is the prospectus process satisfactory, or the best choice as a management tool, for the executive branch? If it is useful to the Congress, does it provide controls and safeguards commensurate with the responsibility it imposes? What should be the congressional role in this or an alternate approval process?

What are the consequences of the proliferating construction authorities among numerous agencies?

Should not the Congress and the executive branch establish some common ground with respect to financing space acquisition—which involves budgetary impacts as well as comparative costs?

These questions are not exhaustive of the subjects that should be examined, or that may arise during oversight hearings. I believe they are instructive, however, of the task before the Congress and the administration.

The recent disclosures of improprieties and management failures, even if not at levels directly responsible to the Committee on Environment and Public Works, illustrate also the need to assure safeguards, proper procedures, and competent management in the very important field of building construction, leasing, alteration, and repair—where the committee is asked to assume initial approval responsibility for projects exceeding $500,000 in cost.

In the long run, only a coherent policy, clearly defined programs, and firm execution of those decisions backed by consistent authority, will fill the policy vacuum which otherwise attracts confusion and influence, if not exorbitant waste, favoritism, and scandal.

## RHODESIAN ELECTION OBSERVERS

● Mr. TSONGAS. Mr. President, it is my understanding that within a week's time the Senate will consider Senate Concurrent Resolution 8 sponsored by Senators McGOVERN and HAYAKAWA. The resolution provides for a congressionally appointed and funded team of observers which would go to Rhodesia and observe the election to be held by April 20. The observer team would prepare a report on the election and submit it to the Congress soon after their return from Rhodesia. It is understood that Congress would transmit the report to the President who would consult the report during his deliberations on the question of lifting the economic sanctions against Rhodesia. The sponsors of the revolution state that the observer team will be impartial and provide factual information on whether the Rhodesian election is free and fair.

At first glance, this resolution appears to be a well-intentioned, useful initiative. It is difficult to imagine that the sending of an "impartial observer team" would launch the United States on a dangerous and ultimately disastrous course in Rhodesia and southern Africa. But, if this resolution is enacted, that will be precisely the outcome. I will speak in more detail on this resolution later this week. I think it is appropriate at the present time to make available the views of others on the resolution. Mr. Frank Ballance has written a thoughtful criticism of the resolution in the Washington Post. The New York Times published a challenging editorial on the issue on March 12. I ask that both be printed in the RECORD.

The material follows:

[From the Washington Post, Mar. 10, 1979]

OBSERVING ELECTIONS IN RHODESIA

The Post has consistently displayed an inadequate understanding of the situation in Rhodesia, as its simplistic editorials demonstrate. Your March 3 editorial ["Observation on Rhodesia"] criticizes the administration for failing to accept the congressional challenge to observe the Rhodesian election. It slides too easily over the fact that observation is an issue because Congress unwisely injected itself into a complex issue that it knew little about.

The Case-Javits amendment, setting conditions under which sanctions might be lifted later, was a compromise designed to prevent the passage of legislation to lift sanctions immediately. It was clearly not a response to a Rhodesian request to monitor their elections. The Rhodesian regime has no such mandate from its people, 97 percent of whom have had no chance to vote on the constitution, which was written by white Rhodesians and endorsed in a white-only referendum.

The Case-Javits language sought to ensure that the internal settlement could not be validated solely by the acts of an illegal government, and that impartial, internationally recognized observation was an essential component in any election. However, there is an enormous difference between an internationally supervised election under U.N. auspices and a unilateral effort by the Congress to select its own observer team, one finely balanced to meet U.S. political realities but certainly not reflective of the dynamics of Zimbabwe.

The problems with the Rhodesian elections run far deeper than potential ballot stuffing or graveyard voting. There is likely to be little need for such activity, since the election has already been rigged. Observers will be faced with such sensitive political issues as what percentage participation by eligible black voters will be deemed sufficient to validate the elections, whether the political process has in fact been open to all parties and groups, and what opportunity for campaigning or voter education there has been under conditions of martial law, guerrilla warfare, censorship and manipulation by the Salisbury government.

The fundamental test of elections must be whether they permit a genuine expression of the political will of a people. What possible value is an election that presents a choice between the Rev. Ndabaningi Sithole and Bishop Abel Muzorewa? Any real differences are buried under the terms of the constitution to which both agreed; the potential for meaningful change is so circumscribed as to reduce the choice to one between Tweedledum and Tweedledee.

Neither Joshua Nkomo nor Robert Mugabe has shown any inclination to contest an election under such conditions, especially after repeated attacks by Ian Smith's army on their followers in Mozambique and Zambia. Observers are unlikely to see their supporters turned away from the polls. Well over 100,000 Africans have fled Rhodesia, and the rate of flight is growing. They are not waiting for congressional observers to tell them it is safe to vote. Congressional intrusion in the Rhodesian elections is unlikely to alter political perceptions of the results. But it will reinforce the widely held African view, which this administration has done much to dispel, that U.S. sympathies in the crunch will be with the whites and their black clients and against the forces of African nationalism.

[From the New York Times, Mar. 12, 1979]

FACING UP TO FAILURE IN RHODESIA

There is to be an election of sorts in Rhodesia next month by which the white minority regime hopes to make itself appear a black regime, thus finding acceptance in the West but running things pretty much as before. This cozy arrangement between Prime Minister Ian Smith and some cooperative black leaders is being challenged by two separate guerrilla forces. With the help of neighboring African states and Soviet-bloc arms, the guerrillas have undermined the Government's control over much of the land and people.

It looks now as if the Smith regime's cosmetic transformation will not be prevented by the civil war. But neither will more bitter warfare be prevented by the transformation. The long-shot American policy for avoiding both these developments—by negotiation among all the Rhodesian factions—is therefore close to failure. If the Carter Administration does not acknowledge this failure in time, Congress may choose the worst possible response.

Many Americans look with sympathy on Mr. Smith's belated formula for "majority rule." Put off by the revolutionary rhetoric and guerrilla terror, they think the United States should support an arrangement that appears biracial and constitutional and is ratified by elections. Impressed by these arguments, Congress will send observers to report on the fairness of the vote. If the report is favorable, Congress may demand an end of United States sanctions against Rhodesia and insist on supporting the new government against the guerrilla challenge.

But there is no persuasive evidence that this would contain the violence. The "internal agreement" between Mr. Smith and his black collaborators reserves far too much power for the white minority. It was ratified by a referendum in which only the 90,000 white voters were allowed to participate. Two and a half million eligible blacks will be urged and cajoled to vote in next month's parliamentary election but that will hardly make it a test of their support for the new structure. The guerrilla leaders, Joshua Nkomo and Robert Mugabe, reject the new constitution and are running no candidates. The neighboring "front line" black states support the guerrillas mainly because they see no hope for stability until the regime formed by Mr. Smith is either displaced or forced to yield real power to blacks.

The Americans bid for compromise was noble so long as there remained the slightest chance of heading off civil war. There is little hope for compromise now and the Administration should admit that as it weighs the unappealing choices that remain.

Backing Mr. Smith's scheme would be a serious mistake. That would only undo the credit the United States has thus far earned in Black Africa without resolving anything. It would tie the United States to an ally that offers neither majority rule nor the prospect of peace. Backing the guerrillas is inconceivable as long as they refuse to assure a fair division of power and to protect white minority rights. Yet standing aside could permit the Soviet Union and its Cuban allies to gain the benefits of yet another successful African insurgency.

While Rhodesia reaps the violence that is Mr. Smith's true legacy, the United States can only wait for a new opportunity to bring it fairly to an end. That opportunity will not arise if Mr. Smith is led to believe that the West will ride to the rescue.●

## HELIUM

● Mr. DOMENICI. Mr. President, the action to eliminate funds from the annual budget authority for the helium fund gives the Senate another opportunity to discuss the confused Government policy on helium conservation. I have been an advocate for conserving helium resources for many years now, and in 1976 the Senate passed my sense of the Senate resolution recommending that the President direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere.

While I will not oppose this rescission, this action adds to the confusion of the helium program. The Senate Energy and Natural Resources Committee plans to pursue this matter and to develop a program to reestablish a conservation program for this Nation's helium resources.

Helium is a rare natural resource with the unique property of maintaining liquid to the lowest temperature yet achieved. This makes it invaluable as a superconductive agent in power transmission. At Los Alamos Scientific Laboratories, new energy technologies are being developed and large-scale commercialization in advanced energy producing and distributing technologies are anticipated to occur in the post-2000-year period. These technologies will be dependent upon an adequate supply of helium at a reasonable cost.

Mr. President, it is unwise for this Nation to continue to allow helium to escape into the atmosphere. This is a matter of immediate concern because as we develop our natural gas supplies helium is being wasted.

The Congress must discuss the necessity of conserving helium. It is shortsighted to waste a valuable resource needed in developing technologies which are bound to determine the extent the United States can meet its future energy requirements.

The confused state of this Nation's helium program must be the subject of hearings during this session of Congress.●

## HERMAN TALMADGE, A CHAMPION OF SCHOOL LUNCH

● Mr. McGOVERN. Mr. President, Senator HERMAN TALMADGE, the chairman of the Agriculture, Nutrition, and Forestry Committee has been a strong national leader in the area of child nutrition for many years. His championing of the school lunch program deserves recognition. He has spoken out over and over again on behalf of the importance of improving the nutritional health of young people.

Under his leadership, school lunch participation has grown steadily and currently serves 26 million children every school day.

Last week Senator TALMADGE addressed the Georgia School Food Service Association and again demonstrated his commitment to the school lunch programs.

In his remarks, he articulately explains why he will oppose the administration's proposals with regard to school lunch. I strongly support his position, and urge my colleagues to give his statement every consideration.

I ask that Senator TALMADGE's remarks be printed in the RECORD.

The remarks follow:

REMARKS BY SENATOR HERMAN E. TALMADGE

I am delighted to be back home in Georgia among good friends here tonight.

This grand old State and its strong, sturdy people have always been a wellspring of strength to me. Never was this more true than it is today.

I am particularly pleased to be among the people who are responsible for the operation of the school lunch program in Georgia. This long has been one of my favorite Government programs. It is certainly one of the most successful and constructive Government activities that has come along in my lifetime.

My first exposure to the primitive forerunner of the national school lunch program was as a boy in Telfair County in the 1930s when surplus farm commodities, such as dried milk, were distributed by the federal government to school children. While this experience did not do much for my taste for dried milk, it did give me an early and lasting insight into the tremendous potential of a national school lunch system for providing hungry children with nutritious meals and farmers with a ready and worthwhile outlet for their agricultural commodities.

This happy melding of two of the nation's priority needs was formalized early in the post war era under the National School Lunch Act of 1946.

A great Georgian, the late Sentaor Richard B. Russell, played a leading role in that legislation. It laid the foundation for the school lunch program as we know it today.

During my 23 years in the Senate—the last eight as chairman of the Committee on Agriculture, Nutrition, and Forestry—I have had the privilege to participate in the development and passage of some dozen major school lunch bills, including the act of 1970 that modernized the program, provided adequate funding and extended its benefits nationwide.

Nothing that I have been able to accomplish during my years in Washington has given me any greater satisfaction than the school lunch and child nutrition laws that have originated in my committee and have been placed on the nation's statute books.

But the success of any legislative program, in the final analysis, rests with the people who administer it and who carry out its provisions. It is they who must translate ideas into action and objectives into results.

The school food administrators of the nation—and especially here in Georgia—have performed this vital role with brilliance, ingenuity, and dedication.

You have made this program a model in Federal-State-local cooperation. You have helped to make federalism work in a manner envisioned by the founding fathers when they fashioned our dual system of government.

The school lunch program here in Georgia deserves special praise and tribute. I consider it the foremost example in the nation of efficient yet compassionate administration of the program. This is due in large measure to the efforts of those of you here tonight and to the inspired leadership over the years of my good friend and the good friend of every school child and every parent in this state, Josephine Martin. I congratulate each and every one of you.

In carrying out the legislative goals established by Congress in the school lunch and child nutrition programs, you and your counterparts in other states have achieved much more than an administrative success story. You have contributed in a meaningful way to the nation's educational process by providing nutritional meals to school children without regard to their means, circumstances or background.

You not only have provided the nation with an instructive model of good nutrition, you have put food in hungry stomachs and thereby made young minds more receptive to learning.

You not only have enhanced the nutritional health and well-being of the nation's children, you have enhanced the nation's strength and security as well. All Americans are in your debt.

I know that President Carter is among those who share your and my dedication to the school lunch and the child nutrition programs. I am certain he would not knowingly or conscientiously do anything to weaken these programs or impair their effectiveness. Like you and I, he has seen firsthand the good results of these programs.

Unfortunately, the changes that his administration has proposed that Congress make in the school lunch program would, I fear, adversely affect the program and deny its benefits to many children. These changes, if they should become law, would reverse the long and unbroken record of improvements that have been made in the program over a period of many years.

As you probably know, the changes that the administration is proposing would provide for a five cents reduction in the Federal reimbursement for paid school lunches and for more stringent family income requirements for children to qualify for free or reduced price lunches.

These changes are proposed as part of the laudable effort of President Carter and his administration to reduce Federal expenditures. I, for one, certainly applaud the end the President seeks. But in this instance I strongly question the means to that end.

The reductions in the Federal school lunch spending that these proposed changes would achieve amount to $262 million—or about eight percent from the current spending level. But these savings would be achieved at the cost of driving at least a million children and perhaps a great many more—no one really knows—out of the school lunch program.

Here in Georgia, I am told by Miss Martin that the increased price of paid lunches that would result from the reduced Federal reimbursement, plus normal inflation, could drive as many as 59,000 students from the program. At the same time, the tightened requirements for free and reduced-price lunches could drive away another 20,000—and these would be the children who benefit most from the program.

This prospective loss of 79,000 Georgia children from the school lunch program each day would have major adverse economic repercussions—including the loss of 790 jobs, $8 million in payroll, and $7 million in food purchases.

But a much greater loss—one that would be impossible to place a price tag on—would be the 79,000 youngsters who would be denied the nutritional benefits of a school lunch—whether by choice or otherwise.

These are some of the reasons that I am deeply troubled by the administration's proposed changes in the school lunch program. But most of all I am troubled because no one in the administration—neither the office of management and budget, the Department of Agriculture, nor the Food and Nutrition Service—and no one in the Congress really knows what the impact of the proposed changes would be.

We simply do not have sufficient program information or evaluation material to assess with sufficient accuracy what the end results would be if the proposed changes were put into effect.

Even the General Accounting Office—an investigative and analysis arm of the Congress that is not particularly known for dealing in human terms—has urged a go-slow approach to the administration's proposed modifications in the school lunch program. In testimony presented to our nutrition subcommittee last week, GAO said of the proposed changes:

"Unquestionably, the department's proposed cuts will save money.

"They will also remove many children from these programs. Unfortunately, we are unable to measure the tradeoff between budget cuts—some or all of which could be well taken—and cutting children off from program benefits."

Because of the uncertainties and unknowns—and because I feel strongly we should be expanding and not restricting participation in the school lunch program—I will oppose the changes requested by the administration in their present form.

The Senate Committee on Agriculture, Nutrition, and Forestry already has indicated its position on these changes.

On Tuesday of this week, we recommended that the 1980 budget continue funding of the school lunch program on its current basis without the changes proposed by the administration.

This would provide for a Federal subsidy of 32.3 cents in cash and commodities for each paid lunch served. It would also leave the eligibility standards for free and reduced lunches exactly as they are at the present time.

I will urge my committee to maintain this position when the administration sends up the legislation containing the proposed changes.

The people of Georgia did not send me to Washington to waste and squander their tax dollars.

But neither did they send me to Washington to preside over the demise or diminution of tested and proven activities such as the school lunch program. I do not intend to do so.

I do not wish this to mean that we should not seek to effect economies whenever and wherever possible in the school lunch and child nutrition programs. Costs must be contained.

The people of this country, while willing to support worthwhile programs, are saying in no uncertain terms that they want all Government costs controlled. They are fed up with waste and inefficiency.

They are sick and tired of run-away Federal spending and irresponsible Federal deficits that are fueling the fires of inflation.

I am certain—and I expect that you are even more certain—that economies can be made in the school lunch program, economies that won't discourage student participation in the program. Indeed, the people here tonight and your counterparts in other States are the very ones that the Secretary of Agriculture should be looking to for guidance and suggestions for the right kind of cost-cutting.

I hope the Secretary will avail himself of your expertise and your ideas and that he will send Congress a new set of proposed changes that we can consider with confidence.

I would like now to touch briefly on another development in Washington that I believe is a matter of interest and concern to food service administrations, even though it does not directly affect the school lunch or the child nutrition programs.

It does very much affect the Department of Agriculture and its future.

And on down the road, it could very well affect you and the program that is near and dear to your hearts and in mine.

Many of you will recall that about a year ago the Carter Administration asked Congress to create a new U.S. Department of Education. This new cabinet-level department would be carved largely out of the Department of Health, Education and Welfare. But the administration last year also proposed to transfer the child nutrition programs—including school lunch—from USDA to the new education department.

Your national association, along with many other child nutrition and child-feeding interest groups, joined with members of my committee and other members of Congress in vigorous opposition to the school lunch transfer. We also had the active support of many other groups outside the child nutrition area who shared our desire to keep the Department of Agriculture intact.

We won the fight last year because of the many diverse friends of USDA who joined forces in a solid front to thwart the effort to dismember the department.

This year, the administration has again asked Congress to establish a U.S. Department of Education—but without the school lunch and child nutrition programs.

But the effort to dismantle the Department of Agriculture is still very much alive. This year the attack has been mounted from a different quarter.

President Carter last week sent Congress a proposal to transfer the U.S. Forest Service—the largest component agency of USDA—to an expanded Department of Interior to be re-named the Department of Natural Resources. The President also proposed to chop off the rural development business and industrial loan program of the Farmers Home Administration and transfer it to the Department of Commerce.

I am just as vigorously opposed to these new reorganization plans as I was to the unsuccessful attempt last year to transfer the child nutrition functions out of USDA.

I also believe it is in the interest of the friends of the school lunch program to oppose the current effort to carve up the Department of Agriculture.

It is imperative that we maintain a strong Department of Agriculture worthy of full Cabinet status. This makes our task on Capitol Hill easier in writing sound child nutrition programs as well as sound farm programs.

I might also point out that while there is no present attempt to tamper with the child nutrition programs, there is nothing to prevent a future President from reviving the notion that this vital USDA activity ought to be placed elsewhere in the Government.

Therefore, I invite an urge your help in defeating this latest raid on the functions of the Department of Agriculture.

Let me thank you again for the opportunity to be here tonight. I hope you will permit me a personal word in conclusion.

On six occasions, the people of Georgia have honored me with the two highest offices within their gift—twice as Governor and four times as U.S. Senator.

For this expression of confidence and trust, I am humbly and eternally grateful.

Throughout the years, I have strived to represent the people of this State without fear or favor, as God has given me the light to see my duty.

Next year, I will again ask the people of Georgia to give me their endorsement and support for the United States Senate. I pledge to them and I pledge to you that I will give the best that I have . . . and the best that I am capable of attaining . . . in the discharge of my highest obligation—to serve all of the people of this State to the full extent of my ability.●

## SOFT DRINK INTERBRAND COMPETITION ACT (S. 598)

● Mr. HELMS. Mr. President, I am pleased to be one of the cosponsors of legislation designed to preserve a unique and competitive industry practice—the manufacture, bottling, and distribution of trademarked soft drinks by local companies operating under territorial licenses. The Soft Drink Interbrand Competition Act, introduced on March 8, 1979, allows local manufacturers to maintain their territorial licenses as long as there is substantial and effective interbrand competition.

The soft drink industry is composed of thousands of small companies and plants built to serve local communities. Typically, the bottler employs less than 50 persons. A 1977 profile of the North Carolina soft drink industry is illustrative of the small size and competitive nature of this business:

*North Carolina soft drink manufacturers*

| | |
|---|---|
| Number of plants | 87 |
| Domestic owned plants | 70 |
| Number of firms | 59 |
| Domestic owned firms | 52 |
| Single-plant firms | 41 |
| Multi-plant firms | 18 |
| Plants by number of employees: | |
| 1–49 | 61 |
| 50–99 | 14 |
| over 100 | 12 |
| Number of cities with plants | 49 |

The Federal Trade Commission's decision to bar as unlawful territorial restrictions in soft drink trademark licensing—like most misguided bureaucratic actions—creates more harm than good. In the long run, the FTC decision would prove to be anticompetitive. If territorial licenses are prohibited, it is most likely that many of the small bottlers will be absorbed by larger ones. Such a restructuring of the industry would be inconsistent with the purposes of the antitrust laws.

This legislation will encourage the industry to continue operating in small units effectively competing with each other. This is good for both the industry and the consumer. I urge my colleagues to join in supporting this worthwhile legislation.●

## COMMITTEE ON GOVERNMENTAL AFFAIRS—REPORT PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT

● Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Governmental Affairs concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the first concurrent resolution on the budget:

COMMITTEE ON GOVERNMENTAL AFFAIRS, U.S. SENATE—2D REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

| | Fiscal year 1979 direct spending jurisdiction | |
|---|---|---|
| | Budget authority | Outlays |
| AMOUNTS FOR PROGRAMS IN DIRECT SPENDING JURISDICTION | | |
| Controllable programs: | | |
| Department of Commerce, Bureau of the Census: Special studies, services, projects (Function 370) | 5 (+1) | 5 (+1) |
| District of Columbia: Advances to stadium sinking fund, Armory Board (Function 850) | 1 | 1 |
| General Services Administration (Function 800): | | |
| Real property activities, expenses, disposal of surplus real property (Special fund) | 1 | 1 |
| Records activities, National Archives gift fund | (1) | (1) |
| National Archives trust fund | 0 | (1) |
| Advisory Commission on Intergovernmental Relations (Function 800) | (1) | (1) |
| Controllable subtotal | 7 (+1) | 7 (+1) |
| Other programs: | | |
| Civil Service benefit funds: | | |
| Retirement and disability fund (Function 600) | 19,855(−52) | 12,196(+16) |
| Employees life insurance fund (trust revolving) (Function 600) | 0 | −485 |
| Employees health benefits fund (trust revolving) (Function 550) | 0 | −43 |
| Retired employees health benefits fund (trust revolving) (Function 550) | 0 | (1) |
| Federal payment to civil service retirement and disability fund (Function 800) | 6,247(+76) | 6,247(+76) |
| Department of the Treasury: Secret Service contribution for annuity benefits (Function 750) | 8 | 8 |
| Other subtotal** | 26,110(+24) | 17,923(+92) |
| Total, direct spending jurisdiction | 26,117(+25) | 17,930(+93) |

[1] Represents amounts less than $500,000.

Amounts for entitlements funded in annual appropriation acts:

The only such entitlement program under the jurisdiction of the Governmental Affairs Committee is Compensation of the President, in the amount of $200,000 (budget authority and outlays).●

## CONSTITUTIONAL AMENDMENTS RELATING TO ABORTION

● Mr. MATHIAS. Mr. President, one of the compelling precepts of religion is that God has imposed the duty and privilege of moral decision upon each individual human being. Government should not invade this very personal province and experience teaches that it is futile for Government to try to impose a collective moral decision upon the conscience of a single citizen.

It is my personal belief that life does begin with conception and that creation of life simultaneously creates responsibility. A proper concern for life extends, however, to a mother's right to life when pregnancy endangers her survival and health. Between these two positions lies a wide area for moral decision. What are the circumstances in a given case when abortion is being considered? What jeopardizes the mother's health and to what degree? What weights should be placed on each side of the scale by the persons most intimately concerned?

I do not believe that Government will ever be so finely tuned that it can answer these questions. Only those who bear a burden of decision that cannot be lifted from their shoulders can finally make the determination and then only after searching the facts and their own souls. Even if Government attempted to decide for them, it would not be able to guarantee them a quiet conscience nor to confirm to society a universal principle of faith and practice.

There are ways in which society can help individuals who are faced with this supreme moral dilemma. Families must be encouraged to come together to make such decisions with love and understanding by restraining hasty or furtive solutions. The best and most comprehensive counselnig must be made available. But our moral responsibility mandates that the decision is private and personal and must remain so.●

## S. 356—ESTABLISHMENT OF AN INTERNATIONAL GRAIN EXPORTING STABILIZATION COMMISSION

● Mr. DOMENICI. Mr. President, my distinguished colleague, Senator BELLMON, has introduced a bill to encourage the establishment of an International Grain Exporting Stabilization Commission.

As a cosponsor of S. 356, I would like to add my comments concerning this legislation.

The International Grain Exporting Commission Act of 1979 would request the President to establish an international grain exporting commission to be composed of the major wheat exporting countries. That commission would then establish a minimum world price for wheat.

Mr. President, nothing amazes me more about this Nation's farmers than their ability to stay in business and keep American agriculture flourishing when:

First. A bushel of wheat that our farmers receive $3 for is taxed $6 by Japan before that country delivers the wheat to its millers.

That translates into a 200 percent profit for Japan over our own farmers, on wheat that country does not even have to grow, so their own farmers can receive an economic umbrella.

Second. There is a widespread misconception as to the amount of wheat in a loaf of bread. Consumers embrace the misconception that bread prices rise in

direct proportion to wheat prices, when in truth the wrapper on that loaf of bread costs more in many cases than the bread inside.

Under the Bellmon bill, with a $4.50 per bushel f.o.b. export price, the consumer would not be penalized.

To reiterate Senator BELLMON's words:

The price of a 1-pound loaf of bread increases about 1½ cents for each $1 per bushel increase in the price of wheat. Thus, if the price of wheat increases to $5 per bushel f.o.b. at the ports, bread would only increase about 2 cents per loaf since the current export price for wheat has been fluctuating around $3.50 per bushel f.o.b. at the ports.

How can we truly expect our grain farmers to survive by selling products below the cost of production?

How can we continue to justify export prices that make other countries rich while our own people are going bankrupt?

I can offer no simple answers to these complex dilemmas, Mr. President.

But I can support wholeheartedly S. 356, a bill that will improve farm income, reduce Government expenditures, improve our balance of trade, encourage developing countries to increase production, and not significantly increase the cost of bread.

And I am pleased to join Senator BELLMON in his efforts to accomplish those goals.●

## TRIBUTE TO FORMER SENATOR DEWEY BARTLETT

● Mr. WEICKER. Mr. President, I join my colleagues in paying grateful tribute to our late friend and colleague, Dewey Bartlett of Oklahoma. He was a great human being and an exemplary public servant.

Among Senator Bartlett's many admirable qualities, his perseverance in defense of his convictions stands out. His tireless advocacy of decontrol of energy supplies made an outstanding contribution to the Senate's consideration of the administration's energy proposals last year. He continued to press and attempt to clarify the administration's position long after the TV lights had been turned out and the Nation's attention had turned elsewhere. In addition, his conscientious service on the Senate Armed Services Committee bolstered our efforts to provide for the national defense.

In all has dealings, Senator Bartlett was a man of warmth and humor. This made him the friend of many in the Senate, staff and Senators alike.

The courage of his final days in Washington, as he battled the cancer which would take his life, will stand as a vivid reminder and testament to the values on which Senator Bartlett built his life.●

## THE MAINE FISHING INDUSTRY

● Mr. COHEN. Mr. President, Maine's once-thriving fishing industry believed until recently that the Fisheries Management and Conservation Act of 1976 would reverse the downward trend the industry has experienced over the last decade.

Unfortunately, this has not been the case. Indeed, the industry has encountered crisis after crisis in the past few months, events which have effectively prevented this traditionally important segment of Maine's economy from achieving the prosperity which it once knew.

When I am in Maine, I often visit fishermen on their piers. I am pleased to report that no longer do the fishermen complain about the size of their catches; the 200-mile limit law did help them in this regard. What they do protest—and in a vehement and straightforward way that only Maine's fishermen can—is that once they land their fish, they often lack purchasers willing to pay a decent price for it.

We hear much about the problem of hunger these days. Many concerned Americans are facing up to the fact that a severe food shortage exists in the world and that protein rich foods are in high demand. Should not we be asking ourselves why—in light of global nutritional needs—the market for fish caught by New Englanders is so poor?

Maine fishermen, unlike western farmers, have not asked their Federal Government to guarantee that they will receive a minimum amount when they market their product. I doubt seriously that they would avail themselves of such a guarantee if offered by the Government.

They are an independent lot, and are as proud of their self-sufficient nature and reputation as they are of their calling. They do not want handouts, and usually would not accept government help in instances when other groups would demand it. I respect them for this aspect of their character.

Maine fishermen do, however, insist on one thing: being treated fairly in all their dealings. And this is precisely what the Federal Government is refusing to do by not reforming the existing trade laws and regulations which are primarily responsible for the marketing difficulties I have mentioned.

A clear and current example of the Federal Government's acute insensitivity to the plight of our fishermen is the Treasury Department's refusal to recognize the need for countervailing duties on Canadian fish imported into the United States.

Despite repeated findings that the Canadian Government has provided many indirect subsidies to its fishing industry, the administration has declined to use its power to offset this unfair advantage. Despite bipartisan appeals from Maine and New England representatives, it has refused to impose the countervailing duties that would place our domestic industry on an equal footing with the Canadians.

Mr. President, this problem demands the attention of all the Members of this body, not just those of us from coastal States. This is a matter of simple justice for thousands of American working people who wish only a fair chance to earn a livelihood.

I ask to print here in the RECORD a newspaper article from the Portland Press Herald of March 8, which summarizes the difficulties faced by our North Atlantic fishermen. I also ask to print a study of the remedies available to our fishermen to offset this unfair competition. The study was prepared by Prof. Joel D. Dirlam of the University of Rhode Island, an expert in the field.

I hope all my colleagues will give this serious matter the study and consideration it warrants.

The article and study follow:

U.S. DATA TO JUSTIFY WAIVER OF FISH DUTIES CALLED IN ERROR

(By Bob Niss)

A university of Rhode Island economist who has studied the Canadian fishing industry said Wednesday that data used by the U.S. Treasury Department to justify its waiver of duties on imported Canadian fish was inaccurate and "unrealistic."

Prof. Joel D. Dirlam told a City Hall press conference arranged by the Maine Fishermen's Cooperative Association that the Treasury "should be more accountable for its decisions" rather than issue "terse memorandums" that lack solid, supportive evidence.

Dirlam strongly questioned the Treasury's use of Canadawide industry statstics to support a policy decision directed primarily at New England fishermen.

The Treasury last June 13 waived a 1.2 percent duty on Canadian fish shipped into the U.S., explaining that government subsidies to Canadian fishermen had ended, leaving them to compete more evenly with their American counterparts.

Dirlam said not only that subsidies have continued—in an indirect fashion—but that the Treasury decision relied on data encompassing all of Canada's fishing industry, including the West Coast "where subsidies are virtually non-existent."

He said Treasury investigators looked only for evidence of direct financial aid to Canadian fishermen from the federal government, ignoring both low-interest bank loans and, at first, a substantial grant program for boat builders and fish processors.

"The Treasury at first wouldn't consider construction grants as subsidies," he commented. "The Canadian government itself has abolished direct subsidies. Nevertheless, there remains the effect of subsidies that had been paid for shipbuilding and processing plants."

He said a substantial portion of the existing Canadian fleet operating in the Atlantic "was built with subsidy money" and that Canadian fishermen can still have new boats built "with a very low down payment," thanks to low-interest loans and grants to the boat builders.

Precise figures on grants and loans, he conceded, are difficult to come by because "the larger subsidies go to shipyards and are differently administered" than loans or smaller grants. He did say, however, that fishermen in Canada can secure loans through provincial governments at 6.5 to 7 percent, compared to 11 to 12 percent from commercial banks.

"The Treasury said the loans were at regular, commercial rates," he claimed. "Apparently, the Treasury mixed up loans available from some individual loan corporations with fishery loans."

Dirlam said it is possible for New England fishermen to appeal to the International Trade Commission to reinstitute duties on Canadian imports on the grounds that their fishery has been "injured."

He indicated, however, that proving injury to the New England industry would be difficult because 1978 was "a very good year."

"But that raises the question of how well they might have done without Canadian imports. Were they making enough before?"

Dirlam questioned the value of reinstituting a duty on Canadian fish imports, saying there may be more productive avenues to explore.

A return to a simple duty, likely to be based on the extent of Canadian subsidies to its fishing industry, "might just lower the income of some Canadian fishermen," he said, without improving the lot of New England fishermen.

He suggested that duties "don't represent a solution" but should perhaps be reinstituted as a message to "convince" Canadian officials that the U.S. fishing industry wants its fair share of the fishing dollar.

"It might be better to ally ourselves with people in Canada—and I think they're there—who'd like to remove the subsidies there and let the industry ride on its own. Some there feel the subsidies are a drain on their economy."

He described the low-interest loans to fishermen for boat construction "a subsidy the taxpayer is making available."

Dirlam offered little hope for a Treasury Department reversal or other form of help: Realistically, I don't see that you can do much through them. The Treasury made the duty decision without any kind of public hearing."

Dirlam was also pessimistic about how the International Trade Commission would entertain an industry plea for help. He said the ITC has already said there appeared to have been no injury done to U.S. fishermen from Canadian competition in 1978 "because the number of boats and the amount of the catch (in the U.S.) increased."

"But that just brings us back to the question of how well they would have done without the imports" and the subsidies that support them.

He also questioned the validity of the ITC assessment, noting that a report issued by the ITC itself listed the price paid for Canadian fish sold in the U.S. at nearly 10 cents higher, per pound, than what is paid for domestic fish.

"You find that (data) right in the commission report . . . on which you assume they base their decisions."

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## Remedies Available to New England Fishermen for Protection Against Subsidized or Unfair Competition

### STATEMENT OF THE PROBLEM

New England fishermen engaged in groundfishing and New England processing plants producing fresh fillets and frozen fillets face direct and indirect competition from harvesting and production that have been subsidized by foreign governments. Although the imports may not compete directly with some domestic fish products because the import may not be at the same processing stage, nevertheless the possibility of substituting imported frozen for domestic fresh fillets, or imported whole fish for domestic fillets tends indirectly to depress domestic prices. The impact of the imports may not always be immediately apparent. As far as blocks are concerned, there is little domestic production, and their ultimate consumption as fish portions or sticks may seem to pose a minimum threat to sales of domestic fresh or frozen fillets. Nevertheless, to the extent that blocks are imported, the sticks and portions may preempt a potential market for blocks produced from an expanded groundfish harvest landed under the 200-mile jurisdiction. Moreover, if the consumption of fish in all forms is highly inelastic, satisfaction of the demand for variety by sticks and portions will certainly check an expansion of the market for fresh or frozen domestic steaks and fillets. Given the magnitude of the groundfish supply that may eventually become available to U.S. fishermen under the Fish Conservation and Management Act of 1976, it is important that domestic fishermen and processors be aware of available procedures to insure that competition is conducted fairly and efficiently.

To be sure, not all processors have identical interests, nor are processors' interests in every case the same as those of the fishermen. A processor producing fish portions or sticks may be an agent of the fishermen in other countries, such as Norway or Iceland, whose main concern is to find an outlet for their groundfish in the United States. At least two New England processors are owned by Canadian companies that are vertically integrated through harvesting to production of portions. Conversely, U.S. firms control at least seven Canadian processors themselves owning fleets of trawlers. Any action that would tend to raise the cost or limit the import of blocks or fillets from Canada would be harmful to their interests, assuming that the demand for their product is elastic.[1]

Our purpose here is not to try to suggest in what circumstances New England fishermen or processors should attempt to restrict or additionally burden imports of fish or fish products, but rather to provide a review of the procedures established by federal law for challenging imports. In addition, the statutes provide for assistance of different forms to firms, workers and communities that have suffered from import competition. The requirements and prerequisites for obtaining assistance, and the amounts and types available are summarized below.

### STATUTORY PROVISIONS FOR RESTRICTING IMPORT COMPETITION

#### *a. Imposition of countervailing duties*

In terms of requirements for submission by a domestic industry, Section 33(a)(1) of the Tariff Act of 1930, as amended by Section 331 of the Trade Act of 1974, appears to be the simplest of all methods of checking imports. The Secretary of the Treasury is required to impose a countervailing duty on imports receiving a bounty or grant in the country of origin. The countervailing, or additional, duty is to be equivalent to the subsidy. For instance, if a foreign country pays fishing vessels the equivalent of 2¢ per pound of landed fish (live weight) and these fish are exported to the U.S., then an equivalent duty would be added to that already provided for in the U.S. Tariff Schedules. Although the Act does not enter into details, the amount of the duty would presumably be determined by the stage of production. That is, if the fish were imported as fillets, a countervailing duty per pound should be equivalent to the bounty or grant paid on the amount of landed fish required to produce a pound of fillets, in the illustration just given. For whole fish, the countervailing duty per pound would simply equal the subsidy.

If the foreign subsidy were to apply at a later stage of production (if, for example, fish processors are paid a subsidy per pound of frozen fillet shipped) then the duty on fillets would be augmented by the same amount.

In requesting that a countervailing duty be imposed, it is necessary only for the domestic industry to specify the tariff schedules which are applicable, and to allege, with supporting facts, the existence of a subsidy. A full investigation into the circumstances of payment and the amount of the subsidy is then carried out by the Treasury Department. In the course of the investigation the foreign country is asked to supply information on the subsidy, including its amount, and the requirements of eligibility for receiving it.

Within six months, the Treasury is required to issue a preliminary finding. If it concludes that subsidies are being paid, another six-month period may elapse during which, presumably, negotiations may be carried on with the country engaging in subsidization to persuade it to abandon the practice. Should it fail to do so, the countervailing duty is automatically added to the prevailing tariff rate.

It should be noted that the Treasury is not required to entend an inquiry to products listed in tariff schedules other than thcse listed in the petition, even if similar products are subsidized. Moreover, it appears that the Treasury has sometimes interpreted "subsidy"—or, as phrased by law "bounty or grant"—rather narrowly. That is, the payment must be made directly and proportionately to units of output to be classified as a subsidy. Until recently for instance, the Treasury has not been willing to regard construction subsidies for fishing vessels as subsidies for the production of fish, even though such subsidies reduce the cost incurred by the fisherman, and though the statute refers to a bounty or grant paid "directly or indirectly." Nevertheless, in the *Michelin* decision, handed down in 1974, Canadian federal and provincial assistance in the construction of a tire plant in the Atlantic provinces was held to be a subsidy on tires exported to the U.S. within the meaning of Section 303 of the statute. Accordingly, a countervailing duty was impcsed on the import of radial steel-belted tires from Canada.[2]

The *Michelin* precedent seems to have been followed in the Canadian Fish decision in 1977, where after a preliminary negative finding[3] the Treasury held that vessel assistance programs constituted bounties or grants within the meaning of the Act. The persuasive aspect was the fact that 75% at least of Canada's fish production was exported.[4]

The procedure just outlined applies only to products subject to a duty.

As for items that are free of duty, a proceeding asking for imposition of a countervailing duty may be initiated also by simply petitioning the Treasury, under Section 303 (a)(3). Before the Secretary can impose the countervailing duty, however, Section 303 (g)(1) requires that the International Trade Commission must find that an "industry in the United States is being, or is likely to be, injured, or prevented from being established because of the importation." This means that in order to obtain the protection of a countervailing duty on articles which have hitherto entered free, the domestic industry must not only show that a foreign country is paying bounty, but that injury because of imports has occurred or is likely to occur. Nevertheless, there is no requirement that imports be an important cause of injury.

In determining that there has been an injury in other types of investigations, the Trade Commission customarily examines trends in employment, output, use of capacity, inventories, prices, and profits, and their relation with changes in imports. Such has been the Commission's practice in investigating complaints of injury under the escape clause and antidumping statutes. Whether it will be necessary to show a quantitative, precise relation between the amount of the subsidy and the injury cannot be determined from Section 303(G)(1) of the Tariff Act of 1930. The Commission's practice in cases under other sections of the Trade Act has generally been simply to compare changes in various indicators of industry activity and profitability with changes in rates of import penetration.

Should the Secretary of the Treasury decide that a bounty is not being paid, the domestic industry can appeal his finding to the Customers Court (Section 321 of the Trade Act). Prior to appeal, the Secretary must furnish the petitioner with his grounds for refusal to assess the countervailing duty (Section 516 of the Tariff Act).[5]

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Footnotes at end of article.

As a complication, Section 303(d)(2) provides that if the U.S. is engaged in trade agreement negotiations, the Secretary of the Treasury need not in some circumstances impose a countervailing duty that would otherwise be called for. He is relieved of the obligation first, if imposition of the duty would be likely to jeopardize the completion of the negotiations, and secondly when steps have been taken to reduce substantially the "adverse effects" of a bounty or grant.[6]

To recapitulate, anyone who believes a bounty or grant is being paid on an article imported in the U.S. can request the Secretary of the Treasury for a finding that the bounty is in fact being paid. Thereupon, if the article is not admitted into the U.S. dutyfree, a countervailing duty must be imposed, equal to the grant. If there is no duty on the product, the Trade Commission must find a U.S. industry injured by imports. The duty need not be imposed, either on otherwise dutiable or dutyfree products, however, where negotiations are in progress to reduce non-tariff barriers to trade, and when certain other conditions are satisfied.

*b. Direct Presidential action*

Should U.S. fishermen or the fish processing industry believe that the imposition of a countervailing duty equal to a foreign bounty is insufficient to erase the inequitable effects of the bounty, the Act provides for a direct appeal to the President to impose additional or substitute protective measures. Under Section 301 of the Trade Act of 1974, the President can take action against exports of a country giving a "subsidy," if the countervailing duty imposition is "inadequate to deter" the granting of the subsidy. Before taking such action, however, the President must first have a finding from the Secretary of the Treasury that the foreign country is subsidizing its exports to the U.S. Then, the International Trade Commission must decide that "exports . . . have the effect of substantially reducing sales of the competitive United States produce or products . . ." Even if the Trade Commission reaches such a conclusion the President cannot take action without holding a hearing, if one is requested by an interested party. And he "may" request the Trade Commission's "views" on the "probable impact on the economy" of taking action against the subsidized exports. The provision allows the Trade Commission to take into account the effect on consumers of any price rises that might result from increasing the duty above the countervailing level or imposing a quota. To be sure, the President is not required to ask the Commission's opinion, nor is he bound by its conclusions. Moreover, the President is required to find that neither the composition of countervailing duties under Section 303, nor the Anti-dumping Act, are adequate to deter the foreign country from subsidizing its exports to the U.S.

Should the President conclude that special remedies are necessary, he may suspend, or refrain from proclaiming, a trade agreement with the offending country, and impose such duties and quantitative trade restrictions as he deems appropriate.

Section 745h of the Fish and Wildlife Act of 1956 provides that fishermen or fish processors may request the Secretary of Commerce to make a report to the President and to Congress on the effects of imports on domestic production, employment and prices in competitive products. This procedure is not likely to be fruitful. Under this Act, the Secretary makes no recommendations and the report is not keyed to any statute that would lead to Presidential action.

In 1969 the Secretary of the Interior (now replaced by the Secretary of Commerce) made a report under this section of Act on the request of various groundfish organizations, including the Atlantic Fishermen's Union, and the New Bedford Fishermen's Union: Report of the Secretary of the Interior to the President and to the Congress on the Effects of Imports on the Groundfish Industry, May 1969.

*c. Import relief*

Under Section 201 of the Trade Act of 1974, any industry, including fish harvesting or processing, can petition the International Trade Commission for the "purpose of facilitating orderly adjustment to import competition." Workers, firms, trade associations or unions can file. Within six months, the Commission must make a finding as to whether the "increased quantities" of imports are a substantial cause of serious injury to the domestic industry, or a threat thereof. In making its findings, the Commission may take into consideration profit levels, unutilized capacity, growing inventories, unemployment, or underemployment, and downward trends in those key indicators. An increase in imports may be relative, rather than absolute, and a "substantial cause" is important, and "not less than any other cause." The exact meaning of this sentence is hard to determine: literally, it would seem to define a substantial cause as one that is a *large*, or important, as any other cause—so that if one cause exceeded it in significance, imports could not be a substantial cause. The Trade Commission has not interpreted the condition in precisely this fashion, insisting that quantitative ranking of causes is well-nigh impossible. Yet, in some cases it has found that other factors, such as recession, were more important than imports in causing injury. In the fishing industry, it is possible the Trade Commission would regard a decline in catch as the most important cause of injury.

A finding by the International Trade Commission of injury caused by imports, together with proposed relief, such as quotas, higher tariffs, is not conclusive, since the report is merely advisory. Where the Commission finds imports to be a substantial cause of serious injury, the President has to take action either to enforce the Commission's recommendations or substitute his own. In only three instances under the Trade Act of 1974 has the President done more than find the industry eligible for adjustment assistance. The likelihood of obtaining relief of any consequence is therefore slim, under Section 201.

Nevertheless, if the President fails to approve the remedy chosen by a majority or a plurality of three members of the Trade Commission, he must transmit his decision to Congress. Within a period of 60 days, there is an opportunity for Congress to reinstate the Commission's remedy, by a majority vote of both the House of Representatives and the Senate.

*d. Unfair competition*

Still another section of the Trade Act could be employed by the U.S. fish processing or harvesting industry to try to prevent subsidized fish from adding to the U.S. supply. Under Section 341, amending Section 337 of the Tariff Act of 1930, "unfair methods of competition in the importation of articles which have a tendency to destroy or substantially injure a U.S. industry are unlawful. Any investigation must be concluded within a year or 18 months for complicated cases. If the International Trade Commission finds there is a violation of this section, it may require a total embargo of the product, or issue an order to importers to cease and desist from their unfair competition. Importers may appeal from embargo orders, but not from cease and desist orders, to the U.S. Court of Customs and Patent Appeals. Any decision of the Commission finding violation can be reviewed by the President, who must act within 60 days if he wishes to reverse the Commission's decision. He may reverse for "policy reasons."

Under this section, U.S. producers of television sets and of welded stainless steel tubing have charged Japanese importers with unfair competition, alleging that the imports are being subsidized and are sold below cost.

An advantage of using Section 337 is that it could result in total exclusion of the imported product. Apart from the lengthy investigation, it has the disadvantage, from the standpoint of the U.S. producer, of requiring a finding that imports have a tendency to "substantially injure" a U.S. industry. Moreover—and this might be an important obstacle should the Trade Commission choose to emphasize it—to benefit from the protection of Section 337, the U.S. industry must be "economically and efficiently operated." Proof of these qualities might require the fish processing or harvesting industry to submit an economic brief.

*e. Antidumping statute*

Under Section 201 of the Antidumping Act of 1930, as revised by Section 321 of the Trade Act of 1974, an industry may complain to the Secretary of the Treasury about the import of a product sold in the United States at less than "fair value." Fair value is defined to be less than the prevailing price in foreign countries, plus transportation to the United States. If the Secretary of the Treasury believes that sales in the home market are at less than cost, he must use "constructed" value, equal to normal costs, expenses and profits to determine whether sales in the United States are at less than fair value. Nevertheless, only if there is injury to a domestic industry will the Secretary take action against dumping. The International Trade Commission makes the investigation of injury. The remedy is ordinarily the imposition of an additional duty.

If the Secretary finds that an article is not being sold at less than fair value, the domestic industry can appeal his decision to the United States Customs Court, just as in the case of an appeal from a finding that a foreign country has not paid a bounty on exports. A transcript of the record has to be filed with the Customs Court by the Secretary of the Treasury under Section 516(g) of the Tariff Act of 1930.

In an effort to speed up antidumping proceedings, the Secretary of the Treasury under Section 321 of the Trade Act of 1974 may forward to the International Trade Commission his reasons for believing that there is substantial doubt whether a U.S. indsutry is being injured by dumping imports. The Commission must make a determination within 30 days whether there is no "reasonable" indication that the domestic industry is injured. The proceeding is terminated at this point if the Commission makes the finding—that is, sustains the Secretary's doubts. If, however, it is unable to find that there is *no* reasonable indication of lack of injury, the proceedings continue. In a recent case involving imports of automobiles, the Commission could not find that there was no reasonable indication of injury, and the Treasury suspended the anti-dumping proceedings only after the foreign countries agreed to raise their U.S. prices.

To show that fish is being sold at less than fair value in the U.S., it would be necessary to compare wholesale prices in, say, eastern Canada and Boston for frozen fillets. Since the U.S. takes about 90% of the Canadian output, it would be unlikely that one could buy fillets in Canada at less than the U.S. price less transport costs, so it is equally improbable that Canada is engaged in dumping fish products in the U.S.

ADJUSTMENT ASSISTANCE

As an alternative or supplement to preventing or diminishing the flow of imports, the law provides that workers, firms and

Footnotes at end of article.

committees may obtain assistance to offset losses resulting from a rise in imports. The assistance differs as among the type of beneficiary, but the conditions for its availability are about the same. Actually there are three routes by which the machinery for assistance may be put in motion. First, a petition may be filed with the appropriate agency by potential beneficiaries. Secondly, the initiative may be taken by the Secretary of Labor to encourage workers to file petitions, after being notified of a 201 investigation by the ITC. Finally, the President, after receiving an ITC report, may request the Secretary of Labor and the Secretary of Commerce to give "expeditious consideration" petitions for assistance. Section 202(a)(1)(B).

*a. Workers*

Workers' assistance requires a decision by the Secretary of Labor, under Sections 221–224 of the Trade Act. To be eligible for adjustment assistance, a group of workers must petition the Secretary of Labor and show that imports have "contributed importantly" to a significant number of workers being totally or partially separated, and that sales, or production, or both, of the employing firm have decreased. Adjustment assistance is to equal 70% of average weekly wage, less unemployment insurance benefits. The assistance is payable for 52 weeks, plus a 26-week extension to complete training.

In addition, workers may receive job search and relocation allowances to cover expenses and not to exceed $500, when they are totally separated from their former job. Workers being retrained for other jobs may receive subsistence and transportation allowances. Regulations issues by the Secretary of Labor and definitions in the Act embody the details under which the benefits will be available.[7] Normally, the states take over the administration of the adjustment assistance. Workers can appeal from negative determinations directly to a Circuit Court of Appeals. Section 250.

In determining eligibility under the adjustment assistance provisions, the Secretary of Labor has applied less rigorous standards than the International Trade Commission in finding injury. In practice, the workers need merely show an increase in imports accompanied by a decline in production and layoffs to become eligible. Although about 40 petitions have been filed from shrimpers, there was one negative finding, on the grounds that imports did not contribute to worker separations.[8]

*b. Firms*

Business firms apply for assistance to the Secretary of Commerce. Under Section 251, a firm may be certified as eligible for adjustment assistance under exactly the same standards that apply to a group of workers. The Economic Development Administration comes out of the program. Firms are defined to include partnerships, joint ventures, and cooperatives, as well as corporations and proprietorships. Once found eligible, a firm may receive technical assistance to prepare and implement a proposal for "economic adjustment." Financial assistance to any one firm in the form of direct loans may not exceed $1,000,000. Direct loans and guarantees may aggregate as much as $3,000,000. Once a firm has been found to be eligible, the assistance is administered by the Small Business Administration, if the business is "small" under the SBA Act and regulations. Vessel owners would undoubtedly qualify as "small," but this would not be true of all processors (such as Gorton's). No fishing vessels or processors had applied for assistance in 1976 even though the ITC had found that imports were a substantial cause of injury to the shrimp industry.[9]

*c. Communities*

A political subdivision of a State, under Sections 271–273, may apply for adjustment assistance to the Secretary of Commerce under exactly the same standards, as far as the statutory language goes, that are to be used to determine whether workers or firms qualify for assistance. This program, too, is administered by EDA. Benefits are those that can be provided under the Public Works and Development Act of 1965. In addition, private loans can be guaranteed by the Secretary of Commerce for working capital and for the acquisition or construction of productive facilities under the same terms and conditions as found in Section 202 of the Public Works and Economic Development Act of 1965.

*d. Conclusion on adjustment assistance*

While the law provides for help to those injured by imports, experience to date has not been sufficiently extensive to justify generalizations with respect to the application of the law to groundfishermen, or indeed any fishermen. After a finding by the International Trade Commission that imports have been an important cause of injury, as in the case of the shrimp industry, it would seem to be almost a foregone conclusion that fishermen on shrimp boats would be able to collect assistance. Yet the case of the "Brant" shows that the Secretary will examine each application to make sure that imports, and not other causes, have been responsible for unemployment. While the issue has not been resolved, the attempt of one groundfishing boat from Gloucester to obtain assistance seems to have been regarded unfavorably in the Department of Labor because very little fresh fish is imported.[10]

FOOTNOTES

[1] We do not have sufficient details on the destination of each type of product from Canada to know whether whole fish or fillets are further processed or packaged here by firms associated with the exporting firm.

[2] X-Radial Steel Belted Tires from Canada, T.D. 73–10, Cust. Bull. 11 (Jan. 10, 1973), 38 Fed. Reg. (1018, 1973).

[3] 41 Federal Register 44196, October 7, 1976.

[4] 42 Federal Register 19326, April 13, 1977.

[5] Whether the appeal can be made where an International Trade Commission finding is also required is not clear. The statute provides for petitioners setting forth belief that bounties are paid in two Sections, 303 and 516, of the Tariff Act of 1930. Only Section 516 provides for contesting the Secretary's decision.

[6] Even if the Treasury issues a waiver suspending the application of countervailing duties, there is a possibility of overruling its decision. Under Section 303(e) when a waiver issues, a report must be made to Congress, giving the reasons for failing to impose the countervailing duty. Then, at any time, either one of the houses of Congress, by majority vote, can eliminate the waiver and provide for the imposition of the duty originally found justified by the Treasury.

[7] See Parts 90–91, Subtitle A, Title 29, Code of Federal Regulations, reversed April 3, 1975.

[8] The Dragger "Brant," 42 Federal Register 876 (January 4, 1977). The Brant's sales of shrimp had fallen because the Atlantic State's Maine Fisheries Commission had voted a closed season. The disposition of the other petitions remains to be determined.

[9] Draft of the President's 21st Annual Report on the Trade Agreements Program, Calendar year 1976, pp. 3 and 9 (Processed).

[10] Telephone conversation with Gutchess, February 8, 1977. Possibly if the examiners at the Department of Labor were more familiar with the nature of import competition in the groundfish industry, it might be easier for workers to petition successfully.●

## DEATH OF ARCHIE M. JONES

● Mr. MATHIAS. Mr. President, the Republican Party in the State of Maryland sustained a bitter blow last Thursday with the death of Archie M. Jones, head of the Baltimore City GOP for the past 10 years.

Yesterday at the funeral service, the Rev. Marion C. Bascom of the Douglas Memorial Community Church put into words the very special spirit that animated Archie Jones. I am very grateful that he served as Baltimore cochairman in my last campaign and that we had that personal association. It was an association I valued and will miss.

Mrs. Mathias joins me in expressing our deepest sympathy to his widow.

So that my colleagues may take the measure of this remarkable man, I submit for the RECORD Dr. Bascom's eulogy to Archie M. Jones and the Sunday Sun article about Mr. Jones.

The material follows:

A WORD ABOUT MR. REPUBLICAN

Baltimore places to rest today "Mr. Republican"—Archie M. Jones. He was as proud of the Republican Party as he was of his name, Archie "M" Jones. He wanted all to know about the "M" (Maxiel). He actually felt and knew that he owned "principal stock" in the Party as did "Mrs. Republican" the late Helen G. Woodland.

He was equally as avid about the Supreme Liberty Life Insurance Company and was "Theologian in Residence" in the Company's weekly meetings as he "preached" to them about getting out, selling insurance, and having their "debits" precisely correct.

He was a member of this church—corner philosopher to all who listened and a reminder to all that he was from Kansas City.

Farewell on the Journey!

M.C.B.

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[From the Baltimore Sunday Sun, Mar. 11, 1979]

JONES, HEAD OF CITY GOP, DIES AT 70

Archie M. Jones, an insurance company manager, head of the city Republican party for the last 10 years and a member of the City Planning Commission, died Friday following surgery at the Johns Hopkins Hospital. He was 70.

Funeral services will be held at noon tomorrow at the church Mr. Jones attended for many years, Douglas Memorial Community Church, Lafayette and Madison Avenues.

Mr. Jones was treasurer of the Republican State Central Committee, starting in the late 1960's, and was the only black member at that time of the state party's highest policymaking body.

State Senator Edward P. Thomas (R., Frederick), the state GOP chairman during part of Mr. Jones's tenure as treasurer, last night called the death of his colleague "a great loss to the party and the city of Baltimore."

Mr. Jones was able to hold the party structure in the city together during some bad years for the GOP, according to Senator Thomas.

He accomplished this by tireless personal effort and his ability to work with and gain the respect of fellow Republicans, even those with whom he had philosophical differences, Mr. Thomas added.

"His death saddened many of us and came as a great shock," the senator said.

As a member of the City Planning Commission for about three years, Mr. Jones had proved to be "truly a man of principle and a real asset" to that body, according to Larry Reich, the director of the city Department of Planning.

A determined opponent of spot zoning, for example, Mr. Jones was "very firm, stuck to his guns and I admired him for it," said Mr. Reich, adding, "We will miss him sorely."

Mr. Jones held the state party treasurer's post until 1974, relinquishing it about the time he became Baltimore co-chairman of

the successful re-election campaign of Senator Charles McC. Mathias, Jr. (R., Md.).

Mr. Jones had been ill about a month. With his wife of 34 years, the former Emma Robinson, a retired teacher in the city public schools, he lived in the 1600 block North Dukeland Street.

He was a delegate to the last three Republican national conventions.

A native of Weir City, Kan., Mr. Jones came to the Baltimore area in 1942 while serving as a World War II enlisted man and non-commissioned officer.

He was a master sergeant when he returned to civilian life in 1947 and became a salesman for the Supreme Life Insurance Company, with offices in the 1500 block of Pennsylvania Avenue.

For the last 25 years he had been the firm's district manager in Baltimore.

Samuel Hopkins, one of Mr. Jones's predecessors as head of the city GOP, said last night that "politics came as naturally [to Mr. Jones] as living or breathing."

Mr. Jones was a "superb manager" who was able to devote "a lot of time to politics and enjoy it" without detracting from his success as a businessman, said Mr. Hopkins, a partner in the investment firm of Alex. Brown & Sons and a former president of the city Board of Parks and Recreation.

"He was a warm person. He loved life and he loved people and working with them. Nothing was too much trouble for him to do," Mr. Hopkins added.

Although unsuccessful in his only campaigns for Congress, the state Senate and the Baltimore City Council over a period of about 15 years, Mr. Jones's political judgment often turned out to be prophetic.

As a delegate who strongly supported Nelson A. Rockefeller at the 1968 Republican National Convention, he said Richard M. Nixon would be swamped in the Baltimore city voting and therefore could not win Maryland's electoral votes.

"You can't win national elections unless you win the states, and you can't win the states without taking the metropolitan areas," Mr. Jones declared at the time. "I'm tired of nominating people in August that we can't elect in November," he said.

Although Mr. Nixon won the national election over Hubert H. Humphrey in a closely contested race that year, Mr. Jones's local and state predictions proved correct.

Senator Humphrey's majority of about 98,000 votes over Mr. Nixon in Baltimore more than offset Mr. Humphrey's loss by about 78,000 elsewhere in the state, giving him the Maryland electors by a 20,000-vote margin.

Active in community politics and civic affairs, Mr. Jones received one of his first appointive posts in 1965 when the then mayor, the late Theodore R. McKeldin, named him to the city Minimum Wage Commission.

The following year, Mr. Jones ran unsuccessfully for the state Senate against then-Delegate Clarence M. Mitchell 3d. Although praising Mr. Mitchell generally, Mr. Jones said his opponent was too young and contended he would take orders in the Senate from older members of the politically powerful Mitchell family.

About three years later, Mr. Jones became chairman of the city Republican Central Committee, the top party post in Baltimore that he retained until his death.

As a youth Mr. Jones lived in Kansas City, Kan., and graduated from Sumner High School there before attending Howard University for three years. He owned and operated a tavern in Kansas City before he joined the Army and was assigned to duty in this area early in World War II.

Mr. Jones had been active in the Urban League and the National Association for the Advancement of Colored People and was a Mason.

Besides his wife, he is survived by four sisters and two brothers: Florence Walker, of Kansas City, Thelma Harriford, of Atlanta; Doris Caymack, of Detroit; Opal Carpenter, of Chicago, Frank R. Jones, of Kansas City, and E. Trent Jones, of Chicago.●

## U.S. HIGHWAY BEAUTIFICATION PROGRAM IS IN TROUBLE

● Mr. STAFFORD. Mr. President, earlier in this session, I introduced S. 344. This is a bill that recognizes the fact that the present Highway Beautification law is a failure. From a worthy and effective concept to beautify our highways, the law has been so weakened that it is now merely a tool to protect the billboard companies.

S. 344, I believe, provides a method to enable the States to have a choice: they can continue in the existing regulatory program or they can drop out of it, obtaining a freedom from Federal regulations to permit billboards or to take them.

Since I introduced S. 344, the New York Times and Newsweek magazine have carried interesting articles pointing out exactly what I have been saying—that the Federal program is a shambles. Mr. President, I ask that the two following articles be printed in the RECORD.

[From the New York Times, Mar. 8, 1979]

U.S. HIGHWAY BEATIFICATION PROGRAM IS IN TROUBLE

WASHINGTON, March 7 (AP)—Along the nation's interstate and primary highways there are 197,791 signs and billboards that the Government would like to get rid of and 10,608 junkyards it would like to see screened. But some states are not cooperating and, even if they did, the Federal Government does not have the money to pay for the removal.

As a result, the nation's highway beautification program, started with fanfare in 1965 by President Johnson and his wife, Lady Bird, is in trouble.

President Carter did not include a penny for the program in his budget for the fiscal year 1980 after earmarking $13.1 million for it this year.

Richard W. Moeller of the Federal Highway Administration said that the Office of Management and Budget had decided not to seek funds in 1980 because it wanted a complete reassessment of the program.

"We're contemplating a series of public hearings on the program, and we hope soon to appoint an advisory committee to analyze and give direction," said Mr. Moeller, chief of the agency's junkyard and outdoor advertising branch. "The committee would include industry representatives, environmentalists, highway users, consumers and others."

He said the lack of 1980 budget money did not mean that the project would come to an immediate halt.

"We have about $65 million in the pipeline in some form or another, mostly funds that have been allocated to states for the removal of outdoor advertising signs and the screening of junkyards," he said. "Some states could operate for five years with money already allotted to them; others don't have much."

Mr. Moeller said that in 1978 states asked for $52 million for highway beautification, "but I had only $9.5 million to give out."

The concept started in 1958 as a voluntary program, with states receiving an incentive of 0.05 percent of their Federal highway funds if they controlled advertising signs within 660 feet of interstate highways.

But only about half the states participated, and in 1965 prodded by Mr. Johnson and his wife and over the objection of the outdoor ad industry, Congress passed the Highway Beautification Act.

The act extended billboard control to other primary Federal highways and to junkyards and offered incentives for landscaping around highways. States not complying could lose 10 percent of Federal highway money.

Signs along the designated highways were allowed only in areas zoned commercial or industrial and junkyards only in industrial areas.

The act also said that "just compensation" must be paid to those whose signs were removed and those who screened junkyards. However, many local governments assumed authority in this area and did not offer compensation. A 1976 amendment to the act required local governments to make such payments, which are provided by the Federal Government.

So far only four states have had Federal highway money withheld because of noncompliance, and three—New York, Alabama, and Oklahoma—had the funds restored when they quickly came into compliance.

The Government withheld $4.08 million from South Dakota in the 1978 fiscal year and $4.298 million in 1979. Last November, Transportation Secretary Brock Adams ruled that South Dakota could not recover the 1978 funds but that the 1979 money would be restored if the South Dakota Legislature acted to put the state in compliance by March 31.

Under the just compensation plan, 98,215 signs have been removed from beside highways nationwide, but 197,791 remain. Only 1,413 of 12,953 junkyards have been shielded.

How much Federal money would it take to remove all noncomplying signs and screen all junkyards? "At least $52 million a year," Mr. Moeller replied.

Senator Robert T. Stafford, Republican of Vermont, has proposed legislation to let states decide if they want to be involved in highway beautification, and Mr. Moeller said that this would be discussed as part of the reassessment.

"It would help us in one way," he said. "States that did not want to cooperate could get out. That would leave more money to spend on states interested in highway esthetics. I feel a substantial number would get out."

[From Newsweek Magazine, Mar. 5, 1979]

LADY BIRD'S BILL

When the late President Lyndon Johnson signed the Highway Beautification Act in 1965, he said that it would "bring the wonders of nature back into our daily lives." Today, the program is widely considered a failure, and may soon be abolished.

The act, which LBJ once referred to as "Lady Bird's bill" because it was one of her pet projects, was designed in part to eliminate unsightly billboards along 43,000 miles of federally funded interstate highways. It prohibited "outdoor advertising signs" within 660 feet of the road and restricted them to land zoned for commercial use; existing signs that didn't comply with the new law were to be pulled down. So far, 88,000 offending road signs have been removed—but 208,000 others remain.

One reason why so many signs are still standing is that the Highway Beautification Act left enforcement of their removal to the states. While some complied with the new law, others virtually ignored it. A Transportation Department report shows that Missouri and New Jersey have zero per cent

compliance, and that Georgia has actually put up 573 new, nonconforming signs since the act took effect. According to the report, the Northwest has the best compliance record (85 per cent) and the Southeast the worst (14 per cent).

JUNKYARDS

The program has also suffered from erratic funding; annual appropriations have ranged from $75.5 million in 1967 to $10 million in 1971. The current budget provides for only $13 million, and that must go toward landscaping highways, screening roadside junkyards—and sign removal. At that rate, says Richard Moeller, the Federal Highway Administration's overseer of the act, "it will take 110 years" to tear down all the billboards.

The program was dealt a major blow late last year when Congress passed an amendment requiring states to compensate advertisers for every sign taken down (at a cost of $2,000 to $15,000 per sign), even if the signs are removed under local ordinances and have been up long enough to repay the owners' initial investment. A spokeswoman for the Garden Club of America charges that this has created "a bonanza for the billboard industry." Many garden-clubbers and environmentalists who backed the 1965 legislation have withdrawn their support, while billboard-trade organizations are now in favor of the program.

TROUGHS

Its time we admit the Highway Beautification Act is a failure and seek its repeal," says Vermont Sen. Robert F. Stafford, who introduced a bill last month that would let states and cities enforce their own beautification policies. And President Carter has eliminated all funds for sign removal from his proposed 1980 budget, pending the outcome of a Transportation Department study of whether the program is worth maintaining. One person who thinks so is Lady Bird Johnson. "In my experience, I have found there are troughs and crests in the establishment of many programs," says the former First Lady. "If the majority of citizens want the beauty of landscaped highways where scenery is not obscured by billboards or blight, I firmly believe we can continue toward that goal." ●

## A REVITALIZED SELECTIVE SERVICE SYSTEM

● Mr. GOLDWATER. Mr. President, there has been a great deal in the press and in congressional testimony in recent months about problems the Armed Forces have been encountering in meeting their manpower goals. As a result, new interest and increasing support have been developing for reactivating the Selective Service System or, at a minimum, reinstituting draft registration. To say the least, matters dealing with draft registration in the United States are both complex and emotional. Because of this, the Association of the United States Army has prepared a detailed discussion of the issue to provide a more complete understanding of the nature and impact of proposals to revitalize the Selective Service System.

Mr. President, I ask that the Association's special report entitled "The Fatigue of Supporting the Blessings of Freedom" be printed in the RECORD.

The report follows:

THE FATIGUE OF SUPPORTING THE BLESSINGS OF FREEDOM

(Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it.—Thomas Paine, The American Crisis.)

HOW IT STARTED

The concept of selective service as it exists in the United States of America today is the lineal descendant of a tradition brought to the New World by English settlers: That every man has an obligation to defend the common welfare by service in the militia. As organized in the frontier settlements of the English colonies the militia was anything but selective. Able bodied or not, every man was assigned a duty and expected to perform it. With this tradition still fresh in their minds, it is not surprisng that the framers of the Constitution gave Congress the power: "To provide for calling forth the militia . . ."

President Washington, with the experience of seven years of war during which men flowed in and out of the regular and militia units of the Continental Army, recommended a selective service system very much like that used in World Wars I and II. Presidents Jefferson and Madison recommended similar legislation but in each case Congress refused to act. In 1792, the Congress did pass the Militia Law but it only served to perpetuate the most notable manpower problem of the Revolution—a maximum period of three months' service which often left commanders with no troops on the eve of battle.

This inability to raise an army for an extended period of service plagued the United States through the War of 1812, the Mexican War and into the Civil War. Militia units called to serve had to be sent home at the end of three months and reliance on volunteers simply could not keep the ranks filled. In the Civil War, both the North and the South resorted to conscription but both administered it poorly and unfairly. In the North, the draft was applied only in districts that had not povided a set quota of volunteers. In the South, the draft was used largely as a means to keep experienced soldiers in the ranks after their militia term expired. Both North and South permitted draftees to buy replacement for themselves, giving rise to complaints that *"the rich man's money and the poor man's blood"* were fighting the war.

In World War I and II popular support was squarely behind the war efforts and reasonably equitable selective service systems brought millions of men into the armed forces of the United States with scant evidence of manipulation or abuse. The Selective Service System continued in operation throughout most of the Cold War period and efficiently provided a steady flow of replacements for U.S. troops in Korea from 1950 to 1953.

It took an unpopular war and politically motivated manipulation of the system to give the Selective Service concept the bad reputation from which it is now beginning to recover. As public clamor over the United States' involvement in Vietnam became more strident, President Johnson tried to soften opposition by instituting exemptions for college students, for parents and for agricultural workers. A rush toward colleges began and did not slow down until the draft ended. Jokes about the speed with which some young men became fathers were part of the repertoire of every stand-up comic in Las Vegas. The man who made no effort to avoid selection or to be excused from service was often looked upon as *"strange."*

Fortunately, the readily apparent weakness and unfairness of this approach to citizen service forced changes. By the time the United States pulled out of Vietnam, the Selective Service System had been operating for two years with:

A random sequence lottery.

No occupational, student or paternity deferments (95 percent of any age group were exposed to the possibility of induction).

Permission for registrants to appear in person before local boards.

But by then the damage to the image of Selective Service was so severe that the system was allowed to go down the drain of administration apathy and congressional disdain. Hopes were pinned on the success of All Volunteer armed forces and all concerned claimed they were ready to pay the price in dollars and the tarnishment of an American tradition of service.

It is alarming to note that after years of opportunity to look at the way the Selective Service System was operating when draft calls stopped in 1972, some otherwise well-informed people perceive it as unfair. Even as he called for revival of the system in February, 1979, Senator John Stennis (D. Miss), Chairman of the Senate Armed Service Committee, demanded, ". . . a new type of selective service equitable to all," and ". . . a fair and impartial—a truly selective service." And yet, despite misapprehensions like this, the system has repeatedly proved that, left to the management of people who had no axe to grind except to provide personnel for the armed force, it could properly and fairly select citizens to serve.

While nothing on the horizon indicates an impending need to use the "militia" in putting down an insurrection or repelling an invasion, as it envisioned in the Constitution, we see on every side that there is no shortage of threats to our national objectives that could impel the Congress to ". . . call forth the militia." And if we examine the militia in its totality—active forces, reserve forces and the capability to mobilize—the rush to answer the call of Congress would be of extremely short duration. The active forces would rally quickly but with large gaps in places that should be filled by reserve units. The reserves would struggle toward readiness, trying to compensate for a grievous lack of people and equipment, but most could not respond to the call for several months. American industry would gradually convert to volume production of weaponry. But the flow of people, everyday citizens, needed to fill the ranks of active and reserve units alike, would be a mere trickle until the almost non-existent Selective Service machinery could be rebuilt and brought into operation. By that time active units in combat could be decimated and reserve units either gutted to provide replacements or flung into action short-handed.

Without question, the most commonly overlooked value of a working Selective Service System is its contribution to deterrence. Our potential adversaries today can easily see the lack of depth in our military readiness and our inability to overcome that shallowness in a hurry. We and our NATO allies are extremely vulnerable to an all-out Warsaw Pact blitzkrieg, not just because the Soviet Union and its partners have built such overwhelming preponderance in conventional combat power but more fundamentally because we lack the ability to mobilize in time to adequately reinforce the troops who would meet the initial attack. The absence of a rapidly responsive source of manpower is probably our greatest vulnerability.

WHERE WE ARE

A succession of events over the past six years has served to bring the U.S. Armed Forces to the brink of a manpower catastrophe and the decision by President Nixon to suspend the use of Selective Service started the chain of dominos falling.

On July 1, 1973 the President's induction authority lapsed without any effort on the part of the Administration to renew it.

In Fiscal Year 1974 pre-induction physicals were stopped, classification was limited to 500,000 men per year and the Selective Service budget that had been $96 million the year before was shrunk to $61 million.

In Fiscal Year 1976 President Ford opted to stop continuous registration (a plan for annual registration was devised but never

implemented). All classification was stopped and the budget for Selective Service was pared to $37.5 million.

By Fiscal Year 1977 the budget had shrunk to $6 million, all local boards were eliminated and an organization that had included 8,000 people in 1972 had been trimmed to a mere 100.

This decimation was accomplished in direct contravention of the Military Selective Service Act which is still the law of the land. An amendment made to the law in 1971 seems almost prophetic in its applicability to what has happened since.

". . . if at any time calls under this section for the inductions of persons for training and service in the Armed Forces are discontinued the Armed Forces are placed on an all-volunteer basis for meeting their active duty manpower needs, the Selective Service System, as it is constituted on the date of the enactment of the subsection, shall nevertheless, be maintained as an active standby organization, with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency and (2) personnel adequate to reinstitute immediately the full operation of that System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency."

The Selective Service skeleton, pressed by concerned members of Congress for an assessment of its capability, admits it cannot meet the Department of Defense timetable for the delivery of the first 100,000 selectees within 60 days of a mobilization order or provide the far greater numbers that are needed in successive delivery increments. The skeleton has no reliable way to even find the potential draftees who should have been registering during the past four years. Various schemes have been proposed, including screening birth or voting records at county court houses across the country, but none has produced the kind of quick response that would be needed in a mobilization. Even if some magic device were found to reveal the names and addresses of eligible selectees, the total absence of the local boards and state headquarters needed to carry out the rest of the steps of selection and classification would bring the process to a halt.

Lurking very large in the background of this predicament is the question of how well the Volunteer Armed Forces have been doing while the draft machinery has been rusting away. The Army, which would be the largest customer of the Selective Service System in a mobilization, has dropped from a strength of 811,000 in the year draft calls stopped to a programmed strength of 774,000 in Fiscal Year 1979. The reasons for the shrinkage have been various. To some extent the Army was still getting out of Vietnam in 1972 but there has been a continuing reduction of the United States military presence overseas in every area except Western Europe. Higher pay scales needed to attract volunteers and to make military compensation comparable to that in the civilian sector have driven personnel costs to capture more than 50 percent of the defense budget. As the services (particularly the Army) have failed year-by-year to meet recruiting goals in spite of the higher emoluments it has been fiscally expedient to cut end strengths to levels the recruiters might be able to achieve. A cut in personnel strength, after all, pays immediate dividends in cost-saving while the savings associated with cutbacks in hardware procurement and base closures have to be stretched out over several years and have negative impact on the constituencies of the Congressmen considering them.

In a recent statement on the sad state of military personnel readiness, Rep. Robin Beard (R-Tenn.) cut through several layers of obfuscation about the predicament. He said:

"I do not blame the Army for the state of its readiness. I do blame the OMB (Office of Management and Budget) and DOD analysts who have operated silently, like an invisible colony of termites, slowly boring away at our defense budget and seriously compromising the readiness of our armed forces in exchange for cost efficiency."

Many of the cuts in Active Army strength were supported by plans to shift to a Total Army concept in which much of the support and reinforcement capability was assigned to the reserve components. High priority Army Reserve and Army National Guard units were designated to be called up quickly to balance the forces that might have to be committed in an emergency. It is a concept that has a great deal of merit but it has never really gotten off the ground. To be sure the reserve units are designated and are supposed to be getting the best of everything in the way of equipment and training. Unfortunately, shifting priorities have forced the Army's leaders to allocate equipment elsewhere and, most telling, most of these reserve units have not been able to recruit sufficient people to make them a real mobilization asset. The most commonly reported reason for the lack of interest in reserve service is the absence of any pressure from an operating draft system.

Reserve commanders have bent their backs to the recruiting wheel, often at the expense of training and leadership, and the Active Army recruiting mechanism has been turned in the direction of help for the reserves. Congress has only recently been convinced to appropriate a modest amount of money for reserve enlistment and reenlistment incentives but at this moment the Army National Guard and the Army Reserve are at least 150,000 below their desired strength.

The Individual Ready Reserve is composed of people who have either been drafted or enlisted, who have completed their active service and are placed in the IRR until their statutory six years of obligated service is completed. It is the Army's only source of trained manpower to be used to fill up active and reserve units being mobilized and to provide replacements for early combat casualties while something is being done about rebuilding a Selective Service System. Now the last of the prior draftees have completed their obligated service. Volunteers are required to serve three years on active duty (although Congress has recently directed a return to a limited number of two-year enlistments) and a substantial number of them reenlist. Thus, when they leave active duty they have either completed their total period of obligated service or have a relatively short time left to serve in the IRR. This vital mobilization asset is now 500,000—a half-million—short of needed strength!

There have also been some significant reversals in the recruiting picture for the active forces. After years of easy recruiting the Air Force has begun to fall short of its monthly goals by significant amounts. The Army, Navy and Marines continue to miss recruiting goals for non-prior service men and, for the first time in several years, the Army has been unable to attract sufficient non-prior service women. While the shortfalls in the active services have not yet reached the alarming level, considering that they have occurred in months that are habitually tough for recruiters, they reflect the ever-shrinking population of military age and an identifiable disinclination to serve. The conclusion is inescapable that the All-volunteer System has not provided the manpower our forces need.

Whether the active forces have been getting the quality of recruits they need is a question tangential to the problem of pure numbers. Are our recruits smart enough? Can they read well enough to keep up with the pace of training? Are they representative of our society? Does it really matter whether they are representative or not? These are all important questions but they tend to bounce off the really big one—do we have enough people and, if we don't, can we get them fast enough?

WHAT MUST BE DONE

There are some hopeful signs on this bleak horizon, reflecting the results of an all-out educational effort on the part of the Association of the United States Army and other concerned organizations. The effort by AUSA to raise the level of awareness concerning the damage being done by the absence of a viable Selective Service System began immediately after draft calls were ended and has continued ever since. It has not been an easy process. Press and public attitudes reflected their disenchantment with all things associated with Vietnam. The Congress was convinced that any mention of a return to the draft was fraught with political booby traps.

But in mid-1978 signs began to appear indicating the success of the education campaign. Newspaper editorials began to echo the views that AUSA has advanced. (See attached spread sheet "Nationwide Support for a Viable Selective Service System.") Members of Congress sought AUSA out for discussions of the problem and possible solutions. The Chairman of the Joint Chiefs of Staff publicly floated a recommendation to reinstitute registration and rebuild the Selective Service machinery and was not chastised by the White House. The Chairman of the House Armed Services Committee released a study identifying a number of problems associated with getting enough people into the armed forces, including the absence of a workable draft system.

Finally, early in 1979, the Secretary of the Army and the Secretary of Defense, both ardent advocates of the All-Volunteer concept, voiced concern that the existing manpower base was insufficient and recommended improvements to the standby draft system. Obviously they reflected a major shift in the attitude of the Carter Administration.

Three months behind a Harris Poll indicating overwhelming public desires in the matter, the Congress is backing into the serious consideration of advancing the deterrent military credibility of the country by reviving the long-dormant Selective Service System. In the face of manpower shortages, which make a mockery of our ability to mobilize even briefly, military forces approaching our minimal needs, the Congress is now considering a variety of bills which could call upon our 18-year-olds to exercise their citizenship.

Members of Congress who had previously limited their action to talking about the problem have begun to turn the cranks of their bill-writing machines. Senator Sam Nunn, (D-Ga.) one of the first to express his concern about present shortcomings, joined with Senator Harry Byrd (Ind-Va.) to file a bill that would direct resumption of registration and forbid that it ever again be suspended for more than 90 consecutive days.

The next member to attack the problem was Rep. Charles Bennett (D-Fla.) ranking majority member of the House Armed Services Committee. Rep. Bennett would direct the President to report plans for a "modern and efficient" system of registration no later than June 30, 1979 along with recommendations to "improve the fairness and efficiency of the Selective Service System." Bennett calls for the transfer of the selective service function to the Department of Defense, a move AUSA believes would be unwise, and provides for selection of individuals to serve

three months of active duty to be followed by three years of duty in the reserves. He does not address the question of whether women should be registered and subject to selection.

Senator Robert Morgan (D-N.C.) repeated the language of the Bennett bill directing a report from the President and called for an assessment of the nation's ability to mobilize but did not include selection for service in the reserves. The Morgan bill would direct the President to begin registration no later than October 1, 1979.

Rep. G. V. "Sonny" Montgomery (D-Miss.) next submitted a more comprehensive bill that meets most of the criteria adopted in AUSA Resolutions on Selective Service over the past several years. It would assure the continued independence of the Selective Service System from the pressure of other bureaucracies. It would clarify existing language in the Military Selective Service Act that makes resumption and continuation of registration mandatory. It deals with the issue of drafting women by directing that every person of the appropriate age register and be available to serve if needed. It would direct that the Selective Service System be exercised every year in the conduct of a random sequence lottery and associated classification of registrants. It would provide a means for that exercise by authorizing the selection of up to 200,000 individuals each year for training and service in the Individual Ready Reserve.

The most recent at the time of this writing, and certainly most ambitious bill, put in the legislative hopper to date is one authored by Rep. Paul McCloskey (R-Ca.). Called the National Youth Service Act, the bill would do the following:

Replace the Selective Service System with a National Service System which would require all persons to register within 10 days of their 17th birthday.

Permit registrants to volunteer for two years of military service, during which they would earn four years of educational and training benefits, or:

Volunteer for six months of active duty, followed by five and one half years of reserve obligation, or:

Volunteer for one year of service in a civilian capacity.

Provide that those who do not volunteer for one of the options above would be placed in a lottery pool for six years of draft liability. Those who might be called to fill military ranks would serve for two years, incur an additional four-year reserve obligation and earn two years of education benefits.

Establish a quasi-public organization to be called the National Youth Service Foundation to make policy.

The authors of all these proposals seem to sense the nature of the problem but some of the bills nibble at its edges while one—the McCloskey bill—wraps the need for immediate correction of an ongoing military problem into a plan burdened with overwhelming social ramifications. Every sensing the Association of the United States Army has been able to make, supports our conclusion that the nation is ready for an enlivened Selective Service System and some sort of effort to bring more people into the reserve forces. There has been no parallel sensing that we, as a nation, are ready to undertake universal service in its broadest meaning and there probably is no need for it except as a possible source of employment. The bureaucracy that it would generate is awesome to contemplate. It is an idea whose time has not yet come.

The features of the Montgomery Bill (HR-1901) make a studied and effective attack on the immediate problems. By keeping the Selective Service System out of the hands of another executive department, particularly those of its sole customer, the Department of Defense, the bill preserves the independent *"friends and neighbors"* atmosphere so successful since World War I. By strengthening the language about maintaining an operative system the bill would assure that no future Administration or Congress could send it back into mothballs without exposing the process to public discussion and open votes on Capitol Hill. By using Selective Service to fill the ranks of the Individual Ready Reserves it would annually exercise the system and emphasize the active role it plays in maintaining a realistic deterrent.

AUSA agrees wholeheartedly with those who point out every citizen owes a debt of service to the Nation. We also acknowledge the fact that not everyone will be needed to serve in the Armed Forces. So the choice must be made as to those who will wear a uniform and those who will not. The immediate problem is to have a reliable way to choose them quickly and fairly. Only after that problem is solved should we commit ourselves to answering the secondary questions of the propriety and methodology of other forms of obligatory service.

With the added deterrence provided by a working Selective Service System and well-prepared reserve forces we should have the luxury of time to consider the profundities of universal service. But until that deterrence is assured let us keep our focus directly on what must be done first.

The battle, if that is what it must be, has been joined. The first congressional hearings have been held, with testimony supporting the need for revitalized selective service countered by a statement from the American Civil Liberties Union that to draft young people under today's conditions would be a "severe infringement of individual liberties." Another, by the Church of Christ, demanded proof that we would ever again have time to mobilize.

Both statements miss the point entirely. Unless we are able to counter threats to our national freedom, the freedom of individuals is only academic. If we are unable to mobilize for a war that lasts less than six months, as postulated in the hearings, we have lost one of our most effective deterrents against an adventure on the part of adversaries who already possess heavy numerical superiority in weapons and combat forces.

Congress will see the error in this sort of divergent argument. Hopefully, they will be able to quickly cut through to the most basic consideration—national survival. The enactment of legislation to put our Selective Service System back in our inventory of definable assets is an act of statesmanship that is already overdue.●

## NEWS FROM JERUSALEM AND CAIRO

● Mr. METZENBAUM. Mr. President, the news from Jerusalem and Cairo is a happy reminder of how much men of goodwill can accomplish if they have some courage and imagination. President Carter, Prime Minister Begin, and President Sadat deserve more than our thanks. They need our continuing determination to counter the bullies of the world with our own tough humanitarianism.

## PRESERVE RELIGIOUS HERITAGE

● Mr. GARN. Mr. President, the United States of America is a religious nation. That fact is so self-evident that it hardly needs expression. It has been so from the beginning. The earliest explorers of this continent were moved by religious motives, as well as by economic pressures. America was, early and late, a haven from religious oppression, and a fertile field for the preaching of the gospel of God. The earliest settlers were religious communities, beginning a tradition which continues today.

At the same time, America has been a nation of religious freedom. Our basic political documents clearly state that there is not to be an "established" church, in the sense of a single church, State-approved, which should be supported by the national government and to which all men must give some sort of allegiance. Originally, the nonestablishment of a single church applied only to the national government. At the time of the adoption of the first amendment to the Constitution, many of the individual States did support churches. Eventually, that practice was discontinued, as impartiality of Government became more generally accepted.

But the fact that there were established churches within the individual States at the time of the founding of the Nation makes a mockery of the idea that the first amendment was designed to erect a wall of neutrality between the Government and the idea of organized religion. It is social and historical folly to think that government can be "neutral" as between religion and irreligion. In recent years, we have seen irreligion follow upon attempts to enforce neutrality upon our Government. In my view, some of these attempts have been ludicrous.

These attempts continue, as we see repeated calls for the elimination of religious mottoes and symbols from our coinage, from our public buildings, from our flags, and from the anthems we sing as a part of our public life. Our educational institutions are driven not by conflict between religious factions, but by those who attempt to force upon the vast majority an official religion of atheism.

Because that is the end result "neutrality" is not possible. If the State is not to affirm the existence of God, it must end by denying it, and so promoting the religion of atheism.

For atheism itself is a religion, relying, as it does, on faith in the nonexistence of God.

These points have profound implications for the conduct of public policy in our Nation. Last year, during debate over the tuition tax credit provisions of the tax reform bill, we saw the reemergence of religious conflicts, and conflicts between religion and irreligion. In such a debate, I feel strongly that the State must be neutral as between religions, but that it cannot be neutral on the question of religion or irreligion. To do so is to award the victory to the forces of irreligion, and I cannot believe that that is what our citizens want.

These questions have recently been addressed by the First Presidency of the Church of Jesus Christ of Latter-day Saints. Their message on our religious heritage reminds us of some basic truths about ourselves that we ought to all keep in mind as we address these important topics in the months ahead. I ask that

the message referred to be printed in the RECORD.

The article referred to follows:

PRESERVE RELIGIOUS HERITAGE, FIRST PRESIDENCY URGES

The First Presidency of The Church of Jesus Christ of Latter-day Saints today issued a statement urging "people of good will everywhere to unite to protect and honor the spiritual and religious heritage of our nation and to resist the forces that would transform the public position of the United States from the constitutional position of neutrality to a position of hostility toward religion."

The chief governing body of the Church, the First Presidency includes Church President Spencer W. Kimball and two counselors, President N. Eldon Tanner, first counselor, and Marion G. Romney, second counselor.

The text of the First Presidency's statement follows:

AMERICA'S RELIGIOUS HERITAGE

The Church of Jesus Christ of Latter-day Saints recognizes that a vital cornerstone of a free society is the principle of religious liberty. The First Amendment to the United States Constitution forbids any "law respecting an establishment of religion or prohibiting the free exercise thereof." Ours has been a society which encourages religious liberty and toleration. The result, as pointed out by Mr. Justice Robert H. Jackson of the United States Supreme Court, has been that ". . . nearly everything in our culture worth transmitting, everything which gives meaning to life, is saturated with religious influences."[1]

We, thus, deplore the growing efforts to establish irreligion, such as atheism or secularism, as the official position of the United States of America, thus obscuring and eroding the rich and diverse religious heritage of our nation. We refer here to attacks on time-honored religious symbols in our public life. Such symbols include:

1. The reference to "One nation under God" in our Pledge of Allegiance;
2. The motto "In God We Trust" on our coins and public buildings;
3. "Praise (for) the power that hath made and preserved us a nation" in our National Anthem;
4. Use of the Bible to administer official oaths;
5. The words "God Save the United States and this Honorable Court," spoken at the convening of the United States Supreme Court;
6. Prayers at the beginning of legislative sessions and other public meetings;
7. The performance of music with a religious origin or message in public programs;
8. The singing of Christmas carols and the location of nativity scenes or other seasonal decorations on public property during the Christmas holidays; and
9. References to God in public proclamations, such as at Thanksgiving.

From its beginning The Church of Jesus Christ of Latter-day Saints has accepted the constitutional principle that government will neither establish a state religion nor prohibit the free exercise of religion. Our formal statements of belief include these principles:

"We claim the privilege of worshiping Almighty God according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they may." (The Articles of Faith)

"We believe that religion is instituted of God; and that men are amenable to him, and to him only, for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others; but we do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; for the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul." (D&C 134:4)

"We believe that rulers, states, and governments have a right, and are bound to enact laws for the protection of all citizens in the free exercise of their religious belief; but we do not believe that they have a right in justice to deprive citizens of this privilege, or proscribe them in their opinions, so long as a regard and reverence are shown to the laws and such religious opinions do not justify sedition nor conspiracy." (D&C 134:7)

"We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies; provided that such dealings be for fellowship and good standing; but we do not believe that any religious society has authority to try men on the right of property or life, to take from them this world's goods, or to put them in jeopardy of either life or limb, or to inflict any physical punishment upon them. They can only excommunicate them from their society, and withdraw from them their fellowship." (D&C 134:10)

During the course of our history members of our Church have been the victims of official persecution motivated by religious intolerance. We are, therefore, committed by experience as well as by precept to the wisdom of a constitutional principle that government and public officials should maintain a position of respectful neutrality in the matter of religion. If any of our members holding public office have failed to observe that position in any of their official responsibilities we counsel them to remember the principles quoted above.

But the constitutional principle of neutrality toward religion does not call for our nation to ignore its religious heritage, including the religious motivations of its founders and the powerful religious beliefs of generations of its people and its leaders. The basic documents of our land, from the Mayflower Compact through the Declaration of Independence and the writings of the Founding Fathers to the inaugural addresses of presidents early and modern, are replete with reverent expressions of reliance on Almighty God and gratitude for His blessings. The reference to God and Divine Providence in our historic state documents and the other religious symbols summarized above are time-honored and appropriate expressions of the religious heritage of this nation. As the Supreme Court noted in a leading case, "There are many manifestations in our public life of belief in God," and these "ceremonial occasions bear no true resemblance to the kind of unquestioned religious exercise" that the government is forbidden from sponsoring.[2]

Those who oppose all references to God in our public life have set themselves the task of rooting out historical facts and ceremonial tributes and symbols so ingrained in our national consciousness that their elimination could only be interpreted as an official act of hostility toward religion. Our constitutional law forbids that. As the Supreme Court said in another leading case:

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality.[3]

As the ruling principle of conduct in the lives of many millions of our citizens, religion should have an honorable place in the public life of our nation, and the name of Almighty God should have sacred use in its public expressions. We urge our members and people of good will everywhere to unite to protect and honor the spiritual and religious heritage of our nation and to resist the forces that would transform the public position of the United States from the constitutional position of neutrality to a position of hostility toward religion.●

[1] *McCollum* v. *Board of Education*, 333 U.S. 335–38 (1948).

[2] *Engle* v. *Vitale*, 370 U.S. 421, 435 n. 21 (1962).

[3] *School District of Abington* v. *Schempp*, 374 U.S. 203, 226 (1963).

## WHY OUR FOREIGN POLICIES FAIL

● Mr. McGOVERN. Mr. President, American foreign policy operates in a complex and challenging international environment today. Our power faces new limitations. The number of factors has increased. Resources are becoming more scarce. Dangerous armaments are proliferating. Peoples throughout the world are demanding more control over their lives, their economies, and their cultures.

Yet the recent setbacks to our foreign policy—most recently in Iran—raise the question whether our policymakers have adjusted to this new world and shed the simplistic attitudes and practices developed in the cold war era of the 1950's. Whatever else may be said about our policy in Iran, above all it was unrealistic because it did not respond to the actual conditions in Iran itself. We apparently knew as little about Iran as we did about Vietnam.

Why is this the case? What is the root of our seeming inability to preceive many of the new forces in the world today? One of the most perceptive analyses of this question I have seen recently is Lewis Lapham's allegorical interpretation on "American Foreign Policy: A Rake's Progress" in the March issue of Harper's. His examination of the beliefs of our national security managers is a good starting point for understanding why many of our policies fail and what should be changed to ally ourselves "with the evolving future of man's mind, with those forces in the world (ideas, nations, movements, political parties, institutions) that encourage human beings to walk on two feet."

I ask that the article to which I have referred be printed in the RECORD.

The article referred to follows:

AMERICA'S FOREIGN POLICY: A RAKE'S PROGRESS

(By Lewis H. Lapham)

PREAMBLE

The increasingly dissolute course of American foreign policy makes it difficult to characterize the spectacle of the United States in the world as anything other than a rake's progress. The country exhibits itself in the persona of a profligate heir, squandering his fortune in gambling hells and on speculations in organic farming and utopian politics. Bearing this portrait in mind, I can make

sense of the accounts in the newspapers. Otherwise I'm at a loss to know what people mean when they talk about mutual-defense treaties, hegemonies, the China card, and arcs of crisis in Asia Minor and the Persian Gulf. On reading the communiqués from Washington, Peking, and Teheran (together with the supporting sophistry on the editorial pages of the *New York Times*), I see a soft-faced man in a nightclub at three A.M., earnestly seeking to persuade a bored demimondaine that he still worries about the higher things in life and that his inheritance has failed to bring him true peace and happiness. Through the dance music I can hear him saying, in a blurred but concerned voice, that he means to do what's right, but that this is a much harder thing to do than perhaps the young lady knows. He would have preferred to become a poet or a Protestant minister, or possibly a guitar player hitchhiking across Arkansas with a girl who sings country songs. But his lawyers keep talking to him about the Russians (the boring, tedious Russians, who never laugh at his jokes), and his trust officers keep talking to him about money—about the goddamn price of oil and the second-rate Shah who let him down in Iran, about the Chinese and the Japanese and the Taiwanese and the Vietnamese (all of whom look so much alike that it's hard to remember which ones are floating around in boats), and about the misserable Jews who failed him in the Middle East.

The persona of the spendthrift heir seems to be fitting because in 1945 the United States inherited the earth. During the first half of the twentieth century, the European powers twice attempted suicide, and at the end of World War II what was left of Western civilization passed into the American accounts.* The war also had prompted the country to invent a miraculous economic machine that seemed to grant as many wishes as were asked of it. The continental United States had escaped the plague of war, and so it was easy enough for the heirs to believe that they had been anointed by God. In their eager innocence, they made of foreign policy a game of transcendental poker, in which the ruthless self-interest of a commercial democracy (cf., the American policy toward the Plains Indians and the Mexicans) got mixed up with dreams, sermons, and the transmigration of souls. In Europe people may not know very much about foreign policy; as often as not they have no idea what to do about any particular crisis, but at least they can recognize the subjects under discussion. They know enough to know that the dealing between nations is a dull and sluggish business, unyielding in the financial details and encumbered with the usual displays of pride, greed, nastiness, and spite. The Americans, who have little interest in tiresome details, prefer to imagine themselves playing cards with the Devil.

The wealth of the United States in comparison to other nations of the world makes the figure of the rich man representative of the country's gargantuan extravagance. As the inheritors became increasingly profligate (cf., the rising levels of consumption, inflation, and debt through the 1960s), so also the assumptions of pecuniary privilege became habitual among larger segments of the population. I first encountered the prevailing attitude of mind in the fall of 1957, when, having studied history for a year in England, I returned to the United States with the notion of working for either the *Washington Post* or the CIA. My interest in foreign affairs had been awakened by the Suez and Hungarian incidents of 1956 and by my inability to understand, much less explain to a crowd of indignant Englishmen, the policy of John Foster Dulles.

In 1957 the *Washington Post* and the CIA could be mistaken for different departments of the same corporation. Newspapermen traded rumors with intelligence agents, and although the gilding on the Pax Americana was beginning to wear a little thin, anybody who had been to Yale in the early 1950s couldn't help thinking the totalitarian hordes had to be prevented from sacking the holy cities of Christendom. Failing to find a job with the *Post*, I took the examinations for the CIA. These lasted a week, and afterward I was summoned to a preliminary interview with four or five young men introduced to me as "some of the junior guys." The interview took place in one of the temporary buildings put up during World War II in the vicinity of the Lincoln Memorial. The feeling of understated grandeur, of a building hastily assembled for an urgent, imperial purpose, was further exaggerated by the studied carelessness of the young men who asked the questions.

All of them seemed to have graduated from Yale, and so they questioned me about whom I had known at New Haven and where I went in the summer. I had expected to discuss military history and the risings of the Danube; instead I found myself trying to remember the names of the girls who sailed boats off Fishers Island, or who had won the summer tennis tournaments in Southampton and Bedford Hills. As the conversation drifted through the ritual of polite inanity (about "personal goals" and "one's sense of achievement in life"), the young men every now and then exchanged an enigmatic reference to "that damn thing in Laos." Trying very hard not to be too obvious about it, they gave me to understanding that they were playing the big varsity game of the Cold War. Before I got up to leave, apologizing for having applied to the wrong office, I understood that I had been invited to drop around to the common room of the best fraternity in the world so that the admissions committee could find out if I was "the right sort."

From that day forward I have never been surprised by the news of the CIA's vindictiveness and inattention. Good, clean-cut American boys, with all the best intentions in the world and convinced of their moral and social primogeniture, must be expected to make a few good-natured mistakes. If their innocent enthusiasm sometimes degenerates into sadism, well, that also must be expected. Nobody becomes more spiteful than the boy next door jilted by the beautiful Asian girl, especially after he has given her the beach house at Camranh Bay, $100 million in helicopters, and God knows how much in ideological support. It is a bitter thing to lose to Princeton and to find out that not even Dink Stover can make the world safe from Communism.

This same undergraduate insouciance has remained characteristic of American foreign policy for the past thirty years. Administrations have come and gone, and so have enemies and allies, but the attitude of mind remains constant, and so does the tone of voice. It is the voice of Henry Kissinger explaining to a lady at a dinner that a nation, like an ambitious Georgetown hostess, cannot afford to invite unsuccessful people to its parties. It is the voice of McGeorge Bundy, who told an audience of scholars in the early 1960s that he was getting out of Latin American studies because Latin America was such a second-rate place. It is the voice of James Reston finding something pleasant to say about this year's congenial dictator, or the State Department announcing its solidarity with Cambodia and expressing only mild regret about the regime's program of genocide.

After 1968 the inflection of the voice became slightly more irritable and petulant. During the early years of the decade the heir to the estate flattered himself with the gestures and exuberant rhetoric appropriate to an opulent idealism. He had access to unlimited resources (of moral authority as well as cash), and he stood willing to invest in anybody's scheme of political liberty. Nothing was too difficult or too expensive; no war or rural electrification was too small or inconsequential. The young heir undertook to invade Asia and to provide guns and wheat and computer technology to any beggar who stopped him in the street and asked him for a coin. After 1968, when the bills came due and things turned a little sour, the heir began muttering about scarcity and debts, about the damage done to the environment and the lack of first-class accommodation on spaceship earth. Nobody becomes more obsessive on the subject of money than the rich man who has suffered a financial loss. The fellow feels himself impoverished because he has to sell the yacht. President Nixon closed the gold window, and associate professors of social criticism dutifully taught their students that sometimes money weighs more heavily in the balance of human affairs than the romance of the zeitgeist.

Even so, the assumptions of entitlement remain intact. Although feeling himself somewhat diminished (as witness the success of the philosopher-merchants on the neoconservative Right) and somewhat older (as witness the dependence on sexual and spiritual rubber goods), the still-prodigal son continues to believe himself possessed of unlimited credit. He is still the heir to the fortune, no matter what anybody says about his horses and dogs, and he can damn well play his game of policy in any way that he damn well chooses. This assumption of grace begets a number of corollary attitudes, all of them as characteristic of a rich man going about his toys and pleasures as of the manner in which the United States conducts its foreign affairs. As follows:

*I. The world as theater*

Children encouraged to imagine themselves either rich or beautiful assume that nothing else will be required of them. What is important is the appearance of things, and if these can be properly maintained, then the heirs can look forward to a sequence of pleasant invitations. They will be entitled to a view from the box seats, and from the box seats, as every fortunate child knows, the world arranges itself into a decorous panorama. The point of view assumes that Australians will play tennis, that Italians will sing or kill one another, that Negroes will dance or riot (always at a safe distance), and that the holders of the season tickets will live happily ever after, or, if they are very, very rich, maybe forever. The complacence of this view implies a refusal to see anything that doesn't appear on the program. Nobody imagines that he can be dislodged by a social upheaval of no matter what force or velocity, and it is taken for granted that the embarrassments of death or failure will be visited upon people to whom one has never been properly introduced.

Since the end of World War II the people who make American foreign policy have assumed that the world is so much painted scenery. The impresarios in Washington as-

*The United States came so suddenly into its inheritance that the fortune bears more of a resemblance to a family estate than to the wealth of a nation accumulated over centuries. It is no more than eighty-nine years from the closing of the frontier to the walk on the moon; the same span of time measures the building of Chartres Cathedral and the period between John D. Rockefeller's entry into business and his death amid incalculable riches. The alarms and excursions of the 1960s can best be understood as a family quarrel about the distribution of the estate.

sign all the parts and write all the last acts. Other people make exits and entrances. Thus President Carter, on the last night of 1977, offered a toast to the Shah of Iran in which he described the Shah as his "great friend" and Iran as an "island of stability" in the Middle East.[1] A year later Iran was in the midst of revolt and Washington was advising the Shah to abdicate in favor of any government, civil or military, that could restore production in the southern oil fields. In 1941 the Soviet Union appeared on the stage in the role of brave friend and courageous ally; six years later, the script was rewritten and the Soviet Union appeared as the villainous éminence grise, subverting the free world with the drug of Communism. China remained an implacable enemy of human freedom for the better part of thirty years, but in 1972 President Nixon announced the advent of democracy, and in 1978 President Carter proclaimed the miracle of redemption. Following the example set by the wall posters in Peking, the American press blossomed with praise for a regime previously celebrated for its brutality. The stagehands of the media took down the sets left over from the production of Darkness at Noon and replaced them with tableaux of happy Chinese workers eager to buy farm implements, military aircraft, and Coca-Cola.

In war, Napoleon once said, the greatest sin is to make pictures. But the man who has inherited a great fortune does nothing else except make pictures. Unlike the poor man, who must study other people's motives and desires if he hopes to gain something from them, the rich man can afford to look only at what amuses or comforts him. He believes what he is told because he has no reason not to do so. What difference does it make? If everything is make-believe, then everything is as plausible as everything else. Asian dictators can promise to go among their peasants and instruct them in the mechanics of constitutional self-government; the Shah of Iran can say he means to make a democratic state among people who believe that they have won the blessing of Allah by burning to death 400 schoolchildren in a movie theater. The rich man applauds, admires the native costumes, and sends a gift of weapons. He believes that, once inspired by the American example, the repentant Asian despot will feel himself inwardly changed and seek to imitate the model of behavior established by Henry Cabot Lodge. Dictators don't really want to be dictators; they were raised in an unhealthy social environment, and if given enough tractors and a little moral encouragement, they will renounce the pleasures of sodomy and murder. The absurd political presentations that have found favor in Washington over the past thirty years resemble the farfetched rationalizations with which New York art dealers sell the latest school of modern painting to the nouveau riche. Like the visitors from abroad, the dealers retain a serene and justified confidence in the customer's willingness to be deceived.

*II. The habit of inattention*

The press and the politicians sometimes blame the CIA for being so poorly informed, not only about the events in Iran but also events in China, Russia, Africa, and Vietnam. The recriminations seem to me unfair. The inattention of the CIA reflects and embodies the carelessness of the society for which it acts as agent. On leaving his club the rich man never looks behind him to see if the waiter is holding his coat; in much the same way the United States doesn't take the trouble to notice much of what goes on in the world's servants' quarters. The American press reports news from Africa that deals with disputes between whites and blacks; only large-scale civil wars between armies of blacks deserve mention in the dispatches, and then only if the Russians agree to sponsor one of the contenders. The rich man never knows why other people do what they do because it never occurs to him that they have obligations to anybody other than himself. Few among the nation's more prominent journalists speak or read French. It would exceed the bounds of all decent patriotism to expect more than two or three of them to read or speak Russian, Chinese, or Arabic. The same thing can be said for members of Congress, for Presidents, Secretaries of State, ministers of defense, and almost the entire cadre of people who give shape and form to the discussion of foreign policy. Whenever I remark too loudly on the magnificent displays of American ignorance, somebody who has published an article in Foreign Affairs reminds me that the United States is the last, best hope of earth. This is undoubtedly true, but it has nothing to do with subjects under discussion.

*III. Wastefulness*

When President Carter announced the Christmas demarche to Communist China, various mean-spirited critics observed that the United States had failed to gain any specific advantage from the deal. The United States ceased to recognize Taiwan as a sovereign state, abrogated the defense treaty, and agreed to withdraw its troops from the island. In return for these concessions, the Communist Chinese promised to be as friendly as possible and to do what they thought best for the Taiwanese.

The people who object to the slackness of this bargain overlook the rich man's unwillingness to set a vulgar price on metaphysics. The United States habitually makes poor bargains because it feels that it already owns everything worth owning, and so why haggle with the poor little fellows in Asia and the Middle East? Why make unreasonable demands on the Soviets in the SALT negotiations? It is the proof of a rich man's freedom that he can afford to pay an excessive price. It never occurs to him that political economy might be a form of destruction as ruthless although not quite so obvious as war, or that the world is full of hungry people still scrabbling around for anything they can get. The rich man considers it the height of fashion and good breeding to affect an aristocratic disdain for commerce.

Thus a rich nation's portfolio of treaties resembles a rich man's stock portfolio. It is full of issues that he inherited from his grandfather or his mother's uncles, and he has trouble remembering the assets and liabilities represented by NATO, SEATO, CENTO, and God knows how many other shares and securities for which he can't even recall the names. This explains his careless disregard for those countries denominated as allies. To the extent that none of them take precedence over any of the others, they can be bought and sold as the heir feels himself pressed by the need for cash or funds with which to stage an extravagant fireworks display."[2]

The habit of mind remains firmly ingrained despite the depleted value of the heir's investments. At the end of 1972 foreign banking interests controlled American assets of $26.8 billion; in 1978 the same interests controlled American assets worth $98 billion. During the first five months of 1978 the United States imported machinery and manufactured goods in the amount of $37 billion, as opposed to only $16 billion for foreign oil. The dollar continues to depreciate in the world markets, and American multinational corporations have begun to find themselves surpassed by their competitors in France, Germany, and Japan.

But the rich man intent upon his game of policy impatiently dismisses the accountants niggling at his sleeve. He feels compelled to place another bet in Indochina, this time backing the Cambodians (i.e., the friends of his new partners, the Communist Chinese) against the malevolent croupiers in Vietnam. He wants to make a grand and humanistic gesture in southern Africa, to do something visible and significant in Turkey, to effect a rapprochement in Central America. As recently as last summer, while listening to people with impeccable credentials discuss the prospects of American diplomacy, I heard a man say that nothing could happen in the world that could affect, in any serious way, the United States. Excepting only a nuclear miscalculation, he was happy to report that the country could consider itself invulnerable.

*IV. Immunity*

In American military circles, I'm told, it is considered poor form to discuss fortification and the strategies of attrition and civil defense. The whole notion of fortification is seen as stodgy, corrupting, somehow un-American. It brings to mind the depressing memory of stuffy French generals on the Maginot Line in the early weeks of World War II. The United States owes it to itself to cut a more dashing figure in the world. Where is the fun in fighting dreary rearguard actions? The young men in the Pentagon and the military academies speak of forward thrusts, of broad-gauged advances, of assaults and landings and insertions.

All the fine talk conceals an ironic paradox. When it comes down to a question of how to go about these romantic maneuvers, the United States relies less on the daring and intelligence of its commanders than on the superiority of its expensive equipment. It is assumed that the wars will be won by the avalanche of American resources, materiel, production, logistics, and assembly lines—i.e., by the bureaucrats who need be neither impetous nor brave. The faith in gadgetry and the "tech fix" accounts for the incalculable investment in missiles, bombs, airplanes, and anything else that can be bought in the finest sporting-goods stores. Nobody has the bad manners to insist that strategic bombing has yet to be proved a decisive factor in any of the country's wars. The rich man depends on his technology in the same way that

[1] It is instructive to quote Mr. Carter's toast at some length because it so nicely illustrates the somnambulism of American statesmen content to see whatever they wish to see. Mr. Carter explained that he decided to celebrate New Year's Eve with the Shah because he had asked his wife, Rosalynn, whom she wanted to be with on that occasion, and Rosalynn had said. "Above all others, I think, with the Shah and the empress Farah." The President then went on to say: "Iran, because of the great leadership of the Shah, is an island of stability in one of the more troubled areas of the world. This is a great tribute to you, Your Majesty, and to your leadership, and to the respect and the admiration and love which your people give to you. . . . We have no other nation on earth who is closer to us in planning for our mutual military security. We have no other with whom we have closer consultations on regional problems that concern us both. And there is no leader with whom I have a deeper sense of personal gratitude and personal friendship."

[2] Thus, the Carter Administration didn't take the trouble to consult the NATO allies about its decision to postpone the deployment of the neutron bomb. In much the same spirit, the Nixon Administration didn't bother to consult with the Japanese in 1971 about the overtures to China, the shift in the monetary system, or the imposition of tariffs.

he depends on his trust fund. Even if he makes no effort to think about the great bulk of his capital, it goes about the business of gathering its daily ransom of interest and dividends. The miraculous nature of this contrivance persuades the heir to believe in the the divinity of machines.

His lack of acquaintance with the domesticity of war gives him further reason to think that he may have been granted an exemption from the scourges by which less fortunate men sometimes find themselves humiliated. The world is object, and the United States is subject, the fighting always takes place on somebody else's field. The politicians who currently hold office in England suffered the terror of the German bombing; in Moscow the present members of the Politburo watched German tank commanders sight their guns on the spires of the Kremlin. Their peers in Germany, China, Japan, and Italy all carry with them the memory of wives, fathers, brothers, and children killed by the armies of liberation. But in the United States these are tales that are told. Perhaps this is why the Americans were obliged to push the Vietnamese off the helicopters rising from the roof of the American embassy in Saigon. They hadn't been taught that defeats were as plausible as victories, and so they didn't know how to manage a courageous retreat.

*V. Hypochondria*

The disease is popular with the rich because only the rich can afford it and because, being incurable, it gives them a constant occasion to talk about themselves. Never before in its history has the United States been so heavily armed a nation, and yet the newspapers and the literary gazettes ceaselessly bring reports of helplessness and alienation, of malignancies in the body politic and the encroaching shadow of Soviet hegemony. The fear of death provides a further excuse for the feverish rates of spending and the extravagant consumption of the estate's assets. Eat, drink, and be merry, for tomorrow we may have to pay one dollar for a gallon of gasoline and give up our chalets in Aspen. Like the society physicians who prey upon the anxieties of dowager heiresses, the learned doctors of foreign policy subtly remind the trembling patient of the illnesses that can befall the unwary traveler in the Third World who strays too far from supplies of safe drinking water.

The symptoms of hypochondria have been chronic since the early 1950s. The moods of euphoria and exultation ("How dare they defy us, those scrawny little peasants in Vietnam?") periodically give way to seizures of doubt and self-reproach. For no apparent reason, the stewards of the American empire suddenly become preoccupied with the phantoms of the missile gap or the energy crisis. Every now and then the consensus of alarmed opinion declares a "year of maximum danger." I have heard this moment in time variously given as 1954, 1962, 1968, 1974, and now—with President Carter's casting around for a credible portrait of himself as statesman and world leader—1979.

The obsession with security corresponds to the desire of the American rich to live in protected enclaves and to escape the filth and nuisance of the world. Howard Hughes ascends to the roof of a Las Vegas hotel, there to keep himself safe from bacteria; Hugh Hefner revolves on a round bed in a darkened room, arranging and rearranging pictures of paradise; David Rockefeller sits drinking milk among reports of poverty and overpopulation; Richard Nixon composes his memoirs in the brooding silence of San Clemente; and President Carter retires to the little study next to the Oval Office, listening to Wagnerian opera, checking off his list of things to say and do, communing with his God.

This inward gaze, and the delight in the chimpanzee's examination of the American self, contributes to the poor quality of the reporting from abroad. The diplomats and newspaper correspondents compose pictures that accord with their presuppositions when they signed up for the package tour. They see what they have been told to see (otherwise they wouldn't have been sent), and for the most part they notice that the world is a very poor and undeveloped place, not at all like Greenwich, Connecticut, or Far Hills, New Jersey. They assume that happiness cannot be separated from its natural setting amidst suburban lawns, and this leads them to suspect that the natives are dissatisfied and therefore angry. What man in his right mind would not want to drive a station wagon and ride in triumph through Grosse Pointe? The abyss looms on all sides, at all points of latitude and longitude. By confusing his money with his life, the rich heir imagines himself threatened by enemies of infinite number and variety—by thieves, dictators, IRS agents, hijackers, unscrupulous women, kings, radicals, kidnappers, and nationalist sentiment in South Yemen.

*VI. Impatience*

Fortune's child doesn't like to be bothered with details. He never has time to listen to the whole story or to read through the statistical memoranda and the volumes of supporting analysis. He has planes to catch and meetings to attend, and so he expects his advisers to provide him with summaries and conclusions. Unfortunately, this is a habit of mind that obliges him to conceive of foreign policy in extremely simple categories. A nation is slave or free, North or South, in the First World or the Third.

A man who must earn his own fortune learns to make subtle distinctions, and he knows that in all human undertakings, in diplomacy as well as in art or commerce, it is in the details that the issue is decided. So also the man who depends for his livelihood on the animals that he hunts and kills. He studies them with the fondness of a lover, watching them in all weathers, guessing their moods, admiring their grace, following their tracks.

The heir to the fortune doesn't have the patience for this sort of thing. He hires gunbearers and assumes that all wars will be short. Because he wants to do everything in a hurry and with the minimum loss to his own troops, he relies on the most brutal and undiscriminating means of warfare. In Vietnam the United States couldn't distinguish very clearly between friends and enemies, and so it had no choice but to send the bombers. The soldiers followed the rich man's simple rule of "shooting everything that moves," and the Eighty-second Airborne Division resolved the political difficulties by defining a Vietcong as any dead Vietnamese.

*VII. Family retainers*

It is both customary and correct to say that when President Carter arrived in office he knew very little about diplomatic history, political economy, or geography. Had he been asked, prior to his election and without benefit of public-relations counsel, to give the approximate location of Namibia or Romania, I doubt whether he could have come within several hundred miles of a convincing answer. But among American Presidents, at least during their first year in office, the lack of sophistication in these matters is the rule rather than the exception. Who can expect a red-blooded American boy to bother himself with a lot of foreign names? After two years in office, President Ford still had trouble remembering the whereabouts of the Red Army in relation to Poland. Even President Kennedy, who had traveled in Europe and the South Pacific, remained charmingly vague about Asia and Latin America.

Although some schools take more trouble with geography than others, the heirs of the American fortune ordinarily have no occasion to learn much more than the broad outlines of the civilization in which they happen to be spending money. The better schools also insist that the young men have the good manners to know the difference between a sonata and a logarithm table, but for the most part an American education (at Harvard as well as at the universities of Michigan or California) constitutes a social rather than an intellectual enterprise. It is also a means of acquiring a cash value, comparable to buying a seat on the stock exchange, and it qualifies the recipient for a place in the corporations and the bureaucracies. If the need arises for more refined intellectual goods and services, the heirs to the estate can always hire a Wall Street law firm or a Jew.

Thus do the tribunes of the people fall like sparrows into the nets of the foreign-policy establishment. For the past thirty years, the trustees of this establishment have been recruited from the banking and legal hierarchies in New York and Washington as well as from the prestigious universities deemed to be sufficiently sound in their distrust of the artistic or political imagination. Although innumerable critics and newspaper columnists have remarked on the primacy of this establishment (cf., President Carter's weaning at the dugs of the Trilateral Commission), the term itself causes confusion. The establishment does not define itself in terms of specific institutions, publications, or club memberships. Rather it can be understood as organizational support, of both a financial and an intellectual nature, for the belief in the redeeming and transfiguring power of money. Sums in excess of $100 million have the properties of fairy gold: they can transform apes into men and frogs into princes. It is this doctrine, enforced with the rigor of an ecclesiastical court, that binds together counselors of such otherwise disparate views as Dean Rusk, John J. McCloy, Cyrus Vance, William Rogers, Henry Kissinger, Clark Clifford, Arthur Schlesinger, Jr., McGeorge Bundy, and Zbigniew Brzezinski. These men do not constitute a cabal; it is even probable that they have no wish to form or join an establishment, but because most of the people in the country prefer to avoid the company of foreigners they achieve their eminence by default. Perhaps this explains the shoddiness and the timidity of their policies. It is their submission to the rule of money that gives their advice, no matter what the partisan politics of the moment, its consistency of tone and emphasis.[3]

In periods of relative optimism and extravagance, when the world is young and all things seem possible, the family retainers permit the heir an occasional indulgence or youthful folly. President Kennedy's advisers made no objection to the assassination of Diem, and allowed him to toy with the hope of assassinating Fidel Castro. But the heir always likes to think well of himself, and so

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[3] Mrs. Cornelius Vanderbilt in 1906 expressed this principle of American foreign policy when instructing her niece in the fine points of social politics. "One never meets Jews," Mrs. Vanderbilt said. The niece reminded Mrs. Vanderbilt that she took tea on Friday afternoons with Mrs. August Belmont. "Of course," Mrs. Vanderbilt said, "one chooses who a Jew is." Thus the Carter Administration can decide that the Nigerian generals have enough oil to exempt them from the status of dictators and that Mr. Marcos in the Philippines deserves to be paid $1 billion for the use of his facilities at Subic Bay.

when going about these Machiavellian adventures of state, the family retainers perform the service of doing things in the heir's name but not in his sight. In this respect they resemble New York divorce lawyers, who for the sake of the children, find it prudent to blackmail the showgirl wife with photographs of her debut in a New Orleans brothel. During periods of reaction and constraint the family retainers warn the heir against doing anything that might injure the integrity of the trust fund. Thus Mr. Carter's advisers recommend that the United States curry favor with any nation, slave or free, that can guarantee commodities, raw materials, and markets.

The more desperate the circumstances of the heir, the more likely that he will be attended by retainers who are themselves consumed with avarice and ambition. It is the habit of the rich to have enemies for friends, and so they surround themselves with gossips and hairdressers whose sexual sterility presents no obvious claim against the fortune and who take pleasure in contributing to the dissolution of the estate. Similarly, President Nixon employed Henry Kissinger, who seldom bothered to disguise his contempt not only for the Western democracies but also for Mr. Nixon. He told people whatever secret and fantastic truths they most urgently wanted to hear, tapped his associates' telephones with the discrimination of a man making a guest list, and betrayed his nominal friends as blithely as he brought ruin to his enemies. He entered the Nixon Administration in the persona of the faithful squire and left it in the persona of the resourceful manservant, condescending to sell his court memoirs for $2 million. During the televised proceedings of the Republican National Convention in Kansas City in 1976 the camera paused briefly on Mr. Kissinger sitting in the balcony, listening to the speeches with an expression of unconcealed disgust. It was the expression of a fashion designer who has just been told that somebody else will receive the commission to make the dress for the Inaugural Ball.

*VIII. Jeu d'esprit*

From time to time the rich man dreams sentimental dreams. He wonders what it would have been like to have wandered as a pilgrim in India or to have composed verses worthy of Lord Byron. Under the influence of this soft and elegiac humor he sometimes builds on his property the equivalent of what the eighteenth-century English nobility described as a folly. Traditionally this was a little gazebo or pavilion with a view of a river or meadow. The heir to the fortune could lean against a marble column, staring into the blue distance and thinking thoughts of the ineffable.

In much the same spirit the United States erected its policy toward Israel. The Middle East wasn't a particularly important place in 1948, and the Jews had been through some pretty rough times at Buchenwald and Auschwitz. Why not, as Nelson Rockefeller might say, do something nice for the fellas? What did it cost anybody? The United States could admire the pleasing prospect of its conscience stretching into the ennobling spaces of the Palestinian desert.

Besides, Zionist sentiment in the United States was both affluent and politically well-connected. The supporters of Israel could be counted upon for generous campaign contributions and vigorous arguments in the intellectual debates. Everything went well enough for many years, until, in circumstances much reduced, the geologists found oil in a neighboring pasture. Unhappily, the heir needed the money, and his advisers informed him that he would have to tear down his folly and shift the mise-en-scene of his musings to some other pavilion. The heir objected to this, protesting that he had become fond of looking at the little river. But the lawyers were firm and unrelenting. The Arab money from the desert weighed more heavily in the balance than the Jewish money from the sown. Or, as it was explained to me about a year ago by a director of one of the American oil corporations, "Over here at Z——, we get down every morning and pray to Mecca; if necessary we would kiss the — of every Arab in Riyadh."

*IX. Spitefulness and rage*

Nothing so angers the rich man as the discovery that his money cannot buy him the world's love and admiration. Being impatient of ambiguity and doubt, he wonders why his fortune doesn't emancipate him from the slings and arrows of outrageous suffering or why, like Shakespeare's Richard II, he must "live with bread like you, feel want, taste grief, need friends." If he gives even $10,000 to a philanthropic charity, he counts upon receiving at least $1 million in services and flattery. President Carter anticipated sustained applause upon the announcement of his opening to China, and when this was not forthcoming he became petulant and sullen. Mr. Warren Christopher, the Deputy Secretary of State, traveled to Taipei only a few days after the United States had declared inoperative its treaty with Taiwan. He proceeded from the airport in a cavalcade of limousines, never for a moment thinking that his progress could be anything out of the ordinary. An angry crowd stopped Mr. Christopher's car and smeared it with insults. Mr. Christopher was lucky to escape with his life. The bad manners exhibited by the Taiwanese surprised and offended Mr. Christopher, and the State Department sent a note of reproval.

When things go wrong in the world (i.e., when the painted scenery shifts and moves and comes to life) the rich man casts around for somebody to blame. Characteristically he blames his lawyers and investment managers. Why else does he employ Dean Rusk and Cyrus Vance if they can't straighten out his affairs? How is it possible that all the king's horses and all the king's men cannot put the Shah of Iran back together again? The lawyers and managers in their turn blame one another, as well as inflation, unemployment, and the rising cost of labor. Throughout Washington the bureaucracies ooze whispered recriminations. The White House blames the CIA for the poor quality of the intelligence from Teheran, and the CIA blames the White House for not listening to the early reports of discontent, possibly because Mr. Brzezinski couldn't hear anyone speak ill of his strategic hopes for the Persian Gulf or because he didn't want to think Iran couldn't accept delivery on $18 billion in arms shipments.

The rich man becomes particularly annoyed when he is forced to perceive that he is not behaving decently in the world, that he has associated himself with tyrants and criminals. More than anything else he expects his money to buy him the illusion of innocence. He resents being told that he might be soliciting the odd $1 billion here and there from people who stand willing to burn and mutilate Jews, or that weapons sold in the world markets fall into the hands of thugs who use them to commit murder. Reports or rumors of these unhappy accidents wound the rich man's self-esteem and cloud the flattering image that he expects to see in the mirrors held up to him by his retainers, his servants, and the press. In the paroxysm of his rage he comes upon the great truth that only the rich and the powerful have rights.[4]

He concludes that other people have failed him, that he has been betrayed by people in whom he placed so much of his trust, and it occurs to him that perhaps other people deserve whatever fate befalls them. The family retainers assemble in comfortably furnished conference rooms to prepare exquisite phrases of regret. They can't quite say that the Jews deserve what they get because Jews are pushy, or that the English lost the empire because they are selfish, or that the French are corrupt and the Latin Americans shiftless and greedy. This is what they mean, but the words don't make a good impression in the newspapers.

The lawyers talk instead about treaties, trade balances, and the Arabian oil fields as the wellsprings of the democratic alliance. If there isn't time for the polite hypocrisies, or if the nations in question haven't shown a decent respect for the opinions of mankind, then the rich man simply sends the bombers over Hanoi on Christmas Eve.

ENVOI

In the great game of diplomacy, I don't count myself a professional, or even a particularly well-informed amateur. No doubt I do injustice to some of the American statesmen of the 1950s, and I'm sure that in various aspects of the preceding argument I have oversimplified the matter to the point of parody. Those apologies and qualifications having been duly made, I think it fair to say that the people who formulate the present American policies in the world misunderstand the strength of the American idea.

The United States remains the most powerful country in the world not because of its wealth or its arsenal but because the Constitution and the Bill of Rights give practical meaning to the possibilities of human aspiration. The society raised up on those foundations allowed men to free themselves from the tyranny of kings and priests. Joined with a democratic form of government, this freedom of initiative gave rise to the enormous expansions, in all spheres of human thought and endeavor, that have both created and defined the United States.

The present generation of would be statesmen apparently labors under the delusion that the price of liberty, once paid (preferably by a man's ancestors), can be written off as a nonrecurring debt. Unfortunately the price of liberty must be paid every day. It requires people to renounce the pleasures of sadistic exploitation and self-aggrandizement and to work instead for the gradual process of evolutionary change. This is never easy, but it becomes all but impossible if people confuse the power of money with the power of the mind and the imagination.

The interests of the United States as a nation do not always correspond to its virtues as a democratic republic; in an increasingly dangerous world, the country sometimes has no choice but to deal with people who couldn't qualify for membership in the Century Club. Dealing with such people is a different thing from enthusing about them with the adulation of gossip columnists. No matter how expensive the barbarian gifts and tributes, and no matter how magnificent the silks and furs, the worship of money binds the worshiper to the past as surely as if he had been buried with the gold in Tutankhamen's tomb. Whenever possible, the United States should ally itself with the evolving future of man's mind, with those forces in the world (ideas, nations, movements, political parties, institutions) that encourage human beings to walk on two feet. Con-

[4] Justice Felix Frankfurter admirably stated the principle in question when in 1914, as a young lawyer in the War Department, he was asked to research the question as to whether the American occupation of Vera Cruz constituted an act of war. He explained that he didn't need to look up the relevant law. "It's an act of war against a great power," he said; "it's not an act of war against a small power."

versely, the country would stand against the forces in the world that require human beings to crawl on the ground like so many humiliated apes. The simplicity of this distinction would oblige the makers of American policy to ask of their allies a different set of questions. The health of a nation's people and the stability of its institutions might come to weigh more heavily in the balance than a Shah's capacity to give emeralds to the wives of magazine publishers and oil-company presidents. The more people who become fully human in the world, the more they can do for themselves; the fewer the number of apes, the less seductive the voices prophesying war.●

## CHILDREN'S TV PROGRAMING

● Mr. HEINZ. Mr. President, in the last session of the Congress, I introduced S. 1960, a bill to create a National Endowment for Children's Television. At that time, I expressed my chagrin over the lack of quality children's programing available on television, while acknowledging that children at age 5 have spent the same amount of time watching television as it would take to earn a 4-year college degree. And their TV watching is not restricted to children's programs, but spans the spectrum from game shows, to gamey soap operas, to war and detective "games" and beyond.

There is no doubt that TV has become the modern-day babysitter, a substitute parent. But TV can never adequately replace the warmth, love, and caring of a real parent. In his article, "It May Seem That Way, but TV Isn't a Surrogate Parent," Bob Keeshan, better known as Captain Kangaroo, makes the point that television should not be filling the void which exists because of parental neglect. I believe this message should be shared with as many as possible, and I ask that the article be printed in its entirety in the RECORD.

The article referred to follows:

IT MAY SEEM THAT WAY, BUT TV ISN'T A SURROGATE PARENT

(By Captain Kangaroo)

Back in the old days, when I was a child, we sat around the family roundtable at dinnertime and exchanged our daily experiences. It wasn't very organized, but everyone was recognized and all the news that had to be told was told by each family member.

We listened to each other and the interest was not put on; it was real. Our family was a unit and we supported each other, and nurtured each other, and liked each other, and—we were even willing to admit—we loved each other.

Today, the family roundtable has moved to Burger King and talk is not easy, much less encouraged.

Grandma, who used to live upstairs, is now the voice on long distance, and the working parent is far too beaten down each day to spend evening relation time listening to the sandbox experience of an eager four-year-old.

So family conversation is as extinct as my old knickers, and parental questions such as "What have you been doing, Bobby?" have been replaced by "I'm busy, go watch television."

And watch TV they do; count them by the millions.

But it's usually not children's television that children watch. Saturday morning, the children's hour, amounts to only about 8 percent of their weekly viewing. Mister Rogers, The Electric Company and Sesame Street nurture many, but not nearly so many as are exploited by the theatrical releases of a quarter-century ago—still found on local television—with their foolish stereotypes and inane behavior models.

But wait! I've saved the largest children's audiences for last. Where are they to be found? Watching adult television, of course, from the Match Game in the morning to the afternoon at General Hospital, from the muggings and battles on the evening news right through the family hour and past into Starsky and Hutch. That's where you find our kids, over five million of them, at 10 P.M., not fewer than a million until after midnight! All of this is done with parental permission, albeit implicit.

Television, used well, can provide enriching experiences for our young people, but we must use it with some discretion. When the carpet is clean, we turn off the vacuum cleaner. When the dishes are clean, the dishwasher turns itself off.

Not so the television, which is on from the sun in the morning to the moon at night and beyond!

Parents must exercise some control and show some concern about the cultural influence on the child when a program not intended for that child is viewed. Parents need to intervene. Nonintervention may be a laudable policy in international affairs, but the results of parental nonintervention will not be applauded at the United Nations or anywhere else.

A child's television viewing should not be filling the vacuum created by a parent's neglect.

A child needs to be listened to and talked to at 3 and 4 and 5 years of age. Parents should not wait for the sophisticated conversation of a teen-ager. By then, communication will be impossible because love will have passed both parent and child by. An hour or two of high-quality time, given consistently, will be a daily bouquet of love—and a message well received by a real human being.●

## HUMANE SOCIETY RESOLUTION ON ANIMAL RIGHTS

● Mr. WILLIAMS. Mr. President, I would like to bring to the attention of my colleagues a resolution passed by the 1978 Annual Conference of the Humane Society of the United States.

This resolution recognizes that animals have certain rights and that people have certain obligations toward animals. In remarks before the conference, Mr. Robert Welborn, vice chairman of the board of HSUS, and Mr. Murdaugh Stuart Madden, general counsel of HSUS, explained the background and the need for such a resolution.

I ask that the remarks of Mr. Welborn and Mr. Madden, and the resolution itself be printed at this point in the RECORD.

The articles referred to follows:

ANIMAL RIGHTS: THE SEARCH FOR A LEGAL DEFINITION

REMARKS BY MR. WELBORN

Over 200 years ago Thomas Jefferson proclaimed the inalienable rights—life, liberty, and the pursuit of happiness. These, he said, are endowment of the Creator and represent a station to which men are entitled by the Laws of Nature and Nature's God. Did Jefferson contemplate that only man is or should be under the aegis of the Laws of Nature and Nature's God? Possibly this question did not occur to him, but how ironical it would be if Nature's creatures could not claim the rights that are the endowment of creation.

Laws dealing with the protection of animals and prohibiting certain cruelties to them are premised to a large extent on the concept that cruelty to animlas is immoral rather than on the concept of inherent rights of animals.

There is a fundamental difference between an approach to animal welfare in terms of the inherent rights of animals and an approach in terms of humane moral obligations. The difference is spiritual, philosophical, and practical. If animals by virtue of life itself do have inherent rights, then it is not just bad for man's morals to deny these rights, it is an offense against life itself. Possessing inherent rights, animals have a status, or station as Jefferson called it, which is entitled to respect by virtue of itself and quite apart from man. Finally, as a practical legal matter, rights may be enforced in behalf of the possessor if the possessor is not capable, as in the case of a guardian in behalf of minor children.

These rights are not without restriction and limitation, of course, even as applied to man. A man's life may be called upon as in war; liberty is limited in many ways in the interest of others in the society; happiness in the physical sense may not be pursued without inhibition. These concepts, therefore, are more profound than the outward manifestations. They mean an *appropriate* right to life, liberty, and the pursuit of happiness in relation to the rights of others.

Thus, if we say that animals are endowed by their Creator with these inalienable rights, it does not mean that no animal may be killed, that animals may roam without restriction, and that animals may not be restrained in gratifying their physical appetites. Nature itself brings about limitations on these rights. One animals kills another by instinct; life feeds upon life; the liberty of one animal to roam freely is naturally limited by its fear of other animals.

Since man dominates this earth and all other living things, it may seem academic to distinguish between animal rights and human obligations. It may be said that in either case the animal will receive only such respect and humane treatment as man is willing to give. This may be true in a limited sense, but the declaration of animal rights standing by itself because it reflects the fundamental truth will be an important weapon in the spiritual, philosophical, and legal battle that must be waged. It will give animals standing in our society to claim through a representative their own posititon and station under the laws of Nature and Nature's God. The recognition of animal rights can dispose of the rationale advanced by some superficial writers that the only reason man should avoid cruelty to animals is because the practice of cruelty is not good for man and that animals have no inherent dignity and no inherent rights.

What greater inherent dignity than in the mother cow with her calf, the community of wolves, the colony of ants building and rebuilding, the chimpanzee free in the jungle, the bird guarding its nest, and the dog mourning its lost friend. It is an affront to the laws of Nature and a sacrilege under Nature's God to say that only one species of God's creation has inherent dignity and inherent rights.

We need a declaration of independence for animals confirming these inalienable rights of life, liberty, and the pursuit of happiness in a reasonable degree; we need the laws delineating more specific rights that derive from such a declaration; and we need the method of protecting and enforcing such rights. The following general statements of rights, as adopted with HSUS Resolution (see box) could be the basis for the delineation.

The declaration and establishment of animal rights in detail and with force and effect is the only hope for success in the achievement of animal welfare. Otherwise, we will continue just to treat the illness of cruelty with bandages but without the cure which can only be found in the assertion of rights to which all life is entitled. We will continue to operate under laws which say that men should not mistreat animals unless such is necessary, should not cause unnecessary pain and suffering, with the sanction for violating these laws being a slap on the wrist. Progress has been made through voluntary effort, through the awakening of sensitivities and consciences, but these are tenuous threads on which to rely for building a sure and certain foundation for animal welfare.

If, however, animals through their representatives are enforcing their own rights, the approach to animal welfare is different in the most fundamental kind rather than in degree. Not only is it the difference between the status of the American colonists before and after the Revolution; more profoundly it is the difference between the true nature of things under the laws of Nature and Nature's God and the pathetic conceit of one species which ignores these Laws and that God in its dominion over this earth.

Truly the belief in the understanding of, and the dedication of our efforts to the sanctity of all life is the only hope for any meaningful survival of any life on this earth.

REMARKS BY MR. MADDEN

I accept and adopt everything that our distinguished Vice Chairman, Bob Welborn, a prominent Denver attorney by profession, has just set forth—except that I want to add on and implant within it an element which I feel is an integral part of any consideration of the legal definition of animal rights.

Before we get to that, perhaps a few historical observations are in order. Many of us have heard that animals should be treated, insofar as legal rights are concerned, exactly like man. Do we really mean this? Do we really want animals to be thrust into the mainstream of our legal and judicial process? A brief historical glance would suggest otherwise. In the Middle Ages animals were the subject of many laws and had both legal rights *and* obligations. They were both protected—and punished—in the same manner as human beings.

As far as protection goes, the Old Testament contains a number of clear provisions for the protection of animals—rest on the Sabbath for cattle as well as man, animals of unequal strength were not to be made to work together, and the ox, when working, was not to be deprived of his food.

But for this discussion it is more important to note that animals were widely *prosecuted* in courts in Europe between the 13th and 17th centuries. When they caused injuries to humans or private property, they were subjected in due form to trial, judgment, and sentencing, often to death in a very cruel manner. This mode of punishment, pronounced by the Court, was death by burning, hanging, mutilation or maiming, and varied widely according to the offense committed. All of this may seem almost impossible to believe today, but it went further, and in many cases, elaborate, exacting pleadings or court papers were filed and counsel was appointed by the Court to defend the alleged wrongdoer sow, ox, or pack of rats.

Where physically possible, the offending animal was cited, summoned into court, jailed pending trial, tried, and, as noted above, often executed. In my research, I saw few or no cases of acquittals, but there are several reported trials that reflect more lenient sentences when the animal was more docile during the judicial proceedings.

Accordingly, I now say, so much for the movement to have animals treated *exactly* like humans before the law.

The next phase in history had animals treated like "property"—like cabbages and carriages. We tend to say "terrible, terrible," but I submit that there are worse things under the law, and one of them is and was to have animals treated as though they were not even property. The property concept ties into a human's involvement, and it was long ago a crime to damage or injure the property of another, or in the case of wildlife, the property of the Crown. Therefore, being "property" of another gave a measure of protection to the animal—from cruelty and brutality by third persons. However, it did not protect the animal from the owner's own mistreatment and neglect, and, of course, if it were a stray or a varmint with no owner, anyone could mistreat it, starve it, or abandon it with impunity. This created a very serious problem historically within the animal welfare movement in the Anglo Saxon world, because the so-called "non productive" dogs and cats were not treated like property as were horses, cows, sheep, swine, etc., and this left these pets out completely as far as protection and prohibited conduct toward them was concerned.

Today there are literally thousands of animal related laws on the books—city, state, and national here and throughout the world. While admittedly many of these are really for man's benefit, i.e., the hunting laws, and the ever-prevalent prohibition against injuring the animal of another, there is an increasing number of statutes being passed that surely appear to be solely for the benefit of the animals themselves, i.e., the statutes prohibiting dogfighting and bullfighting, the ban on the export of live horses enroute to slaughter, etc.

Of course, there are those who suggest that the only legal right being recognized in the recent wild horse and burro protective legislation is the human right to have a pleasing and civilized environment free of so much misuse and cruelty to animals. I, for one, disagree, and feel that we are increasingly recognizing and articulating the, if you will, "legal rights" of animals.

The missing ingredient in the earlier discussion is the role of man in all of this. I feel that this is man's problem; he created it—he continues it—and only man can solve it. It is man's sole obligation and duty to do so.

My theorem is one of rights *and* obligations. We have so often heard that with rights go obligations. Yet here, the equation is entirely different—entirely one-sided, if you will.

The animals surely do have rights—call them legal, inalienable, whatever you like. Proclaim them, pronounce them, promulgate them, bestow them, grant them, or recognize them—again, whatever you like. What are those rights? I think that it can be very simply put as follows:

*Animals have the legal right not to be abused and mistreated by man.*

As far as obligations go, man has the legal obligation not to abuse animals.

That is it, in a nutshell. We then ask whether the animal has any obligations that generally are equated with the rights. The answer is no; no more than an infant child who also has only one basic legal right, i.e., the right not to be abused by adults, has any obligations.

We then ask "is this fair?" Of course it is, if you review most of the reasons why animals need protection today (or as I have used the term, to be free of abuse). It is because they have been disrupted and dislocated by man. For example, there is a clear right of a deer not to be maimed by a hunter, but there exists no right of a deer not to be ravaged in its natural state by a wolf. Man's involvement has been almost entirely negative vis-a-vis animal life, and therefore, he today does have a tremendous obligation to meet.

To restate my proposition in a single sentence, clarifying the interrelationship between the rights and obligations, I suggest that: "An animal has an inalienable right to have man fully and in every respect live up to his obligations and duties toward that animal."

I am convinced that we *must* speak of rights and duties together, and I would urge this Conference to adopt a Resolution stating that all animals have the inalienable and protected rights discussed above, and that all people, because of the stewardship and the trusteeship which they carry have certain inalienable duties with respect to animals.

An earlier recitation of the "obligation" theory was set down many years ago by the distinguished Netherlands Professor Hofstra when he served as President of the World Federation for the Protection of Animals. It was presented in the form of a *Charter of Man's Duties Toward Animals* (see inside cover of *HSUS News*, Summer 1978), and I have drawn almost verbatim from its preamble for the language which I feel will clearly establish and restate the concept of man's duties and obligations vis-a-vis animal rights—I now propose that it be grafted onto Mr. Welborn's four paragraphs of Rights—and that the combined language be presented to this Conference for adoption as a Resolution of The HSUS entitled Animal Rights and Human Obligations.

ANIMAL RIGHTS AND HUMAN OBLIGATIONS

Members and constituents of The Humane Society of the United States, assembled in Annual Conference in Dearborn, Michigan, on this 14th day of October, 1978, do hereby proclaim, by resolution, with reference to animal rights and human obligations, that animals possess certain inalienable and legally protectable rights, and mankind and his governments possess certain inalienable and enforceable obligations and duties with respect thereto, as follows:

1. Animals have the rights to live and grow under conditions that are comfortable and reasonably natural;

2. Animals that are used by man in any way have the right to be free from abuse, pain and torment caused or permitted by man, other than pain necessarily resulting from treatment for the welfare of the animal;

3. Animals that are domesticated or whose natural environment is altered by man have the right to receive from man adequate food, shelter, and care;

4. Animals that are or should be under the control and protection of man have the right to receive such control and medical treatment as will prevent propagation to an extent that causes overpopulation and suffering; and

The Humane Society of the United States recognizes further that it is a duty common to all mankind of whatever religion or philosophical conceptions, of whatever people or culture, to protect animals against cruelty and avoidable pain and to treat them well, to cultivate an attitude of compassion and of kindness towards them, and to respect their dignity, their life, their liberty and their own sphere of existence.●

## JUDGE WEBSTER'S SUCCESS AS FBI DIRECTOR

● Mr. PERCY. Mr. President, over 1 year ago President Carter swore in Judge William Webster as the new FBI Director for a 10-year term.

It was an admirable decision by the administration to select a man with such a high degree of integrity and intelligence, who also possesses an outstanding

legal background. This includes experience as a prosecutor as well as a trial and appellate judge.

Many of us have been privileged to personally know of Judge Webster over the years for his outstanding work as a Federal judge in St. Louis and now as Director of the FBI.

I believe that the Washington Post accurately depicted Judge Webster's qualities and the tremendous job he is doing as the head of our Nation's chief Federal law enforcement agency in a story by Charles Babcock March 5.

I ask that this article be printed in the RECORD.

The article referred to follows:

[From the Washington Post, Mar. 5, 1979]

FBI CHIEF AFTER 12 MONTHS: LOW PROFILE, FIRM CONTROL

(By Charles R. Babcock)

On Friday afternoon a week ago, William H. Webster, the FBI director nobody knows, walked into the old U.S. courthouse in Columbus, Ohio, to give a little pep talk to some of his troops.

After half an hour of their first personal contact with the boss, several of the 25 or so special agents assembled said they were impressed. "I was afraid he might be just a 'yes man' for [Attorney General] Griffin Bell," said one. "But he seems to be in command and has an amazing grasp of the bureau for only having been around for a year."

It was on the same afternoon, Feb. 23, one year earlier, that President Carter went to FBI headquarters to swear in Webster for a 10-year term as head of the chief federal law enforcement agency.

On the way to Columbus, Webster recalled that moment with Carter. "Everyone there seemed to sense it was a watershed time for the bureau . . . a time for people to take a new, neutral look . . . to recognize the importance of the institution," he said.

During the ceremony, Webster got his marching orders from the chief executive: no organization in American life has more to do with how the people feel about their government than the FBI. Carter wanted Amercians to feel comfortable with the bureau.

That was no small order, of course, for an agency that had been rocked by years of investigations and revelations about spying on citizens. But a review of Webster's first year in office shows that the low profile ex-judge from Missouri seems to have firmly taken control of the FBI.

The anniversary trip to Columbus itself was symbolic. Webster was selling the FBI—in a news conference, a luncheon with newspaper executives, a speech to an exclusive club of attorneys and professors.

He also was selling himself to a small number of the 8,000 special agents and 12,000 support people he leads.

The 54-year-old Republican judge from St. Louis is the most low-key salesman imaginable. A lot of people in Washington, a most personality-conscious city, still say "William H. Who?"

Webster's style is deliberately understated. In dress—white or striped button-down shirts and striped ties and herringbone or dark suits with cuffs—and in conservation and background, he's conservative.

His confirmation hearings revealed that he was nearly a millionaire, and his personal friends include influential lawyers and corporate executives.

Bell agrees that the director is low key. "I read all five of his FBI files and there's not a bad line in any of them. I've never read such files. He's just a straight arrow," the attorney general said.

Webster also is a "super appointment," Bell said, because of his intelligence and background as a prosecutor and trial and appellate judge.

Those traits were evident during the director's visit to the Columbus FBI office. He adroitly fielded questions about pensions and retirement and terrorism and new limits on agents' use of private bank and phone records.

Among the listeners was Joe Yablonski, a soft-spoken, cigar-chomping veteran street agent whom Webster had just named "special agent in charge" (SAC) of the Cincinnati field office. Yablonski was one of the bureau's first undercover agents and is its first Jewish SAC.

The "senior resident agent" in Columbus, a 6-foot-8 former Baptist preacher named Tom Mitchell, was there, as were Tom Decker, an agent whose son is a quarterback at West Point, and Howard Linscott, one of 68 agents whom Webster decided not to discipline for their role in allegedly illegal 1970 breakins while searching for radical fugitives from the Weather Underground in New York City.

Webster is not shy about reciting the accomplishments of the men and women he leads, as his after-dinner speech that night showed. He expanded on his text enough to go on for 51 minutes.

Webster talked about his intent to carry on the shift in FBI priorities that started under Director Clarence Kelley's tenure in the mid-1970s. Kelley led the switch from chasing bank robbers and car thieves toward the pursuit of harder-to-catch white-collar criminals—including politicians—and organized-crime figures. Because Kelley was not articulate in public appearances, he has not received the credit some FBI officials think he deserves.

Webster is an articulate, if undramatic speaker. He spent part of his anniversary speech telling his audience that today's bureau is "accountable."

During the glory years of J. Edgar Hoover, who died in 1972, the FBI prided itself on being autonomous and beyond politics. But it also was unaccountable, and the misdeeds that Webster tries now to dismiss as "archeology" were an almost inevitable result.

Webster says the "residuals" from digging into the unsavory parts of FBI history "are still slowing us down."

For example, civil liberties groups trying to ensure against repetition of FBI spying on political dissidents want strict guidelines written into the proposed FBI charter now being considered in Congress.

Webster said he doesn't want the charter to be just a series of "thou shalt nots."

"I strongly resist calling it a 'curb-the-FBI' piece of legislation," he said. He expects it to be all-inclusive: "If we can't find a basis for acting in the charter, we can't do it."

Jerry Berman, an American Civil Liberties Union lobbyist, gives Webster high marks for discussing his group's concerns.

"We disagree on some basic issues, but at least there's a dialogue going on," Berman said.

The most difficult "residual" from the FBI past that Webster had to face in his first year was whether to discipline agents involved in allegedly illegal surveillance in pursuit of the Weather Underground.

Former acting director L. Patrick Gray III and two former top aides were indicted for approving the break-ins, but their trial has been delayed because of complications over defense access to classified data.

In December, Webster announced he was taking no action against the street agents who actually carried out the breakins, "black-bag jobs," but was firing two supervisors, demoting another and suspending a forth.

The suspended supervisor, J. Gerard Hogan, who was SAC in Milwaukee, wrote fellow agents in late December to discuss his case. He had written the director, he said, to express regret at having brought criticism on the bureau and a "problem of such magnitude" to Webster. "Mr. Webster has a reputation as a man of principle and integrity, and I don't think his decision was influenced by trying to placate our critics," Hogan wrote.

Webster still faces a nagging leftover from the breakins investigation: the possible coverup by high FBI officials of the extent of the surveillance. General Accounting Office probers and investigators for two congressional committees were given inaccurate data about the number of breakins, and Jim Adams, whom Webster quickly picked last spring as the bureau's No. 2 man, was the official who signed off on the material sent to Capitol Hill.

Adams told the Washington Post last year that he expects to be interviewed in the internal inquiry, but insisted he did nothing wrong.

Webster said in the interview that he has complete confidence in Adams—a protege of old Hoover aides—and no concerns about his honesty. "If I doubted his integrity I wouldn't want him around at all," the director said.

In other appointments, notably that of Neil Welch to head the bureau's largest field office, in New York City, Webster has reached beyond the Hoover-stamped elite at headquarters. Welch is known for his dislike for bureaucrats in Washington and was one of the first SACs to push investigations of public officials.

Webster also has kept his distance from the Hoover-era crowd by relying less than Kelly did on the "executive conference" of top headquarters officials. He recalls that some top officials complained about possible security problems and litter when he started opening the FBI courtyard for noontime concerts last summer.

But once he made that or any other decision, "I didn't find anyone out there in the woodwork trying to undercut me," he said.

During his first year, Webster said, he set out to make every policy decision personally, unfiltered by his top executives, though this buried him under what he calls "buckets" of black folders marked "Immediate," "Expedite" and "Secret."

For example, he said he has moved to take ambiguous terms used to disguise techniques out of investigative reports, and to shift disciplinary sanctions away from an agent's conduct in private life to what he does professionally.

So far, Webster said, he hasn't run into any political interference from Bell's Justice Department or the Carter White House.

The latter has been "singularly circumspect," Webster said. "It's been an ideal relationship, a cordial one, but one in which no favors were asked."

The new job leaves Webster with a lot less time than he'd like for his family, the farm with the four horses in Missouri, and reading about favorite subjects such as Great Plains Indian art.

His wife, Drusilla, (Dru), carried his tennis racket on the trip to Columbus. "Everyone in the bureau knows I like tennis so I get in games when I can on trips," he said.

A favorite Washington pastime is escorting house guests, like the Korean War Navy shipmate in town over the weekend, to the Lincoln Memorial at night, the director said.

And yes, he told a questioner Saturday, he still cuts his own grass.

During confirmation hearings a year ago, Webster was asked if he might succumb to the perquisites of power as both Hoover and, to a much lesser extent, Kelley did in using

bureau employes and supplies for personal favors. "I've cut my own grass for 25 years and I see no reason to stop," Webster said then.

When called Saturday, he chuckled at the question and said he had just returned home from the hardware store with a load of fertilizer and grass seed. His yard is too small to use the riding mower he brought from St. Louis, he said: "Know anybody who needs one?"●

## GOVERNMENT REGULATION AND AMERICAN INDUSTRY

● Mr. HEINZ. Mr. President, as we all know, Federal regulation of the marketplace has often caused severe problems for American businesses. We sometimes hear of businesses which have been forced to close their doors because they cannot afford the cost of compliance with the myriad of Federal regulations concerning polution control, employee health and safety, and labor practices. The loss of jobs caused by these closings are a very visible cost of regulation to the American economy.

But at the same time, regulation is costing jobs, whole industries have sprung up to provide the equipment and services that Federal regulatory agencies have mandated. In the area of the environment, for example, a whole industry has been created by Government fiat. Someone has to produce the equipment needed to clean up our air and water, so thousands of jobs have been created to meet this need. The result is that Federal regulation often destroys and creates jobs at the same time.

Only very little research, however, has been performed on this phenomenon. There are a number of questions which have yet to be answered as to whether the quantity or quality of jobs created are worth the cost of jobs lost, what are the costs of relocating employment from one economic sector to another, and whether regulation is the most effective and efficient means to obtain the desired social goals.

I was especially intrigued by an article in the March 12 issue of Fortune magazine which deals with this same issue. This article, entitled "Why Eaton Got Out of the Air-Bag Business," concerns the safety devices for automobiles mandated by the Department of Transportation. According to this article, Government indecision, policy changes and the political process were primarily responsible for the loss of $20 million in research costs on airbags by the Cleveland-based Eaton Corp. This article is worthy testimony to the inefficiency of the Federal regulatory process and the waste of resources that can result from regulation. In this article, we can plainly see the carrot held out to a company which, when it takes a huge bite, gets the rug pulled out from under it.

I commend this article to my colleagues and ask that it be printed in the RECORD.

The article referred to follows:

[From Fortune magazine, Mar. 2, 1979]

### WHY EATON GOT OUT OF THE AIR-BAG BUSINESS

(By Donald D. Holt)

From a distance, it seems like a businessman's dream—a market established by government decree. And in fact, since Washington began regulating the auto industry a dozen years ago, captive markets have sprung up like used-car lots along a main drag. Over the years, members of Detroit's anonymous army of suppliers, companies that motorists hardly associate with the automobile, have made steady profits selling the industry everything from catalytic converters to seat-belt buckles. "It's a free ride," says Joan Claybrook, head of the National Highway Traffic Safety Administration. "The only marketing strategy you need is, folks got to buy them, we're going to make them."

But it's not really as easy as all that. There are tollbooths on the government freeway, and for some companies the dream turned into a bad trip. The trouble is, a mandated market becomes part of the political process. It gets tangled up in the untidiness of the democratic system. Courts overturn rules with the bang of a gavel, and what the Department of Transportation does, Congress or the White House can undo.

In California, a device to remove oxides from exhausts was mandated by the Air Resources Board for all cars built from 1966 to 1970. But the potential market collapsed when the legislature permitted exceptions that included almost everybody. A number of companies are suing the state, arguing that the mandate was an implied contract. Echlin Manufacturing Co. wants $5 million in damages for losses on the device, and Dana Corp. is trying to recover $13 million it says it spent on development, manufacture, and inventory.

Nobody has yet brought that kind of suit against the federal government. Companies bloodied by start-stop federal programs have tended to take their losses and limp away. The most prominent dropout so far is Cleveland-based Eaton Corp., pioneer developer of the air bag. After spending thirteen years and more than $20 million on research, Eaton notified the Department of Transportation last year that it was getting out of the business, even though it appeared that air bags were finally about to go into production. Furthermore, Chairman E. Mandell de Windt said that while the company would continue making automotive equipment to improve mileage and cut down engine pollutants, he would "take a good hard look" before committing Eaton to any more big investments in mandated markets. "We have nothing but bruises to show for our efforts," he said. "We're better off taking our chances in the free market."

Last November Eaton was joined on the air-bag sidelines by Allied Chemical Corp., which had spent years developing inflation systems. (Allied worked with General Motors in the early Seventies, while Eaton hooked up with Ford.) Allied's reasoning was that the market for air bags might turn out to be much smaller than was once expected. Under the current rulings, automakers can use either bags or automatic seat belts to meet federal passive-restraint standards, which phase in on different-sized cars each year, starting with the 1982 model year, until all are covered by 1984.

Allied is convinced that Detroit will go with the cheaper and less controversial belts whenever possible, offering the air bag as an option. Big cars with three-passenger front seats will need air bags to meet the standards, since no one has yet figured out how to cover the middle position with a self-buckling belt, but the trend is away from such cars.

#### TOO MUCH TIME IN A SMALL CORNER

Eaton was worried about a shrinking market too. But the company also had a more fundamental concern—would the mandate really stick this time? "The government has a way of being fickle," says de Windt. In the closing days of the Ford Administration, outgoing Secretary of Transportation William Coleman rammed through an agreement with the auto industry that called for production of up to 500,000 air-bag cars as a kind of test of public acceptance. Then Coleman's successor, Brock Adams, decided that instead of a test, he would give the industry the long lead time it wanted and simply mandate passive restraints once and for all. It was not an illogical step, but to the men who run Eaton it seemed like just the same sort of reversal they had seen before. Says de Windt: "You've got to wonder what happens when Brock Adams goes out."

Eaton gets some sympathy from an unlikely source, NHTSA's Claybrook, an ex-Naderite who isn't known as a friend of business. "I understand Eaton's concern and irritation," she says. "It was quite unfair. Eaton makes an investment, the rug is pulled out from under them. Then a new crew comes in and says, hey, we're enthusiastic about this." But she also thinks the current plan is a good one, with its "enormous lead time and great flexibility," and insists that it won't change again.

Eaton, however, decided it had better ways to use its resources. Air bags were really a very small corner of its business anyway, and dealing with the government was taking too much management time. With 1978 sales of $2.8 billion (and earnings of $131 million), Eaton is a major supplier of transmissions and other parts for heavy trucks. It also makes several lines of lift trucks and off-road vehicles. Though the company is often assumed to be part of the legacy of Cleveland industrialist Cyrus Eaton, it never had any connection with him. It grew out of a mix of small axle-and-gear companies that sprouted in northern Ohio to serve the auto industry after the turn of the century.

By the mid-Sixties, Eaton had its own research center spinning out ideas for new automotive products. The air bag was one of them. The concept had been around for years, but Eaton engineers were the first to tailor it for cars. It looked like a great business. "We were talking about astronomical sales, after a normal growth period," says Carleton H. Swanson, president of Eaton's automotive-components group. Eaton set up a separate air-bag division, wtih its own general manager, and managed to get Ford Motor Co. interested.

In 1968, the two companies presented a joint paper to the Society of Automotive Engineers in Detroit and demonstrated how an air bag would work in a car. Allstate Insurance Co. joined up next, helping with the testing and mounting a probag ad campaign. "Allstate saw a benefit in air bags that nobody else had noticed," says Swanson. "Bags do save lives. But in the total insurance payoff for auto accidents, the greatest dollar cost is not the death benefit—it's plastic surgery for the girl who hits the windshield."

#### THE DETROIT COUNTERATTACK

The early enthusiasm of Eaton and Allstate soon spread to Washington and, as far as Eaton is concerned, that's when the trouble started. In what the bureaucracy calls "advance notice of proposed rulemaking," Richard Nixon's new Secretary of Transportation, John Volpe, called in 1969 for "inflatable occupant-restraint systems" in all new cars. This was the closest the government came to specifically requiring air bags. By the time the mandate was actually issued two years later, Valkswagen had demonstrated an automatic seat belt, so the

rule required only passive restraints starting in 1974, without spelling out what kind they should be.

The automakers were horrified. The 1974 deadline seemed too soon, and they already had their hands full coping with emissions rules. Detroit, led by Chrysler and Ford, counterattacked. Because the Volkswagen system was still experimental and not then adaptable to larger cars, the air bag was the issue. It became, over the next few years, a highly controversial piece of equipment. Editorialists called it the "hot-air bag." The American Automobile Association attacked the mandate on grounds that bags had not been sufficiently tested. Some critics seemed to suggest that since the system was "passive" to the point of being beyond the motorist's control—it couldn't be disconnected or ignored like a seat belt—the air bag was somehow a violation of basic American freedoms. Proponents of the air bag, in turn, tended to exaggerate its effectiveness.

THERE IS NO SECOND CHANCE

The air-bag concept is simple enough. When a car crashes into something, a sensor up front triggers an inflating mechanism that, with rifle-shot swiftness, blows up a big nylon bag hidden in the dash or steering wheel. The occupant bumps the bag instead of the windshield. An instant later, the bag deflates, having absorbed much of the impact.

But making all that happen at precisely the right moment requires a higher degree of technology than almost anything else in a car. The air bag has to sit in its container out of sight for as long as eight or ten years, then work perfectly. As with a parachute, there is no second chance. So the air bag has to be an expensive piece of equipment. Throughout the development, Eaton was constantly at odds with the Department of Transportation about how much the bags would add to the price of a car. At first Eaton thought the device could be priced at around $200 a car. Washington set the figure at less than $75. The two sides never could agree, especially since nobody knew what product liability insurance would cost.

The liability question never was solved, and the companies still in the business do not yet know the extent of their exposure or how it will be covered. Eaton's insurance carriers initially estimated liability insurance at about $10 per unit, then upped the figure to as much as $50, and finally declined to give any quotation.

Obviously, in America's current litigious mood any automotive product is likely to draw a lawsuit if its failure seems to be the cause of injury or death. But the air bag seems especially vulnerable. Air bags are designed for frontal collisions. If a car is hit from the side or if it rolls over, the bag will not inflate. An impact from a forward direction but a little off center might not inflate it, and it might fail even in frontal collisions with freakish characteristics. A car buyer who pays for an air bag expects protection under all circumstances, and trying to figure out whether the bag should have inflated could become an endless matter for lawsuits.

"A BUNCH OF BALONEY"

The bottom line on air bags seems to be that they are not as effective as the three-point shoulder belt you buckle yourself. They work best when the occupant is also wearing a lap belt to keep him from slipping under the bag. So the vision of an out-of-sight, out-of-mind device that will protect people without making any demands on them is not quite accurate. Bags are better than nothing, but can a relatively expensive, highly technical device be justified on that basis? And might there be a better way to do the job?

The carmakers used all the arguments. They ran ads stressing the possible risk of bags ("Imagine driving along at sixty miles per hours and suddenly having an enormous pillow thrust in your face"). They also sought review of the mandate in the Federal Court of Appeals on grounds that the test dummies used to simulate car occupants had serious flaws, and that the Department of Transportation had exceeded its authority. Henry Ford II called air bags "a bunch of baloney," and tried through private persuasion to get the Nixon Administration to ease up.

Ford's message got through, resulting in the next big shift in the air bag's fortunes. Nixon aides pressured Volpe to postpone the passive-restraint order and instead require Detroit to install ignition interlocks—cars couldn't start until seat belts were fastened. The interlock was a fiasco. Car owners hated the quirky system, and within thirteen months, Congress legislated it out of existence.

The air bag also went into retreat. The court ruled in favor of the automakers on the issue of the test dummies (they had to be redesigned), though it did uphold the government's right to make such rules. Research continued at a low level. General Motors was the most active company—President Edward N. Cole was an air-bag believer and personally held one of the patents. G.M. offered bags as an option on several lines of cars through the 1976 model year, and ultimately sold about 10,000. Eaton stayed in, with a reduced staff, until the Coleman test program was superseded by the new mandate from Brock Adams.

Looking back, Eaton executives think that if Volpe had not mandated passive restraints in 1971, air bags would by now be widely used. "It's what we call the natural law of product development," says Marshall Wright, Eaton's vice president for public affairs. "Every technical development in the auto industry, from automatic transmission to cruise control, has had a long lead time. The industry gets a chance to work out the problems and people can learn to appreciate the new product." By pushing so hard, Wright believes, the government produced an industry backlash that confused the consumers.

BAD-MOUTH OVER THE CB NETWORK

Eaton's decision to drop out of air bags was heavily influenced by its experience with another safety product it had developed, the anti-skid truck brake. This device used a minicomputer to apply air brakes in a rapidly pulsating manner—much like a motorist pumping his brakes on ice, only a lot faster—so the wheels wouldn't lock and throw a trailer truck into a jackknife. Truck drivers, convinced that the pulses lengthened a truck's stopping distance, immediately turned against it. Recalls Wright: "Drivers told us, sure the truck will skid when the wheels lock in a panic stop, but we know how to handle that. At least when that trailer starts to jackknife, we know where it's going."

The bad-mouth went out over the CB network. Every accident was blamed on the anti-skid brake, whether or not the truck involved had one. Eventually one truck manufacturer, PACCAR, a major buyer of Eaton's version of the brake, sued in federal appellate court to get the mandate lifted. Once again Eaton found itself in the middle, this time actually selling to a big customer who was in effect trying to eliminate the product. PACCAR won; the court voided the mandate.

Again, Eaton blames the government decision to force the device upon users prematurely. That attracted a swarm of competitors who, according to de Windt, had not done "the evaluation and testing that we spent five years on." The brakes got a quick reputation for unreliability. Had the government not required it so hurriedly after its development, Eaton officials believe, the bugs would have been worked out and in time truckers would have accepted the brakes after gradually learning of its virtues. The competition also squeezed prices so much, Eaton says, that it had no hope of covering costs of manufacture, let alone development. Eventually, the company took a 12-cents-a-share write-off for the whole brake project.

For Eaton, the brake episode showed yet another way a mandated market could go awry. The air bag had been delayed by backtracking at the Department of Transportation. The ignition interlock had been struck down by act of Congress. Now a promising market Eaton had developed itself suddenly evaporated with a ruling in a federal courtroom.

The companies still in the air-bag business have accepted such risks, though with the exception of Talley Industries' which has spent about $8 million on development, they do not have the heavy investment to recover that Eaton had. The others are Thiokol Corp. and the Hamill division of Firestone, which is using, under license, Rocket Research. The auto companies, apparently trying to keep as many suppliers as possible in the business, have split the market up between the three. Talley will make steering-wheel units for G.M., Ford, and Chrysler. Hamill will make passenger-side units for all three. Thiokol has contracts to supply both types of units to G.M. American Motors has yet to move, but its purchases wouldn't be big enough to upset the balance among the three suppliers.

The situation looks better for air bags than at any time in the past. The automakers are going all-out to meet the standards. They are pushing research and feel that the second- and third-generation air bags that finally appear in cars toward the mid-Eighties will solve most of the system's shortcomings.

UNCERTAINTY LINGERS ON

There are still a few potholes in the road ahead, however. Aside from the nagging matter of liability, environmentalists have raised questions about what happens to the air-bag propellant, highly toxic sodium azide, when a car is junked. Joan Claybrook thinks it will be possible to solve this problem by requiring that the air bags be triggered, releasing harmless nitrogen, before a car is put into a crusher.

But two longtime air-bag opponents in Congress watchers in Joan Claybrook's of-Pennsylvania and Representative George Hansen of Idaho, have sponsored resolutions that would have the effect of overturning the passive-restraint mandate. Congress watchers in Joan Claybrook's office don't think either resolution has much of a chance. But Shuster, who is the ranking minority member of the House Surface Transportation Subcommittee, did get an amendment tacked on last year's Department of Transportation appropriations bill prohibiting the spending of any money for mandate enforcement, and presumably he could do that again. If that happened, the departemnt would certainly be hobbled in pushing passive restraints. Such wisps of uncertainty still surround-

ing the air-bag market are just the kind of problem Del de Windt decided he didn't want to deal with anymore.●

## THE DEATH OF AN ABLE JURIST

● Mr. WILLIAMS. Mr. President, the death of a most able jurist and fine gentleman is cause for mourning and so it is with particular sorrow that I call my colleagues' attention to the death of the Honorable George A. Barlow, Chief U.S. District Court Judge for New Jersey.

Judge Barlow had a great deal more than a scrupulously objective view of the law—he also had a sense of compassion and fairness that helped make our Nation's legal system a symbol of justice and enlightenment.

All of us in this Chamber know what an important role the district court plays in defining the scope and authority of the laws we pass. In many cases over many years, the district courts of the Nation have helped develop the boundaries of legal decisions which touch the lives of millions of Americans.

For this reason, we are blessed indeed to have had the service of someone with the credentials, ability, and knowledge of Judge Barlow.

He was named the chief of the Federal bench in New Jersey last May following a career that was marked with difficult decisions in many controversial matters. A graduate of Dartmouth College and Rutgers University Law School, George Barlow was appointed to a Federal judgeship in 1970. Prior to being named to the bench, he served as a State superior court judge for 4 years and as Mercer County, N.J., district court judge from 1963 to 1966. In his 9 years on the Federal bench, only two of his decisions were ever overturned by the Third Circuit Court of Appeals, a record which reflects his zealous protection of fairness and his astute reckoning with the complexities of law.

Judge Barlow was born in Trenton, N.J., and resided with his wife and son in Ewing, N.J. I am pleased to note that the fine legal tradition of Judge Barlow helped sustain will be carried on in his own family through one of his two daughters, Lisa, who is an assistant U.S. attorney in Newark.

Judge Barlow's sudden passing is one we mark with great sadness and the sympathy we feel for his fine family runs most deep.●

## TRIBUTE TO DEWEY BARTLETT

● Mr. PERCY. Mr. President, the Bartlett family, the people of Oklahoma and the citizens of this great Nation have suffered a great loss in the death of Senator Dewey Bartlett. The strength of America is personified in such individuals.

Few Americans serve their country to the extent and devotion that Dewey Bartlett did. He did it because he truly believed in our country. As a U.S. Marine Corp captain, he was rewarded for his leadership and courage. After a successful career in farming and business he was elected to the State legislature in Oklahoma. Subsequently, he was elected Governor of Oklahoma as only the second Republican to hold this office in the State's history.

I first met him when he came to the U.S. Senate in 1972. He always worked hard and made significant contributions especially in the fields of energy and national defense. Even in the final days of his debilitating illness, he was always present during the long hours the Senate spent at the close of last year's session. This fact alone exemplifies his perseverance and dedication to serving the people he cared most about.

Although Dewey Bartlett and I were sometimes on opposing sides of issues, we became very close friends. We agreed to disagree. I always found our candid discussions on issues which represented differing viewpoints, very enlightening. And I will miss that perspective he provided me.

I shared with Dewey Bartlett another bond that many of us in the Senate hold dear—the weekly Senate prayer breakfast meeting. It is a remarkable group in which we share our great faith that man is very limited in what he can contribute if he does not seek guidance and power from his Creator. Even though many of us have differences in approach to religion, we hold in common our trust in God and live and serve in a Nation under God.

In the prayer breakfast meetings, we had the opportunity to better know his qualities and characteristics, which his close personal friends back home had always known. And his spirit will endure in the Senators' prayer breakfast group in an unforgettable way.

Dewey Bartlett had strong beliefs and strong convictions he applied to his work in the Senate. He possessed an indefatigable zest for life and sense of humor that never failed him. He carried those rare qualities with him as he faced his personal health crisis.

We all take note today of the passing of a truly distinguished colleague who served his State well, who served his Nation well, and who was one of the most loyal friends that we will be privileged to have in our lifetimes.

He will be sorely missed.

## SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the following Senators be recognized each for not to exceed 15 minutes, not necessarily in the order that they are named, but leaving them some flexibility at that time:

Messrs. METZENBAUM, DECONCINI, BUMPERS, MCGOVERN, DURKIN, RIEGLE, TSONGAS, JACKSON, NUNN, FORD, HATFIELD, STEVENS, MOYNIHAN, LEVIN, BAKER, and myself, provided, further, that the first order after the leaders are recognized under the standing order be Mr. MORGAN for 15 minutes, because I believe he will be probably speaking on a subject different than that which will occupy the attention of the aforementioned list of names.

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

## TIME-LIMITATION AGREEMENT—H.R. 2439

Mr. ROBERT C. BYRD. Mr. President, with respect to Calendar Order No. 40, an act to rescind certain budget authority obtained in the message of the President of January 31, there is a time agreement on that by law, but I ask unanimous consent that the time on the bill under the built-in time agreement provided in the act be reduced to 2 hours for debate and that the time on any amendment be reduced to 1 hour.

Mr. STEVENS. There is no objection, Mr. President.

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

Mr. STEVENS. Mr. President, is there time set for that to commence now?

Mr. ROBERT C. BYRD. Yes. I am glad the distinguished acting Republican lader raised that question.

Mr. STEVENS. Is it to follow the special orders?

Mr. ROBERT C. BYRD. Mr. President, the order has already been entered that it will follow the special orders. My guess is that that would be around somewhere between 1:30 and 2 o'clock p.m.

Mr. STEVENS. I thank the Senator.

## ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in the event the orders are completed prior to the hour of 2 p.m. tomorrow there be a period for morning business between that point in time and the hour of 2 p.m., and that Senators may be permitted to speak during that period for not to exceed 2 minutes and that at 2 o'clock p.m. then in that event the Senate proceed to Calendar Order No. 40.

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

## RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to, and at 5:55 p.m. the Senate recessed until tomorrow, Wednesday, March 14, 1979, at 11 a.m.