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 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 Members voting (a quorum being present).

The legislative clerk read the following letter:

SENATE—Tuesday, March 13, 1979

(legislative day of Thursday, February 22, 1979)

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The PRESIDING OFFICER. The clerk will please read a communication to the Members voting (a quorum being present).

The legislative clerk read the following letter:
U.S. Senate, 
President pro tempore, 

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 Senate Business, Introductions Bills and Joint Resolutions.)

Mr. STEWART assumed the chair.

PRESIDENT CARTER'S PEACE-MAKING 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 this Middle Eastern 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 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 I think it 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 already paid 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 hope to way of knowing y, what the results are or what has been achieved. In any event, they have kept the negotiations moving forward; and even though it 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, 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 commented 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 been far more than three decades. Moreover, it has consumed the careers of dozens of diplomats 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 charge him to continue to exert his efforts, and to 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 Senate from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes, or 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 suggest the absence of a quorum.

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.

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 the 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 to provide its operating funds.

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 of this unofficial official, be it direct or indirect, as the case may be.

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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 asked 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, subject to the advice and consent of the 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 of China.

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 29 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.


Hon. Frank Church,
Chairman 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 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 previous vote, 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 use the remainder of my time, a 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 expired. The Senator from Kansas has a minute-and-a-half.

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

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 leader.

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 in 1977, I recommended the President of the United States for his initiative in undertaking this trip. I think the indications are now that the result will 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 the impression that Mr. Sadat is in a little better position within his country than Mr. Begin. The time that he has so graciously allotted 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 he has so graciously allowed us to proceed to use be charged equally against both sides on the bill.

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

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 of 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 New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 101.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

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 at stake in seeking a peaceful 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 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 amend 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, the cultural, the political, 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 50 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 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 how we 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. 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 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 these uncertainties would, of course, simply exacerbate the problems and doubtless 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 the Senator Javits, Senator Strode, 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 move forward in a strong 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 economic 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 bringing together the Taiwan Enabling Act. 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. And as I said in section 114 of the act is particularly necessary in the absence of an express pledge by Peking not to use force against Taiwan.
March 13, 1979

CONGRESSIONAL RECORD—SENATE

4825

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 its options open to respond to the unlikely event there is a use of force by Peking. Therefore, I am pleased that the committee heeded my advice and 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 Taiwan, it is important that we maintain these bonds on an official—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 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 official 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 Senator and the chairman of the Foreign Relations Committee and my colleagues, Senators Brooke 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 century-old alliances 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 Peace. It is an 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, cultural 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 all efforts 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 full force of treaties signed by 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 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 part of China on the basis that absent the sovereign status. It extends to those representing Taiwans' 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 provision of the Mutual Defense Treaty which insures congressional consultation by the President before any U.S. Armed Forces are committed to hostilities. U.S. law and constitutional procedures preclude any unilateral 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 would diminish 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, as with any country, are dependent on the four modernizations, 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 relationship will not lead to further developments. 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 the views of those on 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 colleagues 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 of 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 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 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 China. The People's Republic of China should be delighted if we did not pass this, because then all we do is exchange ambassadors. Everything is normalized, everything is open, and there is no surprise 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 that he so freely sold 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 300 million people, who can certainly overwhelm them sooner or later.

So the passage of this bill is our way of conveying the signal to them that 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 the Chinese now doubt that we are absolute 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 the relations between, 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 be.

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 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 “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 others and supporters of this legislation, it is not 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 on this frontier, the European frontier, the United States—where it is going to start, whether it is on the frontier, the European frontier, the United States, they have no promise from us, because we will have done all that you wished us to do by proposing this amendment.

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 amendment; I do, it is basically—even 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 the fact 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 go on 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 assurance by this bill. That would appear from the impracticality of dreaming for a moment that we can get such a thing as this amendment incorporated, 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 to S. 4827, which was the intent of the people of this country—and you do not have to agree to it, either. Will this legislation be used as a threat to China? 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 on 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 the 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 on 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 the Chinese and the mainland who have those strong feelings, 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.
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 follow suit. We have never been permitted 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 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 ridicule 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."

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. Cusack, 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: if we proceed with our normal relationships and our peaceful ties with the people of Taiwan, we 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 injure the relations which 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 that the PRC must not blockade, nor does it say that it might not do so. 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 made it quite clear 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 the United States. A Membershould know that the amendment would kill the bill and suspend indefinitely everything within what we would be forced 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.

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Mr. CHURCH. I am happy to yield.

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Mr. President, this amendment does not say that the PRC must not blockade, nor does it say that it might not do so. 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
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
Bellmon
Percy
Benetan
Hart
Biden
Hatch
Boren
Heinz
Boschwitz
Hollings
DeConcini
Issac
Byrd, Robert
Inouye
Cannon
Bellmon
Culver
Hart
Cohen
Melcher
Cochran
Matsunaga
Cranston
McGovern
Culver
Melcher
Dedmon
Mclean
DeConcini
Morgan
Domenici
Murtha
Durbin
Nicks
Duckworth
Patheman
Durenberger
Percy
Durkin
Perry
Edwards
Eagleton
Needham
Eliot
Nelson
Eliot
Nunn
Essex

NAYS—21

Armstrong
Hatfield
Byrd
Hays
Baker
Humphrey
Bayh
Rayburn
Bentsen
Hylton
Biden
Hunt
Biden
Inouye
Bizzell
Jackson
Braun
Johnston
Bellmon
Jackson
Brooks
Johnson
Boschwitz
Jennings
Boschwitz
Jennings

NOT VOTING—5

Chiles
Hudleston
Graham
Hudleston
Gravely
Majors

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.

Mr. CHURCH. 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 amendment is 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 "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 departmentality 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 intention 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 in mind, Mr. President, I reserve the remainder of my time, to permit 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.

Mr. President, the result was announced—yea 74, nay 21.

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

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

Mr. CHURCH. Mr. President, it is so ordered.

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

The clerks 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.

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.

Mr. CHURCH. 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 amendment is as follows:

The Senator from Mississippi (Mr. Cochran) proposes Amendment No. 100.

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 "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 departmentality referred to in section 109, and their families and suites, shall be admitted to the gallery in the Senate 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 the amendment.
withdrawal of diplomatic privileges and immunities by a President in order to make a strong statement to 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 in this Taiwan Institute.

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

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 yield?

Mr. HELMS. No.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator in recess for 1 hour, and that the time be extended to the Senator from New York.

The PRESIDING OFFICER (Mr. Heflin). 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. Heftin).

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 a 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 dealing with 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.

Along with many of my colleagues, I am greatly troubled that the executive branch yielded to all the major demands made by the People's Republic of China without receiving credible concessions in return. By acting as it did, the administration did little to insure the future freedom and security of the people of Taiwan to 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 legislation. At the same time, I believe we must 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 Pack's effort to send a strong statement to the people on Taiwan would be a "threat to the security interests of the United States." That seemed to me to be a modest assertion on our part. It is not 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 on Taiwan we must put ourselves in their position. A television news commentary by Bruce Herschensohn, which was broadcast over KABC 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. Shortly after 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 Los Angeles radio, on December 19, 1978, with my colleagues, and I therefore ask unanimous consent that it be printed at the conclusion of the debate.

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

(See exhibit No. 1.)

Mr. DOMENICI, 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 path in our relations with the people of the government we have, until recently recognized as the Republic of China. Many questions remain
to be answered:

Does the United States, over the long run, act forcefully to deter mili­
tary action against Taiwan?

Does the United States consider the Taiwanese a foreign enemy or a fellow American?

What did the United States do 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 sell armaments to the PRC in the future, will we insist upon the usual restrictions against the American weapons against offensive purposes? Will we make it clear to Peking that we will not tolerate the use of American-supplied weapons in any at­
 tack 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, United States, and America can be secure, peaceful, and prosperous. That is my hope, as we con­clude our consideration of S. 245.

Exhibit 1

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. Congresses acted to save us. Great Britain was particularly horrified over the events and the Parliament of Great Britain voted unanimous­ly for a defense pact with us.

The new dictatorship on the Mainland of North America called itself the People's Rep­ublic of America. We were not alone and not numbered among 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 friends . . . relatives . . . and millions upon millions of others in the country. We learned that civil liberties had been taken away . . . that all churches and syna­gogues had been closed . . . that all pri­ vate property had been confiscated . . . that there was no free press . . . and that in Washington, the statues of Lincoln and Jefferson had been removed, then reinstalled and re­stowed . . . with the shells of the shrines re­d-dedicated to the conquerors . . . and we learned that they were removed 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 Minister of Eng­land, who was unskilled in foreign affairs, and a self-proclaimed moralist, went on tele­vision, smiling, 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 China as the sole legal government of America.

And we acknowledge the People's Republic position that the Taiwan and the United States are 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 course of events as follows:

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

On page 13, after line 12, insert the follow­ing paragraph:

"3) to declare that the people on Taiwan, as defined in section 101(b) of this Act, constitute an international personality"

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 Americans 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 part of China, but the United States has not itself agreed to this position. The bill submitted by the Admin­istration does not put 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 to­toward Taiwan, as 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 negotiation of normalization, on the ground that no Chinese gov­ernment would renounce the use of force against what it regards as a province of China—a position repeatedly stated by the PRC. However, the Administration states that a decision not to normalize 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 fair 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, that is impossible. 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. Taiwan's status does not depend objectively upon what the President of the United States does or says. Its status is independent of our actions. If the United States 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 Senate Foreign Relations Committee by Ed H. 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.
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As Professor Chiu stated:

How can the United States maintain its existing inducing treaty relations, with Taiwan without recognizing the Republic of China in Taiwan's International. (We, according to Intemational law, "the existence in fact of a new state or a new government is not dependent on its recognized state." (B. Digest of International Law, Vol. I, 1940, p. 161). This principle also finds support in the Inter-American Convention 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 non-recognition 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, but we have not recognized Taiwan and Taiwan continues to control its territory, we cannot take back that recognition. We can break relations, or withdraw our Ambassadors, but we have recognized Taiwan and China continues to control its territory, we cannot take back that recognition. We can break relations, or withdraw our Ambassadors, but we need to be careful not to cause an imbalance. Nor have administration spokesmen made any such statement. Rather, they have asserted that the PRC has not been recognized by the ROC and thus it is not. 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 recognizes the ROC as the Supervisor of the People's Republic of China. 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 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 when it recognizes Peking as the "sole government" of China? The United States should not recognize the PRC. 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 PRC has not been recognized by the ROC and thus it is not.

This bill says that we can maintain commercial status with 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 ground would not contradict the President's statement that Peking is the sole government of China.

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

Third. A middle ground 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 question 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, is an international personality, capable of defending its territorial integrity and sovereignty, notwithstanding the withdrawal of diplomatic relations with the entity recognized by the United States prior to January 1, 1973 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 the 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 different 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 subject to the jurisdiction 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. All last December 15 announced that he would give 1 year's notice of termination of the Mutual Defense Treaty on January 1, 1973. I did. 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 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 do 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 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, we must decide 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 prerogatives. It does not say a declaration of policy is not made under 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 inconsistent with the concept of the American Institute on Taiwan. And finally, it does not contradict any of the publicly expressed agreements of 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 the 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 they do not exist. 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, incidentally, it is the tree that was placed before the President when the Senate and the House of Representatives, later in the day, come to a firm vote on this measure. But, Mr. President, I 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 question 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."
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 the People’s Republic of China has de jure sovereignty over Taiwan.

The de facto entity concept deals with present political realities, and does not require or preclude recognition or any other outcome. Indeed, Vice-Premier Teng’s recent indication that Taiwan may retain its own people’s system as maintain separate armed forces acknowledges the same realities.

The People’s Republic of China may derive some short-term benefits from refusing to set an example to the world on 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 set a precedent for future dealings.

Mr. HELMS. Mr. President, if my friend 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 so desires.

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 Taiwan. 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, 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. 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 my assertion 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. I do not 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:

Believe it or not 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 ruled on 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. 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, and perhaps we may 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 to establish a legal fiction, of which we cannot say but which only they can say. That is the real sticking point.

We have defined the people on Taiwan as a government on Taiwan. They have 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 bill."

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 unmakc; 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, it can own. If we say it can trade, it can trade. That is all the law we had cited to us says.

But we cannot say that these authorities on Taiwan have "the right to maintain its territorial integrity and sovereignty." That is not in our power; if they want to do it. Mr. HELMS. Obviously, it is within their power.

Mr. JAVITS. Therefore, Mr. CHURCH, 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 any of these things. 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 a law that we do not know about this preempts it. We have a full preemption clause in which I wrote myself precisely for that reason, so there could be no question of founding on 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 does not recognize the 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 China?

Mr. JAVITS. No. We are taking no position on that except whatever may be implied from the fact that we have not 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 of legislation. Mr. JAVITS, 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 in section 101(b), to wit, there are people and there are governing authorities on Taiwan.

Mr. HELMS. Therefore, a government.

Mr. JAVITS. Fardon?

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 carry it in their pocket, 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 or asfar 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 are providing in this bill. 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 substituted "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 pre­sume 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, 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 that the Senator said 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 courtesy.

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. GOLDBATER. 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. GOLDBATER. 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, I suspected the amendment of 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.

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 legislation before us today. So I call up an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk reads as follows: The Senator from Utah (Mr. Hart) 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 this 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 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 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-
fct except for termination of the defense treaty. I point out to my colleagues that aside from the defense and mutual security agreements contained in the two pacts, 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, 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 investment. It is an acknowledged fact that the trade between the two nations has reached a significantly large amount. For these reasons I feel it is important to have 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 Senate was as follows:

Senator Stone. Can I turn briefly, then, to Mr. Sullivan? 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 is going to maintain and if there is going to be any establishment other relations with us? Are we telling them that they cannot have the same number of 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 take care of their needs.

Mr. Sullivan. They have specifically said, Senator, that one of the reasons they need many of these offices is to maintain their relationship with the Chinese communities in those cities and that they would want to maintain a Chinese civil war imported into our cities.

Senator Stone. Is that what their offices are doing, then, or are they acting as a Chinese civil war?

Mr. Sullivan. Well, they have told me the purpose of some of those 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 an adequate number of offices by telling them they can maintain other relations with us? Are we telling them that they cannot establish other relations with us? Would it be feasible to make a decision between the American citizens and those who are of Chinese origin or any other origin?

Senator Stone. You just did.

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So the problem exists. It has serious implications—and, although it is against the Export Administration Act for America to encourage or influence boycotts by its citizens, there has not been a single inves-
tigation of the matter that I am aware of by the U.S. Government. It is a posi-
tion of the President that is in no way even to renew diplomatic relations with the
Republic of China. Why not do so now with the
Republic of China. At the very least, it
sponsor asserted, it in no way even to renew diplomatic relations. with the
very least we should have been prepared
my view and that of others this was the
impact of the decision sent a tremor through Israel, making
sentence sent a tremor through Israel, making
Mr. President, the decision, in effect,
to dislodge Taiwan will have serious re-
percussions throughout the world. At the
least, it will strengthen the already
substantial concept of many of our
ally encouraging them to give still more
serious thought to political realignment. It is safe to say that, at this moment,
leaders of many small countries which
their efforts to negotiate
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
ally.

The President's decision and its execu-
tion are as inept an exercise in foreign
policy as we have witnessed for a long
time. In that desire, we have been through
the Senate are about to present the ROC an empty box. It is
and, in many ways, our vote will serve to ratify that agree-
ment. I can only hope that all of us will work diligently to protect Taiwan from
harrassment, large and small, it will necessarily suffer from the PRC in years
come, and that our actions in the face
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
packed with ribbons of vague phrase-
ology. But it is an empty box. Mr. Presi-
dent, because it is empty of sovereignty.
The Senate, apparently is about to en-
dorse President Carter's giveaways to Tai-
wan to the Communists. Implicit in the
passage of this bill is the tacit acknowl-
edgement 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 ad-
ance. American leadership has lost its
pride—not her people, but her leader-
ship.
Mr. President, I passed the statue of
President Harry Truman as I entered
hearing a few weeks 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 shameful, cowardly sellout of a valuable ally.
February 14, 1979

The PRESIDING OFFICER. 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 amendment to 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 page that is referred to my amendment, and that the amendment be modified accordingly.

Mr. JAVITS. That is the second page?

The PRESIDING OFFICER. The Senator from New York has no objection to my amendment, and that the amendment be modified accordingly.

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

The PRESIDING OFFICER. The amendment will be modified.

The second assistant legislative clerk read 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—that at least 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 negotiated 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 that 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:

The provision does not affect the enforceability of judgments rendered by the courts in 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. It is, when the chairman is 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 be modified.

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.
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 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 Communist subjugation by military coercion in which 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 that I am perfectly willing to discuss with the Senate 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 of the bill, the effects or the proposed effects of the term that this should be voluntary.

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 of Taiwan; and without calling them a government, we have carefully called them, throughout, the people on Taiwan.

I am quite willing 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 the rest of the territory 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 treated as long as the Chinese decide that question peacefully. We have an interest in the peaceful resolution of that question. We recognize that the 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 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, what that word means in the context of this particular question.

For example, the bill defines the people in 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? I believe that 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 so 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 wise 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 of 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 and I believe for others of this 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 difficult during the debate of the amendment of Senator MURDOCK, 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 dictators or promulgate 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, to have been coerced or do we believe there has been force or referendum or boycott. That is a state of facts which can be established 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, properly outlined, what indica are we going to have to determine, 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 committee 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 the amendment.

As I understand what they have tried
to say it is that everyone understands the word "force" and "coercion," but then some people find 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. But there are more 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 Senator. I could ask 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 action under Chinese 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, in a state of mind, 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 tovoke organizations to force the people on Taiwan and attempts to exert pressure to force them to give up their demand for independence? Would we then say 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 we do not, that apparently the term "force" or "coercion" is ambiguous enough to permit them to use that kind of force and coercion. And I yield 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 actions 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 means 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 not 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 section of the statute, this bill before us today, S. 245, as amended, will resist the attempts if made by the People's Republic of China through international organizations to force 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 by the People's Republic of China 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 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 taken 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 out this time in this 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 methods.

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 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 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 could 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 time and place, and then to reiterate those arguments at this time.

Mr. McClure. If it is not I am sure the Report 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 made 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 Report will be corrected to reflect it.

Mr. Church. I am sorry but 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 time and place, and then to reiterate those arguments at this time.

Mr. Javits. 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" I say that 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 contingency and talking 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." 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 there has been force or coercion, I do not see how to get locked into the meaning 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 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. Therefore, 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 highest 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. And 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. It is a statement from Idaho referred earlier, of Senator HOLLINGS.

Mr. 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 currently 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 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 "accordig to the will of the people" or use 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 Senator.

Mr. JAVITS. That is our criterion. Surely, it calls for a judgment, but at least a judgment based on acts. That is all I am saying, whereas you 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 arrangements 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 cannot support this, as much as I would like to support it.

We had several chances during the course of the debate to come to 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.

In the course of several amendments to pass which I think I would have added some muscle and strength and meaning to this measure, Mr. President, I very reluctantly have to say that I voted against.

That does not take away from 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 debates, however, I am 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 long-time 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 for the world to look 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 must not 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 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 our 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 as 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 the mainland China by use of force. Chinese leaders have recently made statements on a number of occasions indicating a desire for 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." 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 region, the security of the people on Taiwan, and the security of the people of China;
   (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 the people on Taiwan 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 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 does not need to relinquish 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 other pressures referenced above.

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 the United States and the people on Taiwan shall be preserved and to that end, I find this legislation to be necessary.

Congress must, however, keep a close oversight on the Institute to ensure 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 keep the continuing interest of normal commercial relations between our countries.

The announcement made by President Carter of normalization of relations between the United States and 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 efforts to the contrary, many of our allies rightfully question the value of the United States' mutual security commitment. Newspaper reports that the Ambassador to the United States from one nation bordering the Indian Ocean littoral has said to Moscow that "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 Administrator'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 issues of termination of the treaty, per se, although Congress certainly must deal with the broader issue of the United States' role on Taiwan. A suit has been undertaken to deal with the particulars of the treaty termination matter. It is my understanding 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. When the American public is aware is of overspending of Executive power, a proper resolution of the issues raised in the suit should be delegated to the Congress 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. BYRD) that would have stated:

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 the Committee also reports that the President 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.

EXECUTIVE SUMMARY

SECTION 114

This section was proposed and adopted unanimously as an amendment to the Administration's proposals by Senators Church, Pell, Glenn, Javits and Baker. Its purpose is to express the strong and continuing support for the United States' 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 the other parts and of the entire section. Thus subsection (b)(1), providing that the United States shall not assist in the maintenance of any such treaty is read in contrast 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. The word "interests concern to the" be replaced by the words "to the security interests of" on the ground that in discussing the matter of possible coercion, statement of United States policy toward Taiwan. This view received support from some Members of the Committee. Other Members of the Committee expressed grave concern to the United States adequately conveyed the importance of the United States' role on Taiwan. A proper resolution of the matter of possible coercion of the United States' role on Taiwan, especially when taken together with other provisions of the amendment, implies that the United States respond in a flexible manner to any effort to resolve the Taiwan issue by 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 before Senator Pell, 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 internal challenges to the security or to the social or economic system of the people on Taiwan. In discussing the matter of one 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 boycotts, that would jeopardize the social or economic system of the people on Taiwan. During the hearings, the Committee observed the applicability of the anti-boycott provisions of the Export Administration Act to the China-Taiwan situation. Violations of these provisions would 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 such self-defense capability, the United States was not limited solely to the supply of arms, but could assist in other peaceful ways. The Committee also indicated that the United States retained the right to determine what was "sufficient".

Paraphrase (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 of subsection (c), which concerns non-military in nature, deriving from any source external to Taiwan. It should not be confused with 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 nature of the situation.

The Committee, in addition, required that any action taken by the United States to meet any danger described in paragraph (3) be in the absence of the treaty, in the absence of the United States Government is precisely what it would have been in the absence of the provision—that the President has no authority to commit United States armed forces into hostilities, and, indeed, the President has no authority to do so automatically. If any such party to so do, automatically, if any such party to so do, automatically, if any such party to do so, automatically, if any such party to do so, automatically, if any such party to do so, automatically, if any such party to do so.
ties is clearly indicated by the circumstances shall not be inferred—

"(1) the adoption of a law (whether or not in effect before the date of the enact-

ment of this joint resolution), including any provision in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hos-
tilities is clearly indicated by the circum-
sances; and (2) it reinforces the non-auto-
maticity 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, to any such threat or attack.

While the Committee inserted the refer-
ce to "procedures established by law" pri-
marily to protect the United States against unpre-
vented armed invasions, it is equally clear that such a provision in the bill should not be construed in the case of some identical statute enacted in the future, as suggesting in any way the absence of any such reference in that statute has rendered the Resolution Inapplic-
able. 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 it is equally clear that the Carter admin-
istration 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 re-
lations with the PRC in recognition of "simple reality." It is certainly true that we are establishing full diplomatic relations dating back 30 years and realizing that there are nearly 1 billion Chinese people with whom we should have full relations. But it is also true that the Carter admin-
istration has decided to 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 deals with our new friends, I think this joint resolution that we press our "grave concern" for the securi-
ty 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 Presi-
dent's hastily engineered recognition re-

flects poorly on us and how we conduct ourselves in this democracy.

On the "American Insti-
tute in Taiwan," we are asked in this bill to enact a falsehood. The Carter admin-
istration 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 func-
tions.

Mr. President, it is a hoax to call an institute which is conceived, authorized, funded by the U.S. Government "non-
governmental." I will have no part in devauling our moral currency just to close this hole.

The integrity of our democratic sys-
tem 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 consul-
tation 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, you would certify a logic of isolation 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 gimbickery 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 leg-
islation which we are considering today because it provides the best possible means for maintaining and assuring 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 con-
tinue to derive mutual economic, cul-
tural 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 main-
tain 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 con-
cern 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 we will act militarily to defeat an attempt by the PRC to institute which is conceived, authorized, funded by the United States against Taiwan. I 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 non-Communist countries 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. The threat of such a power is always threatening from some other source.

Last Thursday, I voted with my col-
leagues to defeat an amendment to substi-
tute language in section 114 which states specifically that any effort to re-
solve 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 con-
cern to the United States. The amend-
ment which was defeated sought to state specifically that such efforts would not 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 in language, 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 pur-
poses, this small change in the wording of a paragraph in section 114 of the bill reflected an effort to provide either that the United States would act if the time ever came when Taiwan came under at-
tack from mainland China. Nothing in the legislation restricts the President from taking any action he deems appro-
priate to meet such a contingency. Every-
th ing in section 114 is an affirmative mes-
sage to the people of Taiwan and the People's Republic of China that the United States will uphold our moral obli-
gation 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 Tai-
wan means more than the ability to beat back an armed invader. It is clear that the United States would act if the time ever came. It is equally clear that the United States can and will protect its right to access to the Taiwan strait. For these reasons, I believe that the President should act to protect the security of Taiwan and the United States, and I urge your vote for S. 245.
by the Senate to go further by adding a new section which provides that nothing in the Senate resolution for supporting the expulsion or exclusion of the people of Taiwan from continued membership in international financial and other international organizations. The Bank of Japan, the International Monetary Fund, and other multilateral economic institutions cannot be strengthened 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 important that Congress be a full partner in this process. Accordingly, I also cosponsored the Senate act to accept an amendment establishing a Joint Security and Cooperation Group to operate in East Asia. Again, the importance of this oversight when I refer to our considerable mutual economic interests and when we consider 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 is the sole and legitimate government of China. To insist that we could succeed or devise a plan under the present circumstances where we could impose upon the President 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 participating fully in the process of peace and stability in Asia and East Asia.

It enhances our influence in the area and helps us assure the security of Japan, our principal ally in the region and the real security interests are to those 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 precisely 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 processes of negotiation, rather than through force of arms, because of the dedication and concern for the future of those people. Mr. President, while I support the recognition of the People's Republic of China, there is absolutely no reason why that recognition should be 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 United States and the People's Republic of China than the PRC has for 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 accepted. 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." Mr. President, do guarantees for the security of our friends weaken the Presidency? If the improvement 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 Congress intended. The legislatures 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 government on Taiwan. Due to the poor handling of the situation by the administration and due to the hurried timetable 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 will reluctantly vote for S. 245.
Mr. KENNEDY. Mr. President, the Congress is now completing a historic process begun last December 15. On that date, Foreign Relations Chairman Cranston announced our National 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 normalizing 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 strengthen 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 unaltered in substance even though they change in form. The Taiwan Enabling Act will maintain "commercial, cultural, and other relations with the people in 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 chairmen, Senators Cranston and Byrd. I am particularly its subsequent incorporation of section 114, designed to help insure the future security of the Taiwan people.

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 Wolfe 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 same situation existed.

In turn, the Chinese have agreed to continue unofficial ties between us and Taiwan. Taiwan would 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 multiplied 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 both 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. They are before the Senate 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 Congress, and I am for such a termination on this issue incommittee and on the floor later this spring.

While focusing on the exact terms of normalization for both China 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 prosperity 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, and 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.

The following were among the statements that were ordered to be printed in the Record, as follows:

STATEMENTS

Prof. Harlan Cleveland, Director, Program in International Affairs, Institute for Humane Studies, Austin, Texas.

"Normalization of relations with the PRC would obscure our debate about its risks making this move look much 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, no matter how distant our borders or how far apart our cultures. There is a reason the Chinese want Taiwan, 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 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."

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 both need each other. I do hope, however, that normalization will not lead to any kind of military alliance which will unnecessarily complicate 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."

Prof. Victor H. Li, Stanford University, U.S.-China Relations Program, Stanford, Calif.

"I am delighted that normalization of relations with the People's Republic of China is finally taking place. The strategic implications of December 15, 1978 marks a fundamental point in developing cooperative ties with that major country. It is important to remember that 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."

Mr. Winston Lord, President, Council on Foreign Relations, New York.

"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 that the 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 I believe that the crucial factor in our relationship will remain the vision and steadiness of our world role. We are a great power, but a power on the wane. We are a deeply divided country surrounded by 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, and an imprimatur of approval to the series of actions announced by the Administration since December."

Mr. Richard A. Melville, President, and Chief Executive Officer, Allied Bank International, New York.

"I believe that normalization between the U.S. and the People's Republic of China, the most powerful of the seven billion people on earth and both countries situated with long coastal lines on the periphery of the Pacific Ocean (the U.S. with its 50th State and other possi-
sary proceed on the National Security and well being of the people of Taiwan. I believe, is clearly a hostilaty. It has done so in a way that assures the 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 people of Taiwan to have a say in their life and destiny."

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 18 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 pushing normalization of U.S. relations with the PRC."

In early 1969, three years before the Shanghai Accords, the League's membership study culminated in a forward looking position. In that position, the League called for full and immediate 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 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 for whom time is available?

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 well to recall the 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 permit to be conducted.

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 possibility of continuing responsibility. 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 been raised to 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 the PRC.

Throughout this debate I have said, as have others who support our position, 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 a posture of endemic weakness respecting Asia, which contributed to our involvement in two indecisive wars and cost us very dearly, is over. The opening of the PRC marks the opening of the most propitious times 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.
members of the committee staff who as­
sisted us throughout our deliberations: Mr. Robert C. Byrd, the ranking minority
member, Mr. William Bader, the director of the committee staff; Patrick Shee and William Barndes, who have been with me here on the floor of the Senate throughout the debate; Mr. Michael Glennon, our counsel; Mr. Patrick Shea, the special assistant to our ranking member, Senator Javits, along with Ray Werner and Hans Binnedijk, who worked extensively on preparing the briefings 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 names of the staff 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, worked with those members of both parties which would have sought to substitute us for the authorities on Taiwan. That is why I think this can work and work effectively, with the understanding and the safeguard 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) why I think this can work and work effectively? I think the bill has been for our own initiatives it would never have been possible for the committee to finally reach a unanimous vote on this bill, recommendations 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: 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 that the Senate would be deeply divided.

Mr. JAVITS. And one of the most important nations in the world—encompassing 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 Japan.

Normalization of relations was the logical extension of a policy which was set in motion by President Nixon during his historic 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 debated in 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 and, 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 will not jeopardized if there is any use of force or other coercion against Taiwan.

The assurances provided by Vice President Deng Xiao Long during his visit here earlier this year considerably allevied my concern for Taiwan's security. Deng said that 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, for the important minority member 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 New York.

Mr. McCURLE. Mr. President, I first of all want to state my concern that the
Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Maryland (Mr. MATHIAS) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any Senators wishing to vote who have not voted?

The result was announced—yea 90, nays 6, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—90

Armstrong
Baker
Baucus
Barb
Bellmon
Bentsen
Biden
Boren
Boschwitz
Budowich
Bradley
Bumpers
Byrd
Byrnes, P.
Byrd, C.
Cannon
Chafee
Chiles
Church
Cochran
Collin
Cranston
Culver
Cunliffe
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Gravel
Hagel
Matsunaga
NAYs—6

DeConcini
Gann
Gravel
Hagel
Matsunaga
Matsunaga

So the bill (S. 245) was passed, as follows: 3. 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

Sec. 101. (a) No requirement for any law, regulation, or order of the United States refers to or relates to a foreign country, nation, state, government, or 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 people of Taiwan, and shall be deemed to be preempted by the 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 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, or to be involved in, any agreement or arrangement relative to the people of Taiwan, such agreement or arrangement shall be entered into, or performed and enforced, by the President, 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 enter into, or to be involved in, any agreement or arrangement relative to the people of Taiwan, such agreement or arrangement shall be entered into, or performed and enforced, by the President, or through the Institute.

organizations and other entities formed under the law applied on Taiwan in the islands of Taiwan, and of the Republic of China, as such agreements or arrangements shall be entered into, or performed and enforced, by the President, or through the Institute.

Mr. CRASTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Hawaii (Mr. MATSU-NAGA) are necessarily absent.

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

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 56

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 56.

The PRESIDING OFFICER. Is there an objection?

Mr. HELMS. Mr. President, reserving the right to object, what is it?

Mr. BYRD. Mr. President, if the Senator from the State of South Carolina will agree to a sufficient second, I ask unanimous consent that, Mr. President, I ask unanimous consent that, by agreement that has just been entered into, the Senate proceed to the consideration of Calendar Order No. 39, Senate Resolution 56.

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 on this point?

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 PRESIDING OFFICER. The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Hawaii (Mr. MATSU-NAGA) 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) would vote "yea."

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dent, be rendered or provided to, or re­
ceived or accepted from, an instrumentality estab­
lished by the people on Taiwan, Taiwan.

Sec. 109. Whenever the application of a rule of law of the United States depends upon the ownership of, or oth­
erwise therewith, the law applied by the peo­
ples on Taiwan shall be considered the appli­
cable 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 be given to the ownership of, or Tai­
wan, shall be considered the applicable for that purpose.

(b) Except as provided in subsection (a) of this section, in insurance, reinsur­
ance loans or guaranties with respect to in­
vestment projects on Taiwan, the Corpora­
ration 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 Presi­
dent shall report to the Committee on For­
He shall transact in accordance with constitu­tional processes and procedures established by law.

Sec. 111. (a) Notwithstanding the $1,000 per capita income restriction in clause (2) of section 106 of the Mutual Defense Assistance Act of 1954, the Overseas Private Investment Cor­
poration may extend to the Institute, as a basis for supporting the exclusion of the people on Taiwan from continued membership in any international financial institution or any other interna­tional organization.

Sec. 116. Nothing in this Act may be con­
strued as a basis for supporting the exclusion
or economic system of China, the absence of diplomatic rela­
tions between the people on Taiwan and the United States shall not affect the ownership of, or other
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Section 303. Any department or agency of the United States Government that has funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States for the audit of the books and records of the Institute and the opportunity to audit the operations of the Institute.

Section 304. The Secretary shall prescribe such rules and regulations as he may deem appropriate to carry out the provisions of this Act, and such rules and regulations shall be transmitted promptly to the Committee on Foreign Relations of the Senate and the Committee on Appropriations of the House of Representatives under an appropriate injunctive provision of such Act, expedited and enforced only upon due notice from the President.

(a) Any agreement entered into between the Institute and the Taiwan authorities or instrumentalities established by the Taiwan authorities; and

(b) Any agreement entered into between the Institute and departments and agencies of the United States.

Section 206. (A) The Institute may authorize any of its employees in Taiwan-

(1) to administer or to 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 seek the aid of any law enforcement agency in the United States to execute any warrant of arrest issued thereunder;

(3) to render assistance to American vessels and seamen; and

(4) to perform any other duties in keeping with the purposes of this Act.
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fiscal year and to remain available until expended $8,000,000 to assist in meeting the expenses of the Joint Commission for the purpose of carrying out the provisions of this Act. Such expenditures shall be disbursed by the Secretary of the Senate on vouchers approved by the Chairman of the Joint Appropriations Committee, and shall not be required for the disbursement of salaries of employees paid at an annual rate. The Joint Commissioner 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 said 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 other persons or circumstances 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.

Mr. CHURCH. The motion to lay on the table was agreed to.

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. The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar No. 38, Senate Resolution 50, which will be stated by title.

Mr. MAGNUSON. Mr. President, may we have order in the Senate? The Senate is not in order.

The PRESIDING OFFICER. The PRESIDING OFFICER. The PRESIDING OFFICER. Under the Budget Act, one authority to promote and develop fishery products and research pertaining to American fisheries.

Mr. ROBERT C. BYRD. That has been done, and the matter is before the Senate.

Mr. MAGNUSON. No, I do not.

Mr. ROBERT C. BYRD. Does anyone else?

Mr. CHURCH. 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 which 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. MAGNUSON. Mr. President, in the opinion of the Senate, the deferral of S. 245 is 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. MAGNUSON. Mr. President, will the Senate 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 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 very important, resources to the development of our fisheries.

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

Mr. MAGNUSON. Mr. President, does anyone else?

Mr. CHURCH. Mr. President, I would like to address one brief inquiry to my friend and colleague from the State of Washington.

Mr. CHURCH. Mr. President, would I have order in the Senate? Mr. President, will the Senate yield?

Mr. MAGNUSON. Mr. President, I would like to address one brief inquiry to the Senator from Idaho.

Mr. CHURCH. Mr. President, 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. Mr. President, no.

Mr. ROBERT C. BYRD. Does anyone else?

I see no indication of such, so I will understand it. These are funds that are collected from customs 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 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.

Mr. CHURCH. Mr. President, I would like to address one brief inquiry to my friend and colleague from the State of Washington.

Mr. CHURCH. Mr. President, would I have order in the Senate?
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 a resolution on the Senate who has shown the leadership in terms of protecting American fishermen as much as my good friend and neighbor from Washington, Senator Macdonald, who is not here.

The 200-mile bill that I 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 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 to purchase among those which have been market development, research, and education dealing with fish products.

The proper use of the Saltonstall-Kennedy fund would provide many 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 fishery imports 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 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 electoral 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 75 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 majority 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, 78 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 who identify 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
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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 State's electoral votes. All votes for the losing candidate are not reflected in any vote for 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 the other 38 States since the ratio in Minnesota is favored by its two bonus electoral votes, while those for the loser are not received.

In 1976, there had been a shift of 3,987 popular votes in Hawaii and 5,559 in Ohio, or 1 percent of the votes cast in these States (0.0113 percent of the total vote), Gerald Ford would have had 269 electoral votes. Jimmy Carter 266, 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 Presidential election fiasco. We are gambling with the integrity of our country, and the stakes are high. That we have survived Vietnam, Watergate, and other various scandals up to this point is 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 we have achieved a 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 proposal of all.

It is our duty to the world as well as to our citizens to perfect our form of democracy until we have achieved a 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.

The subcommittee on Constitutional Amendments began the first hearings on February 26, 1966. During 18 days of hearings more than 50 witnesses testified concerning 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 conducted 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 months 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 Barry 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 1970 the proposal reached the Senate after receiving an overwhelming 399-70 (90 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, 1976, 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 democracy and democracy in this country. 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 can ratify it. If they like the amendment, they will ratify it. If they do ratify it, then that is what the people want. We, the people, want to do 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 the amendment 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-
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 Number 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 resolution will be stated.

The PRESIDING OFFICER. The resolution will be stated.

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.

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

The PRESIDING OFFICER. The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution, which is being sponsored on behalf of myself and Messrs. BAKER and HATFIELDS, and I ask that it be stated by the clerk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution will be stated.

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 Number 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.

The PRESIDING OFFICER. 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.
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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 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 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 from 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 arc 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 96th Congress' inspection 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 of 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 1968 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.

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 effective lobbying pressure, and we doubt that the public understands the consequences. The Independent Bankers Association saw 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. As the 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 activities, 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 an 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 not more that I have long advocated.

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 will prove to be the case. 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 threatens the business judgment of those honest individuals who wish to establish a new bank and insulate 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. That Subcommittee took 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. Congress' 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 over-regulation 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 more than a year and was being directed against the Moslem minority 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 Moslem were plotting to turn Chad into a militant Islamic republic.

The sources said that the groups of black youths surged into the neighborhoods of nearby villages and waged a set of screaming, shooting, burning, killing any Moslem they could find, looting their 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, Hassan Habré. In the capital, more than 2,000 French soldiers are maintaining an uneasy cease-fire between the hostile forces.

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. A majority 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 to regulate 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, if enacted and strengthened, would 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 stilling our small radio stations. In South Dakota 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 information and electronic 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 probably given the first amendment 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. I believe that if we have competition, we should eliminate as much Government red-tape 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 TV—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 news from the 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 limit on 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 to do it. I have done so in the past and 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 the two have been sympathetic to our proposal, and it is great to have a member of the committee supporting it. So I say to Senator Pressley, 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, Resource Applications, Department of Energy, relative to the Nuclear Non-Proliferation Act of 1978, be jointly referred to the Committee on Energy and Natural Resources, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources.

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

EC-837. A communication from the Assistant Secretary, Resource Applications, Department of Energy, reporting, pursuant to law, a delay in submitting the AECL Summary Report on the Second Generation Nuclear Reactor, April 1979, 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 printed in the Congressional Record:

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 assigned to the duty of certain 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 4345(d) of title 10, United States Code, to permit the Secretary of the Army to authorize the appointment 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 "Needed for the Government's National Security Information Classification Program," transmitted March 9, 1978; to the Committee on Armed Services.

EC-811. A communication from the President and Chairman, Export-Import Bank of the United States, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during January, February, and March 1979 and 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, Railway Express Agency, 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 railroad, to the Committee on Commerce, Science, and Transportation.

EC-813. A communication from the Secretary, Interior, transmitting, 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 of Cesby Natural 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 to 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 achieving the program goals and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, to make 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 capitalization of the International Bank for Reconstruction and Development (IBRD); to the Committee on Foreign Relations.

EC-819. A communication from the Chairman, Federal Energy Regulatory 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 Commissioner 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 relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-824. 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-825. 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-826. 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-827. A communication from the Superintendent, 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, 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-830. 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-831. 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-832. 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.
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 entitled "Vocational Rehabilitation for Veterans in the Private Sector in Federal Employment and Training Programs," Report No. 6, to the Committee on Appropriations, the Committee on Veterans' Affairs, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

PETITIONS

The PRESIDENT OF THE UNITED STATES, in accordance with the provisions of the Constitution and the law, transmits the following petitions and memorials, which were referred as indicated:

POM-86. A resolution adopted by the General Assembly of the State of Texas, January 17, 1979, requesting that the Congress of the United States take appropriate action to prohibit the use of any funds for the purpose of forwarding oil at a rate not exceeding 92 per cent of the transportation and service charges, and that the President of the United States be requested to forward a copy of this resolution to the President of the United States and to the Secretary of Interstate Commerce.

POM-87. A resolution adopted by the General Assembly of the State of Texas, January 17, 1979, requesting that the Congress of the United States, in its consideration of legislation to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, or his designee, to purchase medical supplies, medical equipment, and medical services for veterans, be requested to provide for the reimbursement of the Secretary of Veterans Affairs for such purchases for the benefit of veterans, and that the President of the United States be requested to forward copies of this resolution to the President of the United States and to the Secretary of Health, Education, and Welfare, for information and for transmission to the Congress of the United States.

POM-88. A resolution adopted by the General Assembly of the State of Texas, January 17, 1979, requesting that the Congress of the United States, in its consideration of legislation to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, or his designee, to purchase medical supplies, medical equipment, and medical services for veterans, be requested to provide for the reimbursement of the Secretary of Veterans Affairs for such purchases for the benefit of veterans, and that the President of the United States be requested to forward copies of this resolution to the President of the United States and to the Secretary of Health, Education, and Welfare, for information and for transmission to the Congress of the United States.

POM-89. A resolution adopted by the General Assembly of the State of Texas, January 17, 1979, requesting that the Congress of the United States, in its consideration of legislation to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, or his designee, to purchase medical supplies, medical equipment, and medical services for veterans, be requested to provide for the reimbursement of the Secretary of Veterans Affairs for such purchases for the benefit of veterans, and that the President of the United States be requested to forward copies of this resolution to the President of the United States and to the Secretary of Health, Education, and Welfare, for information and for transmission to the Congress of the United States.

POM-90. A resolution adopted by the General Assembly of the State of Texas, January 17, 1979, requesting that the Congress of the United States, in its consideration of legislation to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, or his designee, to purchase medical supplies, medical equipment, and medical services for veterans, be requested to provide for the reimbursement of the Secretary of Veterans Affairs for such purchases for the benefit of veterans, and that the President of the United States be requested to forward copies of this resolution to the President of the United States and to the Secretary of Health, Education, and Welfare, for information and for transmission to the Congress of the United States.
March 13, 1979

Congressional Record - Senate

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, President Carter presently recommends the registration of 18 year olds be resumed to meet new mobilization requirements; and

"Whereas, Acting Director Shuck of the Selective Service System recently recommended that registration of 18 year olds be resumed in January, 1973, when induction of draftees ceased; and

"Whereas, President Ford by proclamation suspended military registration on March 29, 1976; 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 is acceptable, according to American Civil Liberties spokesman John Shatuck, violate the federal Privacy Act of 1974; and

"Whereas, President Carter presently retains the power to proclaim the rules and regulations for the selective draft; and

"Whereas, proposals to institute a program of national service or to resume conscription currently are premature in peace-time 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 conscription, such as the Peace Corps, are not being 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, acting Director of the Selective Service System, and to each member of Hawaii's delegation to the United States Congress.

"POM-92. A joint resolution adopted by the legislature of the State of Virginia; to the Committee on Finance:

"Senate Joint Resolution No. 151

"Whereas, the Commonwealth of Virginia has always held in belief and practiced responsible local management of state 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 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 compulsory over prolonged periods and this taxation strikes unevenly and places an onerous burden on groups who are least able to bear it, such as those living on savings and fixed incomes; and

"Whereas, the record of the past twenty years shows that irrespective of changes, it seems practically impossible for the federal executive or legislative branches to produce voluntarily a balanced budget; and

"Whereas, excessive federal involvement in the regulating various aspects of our lives hampers our ability to develop in 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 hereby memorialize the Congress of the United States to take steps immediately to amend the Constitution to provide that total federal government expenditures of national income be reduced and that in no year shall total federal government expenditures exceed revenues.

"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:

"NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED, PURSUANT TO THE PROVISIONS OF ARTICLE IV, SECTION 4, OF THE CONSTITUTION OF THE UNITED STATES, THAT THE CONGRESS OF THE UNITED STATES IS URGED TO AMEND SECTION 5, ARTICLE IV, OF THE CONSTITUTION OF THE UNITED STATES, TO PROVIDE THAT TOTAL FEDERAL GOVERNMENT EXPENDITURES OF NATIONAL INCOME BE REDUCED AND THAT IN NO YEAR SHALL TOTAL FEDERAL GOVERNMENT EXPENDITURES EXCEED REVENUES.

"POM-94. A joint resolution adopted by the legislature of the State of Hawaii; to the Committee on Armed Services:

"House Resolution No. 438

"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 met by a volunteer system initiated in January, 1973, when induction of draftees ceased; and

"Whereas, President Ford by proclamation suspended military registration on March 29, 1976; 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 is acceptable, according to American Civil Liberties spokesman John Shatuck, violate the federal Privacy Act of 1974; and

"Whereas, President Carter presently retains the power to proclaim the rules and regulations for the selective draft; and

"Whereas, proposals to institute a program of national service or to resume conscription currently are premature in peace-time 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 conscription, such as the Peace Corps, are not being 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, acting Director of the Selective Service System, and to each member of Hawaii's delegation to the United States Congress.

"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 XVIII of the Social Security Act), so as to assure the states an administration of cooperation, and better administrative and legislative control.

"Section 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 national Medicare when requested by the individual state legislatures. This resolution shall constitute such a request.

"Section 3. Copies of this resolution shall be sent to each member of the North Carolina Congressional Delegation, to the Clerk of the House of Representatives, to the Secretary of the United States Senate and to the Secretary of the Department of Health, Education, and Welfare.

"Section 4. This resolution is effective upon ratification.

"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 annually 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 the national fiscal 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 agencies 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 the Nation, as firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial stability; 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 (2/3) 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 (3/4) of the several states, or by conventions in three-fourths (3/4 thereof) as the one or the other of the mode of ratification may be proposed by the Congress; now therefore,

"Be it resolved by the Legislature of Alabama, both Houses concurring, That the Legislature of Alabama hereby petitions the Congress of the United States that provisions be enacted in 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, and which may be near confiscatory over prolonged periods and this taxation strikes unevenly and places an onerous burden on groups who are least able to bear it; such as those living on savings and fixed incomes; 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 compulsory over prolonged periods and this taxation strikes unevenly and places an onerous burden on groups who are least able to bear it; such as those living on savings and fixed incomes; and

"Whereas, the record of the past twenty years shows that irrespective of changes, it seems practically impossible for the federal executive or legislative branches to produce voluntarily a balanced budget; and

"Whereas, excessive federal involvement in the regulating various aspects of our lives hampers our ability to develop in 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 hereby memorialize the Congress of the United States to take steps immediately to amend the Constitution to provide that total federal government expenditures of national income be reduced and that in no year shall total federal government expenditures exceed revenues.

"POM-91. A joint resolution adopted by the legislature of the State of Alabama; 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:

"NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED, PURSUANT TO THE PROVISIONS OF ARTICLE V, SECTION 4, OF THE CONSTITUTION OF THE UNITED STATES, THAT THE CONGRESS OF THE UNITED STATES IS URGED TO AMEND SECTION 5, ARTICLE IV, OF THE CONSTITUTION OF THE UNITED STATES, TO PROVIDE THAT TOTAL FEDERAL GOVERNMENT EXPENDITURES OF NATIONAL INCOME BE REDUCED AND THAT IN NO YEAR SHALL TOTAL FEDERAL GOVERNMENT EXPENDITURES EXCEED REVENUES.

"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, including those present), That the following article is proposed as an amendment to the Constitution of the United States: That when ratified by the legislatures of three-fourths of the several States, the Senatorial power to unilaterally alter the terms and conditions under which they have been constituted and to act upon such constitutions 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. That the power under the Constitution of the United States to rescind 213 of the resolutions of the Congress, in fourteen of the United States, shall be abolished, and all such resolutions shall be void in all cases where it is 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 of 1973 of the state of South Dakota, including the condition that the constitutionally required majority be obtained before March 22, 1979, the Legislature of South Dakota for purpose of withdrawing its ratification of such proposed constitutional amendment as of March 26, 1979, which action renders the present 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 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:

POLITICAL CONTRIBUTIONS STATEMENT
Nominee: Francis J. Meehan.
Post: Ambassador to Czechoslovakia.
Contributions, amount, date, and donee:
1. Self: None.
3. Children and spouses names: Anne Werthmann (Robert), Catherine Doehner (Sven), Frances Meehan, James Meehan, none.
7. Sisters and spouses names: None.

Following the vote of the Senate:

POLITICAL CONTRIBUTIONS STATEMENT
Nominee: Richard E. Benedick.
Post: Ambassador-at-Large.
Contributions, amount, date, and donee:
1. Self: None.
3. Children and spouses names: None.
8. Grandparents names: None.
9. Sisters and spouses names: None.

Judicial Committee: to report favorably on the joint resolution before any duly constituted committee of the Senate.

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.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
7. Sisters and spouses names: None.

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.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
9. Sisters and spouses names: None.

Mr. CHURCH, from the Committee on Foreign Relations:
Loren E. Lawrence, of Maryland, to be Ambassador Extraordinary and Plenipotentiary to the United States, and to the diplomatic agent of the United States in other countries, to be of the rank and style of Ambassador-at-Large.

(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.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
9. Sisters and spouses names: None.

Mr. CHURCH, Mr. President, as in executive session, I also report favorably upon the nominations in the Foreign Service which have previously appeared in the Congressional Record and, to save the expense of printing a separate 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 V. Vickers, of Washington, to be Administrator of the U.S. Fire Administration.

S. 112, to be a member of the Board of Directors of the National Railroad Passenger Corporation.

Thomas P. Baimont, 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 the newly 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, are now presented.

Mr. President, I ask unanimous consent that a star print of the nominations ordered to lie on the desk of the Secretary 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. Digin, of New York, to be Administrator of Fair Housing and Urban Development.

Louis Nunes, of Maryland, to be Staff Director for the Commission on Civil Rights.

Carlton 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. Soffer, 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.

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. 352

Mr. GLENN. Mr. President, I ask unanimous consent that S. 352, the Antitrust Act, which has been referred to the Committee on the Judiciary, be referred jointly to the Committee on the Judiciary and the Committee on Governmental 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. CANNON (for himself, Mr. BAYH, Mr. CONYNSOLIUS, Mr. DAVENPORT, 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 special gold medal to John Wayne to the Committee on Banking, Housing, and Urban Affairs.

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 XVII of the Social Security Act; to the Committee on Agriculture, Nutrition, and Forestry.

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.

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.

S. 635. A bill to amend the Railroad Retirement Act of 1974 to benefit 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. BAYH:

S. 636. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.


S. 638. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River basin project and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 639. A bill to amend the Internal Revenue Code of 1954 to permit small businesses to compute depreciation on a 3-year straight line basis; to the Committee on Finance.

S. 640. A bill to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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 and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 642. A bill to amend section 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAYH:

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.

S. 644. A bill to establish a voluntary program to provide farmers protection against loss of farm production when natural or man-made disasters adversely affect such production; to the Committee on Agriculture, Nutrition, and Forestry.

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.

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. CONYNSOLIUS:

S. 648. A bill for the relief of Marlin Toy Products, Inc., to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 649. A bill for the relief of Elizabeth Cheng; to the Committee on the Judiciary.
STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. BAYH, Mr. EAGLETON, Mr. CARN, 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 say 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 an 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 Heart Association.

I believe his service to his country in the production of and acting in films that relate to our country, to history, and to 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 section.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at a price sufficient to cover the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 percent of such cost of manufacturing said duplication in current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed. The appropriation 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 the Committee on Banking, Housing, and Urban Affairs of 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 3561 of the Revised Statutes (31 U.S.C. 369).

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. It is my hope 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 colleague PEYSEK 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 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 program on poor families in my own State be printed in the Record.

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, said the state had opposed the changes, pending since 1977, "because of their harm to New York State's needy people."

The cut in food stamps comes at a time that Mayor Koch and some state legislators had 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, 289,870 were welfare cases, 94,561 were aged, blind and disabled poor enrolled for Supplemental Security Income, and 51,780 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 have lost $10 monthly on average, three-fourths of them aged, blind, and one-third may get increased benefits.

A welfare family of four with maximum rent allowances, utility rates, and medical expenses in excess of $100 a month 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 lose benefits completely.

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.

Up to now the act of calculating income eligibility, such a family could deduct all work-related expenses, such as taxes, health insurance, contributions, according to Herb Rosensweig, 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. 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 10 percent of net income, with an 880 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.

By Mr. McCURLE (for himself, Mr. McCovern, Mr. Simpson, Mr. WAllop, Mr. DeConcini, Mr. Bercut, and Mr. HAYAKA-WA):

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.

§ Mr. McCULLE, 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 re-division 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, 1978, 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 re-view 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 we are each to introduce legislation for our own constituency and the problems influenced in our State. It would probably be a somewhat different piece of legislation than that 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 somewhat different piece of legislation from the provisions already in place. 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 along with 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 is 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 wish to 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 of the bill, to be printed in the Record, as follows:

§ 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 amendments thereto (47 U.S.C. 371) herein-after 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 the project; and provide for recognition and recognition 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 any written representations, and administrative interpretations and rulings which relate to a "contract" as hereafter defined or any 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, supplemented or executed pursuant thereto, whether or not repayment is involved in irrigation, drainage or storage contracts.

(c) "Contracting entity" shall mean any contract with a contracting user, 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 persons or entities, that owns land within a contracting area.

(e) "Project" shall mean a project constructed or operated for the production, storage, 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, would be available for irrigation of land within a project service area, which exceeds the amount of water available for irrigation of land in a project 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 limitations of the Federal reclamation laws and all written representations relating thereto, which were in effect prior to the effective date of this Act by the Secretary of the Interior, the contracting officer, or any other Federal official, are hereby 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 acres of irrigable land or the equivalent thereof in other lands of less productive potential, as determined by the Department of Interior, which shall 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 limitation for each project service area, including those cases where pre-project 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 acreage limitation on a particular project or unit thereof, by way of withholding water deliveries, increase in water rates on otherwise paid, or otherwise, until after ceasing unless, or unless, 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 trust, may collectively hold land eligible to receive project water in the area. If such corporation or trust continues to be governed by such provisions of this Act, the number of irrigable acres of land within a contracting entity, which land to be nonexcess land, shall exceed five per cent of the number of irrigable acres of land within a contracting entity, which land to be excess land, after being forever paid, or otherwise disposed of, provided, that the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation laws.

(d) A landowner which is other than a natural person may hold up to three hundred acres of land eligible to receive project water, or any water right attached to the land, and shall not be limited to the number of irrigable acres of land within a contracting entity, which land to be excess land, after being forever paid, or otherwise disposed of, provided, that the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation laws.

APPLICATION OF ACREAGE LIMITATIONS

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 the Interior shall issue a certificate in recordable form to the contracting entity or landowner acknowledging the existence of the limitations of this section 5 of the Reclamation Act of 1902, as amended or supplemented, and the acreage limitations of the Federal reclamation laws.

WATER EQUVALENCY

Sec. 8. For the purpose of determining whether a landowner is a landowner of class I, II, III, IV, V, or VI, the number of irrigable acres of land within a contracting entity, which land to be excess land, 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 in no case shall the percentage exceed 25 per cent. of the total irrigation supply of water be 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 land shall be considered excess land. If any irrigable land held by any landowner or ownership of any one landowner exceeds sixty acres in the area, the number of irrigable acres of land within a contracting entity, which land to be excess land, after being forever paid, or otherwise disposed of, provided, that the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws.

APPLICATION

Sec. 12. (a) This section shall apply both to existing Federal reclamation projects and to projects or units thereof constructed in the future, except as is otherwise provided by law. In no case shall the Secretary of the Interior, as authorized by this Act or by contract, amend other statutory exemptions from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws.

(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 any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from any acreage limitation of the Federal reclamation laws.

(c) The Secretary of the Interior shall, upon the request of a contracting entity or of a landowner, authorize cancel the right to receive project water or any water right attached to the land involved in such fraudulent sales.
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.

(6) Nothing contained in this Act shall be construed to impair the ability of any State governing body having entity status under this Act to regulate 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 SUIT

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. 16. Section 45 of the Act of May 25, 1926 (44 Stat. 436), 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, and having as a part thereof an irrigation district or irrigation districts organized under State law providing for payment by the districts 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 the first day of the month following the one in which the Secretary of the Interior is to give public notice when water is actually available, and the operation and maintenance charges on account of lands that receive 25 percent or less of conserved water as a result of the project, should be carefully defined in the contract or contracts to be executed before a project was built, mixing their investment without endangering the validity of irrigating farming.

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 valued into the future. The basic purposes of the reclamation program are embodied in Idaho's agriculture communities. But those provisions relating to the implementation to better meet 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 1,600 acres ownership with unlimited leasing. This acreage limitation can only be acceptable with no limit on leasing. 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 for those who own 25 percent of the crops. Family farmers can best operate. The 1976 Bureau of Census report shows that in all farming today, less than 3 percent of our production is produced by family owned farms. 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 made by the Federal Government. There are over 50 contracts in the State of Idaho alone, that guarantee to pay at a project is no longer subject to on acreage limitation. This concept should be honored in existing contracts and be an option in all future reclamation, and this bill also believe that a gradual payout of the project cost with interest should be possible. This allows the farmer the ability to increase his production in relation to repayment of such funds. If recouping the Federal subsidy is the primary goal of the administration, then by allowing the farmer the ability to pay that subsidy back to the Government, floor that their irrigation without endangering the validity of irrigating farming.

Third, commingled waters, water available before the project was built 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 irrigation that receives less than 25 percent 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 same rights of ownership at a 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 I am addressing 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-
considered 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 uses and the seller to select the buyer of excess property. Again, these are solutions to problems that have arisen as a result of restrictive regulations proposed by the Secretary of the Interior. The concept is that these restrictions can be relaxed, so the Congress as it has evolved directly from the very farming communities that we propose to protect and perpetuate in readressing reclamation law.

I am proud to be a sponsor of this consistent and fair reclamation 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 and other Members of 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 1902.

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—knowledge of the economic and technological changes that have occurred since the 1902 acreage limit was established. The second major thrust of this section introduces an equivalency concept allowing areas with lower productivity potential factors such as crop economics, climate, and water resources, on more than the 320 owned acres. This provision is in the best interest of the federal benefits to the users. A third aspect of this section preserves present law by allowing landowners to sell or lease property for closure to sell within a five-year period without government price approval.

Application of acreage limitation

Section 6 defines certain exceptions from federal reclamation law. Introduces a payout plan that gives reclamation districts the opportunity to reclaim the acreage of lands that are 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 or perennial projects. This section recognizes that all taxpayers have a section allowing non-federal entities to sue the federal government for purposes of resolving conflicts in 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 operation of federal irrigation works.

Mr. McGOVERN. Mr. President, Senator McClure, Baucus, DeConcini, Simpson, Walle, and I are today introducing legislation in the U.S. Bureau of Reclamation in the 17 Western States. This issue has heated up slowly in the last few years since passage of the 1902 Reclamation Act. That act established the general 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 under the Act.

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 certain 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 reexamine those principles in light of current realities and perhaps let the Act permit more freedom of action, or at least, it should be amended to permit more flexibility 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 the issue, let me make one thing clear to those of my colleagues who are not overly familiar with the reclamation program. When we are talking about Federal assistance, it must be remembered that it is eventually repaid by the beneficiaries, with interest. This feature makes reclamation irrigation unique among 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 bring on this floor any parochial interests in mind, we would repeat the spectre of so many bills being introduced that we would be unable to consider the merits of what we are not hearing process. That is why this year I see an effort to arrive at an equitable balance of interests in addressing this question. 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 factors 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 180 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, 180 acres is not a realistic limitation in most cases today, and second, once a ceiling is set 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 ownership 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 Secretary of the Interior and 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 look for its resolution. This issue must be resolved on a case-by-case, district-by-district, contract-by-contract basis as circumstances elsewhere in the Western States.

Sixth, reclamation law should not be applied to the 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 justifications 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 the situation 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 the geographic formula is more relative and not an indication of abuse of reclamation law.

Finally, farmers, including family farmers, from whom Federal irrigation is to be provided, 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 the full cost of 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, and that the Federal Government is not subsidizing that growth in the same manner it is subsidizing the original irrigation.

On that issue 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 low ceiling on irrigation development in a particular section or project in the Western States.

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 wishing to adjust his operation upward 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. While this meets the philosophical premise of Federal subsidy head on, but allows some necessary flexibility.

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 irrigation projects, but because it helps South Dakota growers who 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 who are similarly motivated in considering this legislation.

Mr. WALLACE. Mr. President, I am pleased to join Senator McCaskey 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 law in the case 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 § 14, the Reclamation Reform Act of 1979, which has been introduced by Senator Church. That bill embodies many fine principles which I support, and I am probably second in 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 co-sponsors of S. 14 to fashion a reclamation reform measure which fairly treats the needs and problems of all reclamation projects.

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 1976, a group known as National Land for People Incorporated, sued the Department of Interior and obtained a court order requiring it to adopt new 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 that they are 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 1886, 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 work to promote family farming, prevent windfall profits and unintended subsidies, and are not contrary to economic realities. I totally disagree. It is so 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 losses of economic efficiency. That 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 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 indicated 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 14 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 feasi-ble or capable of supporting a family.

Calculation of production costs for farms in the Platte 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 480 acres per owner with provision for a further increase in the limitation every 10 years, if economic or technological changes indicate that it is warranted.

Related studies have been done by Douglass Agee at the University of Wyoming. These studies have determined that the current average production per acre 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. This average size farm is producing sugar beets, malting barley, alfalfa, dry beans and corn in Woldland, Tor­rington, Wheatland, Riverton, and Powell areas are 490, 490, 320, and 160 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 production 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 $189 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 1902

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 themselves. 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 we 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 1982, 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. When present economic, agricultural, and geology warrant, more than the 320 owned acres, as determined by the project's equivalency formula, would receive project water.

Consistent with the Reclamation Act of 1902, leasing of additional lands would
not be restricted by the Farm Act Water of 1979.

Fourth, it removes residence require­
ments to set up long-term contracts to
the landowner must reside in the
neighborhood of the land.

The use of commingled irrigation water supply is taken into consideration
in determining what portion of an own­
er'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 ex­
cess lands limitations upon payment of a
lump-sum equal to the balance on con­
tractual 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 op­
opportunity for a buyer to purchase at a
low Government approved price, and re­
sell immediately at a higher market price.
Windfall profits are prevented by requir­
ing that landowners retain the property
with a family for 10 years before selling it
for anything more than cost, plus an
interest on the balance due on the lands
is paid.

And finally, the act waives the sover­
eign 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 col­
leagues to consider the complicated na­
ture 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
377,000 people. The total crop value of
$4.3 billion was protected by the $463
acre, was produced by over 146,000 farms.
The national effects of disruptions of these
agricultural production units can­
not be understated.

Many of my colleagues believe that the
best answer would be to abolish all acre­
age limitations on existing projects. The
primary purpose of the 1902 law, to pro­
mote the settlement of the arid West, has
been achieved. The overriding public
purpose now should be to foster produc­
tive agricultural units upon which fam­
ilies will build a future for their farms to
living. I tend to believe such an approach
would most likely be in vain. The Farm
Water Act of 1979 represents an ap­
proach which is both viable and equa­
table.

While fraud, windfalls, and unin­
tended subsidies must be guarded against, both the administration's pro­
posed regulations and suggested amend­
ments 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’
liabilities to their property, and restrict pa­
rents' abilities for their farms to
their children. Commingled water and
previously existing direct flow water
rights must be considered, and previously
relied upon, commingled water.

Most important of all, the future growth poten­
tial of the capable farmer must be as­
ured, 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 economi­
cally sound. I am pleased to cosponsor
this measure, and encourage my col­
leagues to examine it and support it.

By Mr. MATHIAS: S. 634. A bill to amend the Internal
Revenue Code of 1984 to provide for a
deduction paid into a reserve for product
liability losses and expenses, to provide
a deduction for certain amounts paid to
insure against both the commercial
purposes, to the Committee on Finance.

Product Liability Partial Self-Insurance
Act of 1979

By Mr. MATHIAS, Mr. President, I am
introducing the Product Liability Partial
Self-Insurance Act today. The pur­
purpose of this bill is to change the Internal
Revenue Code to enable small business
owners to set up partial self-insurance
to cover product liability. The bill
would also allow certain professional
people—architects and other design en­
gineers—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 direc­
tion with the tax code amendments en­
acted late last year, but much remains to
be done. Today, the tax code gives sub­
tax advantages to the purchasers of
commercial insurance but penalizes those
who must self-insure against prod­
uct or professional liability risk.

The bill I introduce today is a refine­
mement of the Product and Professional
Liability Insurance Tax Equity Act, S.
2844, which passed on April 10, 1978.
I developed the current text after consultation with Representatives
Petchard and Pease, and it grows out of a
merger of S. 2844 and Senator Curves
Product Liability Self-Insurance Act, S.
3049, introduced on May 9, 1978, and re­
introduced March 5, 1979, as S. 542.

In the last Congress, a special ad hoc panel on self-insurance, chaired by Mr.
Whalen, studied the product liability insurance problem and presented its
findings to the House Small Business
Committee. 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 per­
cent of the companies surveyed said they
were involuntarily operating with-

product liability insurance, and in more cases than not, the premiums were
for product liability. And other com­
panies told us they were forced to buy policies with very high deductibles, pay­
ing exorbitant premiums for only partial
coverage of their risk.

Mr. President, it has become obvious
that many small businesses are oper­
ation, either wholly or partially outside the product liability insurance envi­
roment. Congressman Whalen’s study concluded that one of every three companies
even had been forced to increase the price of at least one product line as a
direct result of increased product li­
ability 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 prod­
uct liability problems.

Now, while many large companies have
the resources to deal with the lia­
ability insurance problem, including
simply buying or beginning their own cap­
tive insurance companies, the small
business owner or the privately prac­
cing professional is left with the high­pri­
iced options. And increasingly, be­
cause of IRS rulings, even captive insurance companies are being press­
ed to enter the competitive insurance
market, with the result that larger com­
paines, 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 ac­
cumulate 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 Лиа­
bility Insurance Tax Equity Act was to put the self-insurer on equal tax foot­
ing with the commercial purchaser.
The various bills to this end were discussed throughout the 95th Con­
gress, and hearings were held in the
House Ways and Means Committee and
before the Senate Finance Subcommis­
itee on Taxation and Debt Management.

The measures met with some suc­
cess—with the invaluable assistance of
my distinguished colleague from Iowa,
Mr. Curves—and we were successful in
repealing the insurant tax provisions of the tax code last year. It is now lawful for
a corporation to build up a loss reserve ac­
count for product liability. But it still
must be done with after-tax dollars, and
the use of the option is limited to corpora­
tions with severe product liability prob­
lems.

A second change made in the tax law
last year was to provide for the pres­
ervation of losses attributable to
product liability. However, as Congress­
man Whalen explained in the Congres­
sional 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 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 those companies 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 incur by 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.

If we grant them protection quickly and decid­edly 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 America in Congress Assembled.'

Sec. 2. (a) Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as subsection (i) and by inserting immediately after subsection (i) the following new subsection:

"(1) SELF-INSURANCE FOR PRODUCT LOSSES AND EXPENSES.—

"(1) 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, lease, or sale of such product or products during the base period, or

"(2) $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) 10 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 during the base period, or

"(II) $25,000.

"(C) BASE PERIOD.—For the purpose of this paragraph, the term 'base period' means the shorter of—

"(1) 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,

"(2) the 5-fiscal-year period of the taxpayer which ends with or within the taxable year, for the purpose of subparagraph (A), the term 'fiscal year' means 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,

"(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 taxable year does not exceed 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 used, for a taxable year, for any purpose other than the purpose set forth in paragraph (9) (D) (i), (ii), or (iii) or (D) (ii), (ii) of the aggregate amount of payments by the taxpayer to such trusts within the taxable year which are allowable as a deduction under paragraph (1),

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any product liability insurance trust created by a 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 (3),

"(C) TIME WHEN PAYMENTS TO ACCOUNT NEEDED.—For the purposes of this subsection, a taxpayer has made a payment to his product liability trust on 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.

"(D) 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 trust or to his captive insurer in any other form of payment in cash or in items in which the assets in said account may be invested under paragraph (3),

"(7) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) IN GENERAL.—For the purpose of paragraph (2)—

"(i) in the case of any taxpayer who, during any taxable year, was 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 which would be permitted under paragraph (2) if all of the 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 in sections 1561 and 1562 (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 PARTNERS 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 who own or more of such taxpayers is not a corporation.

"(8) ELECTION, TERMINATION, AND WITHDRAWAL OF FUNDS.—

"(A) MAKING OF 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 (1) the net income earned on amounts transferred to his captive insurer, if any, (ii) the aggregate amount of payments by the taxpayer to his product liability trust and (iii) the net gains realized on the sale or exchange of trust assets to that a
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) of section 537(b) of the Internal Revenue Code of 1954 (relating to the accumulated earnings tax).

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund (as defined in section 581), and which are designated as permitted in paragraph (10);

"(v) the assets of which may not be borrowed, used as security for a loan, or otherwise disposed of for any purpose other than those described in clause (iii);

"(E) Captive insurer.—The term 'captive insurer' includes—

"(i) which is directly or indirectly—

"(2) wholly or partially owned or controlled by—

"(ii) wholly owned or controlled by an association of which the taxpayer is a member.

"(F) Net contributions of taxpayer to captive insurer.—The term 'net contributions of taxpayer to captive insurer' includes any amount which is includible in the income of the taxpayer for such year under subparagraph (A) of section 61 (relating to gross income).

"(G) Product liability loss.—The term 'product liability loss' means any loss attributable to the product liability of the taxpayer in respect of injury, harm, or damage to or loss of such injury, harm, or damage arising from—

"(1) such injury, harm, or damage arises after the completion of any product manufactured, imported, distributed, leased, or sold by the taxpayer but only if—

"(ii) which is directly or indirectly—

"(1) wholly or partially owned or controlled by—

"(ii) wholly owned or controlled by an association of which the taxpayer is a member,

"(iii) which is directly or indirectly—

"(1) wholly or partially owned or controlled by—

"(ii) wholly owned or controlled by an association of which the taxpayer is a member.

"(H) Restrictions on investment of amounts accumulated.—The provisions of section 165 (i) (9) (C) of the Internal Revenue Code of 1954 (relating to amounts accumulated for the reasonably anticipated needs of the business) shall not apply to amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent that such amounts are deductible under the rules of section 165 (1).

"(I) Accumulated earnings tax.—The provisions of 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:

"(1) 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 liabilities incurred by the taxpayer in respect thereof may be deducted from the amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent that such amounts are deductible under the rules of section 165 (1). The accumulation of reasonable amounts, in addition to amounts deductible under section 165 (1), for the payment of reasonably anticipated product liability losses (as defined in section 165 (1) (9) (C) ), as determined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

"(J) Effective date.—The provisions of this Act apply to taxable years beginning after September 30, 1976.

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 provisions 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 in receiving 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.
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 its 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.

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 (68 Stat. 950) (hereafter referred to as "the Act")

Section (3) upon completion of the project described in subsection (1), 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 in 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. If the Secretary of the Army finds, and transmits to the Committee on Environment and Public Works of the Senate, a report setting forth 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.

By Mr. McGOVERN:


Mr. McGOVERN. Mr. President, I am pleased to introduce today the "Marginal Railroad Rail Line 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 brought the railroads on the railroads in the Upper Plains States and in the Northwest 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. 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 administration 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.

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 free­

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. Some observers have already indicated 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
March 13, 1979

GRIM TALES OF CONRAIL’S DECLINING ABILITY TO PROVIDE APPROPRIATE SERVICE

The Department of Transportation has on many occasions stated that in order for most 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 transcontinental railroad. 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.

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.

By the end of the following month the trustee provided further confirmation in issuing a system map that portrayed a marginal portion 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 need to liquidate sizable segments of their system, to consolidate their plant in order to have 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 continues to operate a marginal mainline 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 unprofitable—will be declared bankrupt 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 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 country. This 420 megawatt plant, which was constructed at a cost even greater than the Milwaukee Railroad’s total debt of $40 million, is situated 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 shipments to Asia and the west coast, particularly through west coast ports as opposed to using the Mississippi and Gulf ports and the Panama Canal are easily evident in the price differences. In addition the many export and import 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 small and marginal line operations. However, the Milwaukee continues to operate a marginal mainline corridor which is not eligible for 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 mainline service is about to provide service because there is no alternative to the elimination of service. Its applications are very limited in order that it may not become a tool 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 under this act 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-
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:

**TITLE X—MARGINAL RAILWAY MAIN LINE SERVICE ASSURANCE ACT OF 1979**

**FINDINGS**

Sec. 1001. The Congress hereby finds and declares that:

(1) that many regions of the United States are experiencing a critical rail transportation crisis which has resulted in the bankruptcy of several rail carriers and may result in future rail bankruptcies;

(2) that such bankruptcies and bankruptcy reorganizations 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 affect the inter-regional flow of goods and materials necessary to maintain the economic viability of the economic regions of the country and which if not provided for in subsection (g) and any other assistance required in subsection (e) and any other assistance required in subsection (e) to national and international markets;

(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 terms—

(1) "Secretary" means the Secretary of Transportation;

(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 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 Secretary may be provided with current and concise information about the line that is essential to determining the availability of Federal assistance to the affected States and to the affected States.
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 on time, but has provided the Secretary with assurances that the State is making a good faith effort to establish the necessary resources, the Secretary may make available loans or loan guarantees to those States for such additional cash outlays as may be necessary or appropriate to carry out the assistance as provided for in this section.

"SEc. 1007. (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, such return shall be applied as a partial repayment of the assistance received, with 10 percent of the surplus to be applied to the cash outlay and cash input attributable to the eligible line. In the event that assistance is being received returns profits for 4 consecutive calendar quarters, the Secretary shall cease to make new assistance payments under section 1003(h) 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 shall become due and payable.

"(c) Any interest charges on any assistance shall accrue until such assistance is paid to the applicant.

"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.

"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.
personal property) owned in connection with the 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 obligations as may be imposed by the Corps, 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 co-sponsor 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 project. Again, this year, we are introducing similar legislation. There is one major addition. Congressman Ichord intends to introduce 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 100 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 did through their referendum for early passage of the legislation.

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.

208 CREATION ACT OF 1978

Mr. DANFORTH. 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 level of income they desire, 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 $200,000 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. The full tax 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:

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<tr>
<td>1980</td>
<td>-0.9</td>
</tr>
<tr>
<td>1981</td>
<td>-3.0</td>
</tr>
<tr>
<td>1982</td>
<td>-5.8</td>
</tr>
<tr>
<td>1983</td>
<td>-6.8</td>
</tr>
<tr>
<td>1984</td>
<td>-5.9</td>
</tr>
<tr>
<td>1985</td>
<td>-5.1</td>
</tr>
<tr>
<td>1986</td>
<td>-4.3</td>
</tr>
</tbody>
</table>

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 segments of the 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 14 million businesses in the United States use the ADR. 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:

<table>
<thead>
<tr>
<th>Country</th>
<th>Average annual business investment as a percent of GNP</th>
<th>Inflation rate than percent increase in productivity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>32.0</td>
<td>8.4</td>
</tr>
<tr>
<td>France</td>
<td>22.8</td>
<td>5.7</td>
</tr>
<tr>
<td>Netherlands</td>
<td>23.7</td>
<td>6.9</td>
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<tr>
<td>Belgium</td>
<td>31.8</td>
<td>6.9</td>
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<tr>
<td>Germany</td>
<td>24.8</td>
<td>5.5</td>
</tr>
<tr>
<td>United States</td>
<td>17.2</td>
<td>3.5</td>
</tr>
</tbody>
</table>

1 Average annual business investment as a percent of GNP.
2 Average annual percent increase in real GNP.
March 13, 1979

CONGRESSIONAL RECORD — SENATE


Hon. Walter F. Mondale,
President of the Senate.

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, for and other purposes.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this authorization to the Committee further that enactment would be in accord with the program of the President.

Sincerely,
JUANITA M. KEPPS,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED OF THE DRAFT BILL

Section 209 of the Merchant Marine Act, 1928, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities, such as the construction of ships, for the fiscal years 1980 and 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 the fiscal year 1980 is $101,000,000. This, when added to $25,874,000 for fiscal year 1981, will provide for a program level of $126,874,000, 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;"

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. These services are defined as those ocean services, routes and lines, and bulk carrying services essential for the promotion, development, 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.

An estimated $306,714,000 in subsidy will be paid to U.S.-flag operators in 1980. Approximately $60,500,000 of this amount is projected to become available from 1979

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.

Mr. President, this economic benefit 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 this Act.

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balances brought forward to 1980. Estimated payments during 1980 include $243,071,000 for 147.4 ship years of liner ship operations, $28,333,000 for 19.2 ship years of bulk carrier ship operations, and $25,460,000 for expenses of subsidy estimated to be due for ship operations through 1979.

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 industrystudy of foreign maritime aids and for radar research effort by obtaining a larger return for the Federal Investment.

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 schools established by the Maritime Academy Act of 1958, assist States in the operation and maintenance of maritime academies and in training of merchant marine officers. Assistance is provided to participating States (California, Massachusetts, Maine, New York, Michigan, and Texas) in the form of tuition, 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 ships, and the installation of improved habitability and training features on the ships. Supplementary training provided by the Academy in sections 216(c) of the Merchant Marine Act, 1936, assists States in the operation and maintenance of maritime academies and in training of merchant marine officers. Assistance is provided to participating States (California, Massachusetts, Maine, New York, Michigan, and Texas) in the form of assistance for cadets, and maintenance and repair of ships on loan for use as training ships.

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 216(c) of the Merchant Marine Act of 1936, 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 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 ships in times of national emergency. The 1980 budget requests additional funding for 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.

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 94-589, to allow timber 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 was passed in the 94th Congress, the act allowed in section 14(1)(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 report on the bill or in floor debate and there is no justification for this exclusion. Therefore, I am introducing this bill to correct the matter.

Congressional concern 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 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 categories for Alaska is in 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 for fiscal year 1980, as submitted, have included 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 intent.

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 resource. 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 the bill be printed in the Record as follows:

There being no objection, the bill was ordered to be printed in the Record, as follows:

(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 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 ships in times of national emergency. The 1980 budget requests additional funding for 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.

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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 (16 U.S.C. 1604(7)(d)) is amended by striking out the colon and all remaining material in paragraph (1) and substituting in lieu thereof a period.

By Mr. STEVENS:

S. 642. A bill to amend title 39 of the United States Code to provide reduced rates for nonprofit, tax-exempt 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 60 organizations, some of which already have the special rate and would pay no extra 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 of 1978 (92 Stat. 485). It constitutes a recognition that both the health and fitness of the American people and the development of our international relations are served by amateur sports programs. The Olympic movement is an integral and important part of this national program. The bill I am about to introduce is one of the most important reforms of our immigration law since the enactment of the Refugee Act of 1962.

Finally, Mr. President, to dispel fears that this provision sets a precedent for an onslaught of organizations clamoring for the special rate, I would like to point out that those organizations were recently considered nonprofit, tax-exempt organizations by the Internal Revenue Service. Although the Postal Service has been directed by the Postmaster General, in accordance with regulations, as a general rule the preferred postage rate is given to such nonprofit, tax-exempt organizations. It does not make much sense to allow tax-exempt organizations, such as ski clubs or 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 continue to need help. I ask that the Senate recognize this need by voting for my bill.

By Mr. KENNEDY:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedure for the settlement 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.

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 introduced this bill—as jointly submitted by the Secretary of State, the Attorney General, and the Secretary of Health, Education, and Welfare—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 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.

This 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 records refugee admissions the same immigration status given all other immigrants.

Second, it raises the annual limitation on refugee admissions to the current level of 65,000, and provides for the admission of up to 10,000 refugees from group I, group II, and group III countries, with the president each year determining how many refugees should be admitted from each group.

Third, the bill provides for the resettlement of the homeless people involved cannot be met within the regular 50,000 ceiling.

Fourth, it provides for Federal support of the refugee resettlement program—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 the Ambassador to 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 for Overseas, 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 insures 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:

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, assistance 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 historic 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, which will provide comprehensive and uniform provisions for temporary and transitional assistance to those refugees who are admitted.

TITILE 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) thereof the following paragraph: "(42) The term 'refugee' means any person who is outside any country of his nationality or, if there is no such country, is outside any country in which he last habitually resided, who 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 1 of Title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following section:

"ANNUAL ADMISSION OF REFUGEES"

"Sec. 207. (a) Subject to the provisions of paragraph (2), the number of refugee admissions granted in any fiscal year shall not exceed 50,000 plus a number equal to the number 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 a description of 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 the amount otherwise available in accordance with a determination made by the President regarding the number of admissions to each group or class of refugees if the President determines that such an allocation is necessary to meet the needs of refugees for whom assistance is required in the fiscal year.

"Sec. 208. (a) If the President determines, after consultation with the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that special conditions exist in the United States and that the admission of refugees is necessary in the national interest, he may prescribe, for lawful permanent resident status to that of a lawful permanent resident under paragraph (1), his spouse and child may also be granted such status.

"(c) The admission of any alien under paragraph (2) shall be subject to such regulations as the Attorney General may prescribe.

"ADMISSION OF EMERGENCY SITUATION REFUGEES"

"Sec. 209. (a) If the President determines, after consultation with the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that an unforeseen emergency situation has arisen in the United States, his decision in such case shall not be made until after an immediate inspection and examination, except for the fact that he may authorize the Attorney General to admit any alien lawfully admitted to the United States for lawful permanent residence under section 207 or 209, to return to, and be required to establish admissibility to the United States as an immigrant except for the fact that the alien qualifies for admission as a spouse or child of an alien lawfully admitted to the United States for permanent residence under section 212(a) shall be regarded as a lawfully admitted immigrant under this Act, any alien who has been admitted into the United States conditionally under section 208 or 209, shall, at the end of such two years, return or be returned to the custody of the Service to have further examination and examination into the United States as an immigrant in accordance with the provisions of section 212(a)."

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer, to be an alien who is not entitled to permanent residence under section 212(a) shall be immediately deported in accordance with the provisions of paragraphs (14), (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act.

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES"

"Sec. 210. (a) In case of any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209, and who has been physically present in the United States for at least two years, is not firmly resettled, and shall not be resettled by the Attorney General, may be admitted under this Act as an immigrant.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer, to be an alien who is not entitled to permanent residence under section 212(a) shall be immediately deported in accordance with the provisions of paragraphs (14), (20), (21), (25), or (32) of section 212(a)."

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES"

"Sec. 211. The provisions of subsection (c) of section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

"(a) by inserting in subsection (a) after the words 'entitled to admission in subsection (b)" the following: "(2) any alien lawfully admitted to the United States for permanent residence under section 207 or 209, and who has been physically present in the United States for at least two years, shall be entitled to the status of a lawful permanent resident under section 212(a) of the Immigration and Nationality Act.

"(c) The provisions of subsection (a) shall not apply to any alien who is admitted by the Attorney General under this section except for the fact that the alien qualifies for admission as a spouse or child of an alien lawfully admitted to the United States for permanent residence under section 207 or 209, and who has been physically present in the United States for at least two years, shall be entitled to the status of a lawful permanent resident under section 212(a)."

"SPouses and CHILDREN OF REFUGEES"

"Sec. 209. A spouse or child (as defined in section 101(b)(1)) of (A), (B), (C), (D), or (E) of any alien who qualifies for admission under section 207 or 209 shall, if not otherwise entitled to admission under section 212(a), be entitled to the status of a lawful permanent resident under section 212(a).

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer, to be an alien who is not entitled to permanent residence under section 212(a) shall be immediately deported in accordance with the provisions of paragraphs (14), (20), (21), (25), or (32) of section 212(a)."
(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 (8 U.S.C. 1153(a) (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. 

(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)).
the definition contained in the United Nations Convention and Protocol Relating to the Status of Refugees and the United States, as well as the ideological and geographical limitations of the present conditional entry provision. However, the total number of refugees exceeds the capacity of the United States to provide resettlement opportunities. The proposed Act thereby restores the original conditionality of the 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 refugees, one for what the authors call the "normal flow" of refugees each year, and another for unforeseen emergency group admission. The normal flow procedures limit the admission of up to 50,000 of special concern, with the President to decide on the allocation of the numbers. There is also a procedure 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. For the authors, this restriction in the President's review of foreseeable resettlement needs. The authority to use the emergency group admission procedures in the proposed Act can be readily justified by grave humanitarian interests, and is justified by grave humanitarian needs or is otherwise in the national interest.

The advantages of the two admission procedures in the proposed Act can be readily perceived. The normal admission procedures will be more predictable and manageable. The normal flow provisions will in effect replace the conditional entry procedure. The anticipated immigration limitations of the conditional entry provision will be eliminated. The unrealistic low 17,400 annual limitation will be replaced by a 50,000 figure which is more in accord with the nation's 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 beginning on the first day of the fiscal year, after consulting with Congress regarding the need for the additional admission. The proposed Act will also provide a situation in which the Executive Branch foresee 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 aptly described as.Capitalizing on the group admission provisions will be filling a void which the repeated stretching of the parole authority has revealed is unworkable. Under the Administration proposal the United States, for the first time, will have clearly defined admission criteria for the emergency group admission of refugees. For the first time the important role of an emergency provision will be recognized in a federal statute, in that consultation with the cognizant congressional committees will be required, and the administration will be required to provide written criteria for the emergency group admission of refugees. For the first time the important role of the Executive Branch will be recognized in the admission process. Under the Administration proposal, the President will have the authority to set the number of refugees to be admitted. The President will then be expected to provide whatever refugee 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 sensitive and sound long-term solution, weighing the role of the legislative and executive branches. The prompt enactment of the Refugee Act of 1979 will provide a long-term solution of refugee problems. If Action is required because the refugee problem shows no signs of simply fading away. The fact is that the problem of refugees 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 limited to the conditional entry process and a fully subscribed parole program which expires on May 1, 1979.

Section-by-Section Analysis of the 1979 Refugee Act

Title I sets forth the purpose of the bill, which is to provide a permanent and systematic procedure for the admission to the United States of refugees under the terms of the United Nations Convention and Protocol Relating to the Status of Refugees and the United States. These provisions are part 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 the adjustment of status for refugees for the first time.

Proposed section 207(a)(1) provides for a normal flow not to exceed 50,000 refugees per year, except for a refugee or other alien who is a member of a group of refugees of special concern to the United States, as certified by the President. The public charge 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 be granted to them retroactively to the date, not more than two years prior to approval of the application, upon which they are granted permanent resident status.

Proposed section 207(a)(2) provides for the admission of refugees in unforeseen emergency situation. The President determines, following consultation with the Judiciary Committees, that an emergency refugee situation exists, that admission of refugees in response to such emergency is 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 made by the President in the same manner and under the same circumstances as described in section 207(a)(1) for the 50,000.

Proposed section 207(a)(3) normal flow refugee admissions will be admitted as lawful permanent residents, the present two-year period for adjustment of status to be removed. Applicants for refugee admission would be required to establish that they meet the refugee definition and that they are not firmly resettled in any foreign country, and that they are admissible as immigrants under the provisions of section 212(a)(15) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(32) of the Act, the Act, the immigrant visa requirements of section 212(a)(20) and (21) 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 admissions may be used to adjust the status of refugees present in the United States under provisions other than section 207. This provision, such as asylum or other status 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)(32) of the Act, or the provisions of section 212(a)(32) of the Act pertaining to alien physicians.

Sections 202 and 203 of the bill provide various conforming amendments to the Immigration and Nationality Act, or for medical assistance.

The Attorney General's parole authority under section 212(d)(5) of the Immigration and Nationality Act would remain unchanged. Once the parole authority is granted, the Attorney General will not use his authority with respect to refugees unless he finds that continuing his presence in the public interest related to the individual refugee require that that refugee be paroled in the United States, be admitted in accordance with proposed sections 207 or 208.

Section 204 of the bill contains a "roll-back" provision. This allows any alien who is eligible for retroactive lawful permanent resident status under 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 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 1977 or the Refugee Education Act of 1975. The President would have the authority to determine the need for funding special activities and assistance for Cuban and Indochinese refugees in the United States, as well as for assistance provided overseas.

Section 205 of the bill would amend section 207(a) of the bill (A) and (B), to preserve, with minor technical changes, the authorities for overseas assistance now appearing in sections 2(b)(1) and 2(b) of the Act.

Subparagraphs (C) and (D) would authorize funds for a variety of assistance services to refugees in the United States. These changes would serve to clarify the activities intended to be funded, and the limits on that funding.

More specifically:

Subparagraph (G) would authorize pay 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, and, in the case of a child who enters the United States under the care of a parent or other close relative, until the child reaches age 18 (or whatever higher age may be provided in the State's child welfare services plan).

Subparagraph (D) would authorize funding for the Established Child Welfare Assistance Program under the State's Medicaid program (Title XIX of the Social Security Act), funds under this authority would only be used for Federal share of these 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 those 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 the 6-year phase-down would be treated to the provisions of this draft bill and treated in the same way as all other refugees.

Paragrapges 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 funding level for funding refugees $25,000,000 to $50,000,000, in order to assure that adequate amounts would be available from that account if needed for the admission of refugees in response to an emergency refugee situation. Under section 301 of this bill, the Emergency Refugee and Migration Assistance Fund shall be supplemented by the Refugee and Migration Assistance Fund.

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 citizens 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.

--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 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 with the United States. 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 Buy American Act which establishes a preference for American companies in competition for U.S. Federal procurement. Such practices generally limited the international bidding systems and bureaucratic bias to exclude foreign firms from competition for government purchases.

The result of these practices is that government contractors would be directed to firms other than to their own domestic companies. To many, these restrictions are a nonbarrier to international trade; the elimination 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 world-wide 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 1937. 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.

It is important to note, that code is expected to be quite specific. It will cover only the purchases of signatory countries and only the purchases by specified government agencies. Therefore American companies can expect to benefit only from purchases by the governments who subscribe to the code and not 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.

I, therefore, 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 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 benefitting 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 enters 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 agreement shall be paid for by Federal funds if such material if purchased with Federal funds will be used for the construction of any public building or public work under any contract entered into by a Federal agency with any person or government if federal funds are to be paid under the contract.

(b) contracts for the procurement of materials and articles for sale outside the United States, contracts for the construction of public buildings or public works outside the United States, or subcontracts under such contracts.

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 medicaid for certain services performed by chiropractors.

S. 79

At the request of Mr. HEILS, the Senator from Alaska (Mr. FORSE) and the Senator from Alabama (Mr. STEVENS) were added as cosponsors of S. 79, a bill to amend the Internal Revenue Code of 1954 to reinstate the business 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. TALMAGE), 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 carry-over basis.
At the request of Mr. Mowynihan, 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.

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.

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, for other purposes.

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.

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.

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 bicycles parked at Federal Office Buildings.

At the request of Mr. Riagle, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 484, a bill for the relief of Antonette Slovak.

At the request of Mr. Bayh, the Senator 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.

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.

At the request of Mr. Goldwater, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 622, the Telecommunications Competition and De-regulation Act of 1979.

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.

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.

At the request of Mr. Wallop, the Senator from New Mexico (Mr. Schmell) was added as a cosponsor of Senate Resolution 83, relating to national water resources policies.

Mr. Bentsen submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

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 and resubmitted earlier this month. The plan as it is currently drafted is an outrage and blatantly unfair to many States and regions of the country, while it 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, New Mexico, 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:

...and do 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 interplay of regional, environmental, economic 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" enjoyed by drivers in under-allocated States to purchase additional coupons from drivers in over-
SEAT: 4888  CONGRESSIONAL RECORD—SENATE  March 13, 1979

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. MOYNNihan, Mr. PROXXEY, Mr. DOLE, Mr. SARBANES, Mr. MITZENBAUM, Mr. JOHNSTON, Mr. DURKIN, Mr. WILLIAMS, Mr. PELL, Mr. ZOBINSKY, Mr. STEVENSON, Mr. BOSCHIT, Mr. Metzenbaum, Mr. FRIEND, Mr. Durkin, Mr. Williams, Mr. Pell, Mr. Zobinsky, Mr. Stevenson, Mr. Boschit, Mr. Metzenbaum, Mr. Friend, Mr. Bradley, Mr. Stone, Mr. Tsongas, Mr. DeConcini, Mr. Exon, Mr. Leary, Mr. Baker, and Mr. HIMPENRY) submitted the following resolution, which was referred to the Committee on Foreign Relations:

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, who served 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 repetition 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 forever bar 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 expires 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. But these criminals should not be permitted to go unpunished merely because a statute of limitations has expired. Because of the enormity of the crime, 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, and it is the Senate's responsibility to see that it is extended. The Senate has had the opportunity to witness the trial of those who participated in war crimes in the United States, and it is the Senate's responsibility to see that those who participated in the Holocaust are also brought to justice. The Senate has the opportunity to be responsible for the extension of this statute of limitations.
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 the families of those killed in the attacks of September 11th. If we fail in our quest for justice, it will be a blow to the moral fiber of our nation. I would like to personally congratulate the families and share in their triumph.

Chancellor Brzezinski should be particularly commended for his actions in light of the significant opposition against him from many West Germans. His courage and determination have not been matched by the West German people. They 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 1978—S. 413

AMENDMENTS NO. 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 airport operators to prepare and carry out noise compatibility programs, and to waive the FAR-36 noise standards. The second would provide additional funds for grants to implement noise compatibility programs. The third would require that the standards for measuring aircraft noise be compatible with those for measuring and rating the impact of environmental noise in general. I submit that the Secretary of Transportation, Mr. JAVITS, Mr. President, I am submitting today three amendments to S. 413, the Aviation Safety and Noise Abatement Act of 1978, 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. The third would require that the standards for measuring aircraft noise be compatible with those for measuring and rating the impact of environmental noise in general. I submit that the Secretary of Transportation should be deeply concerned about the adverse impact of aircraft noise on the more than 6 million Americans affected, one-quarter of whom live in urban centers, and the other half in rural areas. If the past two Congresses had not 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 the airlines in implementing noise compatibility programs.

My amendments today would work toward these ends. The first amendment I submitted amends sections 303 and 304 of the bill, giving the Secretary of Transportation additional authority to waive compliance dates. Under FAR-36, one-half of the four-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 1965 the airlines 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. 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 of 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 (1981 for two-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. But 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 airport and community. Second, my 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 or sound barriers, 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 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 aircraft noise. If 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

- 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 meetings at the end of 1980, 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 community. He will present the major findings and conclusions of the roundtable's recent completed cost of regulation study. Assistance in that regard will be Vic Millar from Arthur Andersen & Co. Mr. Millar provided overall direction for the roundtable's 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 Durk 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 527 to hear nominations 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 proposed development program. 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 conduct a hearing on the reinstatement of procedures for the 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 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, Congressman Al ULLMAN and Robert DUNCAN have informed President Carter that they intend to oppose the reorganization scheme and submit their letter for printing in the Record.

The material follows:
WHEREAS, the United States Department of Agriculture has historically managed to balance the demands on public lands and has more recently, in the multiple use concept of public land use than any other Federal department or agency; and

WHEREAS, the United States Department of Agriculture has taken 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 will without a voice concerning the economic growth of this Nation:

Now, therefore, be it resolved, by the House of Representatives 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, 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.

Mr. GOLDWATER. Mr. President, concern for U.S. relations with Mexico is growing in 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:

RESOLUTIONS OF SENATE OF ARIZONA

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.

WHEREAS, development of Mexican petroleum reserves would serve to reduce poverty in Mexico and so reduce illegal immigration into this country.

WHEREAS, President finally went to the trouble of calling to the attention of the Senate the State Senate of Arizona's transmission of this Memorial to the President of the United States and to each Member of the Arizona Congressional Delegation.

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 non-emergency 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 any project at this time, I do want to call 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 heretofore used and intends to pursue its objective of investigating the Federal building approval process under its jurisdiction. This includes, renting, or

Mr. CHAFEE. Mr. President, a matter of great concern to many of us in the western States is the current moratorium placed by the Senate on the approval of construction projects by the General Services Administration. The moratorium is not pursuant to any legislatively-mandated limit on construction, but rather a unilateral request made by one or more senators to the General Services Administration to delay or deny approval of construction projects.

Whereas, the moratorium has been imposed in the absence of any study or investigation indicating that Federal building construction was wasteful or inefficient; and

WHEREAS, construction of a great many Federal buildings has been delayed as a result of the moratorium placed upon Federal building construction by the Senate; and

WHEREAS, Congress has historically included in its annual appropriations bill, with a few exceptions, a provision authorizing the construction of Federal buildings; and

WHEREAS, the General Services Administration is the only Federal agency with the authority and capability to construct Federal buildings; and

WHEREAS, the General Services Administration is a highly professional and efficient organization; and

WHEREAS, Federal building construction has contributed to the economic development of many western States and communities; and

WHEREAS, Federal building construction has provided employment and educational opportunities for our citizens; and

WHEREAS, Federal buildings have been the result of the efforts of many citizens; and

WHEREAS, Federal buildings are a reflection of the effective administration of the Federal Government; and

WHEREAS, Federal buildings have enhanced the beauty of our natural environment; and

WHEREAS, Federal buildings have been constructed in consultation with the various cabinet secretaries; and

WHEREAS, the relative independence of the agency is its mandate to this agency.

Finally, we believe that the U.S. Forest Service, while consistently underfunded, has a unique role as the custodian of the Federal government since it was created in 1905. Its personnel display professionalism that is seldom matched in establish.

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 granting the Forest Service autonomy.

We are grateful for your attention to these matters, and thank you for your courtesy.

Sincerely,

AL ULLMAN, M.C.

GSA BUILDING PROJECTS

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The most recent effort by the Senate responsibility to exercise its jurisdiction over Federal buildings (rule XXV(1)(h)(12)). They extend to procedures previously adopted by the committee.

There have been recent disclosures in the press of office, waste, and the proprieties within the General Services Administration, which have been reviewed in hearing by the Senate committee on Environment and Public Works 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. CHAFE.

SUPPLEMENTAL VIEWS OF MR. STAFFORD

I was glad to meet with Senator Moynihan, the two new committee procedures described in this report. Following discussion by the committee, the first part of the 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 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 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 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, safeguarded to assure that the chosen policy and program is then carried out, and firmly adhered to.

Mr. TSONGAS, Mr. President, it is my understanding that within a week or so 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, a prospectus, 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 the One-Year review 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 the One-Year review 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 the One-Year review which would go to Rhodesia and observe the election to be held by April 20.

RHODESIAN ELECTION OBSERVERS

The sponsors of the resolution state that the observer team will be impartial and will 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 premature. I believe the committee is asked to assume initial approval responsibility for projects exceeding $500,000 in cost.

In the long run, only a coherent policy, carefully structured, based upon execution of those decisions backed by consistent authority, will fill the policy vacuum which exists.
March 13, 1979

CONGRESSIONAL RECORD—SENATE

4893

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 to implement the United Nations' 'forward' and 'carrot' proposals. But the black majority regime hopes to make it appear a black regime, thus finding acceptance in the West by virtue of the election process as before.

This cozy arrangement between Prime Minister 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 may inherit the administration's control over much of the land and people.

The stakes 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—now 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 "formulas for majority rule." Put off by the revolutionary rhetoric and guerrilla terror, they think the United States will be swayed when it appears to be racial and constitutional and is ratified by elections. Impressed by these arguments, Congress will send observers to the polls, watch 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 these leaders. They are ratified by a referendum in which only the 90,000 white voters were allowed to participate. The referendum is being held as a test. It 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 candidates against it. The neighboring "front line" black states support the guerrillas mainly because they see no hope for stability until the regime formed by Mr. Smith can either be displaced or forced to yield real power to blacks.

The Americans bid for compromise was not reasonably excessive. Their hope was a 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 ineconomical as long as they refuse to assure a fair distribution of power to every minority. For majority 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 unless the United States can believe that the West will ride to the rescue.

HELMET

Mr. DOMENICI. Mr. President, the action to eliminate funds from the annual budget authority for the helmet fund gives the Senate another opportunity to discuss the Administration's policy on national conservation. I have been an advocate for conserving helium resources for many years now, and in 1976 the Senate passed my amendment to the Interior Department's authorization bill calling on the President to 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 helmet program. The Senate Energy and Natural Resources Committee plans to sustain 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 at the lowest temperature yet achiev ed. 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 production and distribution is anticipated to occur in the post-2000-year period. These technologies will be dependent upon an adequate supply of helium at a reasonable price.

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 short-sighted to waste a valuable resource when surplus farm commodities, such as dried milk, were distributed by the federal government to school children. While this happened, did it do much for my taste for dried milk. It did give me an early and lasting insight into the tremendous potential of the 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 decade with the National School Lunch Act of 1946. A great Georgian, the late Senator Richard B. Russell, played a vital legislating role. It laid the foundation for the school lunch program as we know it today.

During May 29, 1979—the last eight as chairman of the Committee on Agriculture, Nutrition, and Forestry—I have had the privilege to present to the development of some dozen major school lunch bills, including the act of 1979 that modernized the program, provided adequate funding and extended benefits nationwide.

Nothing that has been able to accomplish surplus farm commodities, such as milk in school lunches, has been more successful. The school food administrators of the nation—and especially here in Georgia—have performed this vital work 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 envisionied 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 people of this state, Josephine Martin. I congratulate each and every one of you.

While congressional policy is not the only cause for the success of the school lunch program, the present administration has ensured that goals established by Congress in the school lunch and child nutrition programs, you and your counterparts have been much more than an administrative success story. You have contributed in a meaningful way to the nation's reducing nutritional meals to school children without regard to their means, circumstances or background.

I am not only pleased with the nation with an instructive model of good nutrition, you have put food in hungry stomachs and in hungry minds more receptive to learning.

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 program has been in existence for many years. 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 fore­ runner of the national school lunch program was as a boy in the 1930s when surplus farm commodities, such as dried milk, were distributed by the federal government to school children. While this happened, did it do much for my taste for dried milk. It did give me an early and lasting insight into the tremendous potential of the national school lunch system for providing hungry children with nutritious meals and farmers with a ready and worthwhile outlet for their agricultural commodities.

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I am not only pleased with the nation with an instructive model of good nutrition, you have put food in hungry stomachs and in hungry 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 give you and your dedication to the school lunch and the child nutrition programs. I am certain he would not knowingly do anything to weaken these programs or impair their effectiveness. Like you and I, he has seen first-hand the 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 untaken record of Federal programs 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-cent 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, for which I applaud the President. But in this instance I strongly question the means to that end.

The reductions in the Federal school lunch program, if put into effect, would achieve 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—children who know—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 would mean an increase of 262 million—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—children who know—and are fed out of the school lunch program.

This prospective loss of 79,000 Georgia children from the school lunch program each day is but a small part of the total. They are sick and tired of run-away Federal cuts, with the Federal reimbursement, plus normal inflation, could drive as many as 69,000 students from the program. At the same time, the tightening 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 send a signal ringing around the world the reason for my disagreement—Congressman Nunn—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, nor 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 some confidence the end results of the proposed changes. However, if the proposed changes were put into effect:

Evans General Accounting Office—an investigative and audit 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 sub-committee 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 costs—some or all of which could be well taken—and cutting children off from program benefits.""Because of the uncertainties and unknowns, and 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 commodities costs of each paid lunch served. It would also allow 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 the Federal 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 cuts, with the Federal reimbursement, plus normal inflation, could drive as many as 69,000 students from the program. At the same time, the tightening 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.

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We simply do not have sufficient program information or evaluation material to assess with some confidence the end results of the proposed changes. However, if the proposed changes were put into effect:

Evans General Accounting Office—an investigative and audit 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 sub-committee 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 costs—some or all of which could be well taken—and cutting children off from program benefits."Because of the uncertainties and unknowns, and 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 commodities costs of each paid lunch served. It would also allow 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 the Federal 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 cuts, with the Federal reimbursement, plus normal inflation, could drive as many as 69,000 students from the program. At the same time, the tightening 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.

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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—

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 small, locally owned 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:

<table>
<thead>
<tr>
<th>Plants by number of employees</th>
<th>Number of cities with plants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-49</td>
<td>61</td>
</tr>
<tr>
<td>50-99</td>
<td>14</td>
</tr>
<tr>
<td>over 100</td>
<td>12</td>
</tr>
</tbody>
</table>

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—U.S. SENATE—20 REPORT TO THE SENATE PURSUANT TO SEC. 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:

<table>
<thead>
<tr>
<th>Fiscal year 1979 direct spending jurisdiction</th>
<th>Budget authority</th>
<th>Outlays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Controlled programs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department of Commerce, Bureau of the Census:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special studies, projects (Function 550)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>District of Columbia: Advances to state linking fund, Army Board (Function 850):</td>
<td>5 (+1)</td>
<td>5 (+1)</td>
</tr>
<tr>
<td>Real property activities, expenses, disposal of surplus real property (Special fund):</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Records activities, National Archives gift fund:</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>National Archives Trust Fund:</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Advisory Commission on Intergovernmental Relations (Function 600):</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total:</td>
<td>7 (+1)</td>
<td>7 (+1)</td>
</tr>
</tbody>
</table>

* 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 ABDUCTION

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.

The compelling precept 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 which 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 futile solutions. The best and most comprehensive counseling 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. DEMENICI. Mr. President, my distinguished colleague, Senator Bell-

MON, 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...
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 fishermen have not been fearful that the Government would take away the right to sell fishermen’s catch. The fact that the price of wheat increased to $5 per bushel f.o.b. at the ports, would only increase 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, promote conservation, and 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 BELLON in his efforts to accomplish those goals.

TRIBUTE TO FORMER SENATOR DEWEY BARTLETT

Mr. WECKER. Mr. President, I join my colleagues in paying grateful tribute to our 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 that state’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 has declined until recently that the Fisheries Management and Conservation Act of 1976 would reverse the downward trend the industry has experienced over the last decade.

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Mr. COHEN. Mr. President, Maine’s once-thriving fishing industry has declined until recently that the Fisheries Management and Conservation Act of 1976 would reverse the downward trend the industry has experienced over the last decade.
Fish Conservation and Management Act of 1976, a number of New England fishermen and processors are aware of available procedures to ensure that competition is conducted fairly.

To be sure, not all processors have identical interests, nor are processors' interests identical to those of the fishermen. A processor producing fresh fillets or sticks may be an agent of the fishermen in other countries, such as Canada, Iceland, or Norway, 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 concern, there is little domestic production. Moreover, if the consumption of fish in the United States is being, or is likely to be, injured, or prevented from being established, of the foreign country is paying bounty, or that injury because of the bounty or grant. Nevertheless, no requirement that imports be an important cause of injury.

In determining a case of 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 an investigation has been the Commission's practice in investigating complaints of injury under the escape clause and antidumping statutes. Without significantly injurious, the quantity, precise relation between the amount of the subsidy and the injury cannot be determined, Section 303 (g) (1) of the Tariff Act of 1930. The Commission has reliance in cases under other sections of the Tariff Act has generally been simply to compare current and previous year's activity and profitability with changes in rates of import penetration.

The Secretary of the Treasury decide that a bounty is not being paid, the domestic industry can appeal his finding to the International Trade Commission (the ITC). Prior to appeal, the Secretary must furnish the petitioner with his grounds for the finding, including the countervailing duty on a similar domestic product.

Yet another six-month period may elapse during which substantially identical procedures may be carried on with the country engaging in subsidization. To persuade it to abandon the practice, the countervailing duty is automatically added to the prevailing tariff rate.

If this procedure is not adopted, the Secretary is not required to entice a country to offer a bounty on its exports to the United States. The meaning of Section 303 of the statute. Accordingly, a countervailing duty was imposed on the import of radial steel-belted tires from Canada, 1977.

The ITC precedent seems to have been followed in the Canadian fish decision in 1979. In a comprehensive finding the ITC held that the subsidy program constituted a bounty or grant. The meaning of the word "bounty" or "grant" had a persuasive aspect. The ITC gave a similar meaning to the word "bounty" in the Dirlam decision, handed down in 1974. According to the ITC, a bounty or grant is an economic assistance of a foreign country to an industry of a foreign country.
As a complication, Section 303(d) (2) provides that if the U.S. is engaged in trade agreements with a country, the Treasury need not in some circumstances impose a countervailing duty that would otherwise be required. If the Secretary of the Treasury deems the obligation first, if imposition of the duty would be likely to jeopardize the completion of the negotiations, or if there have been taken to reduce substantially the "adverse effects" of a bounty or grant.

To recognize this, who decides a bounty or grant is being paid on an article imported into the U.S. can request the Secretary of the Treasury to issue 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 duties cover primary production, notably44 suitable dutiable or dutyfree products, however, where negotiations are in progress to reduce nontariff barriers to trade, and when certain other conditions are satisfied.

b. Direct Presidential action

Should U.S. fishermen or the fish processing industry request the Secretary of Commerce to impose a countervailing duty equal to a foreign bounty is insufficient to erase the inequitable effects of the bounty, the Act provides a direct appeal to the President to impose additional or substitute protective measures. Under Section 301 of the Trade Act of 1974, the President is bound by its conclusions. Moreover, if the President fails to make a determination within a year or 18 months for complicated cases, he must transmit his decision to the Congress. Before taking such action, however, the President must decide that "exports...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, underutilized 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. However, the President has not interpreted the condition in precisely this fashion, insisting that quantitative ranking of causes is unnecessary. In any case, he 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.

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. There is a risk of obtaining relief of any consequence is therefore slim, under Section 301.

Nevertheless, if the President fails to approve the Commission's finding of injury or a plurality of three members of the Trade Commission, he must transmit his decision to Congress within 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.

c. 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 307 of the Tariff Act for 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 concluded within a year or 18 months for complicated cases. If the International Trade Commission finds that imports that are being excluded, it may order a total embargo of the product, or issue an order to importers to cease and desist from importing. Importers may appeal from embargo orders, but not from cease and desist orders, to the Customs Court, just as a defendant in a civil suit. A decision of the Customs Court may be appealed 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 request "policy reasons" for the Secretary of Commerce to freeze imports.

Under this section, U.S. producers of television sets and of welded stainless steel tubing have charged Japanese importers with unfair competition, since imports are being subsidized and are sold below cost. An advantage of using Section 337 is that it can impose relief in total, whereas imports or import products. Apart from the lengthy investigation, it has the disadvantage, from the viewpoint of a U.S. competitor, of a finding that imports have a tendency to "substantially injure" a U.S. industry. Moreover, if the Secretary decides this might result in imports, the President can take action against the offending country, and impose such duties and quantitative trade restrictions as are adequate to deter the foreign country from increasing the duty above the countervailing level or imposing a dutyfree, a countervailing duty must be imposed. To be sure, the President is not required to do so, since the aim of taking action against the foreign country is to reduce substant1ally the 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.

d. 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 Commerce that the import of a product sold in the United States at less than "fair value." Fair value is defined as more than the cost of the foreign country, plus transportation to the United States. If the Secretary of the Treasury believes that some sort of dumping is involved, or if there is evidence that one cause exceeded it in significance, imports could not be a substantial cause. Nevertheless, only if there is injury to a domestic industry will the Secretary take action against dumping. The President can take action against dumping. The International Trade Commission makes the investigation of injury. The remedy is ordinarily the imposition of a duty. If the Secretary finds that an article is not being sold at less than fair value, the domestic industry must petition the 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 360(f) of the Tariff Act of 1930.

In an effort to speed up antidumping proceedings, the Secretary of the Treasury under Section 331 of the Act may forward to the International Trade Commission his reasons for believing that there is substantial injury to a U.S. industry being injured by dumping. The Commission must make a determination within 30 days whether there is no "reasonable indication of injury." If injury cannot be determined, the U.S. Commission's decision. He may request "policy reasons" for the Secretary of Commerce to freeze imports.

As an alternative or supplement to preventing or diminishing the flow of imports, the law provides that workers, firms and
committees may obtain assistance to offset losses resulting from a rise in imports. The assistance is paid to the type of worker injured, but the conditions for its availability are about the same. Actually there are three routes by which the major beneficiaries may obtain assistance. 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. Third, and the most common route, after receiving an ITC report, may request the Secretary of Labor and the Secretary of Commerce to give expedited Financial Reconsideration determinations for assistance, Section 202(a)(1)(B).

a. Workers

Workers’ assistance requires a decision by the Secretary of Labor, under Sections 221-229 of the Trade Act 1974, 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 employment may be decreased. Adjustment assistance is to equal 70% of average weekly wage, less unemployment insurance, if the worker is paid. The period is payable for 52 weeks, plus a 26-week extension to complete training.

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 on the same standards as 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 assistance” to any firm in the form of direct loans may not exceed $1,000,000.00 per year. Direct loans and guarantees may aggregate as much as $3,000,000.00. 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 had hurt the shrimp industry.

c. Communities

A political subdivision of a State, under Sections 271-279, may apply for adjustment assistance to the Secretary of Commerce under exactly the same standards, as far as the statistics that a “community” may be used to determine whether workers or firms qualify for assistance. This program, too, is administered by the Secretary of Commerce; those that may be provided can be utilized by the Public Works and Development Act of 1965. In addition, private loans can be obtained from the Secretary on, in the form of direct loans, for working capital and for the acquisition or construction of productive facilities under exactly the same standards that apply to a group or firm in the form of direct loans may not exceed $1,000,000.00. Normally, the states take over the administration of the adjustment assistance provisions, the Secretary will examine each proposal for contesting the Secretary’s determination.

250. In determining eligibility under the adjustment assistance provisions, the Secretary of Labor and Commerce may use less rigorous standards than the International Trade Commission in finding injury. In practice, the workers need not prove that they are in total or partial separation. The Secretary may determine that injury may be decreased. Adjustment assistance is to equal 70% of average weekly wage, less unemployment insurance, if the worker is paid. The period is payable for 52 weeks, plus a 26-week extension to complete training.

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the successful re-election campaign of Sen­
onor Charles Mathias, Md. Mr. Jones was ill about a month. With his wife of 54 years, the former Emma Robinson, a native of Weir, Kan., Mr. Jones had lived in the 1900 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 after World War II, when he served in a World War II enlisted man and a non-commissioned officer. He was a master sergeant when he returned to civilian life 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 Mathias 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 former president of the city Board of Parks and Recreation.

"He was a warm person. He loved life and he loved working with city people. Nothing was too much trouble for him to do," Mr. Hopkins added.

Although Mr. Jones said 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 judge­ment often turned out to be prophetic.

He made his first run for the city council in 1955 under the name of the United States League and the National Association for the Advancement of Colored People and was a Mason.

Besides his wife, he is survived by four sons, Charles, Charles, Jr., (of Kansas City, Thelma Harriford, of Atlan­ta; Doris Caymack, of Detroit; Opal Carpen­ter, of Columbia, Md., 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 Act 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 sham.

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 BEAUTIFICATION 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 activities, such as advertising, are not ended.

As a result, the nation's highway beautifi­cation program, started with fanfare in 1965 by Sen. 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.

"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 of Federal 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 1968 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's pet project, the Highway Beautifi­cation Act was extended to control to other primary Federal highways and to junkyards and offered incentives for land­scape around highways. States opting in comply­ing could lose 10 percent of Federal highway money.

Signs along the designated highways were already being removed 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 South Dakota—have been reordered when they quickly came into compliance.

The Government withheld $4.08 million from South Dakota for the 1977 fiscal year and $4.298 million in 1979. Last November, Transportation Secretary Brock Adams ruled that South Dakota could 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, 982­216 signs have been removed nationwide, but 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.

"We would help us in one way," he said. "States that did not want to cooperate could get out. That would leave more money for states that want to cooperate.

"We 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" in 6,000 miles of the run and restricted them to land zoned for commercial use; existing signs that didn't comply with the new law would be phased out. So far, 20% of stand­ing road signs have been removed—but 206­000 others remain.

The act said why so many signs are still standing is that the Highway Beautification Act left enforcement of their removal to the states. The present law, and a new law, others virtually ignored it. A Trans­portation Department report shows that Missouri and New Jersey have zero per cent
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compliance, and that Georgia has actually pulled three men in recent years because of the act. According to the report, the northwest has the highest compliance rate, followed by the southwest (14 percent).

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 L. Boyer, whose family was sent to a concentration camp under the internment act of 1942, "We're going to have to pay for the privilege of being interned by the government fürs Verkehrsministerium."

Forces have been encountering in meet­
ing their manpower goals.

TROUGHS

Its time we settle the Highway Beautification Act is a failure and seek its repeal," says Vermont Sen. Robert F. Stafford, who introduced legislation in Congress to protect state and city enforces own beautification policies. And President Carter has eliminated all funds for sign removal from his proposed 1980 budget, pending the out­
come of a Transportation Department study of whether the program is worth mainaining. One person who thinks so is Lady Bird Johnson. "In my experience, I have found there are trows and crests in the establish­
ment 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 light, I firmly believe we can continue to­toward that goal."

A REVITALIZED SELECTIVE SERVICE SYSTEM

Mr. GOLDWATER. Mr. President, this is a major issue 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 mini­

A succession of events over the past six years has forced changes. By the time 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 col­

The idea is to provide the Armed Forces with a virtually instant-ready and ready to be called up. That was the concept of the Selective Service Act of 1917, which was passed in a hurry. We and our inability to overcome that shal­lowness in a hurry. We and our NATO allies are extremely vulnerable to an all-out War—suffice it to say that our existing, relatively small, and non-existent Selective Service machinery could be ruined and brought into operation. By that time active units in combat could be decli­

Without question, the most commonly overlooked value of a working Selective Serv­ice System is its current existence. Our potential adversaries today can easily see the lack of depth in our military readi­

WHERE WE ARE

As the Selective Service System was operating when draft calls stopped in 1972, some otherwise well­

But by then the damage to the image of Selective Service was done. The system was allowed to go down the drain of ad­

The Northwest has the highest compliance rate, followed by the Southwest (14 percent).
implemented. All classification was stopped and the Selective Service was pared to $37.5 million.

By Fiscal Year 1977 the budget had shrunk to $6 million; boards were eliminated and an organization that had included 8,000 people in 1972 had been trimmed to a mere 100.

This destination was accomplished in direct contravention of the Military Selective Service Act which is still the law of the land, and made to the law in 1971 seems almost prophetic in its applicability to what has happened since.

In any case, all under this section for the purposes of persons for training and service in the Armed Forces are discontinued the Armed Forces are placed on a 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 render readily 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 purposes in the event of a national emergency.

The Selective Service skeleton, pressed by Congress for reenlistment, has displayed in the performance of its capability, admits it cannot meet the Department of Defense timetable for the delivery of the first 100,000 Selectives within 60 days of a mobilization order or provide the far greater numbers that are needed in a successful delivery of the Selective Service System.

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 Army 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, has in a mobilization, has dropped from a strength of 811,000 in the year draft calls stopped to a proposed strength of 100,000 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 of the civilian sector have driven personnel costs to capture more than 50 percent of the defense budget. As the Army, the Army has completed their obligated service. Volunteers are required to serve three years on active duty (although some have been directed a return to a limited number of two-year enlistments) and a substantial number of them remain. Thus, when they leave active duty they either have exceeded the normal period of obligated service or have a relatively short time left to serve in the IRR. This vital mobilization asset is now $600,000—a half-million—short of needed strength!

There have also been some significant reversion in the picture for the active forces. After years of easy recruiting the Air Force has begun to fall short of its monthly recruiting goals. The Army, Navy and Marines continue to miss recruiting goals for non-prior service men and, for the second year in a row, the Army has been unable to attract sufficient non-prior service women. While the shortfalls in the active services have not yet reached crisis proportions, there is still a feeling that they have occurred in months that are habitually tough for recruiters, they reflect the ever-shrinking population of our age group and an identifiable disinclination to serve.

The conclusion is inescapable that the Army, Navy, Marine and Air Force have not provided the manpower for the States.

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 enthusiastic about their service, or their country? Do they really care whether the为代表ative or not? These are all important questions brought to the attention of our society. Do they really care whether...
The bill would preserve the independent “friends and neighbors” atmosphere so necessary since World War I. By strengthening the language regarding an orderly system, the bill would ensure 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 a selective service lottery, the bill would assure the nation is ready for an enlivened military service, during which they will be able to quickly cut through to the most basic consideration—national survival.

Congress will see the error in this sort of fundamental misunderstanding. They will not be able to quickly cut through to the most basic consideration—national survival. The enactment of the Montgomery Act back in our inventory of definable assets is an act of statesmanship that is already overdue.
the message referred to be printed in the Record.

The article referred to follows:

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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 Constitution from its 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." Our Church has been a society which encourages religious liberty and toleration. The result, as pointed out by Mr. Justice Robert H. Jackson in the United States Supreme Court, has been that "nearly everything in our culture worth transplanting from our European origins, which is saturated with religious influences."1

We thus deplore the growing efforts to establish religion, such as atheism or secularism, as the official position of the United States, involving the reduction of 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 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 of the United States and other public meetings;
7. The performance of music with a religious origin or message in public programs;
8. The decoration of our Capitol 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 not either establish a state religion nor prohibit the free exercise thereof. Our formal statements of belief include these principles:

"We claim the privilege of worshipping Almighty God as our Father, according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they list, so they offend not the society in which they live." (Joseph Smith, Jr., 1838, in D&C 138:4)

"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 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 excommuni cate them from their society, and from them their fellowship." (D&C 138:10)

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During the course of our history members of our religious communities of various kinds of persuasion have been religious minorities persecuted by religious intolerance. We are, therefore, committed by experience and by 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 and their official responsibilities 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 references 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."2 and these "ceremonial occasions bear no true resemblance to the kind of unquestioned religious exercise"3 that the government is forbidden from sponsoring.

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 traditions that their elimination could only be interpreted as an official act of hostility toward religion. Our constitutional principle as the Supreme Court said in another leading case:

"The place of religion in our society is an exacting one, a place of highest tradition of reliance on the home, the church and the inviolable citadel of the individual heart and conscience. It has been recognized through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to add or oppose, to advance or retard. In the relationship between government and religion, the State is firmly committed to a position of neutrality.4

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. The use of 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 Constitution from its constitutional position of neutrality to a position of hostility toward religion."

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. Deep-seated religious conflicts are proliferating. Peoples throughout the world are demanding more control over their lives, their economies, and their culture.

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 little about Iran as we did about Vietnam.

Why is this the case? What is the root of our seeming inability to perceive 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."4

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

(continued)

By Lewis H. Lapham

PREAMBLE

The increasingly distrustful 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 serenely défierent attitude of a predator whose fortune in gambling halls and on speculation in organic farming and utopian politics. Bearing this portrait in mind, I can make

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4 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. Deep-seated religious conflicts are proliferating. Peoples throughout the world are demanding more control over their lives, their economies, and their culture.
sence of the accounts in the newspapers. One must learn to know what people mean when they talk about mutual-defense treaties, hegemonies, the China card, and arms sales. Ask President and the United States. On reading the communiques from Washington, Peking, and Teheran (together with the editorial pages of the New York Times), I see a soft-faced man in a nightclub at three A.M., eating caviar, and smoking a bogotan demondaine that he still worries about the higher things in life and that his inheritance has failed to bring him true peace. He has a new season 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 guitarist hitch-hiking 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 Taiwaneses and the Propaganda Canal, and about the mediocre Jews in the Middle East.*

The persona of the spendthrift heir seems to be fitting because in 1945 the United States was the wealthiest. During the first third of the twentieth century, the European powers attempted suicide, and at the end of World War II what was left of Western Europe was reduced to the category of the United States of America. The war had also 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 transcontinental poker, in which the ruthless self-interest of a continental policy; at least they can recognize the subjects toward the foreign policy a game of transcendental poker, and so it was easy enough for the heirs to in which the ruthless self-interest of a common man, of course, does not have the immunity of a formal position. 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 verdant military history and the risings of the Danube; instead I found myself trying to remember who sailed the big boats off Fishers Island, or who had won the summer tennis tournaments in Southampton and Newport. The heir had drifted through the ritual of polite invanity (about “personal goals” and “one’s sense of self,” the young heir undertook to make a few good-natured mistakes. If their innocent enthusiasm sometimes degenerates into sadism, well, that also must be expected. The heir becomes more subtle than the boy next door, and so the beautiful Asian girl, especially after he has given her the best hotel at Camranh Bay, $100 million in helicopter dollars, can show how much in ideological support. It is a bitter thing to lose Princeton and to find out that not even Dick Rovere can make the world safe for Communism. This same undergraduate Insouciance has got mixed up with dreams, sermons, and the wishes as were asked of it. The continental powers twice attempted suicide, and at the end of World War II, the heir began muttering about scarcity and debt through the Danube; instead I found myself trying to remember who sailed the big boats off Fishers Island, or who had won the summer tennis tournaments in Southampton and Newport. The heir had drifted through the ritual of polite invanity (about “personal goals” and “one’s sense of self,” the young heir undertook to make a few good-natured mistakes. If their innocent enthusiasm sometimes degenerates into sadism, well, that also must be expected. The heir becomes more subtle than the boy next door, and so the beautiful Asian girl, especially after he has given her the best hotel at Camranh Bay, $100 million in helicopter dollars, can show how much in ideological support. It is a bitter thing to lose Princeton and to find out that not even Dick Rovere can make the world safe for Communism. This same undergraduate Insouciance has got mixed up with dreams, sermons, and the

*The United States came so suddenly into its inheritance that the fortune bears more of a resemblance to a family estate than to the accumulation of centuries. It is no more than eighty-nine years from the closing of the frontier to the wealth. In the same span of time measures the building of Charles Francois and the period between John D. Rockefeller's entry into business and his death amid meager but enduring prosperity. The alarm and the anger that the country accumulated in 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 on the last day of 1977, offered a toast to the Shah of Iran in which he described the Shah as his "great friend, loyal friend, and friend of God" in the Middle East. A year later Iran was in the midst of revolt and Washington was advised to disavow the Shah and intimate that the royal family was in favor of government, civil or military, that could restore production in the southern oil fields. In 1941 the Soviet Union appeared on the stage of the Cold War as the closest ally, six years later, the script was rewritten and the Soviet Union appeared as the villain, suiting 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 claimed 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 darkness and replaced them with tableaux of happy Chinese workers eager to buy farm implements, military aircraft, and Coca-Cola.

In Mr. Carter's case, the greatest sin is to make pictures. But the man who has inherited a great fortune does nothing else either. This is the mark of a fool, 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 to do so. What difference does it make if one is right or wrong, if he 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 four 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 behavior established by Henry Cabot Lodge. Dictators don't really want to be dictators; they were raised by the nation's more prominent journalists to speak or read French. It would exceed the bounds of all possibility for any of them to read two or three of them to read or speak Russian, Chinese, or Arabic. The same thing can be said of members of Congress, for Presidents, Secretaries of State, ministers of defense, and almost the entire American press, who have only a vague notion about the formal and informal displays of American ignorance, which 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 Day��息 that the United States had failed to gain any specific advantages from the United States ceased to recognize Taiwan as a sovereign state, abrogated the defense treaty, and closed military bases 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 Taiwans.

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 haggles with the poor little fellows in Asia and the Middle East? Why make unreasonable demands on the Soviets for the SALT negotiations? It is the lot of a rich man to find that he can afford to pay an excessive price. It never occurs to him that political economy might be a virtue, even if it were ruthless although not quite so obvious as war, or that the world is full of hungry people who do not make the best of things they can get. The rich man considers it the height of fashion and good breeding to affect an aristocratic disdain for commerce. It is the proof of his own inequality, of his own self-sufficiency, of his own incapacity for kindness.

Thus a rich nation's portfolio of treaties resembles a rich man's stock portfolio. It is summerized in a flood of statements 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 not even recite the names. The rich man can not even disguise his regard for those countries denominated as allies. To the extent that none of them talk and none of them defend the rich man's freedom, we can buy and sell as the heir feels himself pressed by the need for cash or funds with which to stage an extravagant fireworks display."

The habit of mind remains firmly ingrained despite the depleted value of the heir's investments. America's banking interests controlled American assets of $25.8 billion; in 1978 the same interests controlled American assets worth $86 billion. During the first five months of 1978 the United States imported machinery and manufactured goods in the amount of $47 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 who dig into his accounts and try to place another bet in Indochina, this time backing the Cambodians (i.e., the friends of his Scottish and Communist Chinese) against the malevolent and conservative Khmer. He wants to make a grand and humanitarian gesture to the poor little fellows in southern Africa, to do something visible and significant for the victims of the disaster, hence the prospects of American diplomacy, I heard a man say that nothing could happen in the world that could affect him 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. What if American military strategy was made of not weapons but ideas, of bold strokes, of assaults and landings and insertions.

All the fine talk conceals an ironic paradox. When it comes down to an allusion of how to go about these romantic adventures, 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 imaginative 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 stores. It is the hope of the men in the Pentagon and the military academies speak of forward action, of bold strokes, of assaults and landings and insertions.

1 It is instructive to quote Mr. Carter's toast at some length because it so nicely illustrates the seminomadism 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, Rosalyn, whom she wanted to be with on that occasion, and Rosalyn had said: "Above all other nations, the Shah and the Shah's press Farah." The President then went on to say: "Iran, because of the great leadership that the Shah has given, stands in one of the more troubled areas of the world. This is a great tribute to you, Your Majesty, to the Shah, and to the respect and the admiration and love which your people give to you. We have no other who is closer to the problems who are so concerned and who earn 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 the decision to deploy the deployment of the neutron bomb. In the same spirit, the Nixon Administration didn't bother to consult with the Japanese in 1971 about the overtures to China 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, his life is gathering its daily ransom of interest and dividends. The miraculous nature of this con- 

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His lack of acquaintance with the domes-

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Third World who strays too far from supplies 

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me, and world leader-1979.

V. Hypochondria 

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cause only the rich can afford it and because, 

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ican embassy in Saigon. They hadn't been 

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VI. Impatience 

Fortune's child doesn't like to be bothered 

the whole story or to read through the statis-

tics, He has plans to catch and 

mate. He expects his 

advisers to provide him with summaries and 

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on that in this country for foreign 

policy in extremely simple categories. A 

nation is slave or free, North or South, in 

the First World or Third World - an 

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 liveli-

hood 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 the otherwise gung-ho 

bearers and assumes that all wars will be 

short. Because he wants to do everything in 

a hurry and with the minimum loss to his 

tomorrow, he may have to pay one dollar for a 

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when going about these Machiavellian adventures of state, the family retainers perform the service of smearing the heir's name but not in his sight. In this respect they resemble New York divorce lawyers, who, for the sake of putting a blacklist on any unmarried showgirl with photographs of her debut in a New York brothel. During the televised proceedings and the hearings the family retainers warn the heir against doing anything that might injure the integrity of the transaction. Mr. Carter's friends 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 assisted 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 goasps 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 bothers to contempt for the Western democracies but also for Mr. Nixon. He told people whatever secret and fantastic stories that he had heard, tapped his associates' telephones with the discrimination of a man making a guest list. When he was caught, he was as blithely as he brought ruin to his enemies. He entered the Nixon Administration 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 contempt for his audience. Was it not possible for him to develop a little sympathy for his listeners? It is the expression of a fashion designer who has just been told that some of his customers have a fancy for the fallow season, and who go to make the dress for the Inaugural Ball.

VIII. J eu 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 English nobility nobly described as a folly. Traditionally this was a little gazebo or pavilion with a view of a river or lake. Why else does he employ Dean Rusk and Cyrus Vance if they can't straighten out his affairs? Perhaps it is because the king's horses and all the king's men cannot put the Shish of Iran back together again? The lawyers and managers in the anur blame one another, as well as inflation, unemployment, and the rising cost of labor. Throughout W 3 Washington the bureacrats oozed whispered reprimands. The White House blames the CIA for the poor quality of the intelligence from Tehran. The State Department blames the White House for not listening to the early reports of discontent, possibly because Mr. Brezinenik couldn't be bothered with all of his strategic hopes for the Persian Gulf or because he didn't want to think Iran couldn't accept delivery on $16 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 those who use them in flagrant violation of international law. 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 illusion that only the rich and the powerful have rights.

Justice Felix Frankfurter admirably stated the principle in question when in 1914 as a young lawyer in the War Depart­ment he asked the question as to whether the American occupation of

He concludes that other people have failed him. 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 no confidence. The family retainers assemble in comfortably furnished conference rooms to prepare ex­clusive and unacceptably true reports. They say that the Jews deserve what they get because Jews are pushy, or that the English lost the empire because they are decadent, 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 new world.

The lawyers talk instead about treaties, trade balances, and the Arabian oil fields as if they were the democratic form of government, and the rising cost of labor. 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 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 social and economic 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, of 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 is paid day by day. It requires people to renounce the pleasures of sadistic exploitation and self-aggrandize­ment. It requires people to participate in the 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 Cen­trury Club. Dealing with such people is a different thing from enthusing about them with the adulation of gospel 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 man to his leader no more than it ever bound the man to his master. The man who had been buried with the gold in Tutan­ka­men's tomb. Whenever possible, the United States should align 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

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 be treated like machine humiliated apes. The simplicity of this distinction would oblige the makers of American television to change their current set of questions. The health of a nation's people and the stability of its institutions might come to weigh 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 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 PROGRAMMING

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 programming available on television, while acknowledging that children at age 5 have spent three times as much 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 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 Kesselman, better known as Captain Kangaroo, makes the point that television should not be filling the void which exists because of parental neglect. If 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.

I also refer to the following:

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 roundtable and exchanged our daily experiences. It wasn't very organized, but everyone was respected. Grandma, who used to live upstairs, is now the voice on long distance. The working mother is too beaten down each day to spend evening relation time listening to the parent is far too beaten down each day to spend evening relation time listening to the parents who are too busy watching the evening news right through the family hour and past into the night and the weekend.

So family conversation is as extinct as my old knickers, and parental questions such as "What are you 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 is on the roundtable. Saturday morning, the children's hour, is frequently filled with only about one-third 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 wasn't the end of that largest children's audiences for last. Where are they to be found? Watching adult television, of course, from the kitchen to the barn, the living room, the downstairs at General Hospital, from the muggings and battles on the evening news right through the family hour and past into the night. That's where you find our kids, over five million of them, at 10 P.M., not sleeping, but still 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 result in this instance 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 the 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 responsibilities toward animals. In remarks before the conference, Mr. Robert Welborn, vice chairman of the board of HSUS, and Mr. Murdough 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 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 endowed by the Laws of Nature and Nature's God. Did Jefferson make the point that animals is or should be under the aegis of the Laws of Nature and Nature's God? Possibly this question is not to him, but how ironical it would be if Nature's creatures could not claim the rights that are the endowment of creation.

The protection of animals and prohibiting certain cruelties to them is premised to a large extent on the concept of inherent rights 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 based on ethical obligations. The difference is spiritual, philosophical, and practical. If animals by virtue of their rights have a status, or station, 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 by the laws of society; and the pursuit of happiness in the physical sense may not be pursued without inhibition. These concepts, as applied to animals, would be outward manifestations. They mean an appropriate right to life, liberty, and the pursuit of happiness in relation to the rights of others.

Thus, we say that animals are endowed by the Creator with certain inalienable rights. It does not mean that no animal may be killed, that animals may roam without restriction, or that animals may not be restrained in gratifying their physical appetites. Nature itself brings about limitations on these rights. One animal 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 should not be made by its own hands. The fundamental truth will be an important weapon in the spiritual, philosophical, and legal battle that must be waged.

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The declaration and establishment of animal rights in detail and with force and effect, not only for ourselves but for succeeding generations as 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 come when the laws that give the rights to which all life is entitled. We will continue to operate under laws which say that animals have no rights, and varied widely according to the representatives are enforcing several reported trials that reflect more 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 sensibilities 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 pietistic conceit of one species which ignores these Laws and that God's dominion.

Truly the belief in the understanding of, and the dedication of our efforts to the sanctity of all life is the only answer for any meaningful survival of any life on this earth.

REMARKS BY MR. MADDOX

I accept and adopt everything that our distinguished Vice Chairman, Bob Weir, a prominent lawyer by profession and a former member of the Senate 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 pietistic conceit of one species which ignores these Laws and that God's dominion.

Today the thousands of animal related laws on the books--city, state, and national here and throughout the world. While what I have termed animals 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 people who wish to injure the animals prohibiting dogfighting and bullfighting, the ban on the export of live horses enroute to slaughter, etc.

Of course, there are others 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. If, 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; only man can solve it. It is man's sole obligation and duty to do so.

Moreover, it is one of man's legal rights and obligations. We have a right in that with those legal rights 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. They have the right, as we believe, to receive such control and medical attention; to be provided for, 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. We then ask whether the animal has any obligations that generally are equated with the rights. The most serious of these is the animal is not 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 are not protected today (or as I have used the term, "are free to be cruel"). It is because they have been disrupted and displaced by man. For example, there is a clear right of a horse to a tree; of a hunter, but there exists no right of a deer not to be severely injured by a wolf. The latter 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 serious problem between the rights and obligations, I suggest that: "An animal has an inalienable right to be free from pain and torment, and to 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 Congress to adopt a Resolution stating that we have the inalienable and protected rights discussed here for all people, because of the stewardship and the responsibilities that they carry, and certain duties that animals have to human beings.

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 for the language which I feel will clearly establish and restate the concept of man's duties and certain animal rights—now propose that it be grafted onto Mr. Weir's four paragraphs of Rights that are to 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 with reference to animal rights and human obligations, that animals possess certain inalienable and legal protectable rights and duties with respect thereto, and hereby propose that the following be presented to this Conference for adoption as a Resolution of The HSUS entitled Animal Rights and Human Obligations.

1. Animals have the rights to live and grow under conditions that are comfortable and reasonable for them.
2. Animals that are used by man in any way have the right to be free from abuse, suffering, and torment caused or permitted by man, other than pain necessarily resulting from treatment for the welfare of the animal; for example, the natural environment of many wild animals is altered by man have the right to receive from man adequate food, shelter, and care.
3. Animals that are abused or should be under the control and protection of man have the right to receive such control and medical treatment that will prevent propagation to an extent that causes overpopulation and suffering;
4. 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. PEERY. 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 article accurately tells of Webster's abilities 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 assigned to say they were impressed by the nice fellow who might also be the "yes man" for [Attorney General] Griffin Bell," said one. "But he seems to be in command and in control," another. The new FBI chief is the last agent to get only a "fairly fair" rating by anyone who works with him.

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bureau employees and supplies for personal favors. The trend is and I see no reason to stop," Webster said then.

When called Saturday, he chuckled at the question of whether he had been home from the hardware store with a load of fertil-izer 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 because they cannot afford the cost of compliance with the myriad of Federal regulations concerning pollution 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 yet to be answered as to whether the costs on airbags by the Cleveland-based

Louis, he said: "Anybody who needs a free ride," says Joan Claybrook, head of the National Highway Traffic Safety Administration. The only marketing strategy you need is folks to buy them, we're going to make them."

But it's not really as easy as all that. There are roadblocks 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 unkindness of the democratic system. Courts overturn rules with the bang of a gavel, and what the Department of Transportation was doing, Congress or the White House can undo.

In California, a device to remove oxides from exhausts was mandated by the Air Resources Board in 1969. But at the same time, regulation is the most effective and efficient means 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 no numbers 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 together with 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 problem.

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, when Washington began the land-based Eaton story 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 motors 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 to buy them, we're going to make them."

But it's not really as easy as all that. There are roadblocks 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 unkindness of the democratic system. Courts overturn rules with the bang of a gavel, and what the Department of Transportation was doing, Congress or the White House can undo.

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rule required only passive restraints starting in 1976, butput spelling out what kind they should be.

The automakers were horrified. The 1974 deadline seemed forlorn. They already had the hands full coping with emissions rules. Detroit, led by Chrysler and Ford, counterattacked. Because the system was parked, face it, and not then adaptable to larger cars, the air bag was the issue. It became, over the next few years, a matter of law and reputation. Had the bag been sufficiently tested. Some critics seemed to suggest that since the system was "passive," it was not a point of either beyond the driver's control—it couldn't be disconnected or ignored like a seat belt— the air bag was somehow defunct.

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 bag has to be an expensive piece of equipment. The bag has to stand up to development. The bag's had not constantly at odds with the Department of Transportation about how much the bags would cost. Eaton, who thought the device could be priced at around $200 a car. Washington set the figure at less than $75 a million dollars.

The liability question never was solved, and the companies still in the business do not yet know the extent of their potential exposure or how it will be covered. Eaton's insurance carriers had raised liability insurance at about $10 per unit, then upped the figure to as much as $50, and finally declined to give it.

Obviously, in America's current litigious mood any automotive product is likely to draw a lawsuit if its failure seems to be the cause for a 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 had 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. Thus, the occupant is also wearing a lap belt to keep him from slipping under the bag. So the vision of an out-thigh, 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 relative-
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 all 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 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 married 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 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 senators 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 depend on the guidance and power of 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 and also 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 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:

Mr. STEVENS, Mr. METZENBAUM, Mr. DECONCINI, Mr. BUMPERS, Mr. MCCOVEN, Mr. DURKIN, Mr. RIEGLE, Mr. STARK, Mr. NUNN, Mr. HATFIELD, Mr. STEVENS, Mr. MOYNIHAN, Mr. LEVIN, Mr. 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. ROBERT C. BYRD. Mr. President, is there time set for that to commence now?

Mr. STEVENS. Yes. I am glad the distinguished acting Republican leader 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 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.