

**BILINGUAL PROCEEDINGS IN
U.S. DISTRICT COURTS**

The bill (S. 565) to amend title VIII, United States Code, to provide more effectively for bilingual proceedings in all district courts of the United States, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be passed over.

**APPROPRIATION AUTHORIZATION
INCREASE AND EXTENSION FOR
THE NATIONAL ADVISORY COM-
MITTEE ON OCEANS AND AT-
MOSPHERE**

The Senate proceeded to consider the bill (H.R. 5447) to amend the act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to increase and extend the appropriation authorization thereunder, which had been reported from the Committee on Commerce with amendments as follows:

On page 2, in line 4, strike "each of";

On page 2, in line 5, strike "years" and insert "year";

On page 2, in line 5, strike ", and 1978.";

On page 2, at the beginning of line 7, insert the following:

Sec. 2. Section 4 of such Act (33 U.S.C. 857-9) is amended—

(1) by inserting after "review of" and before "the progress" the following: "national ocean policy, coastal zone management, and"; and

(2) striking out "the President." at the end of the second sentence thereof and inserting in lieu thereof "the President and the Congress."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended to read as follows:

An Act to amend the Act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to increase and extend the appropriation authorization thereunder, and for other purposes.

**ATLANTIC TUNAS CONVENTION ACT
OF 1975**

The Senate proceeded to consider the bill (H.R. 5522) to give effect to the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, by the United States of America and other countries, and for other purposes, which had been reported from the Committee on Commerce with amendments as follows:

On page 3, at the beginning of line 8, insert the following:

(10) The term "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

On page 3, beginning with line 13, strike out the following:

Sec. 3. (a) The United States shall be rep-

resented by not more than three United States Commissioners who shall serve as the United States delegates on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by the President, serve as such during his pleasure, and receive no compensation for their services as such Commissioners.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time and for such periods as he may determine to be appropriate, Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 4 of this Act, all powers and duties of a United States Commissioner in the absence of a Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of Alternate United States Commissioners which may be designated to attend any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section that will not be present. One of the United States Commissioners shall be an official of the Department of Commerce and each of the other United States Commissioners shall be an individual residing in a coastal State or the Commonwealth of Puerto Rico and shall be knowledgeable in the principles of commercial tuna fishing or sport tuna fishing, or both, and neither of such other Commissioners shall be a salaried employee of any State or political subdivision thereof, the Commonwealth of Puerto Rico, or the Federal Government.

And insert the following in lieu thereof:

Sec. 3. (a) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 4 of this Act, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

On page 10, in line 8, strike "or the Commonwealth of Puerto Rico";

On page 10, in line 14, strike "of the Commonwealth of Puerto Rico";

On page 23, in line 6, strike "over" and insert "in";

On page 23, in line 7, strike "waters" and insert "sea";

On page 23, in line 7, strike "that State" and insert "the United States";

On page 23, beginning with line 8, strike the following:

(2) If the Secretary determines on the record after opportunity for agency hearing that any State whose territorial waters border on any Convention area—

(A) has not, within a reasonable time after the promulgation of regulations pursuant to this Act to implement any conservation recommendation of the Commission which is accepted by the United States, enacted laws or promulgated regulations which implement such recommendation within territorial waters of that State; or

(B) has enacted such laws or promulgated such regulations, but such laws or regulation—

(i) are less restrictive than the regulations promulgated pursuant to this Act to implement such recommendation of the Commission, or

(ii) are not effectively enforced,

the regulations promulgated pursuant to this Act to implement such recommendation shall apply within the territorial waters of such State until such time as the Secretary determines that the State is effectively enforcing within its territorial waters measures which are not less restrictive than such regulations.

And insert the following in lieu thereof:

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this Act to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this Act, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this Act, or (ii) are not effectively enforced. If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this Act within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

**UNITED STATES-BRAZIL SHRIMP
FISHING AGREEMENT**

The bill (H.R. 5709) to extend until September 30, 1977, the provisions of the Offshore Shrimp Fisheries Act of 1973 relating to the shrimp fishing agreement between the United States and Brazil, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

**APPROPRIATIONS AUTHORIZATION
FOR THE MARINE PROTECTION,
RESEARCH, AND SANCTUARIES
ACT OF 1972**

The bill (H.R. 5710) to amend the Marine Protection, Research, and Sanc-

tuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1976 and for the transition period following such fiscal year, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

KLAMATH INDIAN TRIBE FOREST TRUST LANDS

The bill (H.R. 83) to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Indian Tribe, was announced as next in order.

Mr. MANSFIELD. Mr. President, I am offering, on behalf of the Senator from Virginia (Mr. HARRY F. BYRD, JR.), an amendment to H.R. 83. The amendment would change the Tax Code to insure that tax exempt organizations receive the same benefits taxpaying organizations receive when a subsidiary corporation is liquidated into a parent corporation.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. I ask unanimous consent that the amendment be considered as read.

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

Mr. HARRY F. BYRD, JR.'s amendment is as follows:

On page 2, line 5, insert the following:

SEC. . TRANSFERS OF SECTION 1245 PROPERTY OR SECTION 1250 PROPERTY TO TAX-EXEMPT ORGANIZATION WHICH USES SUCH PROPERTY IN AN UNRELATED TRADE OR BUSINESS

(a) AMENDMENTS OF SECTION 1245.—

(1) The second sentence of section 1245(b) (3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (7), this".

(2) Section 1245(b) is amended by adding at the end thereof the following new paragraph:

"(7) TRANSFERS TO TAX-EXEMPT ORGANIZATION WHERE PROPERTY WILL BE USED IN UNRELATED BUSINESS.—

"(A) IN GENERAL.—The second sentence of paragraph (3) shall not apply to a disposition of section 1245 property to an organization described in section 511(a)(2) or 511(b)(2) if, immediately after such disposition, such organization uses such property in an unrelated trade or business (as defined in section 513).

"(B) LATER CHANGE IN USE.—If any property with respect to the disposition of which gain is not recognized by reason of subparagraph (A) ceases to be used in an unrelated trade or business of the organization acquiring such property, such organization shall be treated for purposes of this section as having disposed of such property on the date of such cessation."

(b) AMENDMENTS TO SECTION 1250.—

(1) The second sentence of section 1250(d)(3) (relating to gain from dispositions of certain depreciable realty) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (9), this".

(2) Section 1250(d) is amended by adding at the end thereof the following new paragraph:

"(9) TRANSFERS TO TAX-EXEMPT ORGANIZATION WHERE PROPERTY WILL BE USED IN UNRELATED BUSINESS.—

"(A) IN GENERAL.—The second sentence of

paragraph (3) shall not apply to a disposition of section 1250 property to an organization described in section 511(a)(2) or 511(b)(2) if, immediately after such disposition, such organization uses such property in an unrelated trade or business (as defined in section 513).

"(B) LATER CHANGE IN USE.—If any property with respect to the disposition of which gain is not recognized by reason of subparagraph (A) ceases to be used in an unrelated trade or business of the organization acquiring such property, such organization shall be treated for purposes of this section as having disposed of such property on the date of such cessation."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) the amendments made by this section shall apply to dispositions after December 31, 1969, in taxable years ending after such date.

(2) ELECTION FOR PAST TRANSACTIONS.—In the case of any disposition occurring before the date of the enactment of this Act, the amendments made by this section shall apply only if the organization acquiring the property elects (in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate) within 1 year after the date of the enactment of this Act to have such amendments apply with respect to such property.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment I offer to this bill would change a portion of the Tax Code which adversely affects Colonial Williamsburg.

I have discussed the amendment with the chairman of the Finance Committee and the ranking minority member of the Finance Committee. They have no objections to it.

Similar legislation was approved by the Ways and Means Committee last year, but not acted upon by the House.

The Treasury Department has no objections to this amendment.

The staff of the Finance Committee tells me and the attorney for Colonial Williamsburg tells me that so far as they can determine, the proposal will affect only Colonial Williamsburg.

It is my policy in handling any tax legislation of a specific nature, that the proposed beneficiary be clearly stated in the Record.

Under existing law there are certain situations where income that would otherwise be taxed as capital gain on the disposition of property is converted into ordinary income. This procedure is commonly referred to as "recapture." The provisions regarding this procedure are contained in sections 1245 and 1250 of the Internal Revenue Code of 1954, as amended.

Information I have obtained indicates that the present law did not contemplate this situation. In my State, the Colonial Williamsburg Foundation, the administrators of Colonial Williamsburg are adversely affected by the existing statute.

The proposed bill is exactly the same as the language which the Ways and Means Committee approved last year in the tax reform bill of 1974, a measure that was not acted upon by the House of Representatives before adjournment.

Further, I am informed that the Treasury Department has examined this legislation and has no objections to it. During the course of Ways and Means

Committee deliberations, last year, Treasury Department officials testified to this effect and have provided me with the following letter.

The proposed amendment would remedy the problem which now occurs under section 1245(b)(3). Generally, a controlled subsidiary corporation may be liquidated into its parent corporation on a tax-free basis under sections 332 and 336 of the code. Under those circumstances there is no recapture of depreciation on the part of the subsidiary corporation in connection with such a transaction.

However, section 1245(b)(3) contains an exception to this rule where there is a disposition to an organization exempt from income tax. In that event, contrary to what occurs where the disposition is to a taxable entity, and despite the continued use of the assets of the subsidiary by the tax-exempt recipient organization in a taxable unrelated business, depreciation is recaptured.

This amendment corrects this inequity by providing treatment to nontaxable entities similar to that available for taxable entities by postponing this recapture.

However, under this amendment the tax-exempt recipient organization must continue to use the assets of the liquidated subsidiary in an unrelated trade or business and agree to treat any change in the use of those assets as a disposition resulting in recapture of depreciation.

This amendment would thus conform the treatment of depreciation recapture for both taxable and tax-exempt organizations where assets are received through liquidation of a subsidiary and are used in a taxable trade or business.

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

WASHINGTON, D.C., May 6, 1975.

HON. HARRY F. BYRD, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: You have inquired as to the position of the Treasury Department with respect to an amendment to section 1245 of the Internal Revenue Code relating to depreciation recapture. Under present law such recapture is not required when a wholly owned subsidiary is liquidated into the parent corporation. However under present law that exception for liquidation of a subsidiary is not applicable, and thus recapture is required, if the transferee is a tax-exempt organization. This rule was enacted in 1962 to prevent tax avoidance through tax-free transfers of property to a tax-exempt organization.

In general, the type of amendment you have asked about would provide that recapture will not be required if the transferee is an exempt organization which will use the property in an unrelated trade or business the net income of which is subject to tax. Since the property will be used in an unrelated trade or business, the policy considerations underlying the 1962 amendment are not controlling. Further, the amendment would place the exempt transferee in essentially the same position as that of a transferee which is a business corporation. Last year in the Ways and Means Committee the Treasury Department concurred in a comparable amendment and we would continue to do so.

We did, however, recommend certain additional provisions of a technical nature to re-