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TRANSFERS AND SALES OF FEDERAL LANDS AND OTHER MISCELLANEOUS FOREST LEGISLATION

GOVERNMENT

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HEARINGS BEFORE THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES EIGHTY-EIGHTH CONGRESS SECOND SESSION

MARCH 16 AND 23, JUNE 30, JULY 1 AND 27, 1964

Serial YY

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CONTENTS

MONONGAHELA NATIONAL FOREST

	Page
Statement of:	
Hall, John, forester, National Lumber Manufacturers Association.....	7
Nelson, M. M., Deputy Chief, Forest Service, U.S. Department of Agriculture.....	1
The proposed mountaineer unit addition to the Monongahela National Forest in West Virginia.....	5

H.R. 7588

H.R. 7588 to provide for enforcement of rules for the protection, develop- ment, and administration of the national forests and national grasslands, and for other purposes.....	7
Freeman, Hon. Orville L., Secretary of Agriculture, report on H.R. 7588, letter of December 24, 1963.....	8
Statement of:	
Florance, Reynolds, G., Director, Legislative Reporting and Liaison Division, Forest Service, U.S. Department of Agriculture.....	15
Johnson, Hon. Harold T., a Representative in Congress from the State of California.....	9
Ullman, Hon. Al, a Representative in Congress from the State of Oregon.....	13

H.R. 8235

H.R. 8235, a bill to provide for the conveyance of certain real property of the United States.....	19
Freeman, Hon. Orville L., Secretary of Agriculture, report on H.R. 8235, letter of December 11, 1963.....	19
Harding, Hon. Ralph R., a Representative in Congress from the State of Idaho, statement of.....	20
Additional information submitted to the committee:	
Appraisal of property in question by Perry Johnson, William W. Becker, and Jerome T. Bailey.....	25
Map of township 7S., range 34 E.B.M., Bannock County, Idaho... Facing	30
Photostat of Bannock County, Idaho, register.....	30
Real estate agreement between Nick Andros and E. O. Ritzman....	25
Statement of P. A. McDermott, attorney for Nick Andros.....	24

S. 51

S. 51, an act to authorize the Secretary of Agriculture to relinquish to the State of Wyoming jurisdiction over those lands within the Medicine Bow National Forest known as the Pole Mountain District.....	31
Florance, Reynolds G., Director, Legislative Reporting and Liaison Division, Forest Service, U.S. Department of Agriculture, statement of... ..	33
Freeman, Hon. Orville L., Secretary of Agriculture, report on S. 51, letter of March 12, 1963.....	32
Senate Report 282, Retrocession of Jurisdiction to Wyoming.....	32

H.R. 6601

	Page
H.R. 6601, a bill to authorize the Secretary of Agriculture to sell certain land in Grand Junction, Colo., and for other purposes-----	35
Florence, Reynolds G., Director, Legislative Reporting and Liaison Division, Forest Service, U.S. Department of Agriculture, statement of--	37
Freeman, Hon. Orville L., Secretary of Agriculture, report on H.R. 6601, letter of September 5, 1963-----	36

H.R. 10069

H.R. 10069, a bill to authorize the exchange of lands adjacent to the Lassen National Forest in California, and for other purposes-----	39
Freeman, Hon. Orville L., Secretary of Agriculture, report on H.R. 10069, letter of May 12, 1964-----	39
Statement of:	
Grover, Frederick W., Director, Land Classification, Forest Service, U.S. Department of Agriculture-----	42
Johnson, Hon. Harold T., a Representative in Congress from the State of California-----	40

H.R. 9179, H.R. 12012, and S. 2218

H.R. 9179, a bill to authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Coker County, Tenn., for purposes of the Foothills Parkway, and for other purposes-----	43
H.R. 12012, a bill to authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Coker County, Tenn., for purposes of the Foothills Parkway, and for other purposes-----	43
S. 2218, an act to authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Coker County, Tenn., for purposes of the Foothills Parkway, and for other purposes-----	44
Grover, Frederick W., Director, Division of Land Classification, Forest Service, U.S. Department of Agriculture, statement of-----	44

H.R. 4242

H.R. 4242, a bill to provide for the release and transfer of all right, title, and interest of the United States of America in and to certain tracts of land in Pender County, N.C.-----	47
Henderson, Hon. David N., a Representative in Congress from the State of North Carolina, statement of-----	48
Murphy, Hon. Charles S., Under Secretary of Agriculture, report of H.R. 4242, letter of November 20, 1963-----	49

H.R. 8290 and S. 2082

H.R. 8290, a bill to authorize the Secretary of the Interior to accept a transfer of certain lands within Everglades National Park, Dade County, Fla., for administration as a part of said park, and for other purposes-----	57
S. 2082, an act to authorize the Secretary of the Interior to accept a transfer of certain lands within Everglades National Park, Dade County, Fla., for administration as a part of said park, and for other purposes-----	58
Statement of:	
Campbell, Howard V., Director, Farmers Home Division, General Counsel's Office, U.S. Department of Agriculture-----	59
Fascell, Hon. Dante B., a Representative in Congress from the State of Florida-----	58

MISCELLANEOUS FOREST LEGISLATION

MONDAY, MARCH 16, 1964

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 1310, Longworth House Office Building, Washington, D.C., Hon. George Grant (chairman of the subcommittee) presiding.

Present: Representatives Grant, Harding, Hagan of Georgia, Duncan, McIntire, Teague of California, Short, and Mrs. May.

Also present: Martha Hannah, staff; Hyde H. Murray, assistant clerk; John J. Heimburger, counsel; and Robert Bruce, assistant counsel.

Mr. GRANT (presiding). The subcommittee will please come to order.

We have scheduled first here the Monongahela Forest, and the subcommittee would like to hear from Mr. Florance or any other representative of the department who can give us some information on this subject.

We will be glad to hear from you now, Mr. Nelson.

MONONGAHELA NATIONAL FOREST

STATEMENT OF M. M. NELSON, DEPUTY CHIEF, FOREST SERVICE; ACCOMPANIED BY R. G. FLORANCE, DIRECTOR OF LEGISLATIVE REPORTING AND LIAISON DIVISION, FOREST SERVICE; F. W. GROVER, DIRECTOR OF LAND CLASSIFICATION DIVISION, FOREST SERVICE; AND HAROLD HAM, OFFICE OF THE GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. NELSON. Mr. Chairman and members of the subcommittee, I am M. M. Nelson, Deputy Chief of the U.S. Forest Service. There is no legislation before the Congress on this Mountaineer unit which is the proposed possible extension of the Monongahela National Forest. This area consists of about 1 million acres that was studied—

Mr. TEAGUE of California. How many acres?

Mr. NELSON. One million acres that was studied at the request of Senator Byrd of West Virginia. We have a report of that study called the "Mountaineer Unit," a possible extension of the Monongahela National Forest.

The area includes eight counties in the headwaters of the Kanawha and the Little Kanawha Rivers, and a few other rivers in that area.

Of the 1 million acres studied, about 95 percent is privately owned, 86 percent of it is forested-type land, and about 14 percent is farmland.

The study suggests that it might be possible and desirable to purchase about 550,000 acres within that 1-million-acre area that was studied for national forest purposes and add that onto the Monongahela National Forest.

This land is rather steep, rocky soil in rugged mountains, with deep valleys and narrow flood plains along the stream bottoms. It is primarily suitable for forestry and the growth of hardwood timber.

The estimated cost would be eventually about \$12 million, if the entire 550,000 acres are purchased as the report indicates might be desirable. The area has a lot of potentiality for recreation, wildlife development, as well as assistance to the economy.

One of the reasons that this area was studied, at the request of Senator Byrd, is the extreme poverty condition of this part of the country in West Virginia. It has only five communities of over 500 people in the entire area.

I might list some of the economic situations that are found. As far as income is concerned the average per capita income was \$1,370. That is 40 percent lower than the average of the United States. Personal income has been dropping since 1955, even though the personal income in the rest of the State has been on the increase. Unemployment is persistently high, about 22 percent of the labor force is unemployed, or was at the time of this study. This is 300 percent greater than the national average.

Since 1961 mining employment in Webster County has declined from 1,300 to only 300 people.

Welfare dependency is great in the area. Nearly 50 percent of the total population receives surplus foods. That was in 1961 at the time of the study. In 1960 about 30 percent of the total population received financial assistance and other types of welfare payments.

Mr. TEAGUE of California. May I interrupt?

Mr. NELSON. Yes.

Mr. TEAGUE of California. So that I understand what this is all about. As to this unemployment situation in West Virginia, what is the connection or the significance in relation to the proposal to acquire this property?

Mr. NELSON. Senator Byrd, in asking us to study this area and also some of the West Virginia people out there, have felt that if this area was added to the national forest it would help better the economic situation.

Mr. TEAGUE of California. How?

Mr. NELSON. I think that maybe it can best be answered by talking a little bit about the Monongahela National Forest itself and what has happened in the Monongahela National Forest. That forest which lies immediately east of this proposed Mountaineer unit is about 60 percent owned by the Federal Government. The income from the production of timber and other income on the forest has tripled in the last 10 years. In 1963 it was about 70 cents per acre with a total income of over one-half million dollars.

The management of the national forest has, through the prevention of forest fires, the management and development of recreational areas, the betterment of wildlife habitat, made it possible for that area

to be used and to be an economic influence for betterment in that part of the country. For example, in 1930 that whole area harvested only about 550,000 board feet of timber. Last year it was 22 million board feet of timber.

In the thirties employment in the timber industry amounted to about 15 people. In 1962 it was 650 people.

The recreation use of the Monongahela has increased tremendously and, also, we saw a map the other day in regard to a study that West Virginia has made showing where private interests were making a profit on the recreation through accommodating hunters and vacationists in the area. This was during the hunting season. And it was interesting to note that practically all of those private enterprises that were making their profits from recreation were in or immediately adjacent to the national forest.

The wildlife has had a tremendous increase in the Monongahela National Forest bringing in hunters and that type of thing. The work has been done cooperatively with the States. They charge an extra fee in West Virginia for hunting in the national forests and that fee goes into the construction of lakes and other habitat improvements for wildlife and fish. And so the people over there feel that the national forest has, in the case of the Monongahela National Forest, been a tremendous influence toward a better economic condition for the people. Consequently, they look to the possibility of extending that to the west.

Mr. GRANT. So that concludes your statement?

Mr. NELSON. I have just a little bit more on the social conditions in Webster County which were studied particularly that I would like to mention.

Nearly 30 percent of the dwellings need rehabilitation to meet minimum standards of living. And nearly 25 percent of the total dwellings are not economically feasible for rehabilitation. Over 51 percent are classified as delapidated; 82 percent lack hot water, toilet, or baths; 84 percent have no running water; 87 percent do not have public utility services of any type.

So it is really one of those poverty areas that we are talking about. And the purpose of this study was to see whether or not there would be a possibility of helping benefit that area through the extension of the Monongahela National Forest.

The administration has taken no particular position on this. There has not been a purchase unit set up, but it is under study, and this report is in the hands of the committee staff.

Mr. GRANT. Thank you very much. I might say for the benefit of this subcommittee that this subcommittee has no authority over this legislation. However, for the last few years it has been placed in the Senate bills coming from the Appropriations Committee, and it has not been adopted by the House, due to the fact that the chairman of the committee which was handling that subject has asked for an expression from the Committee on Agriculture of the House, at least, to find out that they do not object to his committee going ahead and taking action on this, and that is why it is here today.

Mr. TEAGUE of California. How much money has been proposed here—how much has been suggested?

Mr. NELSON. I could answer that. It is \$200,000 to get started on this program.

Mr. TEAGUE of California. That is just for the survey ; is that right?

Mr. NELSON. That would be to get started on some acquisitions—the first year of some acquisitions.

Mr. McINTIRE. I apologize for being a little late. My question may not be appropriate to what has already been discussed. You say that the department has not taken any official position on this matter—am I correct in that?

Mr. NELSON. That is correct.

Mr. McINTIRE. It has been by amending the appropriations bill.

Mr. NELSON. The last year the Senate did amend the appropriations bill by adding \$200,000 to get started on acquisitions in this particular area. I should make it clear that the Weeks law of 1911 authorizes the Forest Service to purchase land for national forest purposes. The control over the Weeks law is the National Forest Reservation Commission made up of two Senators, two Congressmen, and three Cabinet officers. If the \$200,000 that the Senate put into the bill had remained in the bill, then this Commission would determine whether or not to set up a purchase unit and go ahead with the purchases in the area. It does not take legislation other than the Weeks law.

Mr. McINTIRE. But it could be approached by legislation?

Mr. NELSON. Yes.

Mr. McINTIRE. A specific bill to authorize further expansion of the Monongahela National Forest?

Mr. NELSON. That is correct.

Mr. McINTIRE. That could be done that way?

Mr. NELSON. Yes.

Mr. McINTIRE. I see.

Mr. HELMBURGER. May I comment on this to clear the situation up a little bit?

Mr. GRANT. Yes.

Mr. HELMBURGER. As has been said, the Weeks law provides general authority for this type of acquisition if funds are available. The Senate included some funds for this purpose in the Forest Service appropriation last year or, perhaps, 2 years ago.

Mr. NELSON. I think both of the last 2 years.

Mr. HELMBURGER. They put into the bill an item of \$200,000 to start the acquisition of the land. In each case the item was struck out in conference, with the House conferees expressing the view that while specific legislation was not necessary they believed that an acquisition program of this size should have, at least, no opposition from the legislative committees involved. That is what is asked for here, an expression that this committee would have no opposition to this kind of a program.

Mr. TEAGUE of California. I, for one, would want to know more about it.

Mr. NELSON. It is 550,000 acres maximum. The 1 million acres was the area studied.

Mr. TEAGUE of California. 550,000 acres of land—that is still a lot of land. And if they can do it without our approval and want to do it, of course, that is all right, but I do not feel that I, for one, know enough about this to even be willing to go on record as not objecting to it.

Mr. SHORT. I somewhat share the views expressed by my colleague from California. So far as I am aware I probably would have no objection, but I think that we should have a better picture of what is being proposed, the relationship in the way of the location of the proposed land acquisition to the existing Monongahela National Forest, the number of people, the number of individual land ownerships that presently have people living on them, how many families, how many individuals are involved that would mean the possibility of relocation, what the anticipated cost of the land would be.

Again, I do not know whether or not I have any opposition, any reservations about this at all. Maybe I missed something that was said before. I was a few minutes late in getting in. I think that the committee should have a little more comprehensive picture of just exactly what it is that is in mind here in the way of additional land purchases, how many people are involved, a more complete picture of the effect of the entire community. After all, the Federal Government is going to take this off the tax rolls. Certainly, as the gentleman has already pointed out, this land will be turned into timberland and, eventually, the timber will be harvested, and there would be a considerable amount of money derived from that. This does not take into consideration what production there is from the land at the present time.

If I understand it correctly, this is one of the timber areas of the Appalachian Mountains where the land is not particularly desirable for any other use than for timber.

Mr. NELSON. That is correct, Mr. Short. We have a report that goes into those various items. Mr. Heimburger has one for the committee. I think that the Senator furnished copies. It goes into the tax situation, the people who are involved in that entire area. And I also have a two-page statement—a summary statement—that I could put in the record if you would like to have it.

Mr. SHORT. This is a summary statement of the Forest Service, that you have prepared?

Mr. NELSON. Of the report; yes.

Mr. GRANT. That may be made a part of the record.

(The document referred to follows:)

THE PROPOSED MOUNTAINEER UNIT ADDITION TO THE MONONGAHELA NATIONAL FOREST IN WEST VIRGINIA

The Mountaineer Unit comprises 1,050,000 acres of rough, forested, important watershed land adjoining the present national forest in the upper watersheds of the Gauley, Elk, and Little Kanawha Rivers, tributaries of the Ohio. Presently, 95 percent of the area is privately owned; 86 percent of the land is forested; 14 percent is cleared and used for cropland or pasture purposes. Farming, however, is mostly on a subsistence basis and is decreasing as a land use and as an economic factor. The Mountaineer Unit is in an area of severe unemployment and a depressed economy brought about by decline in mining employment and depletion of forests.

Forest land here is basic and can be a major economic resource. However, employment in forest industries has been drastically reduced due to declining supplies of quality timber. Over a long period of years, the timber stand on much of this area has deteriorated through repeated logging and in some places through forest fires. Forest lands are not furnishing either the quantity or quality of wood they are capable of growing to sustain local wood-based industries. Forestry practices necessary to restore these lands to optimum timber production will require investments of time and money over many years. Only a small part of the forested area is being improved and used effectively to supply the quality raw forest materials adequate to attract and sustain an expanded

forest industry. Progressive abandonment of small farms is adding to the area that will require and warrant forest management.

Watersheds also have deteriorated, particularly in the headwaters of streams. Streams in the narrower valleys frequently overflow and heavy silt loads adversely affect fish habitat and depreciate water quality for domestic and recreation use. The deteriorated condition of forest cover and watersheds in turn has an adverse affect on wildlife and fish populations which generally are low.

The counties that would be affected by the Mountaineer Unit have been classed as areas of substantial and persistent labor surpluses, averaging 22 percent, for many years. Primary causes are lack of employment opportunities in agricultural, forest, and mining industries. The area has supported a substantial mining industry but employment opportunities have been sharply reduced as a result of changing methods of production and for other reasons, and this trend continues. Agriculture is becoming increasingly submarginal. This situation results in a high ration of unemployment, a low per capita income, and increased public financial assistance and other welfare requirements.

The Mountaineer Unit has, notwithstanding, potentials for substantial economic contributions based upon renewable surface resources. It has varied and unique natural features, an attractive forest environment, pleasing scenery, and other features which could be the foundation for a large and potentially valuable recreation industry. Some 27 million people live within 150 miles of the area. It has high potential for wildlife production which in turn would attract people for hunting and fishing. The timber resource again can be the basis for a substantial and productive industry utilizing forest products. Minerals will remain a substantial part of the economic and their exploitation is compatible with sound management of the renewable resources if properly coordinated.

The possibilities for a new industry in this area oriented to development of the recreation and scenic attractions is promising. Such an industry could effectively add to the economic well-being and the opportunities for local employment. Its feasibility, however, will depend upon a public land base adequate to meet the public demands for hunting, fishing, hiking, riding, touring, and other pursuits, and upon clean streams, managed watersheds, adequate supplies of fish and game, and a pleasing forest environment. Similarly, forest products can form the basis of an expanded industry provided the basic resource is restored and an expanding supply of quality timber assured.

To realize these possibilities will require a vigorous, accelerated program of natural resources development and conservation. National forest multiple-use management can contribute to such program. Such management would seek to develop all resources in harmony so that not only timber but water, recreation and wildlife resources would be enhanced and production increased.

The program for the Mountaineer Unit contemplates the acquisition by the United States over a period of years, through voluntary sale, of approximately 50 percent of the lands therein. This acreage is about 5 percent of the commercial forest land in West Virginia. The remaining 50 percent of lands in the unit would remain in private ownership and used for residences, farms, or private forest management as the owners may find feasible and desirable.

Lands that would be acquired would be those where national forest administration would best promote expanded public recreation, with its concomitant local economic benefits, restoration of depleted forest stands—a longtime endeavor—and the sustained-yield production of crops of high-quality forest products therefrom as a basis of stable industries, and the needed improvement of watershed conditions, stream pollution abatement, and quality water production in the interest of both the local area and the downstream waterflow regulation. Development and improvement of lands so purchased would provide useful work of lasting national benefit to people in the area who are particularly qualified to do this work, and new industries and businesses should flow from improved forests and watersheds.

Mr. McINTIRE. Am I correct that the Forest Service has not taken an official position in relation to this matter?

Mr. NELSON. The Forest Service prepared this report. It shows what can be done and the desirability of it. The administration as a whole has not taken a position. It has not been proposed in the administration's budget, for example.

Mr. HELMBURGER. Do you have copies of that report?

Mr. NELSON. We have enough copies of the report for the committee.

Mr. HEIMBURGER. Can you furnish us with a sufficient number of copies?

Mr. NELSON. We certainly can. I will be glad to do that.

Mr. HEIMBURGER. I do not know that it will be necessary, but I just wondered if you had enough copies if the chairman wanted them.

Mr. NELSON. Yes.

Mr. GRANT. Are there any further questions on this subject?

If not, thank you very much.

Mr. NELSON. Thank you, Mr. Chairman.

Mr. GRANT. I have a note here that Mr. John Hall, forester for the National Lumber Manufacturer's Association desires to make a statement regarding this bill we have before us.

Would you like to come around and make a statement now?

STATEMENT OF JOHN HALL, FORESTER, NATIONAL LUMBER MANUFACTURER'S ASSOCIATION, WASHINGTON, D. C.

Mr. HALL. Mr. Chairman and members of the committee, I am John Hall, forester with the National Lumber Manufacturer's Association located here in Washington.

We oppose the extension of the Monongahela National Forests which is highly controversial and is strongly opposed by the West Virginia forest products industry. Senator Randolph also has expressed his opposition.

The industry requests the committee not to conclude this consideration of the proposal until the local forest products organization has had an opportunity to present its views.

Mr. GRANT. I am sure that you realize that this bill properly comes before the Interior Committee of the Appropriations Committee.

Mr. HALL. I understood that this committee was asked to endorse the proposal, at least, not to object to it.

Mr. GRANT. That is right, not to object to it.

HR. 7588, TO PROVIDE FOR THE ENFORCEMENT OF RULES AND REGULATIONS FOR THE PROTECTION, DEVELOPMENT, AND ADMINISTRATION OF NATIONAL FORESTS AND GRASSLANDS

Mr. GRANT. We have a bill here by our colleague, Mr. Johnson of California, H.R. 7588.

(H.R. 7588 and the department report follow :)

[H.R. 7588, 88th Cong., 1st sess.]

A BILL To provide for enforcement of rules and regulations for the protection, development, and administration of the national forests and national grasslands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 4, 1897, as amended (30 Stat. 11, 35; 16 U.S.C. 551), second full paragraph, page 35, and section 32(f), title III, of the Bankhead-Jones Farm Tenant Act, as amended (50 Stat. 526; 7 U.S.C. 1011(f)), are further amended by addition of the following sentence in each case: "Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States commissioner specially

designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended."

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 24, 1963.

HON. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of October 31, 1963, for a report on H.R. 7588, a bill to provide for enforcement of rules and regulations for the protection, development, and administration of the national forests and national grasslands, and for other purposes.

The Department recommends that the bill be enacted.

H.R. 7588 would amend the act of June 4, 1897, as amended (30 Stat. 11, 35; 16 U.S.C. 551), second full paragraph, page 35; and section 32(f), title III, of the Bankhead-Jones Farm Tenant Act, as amended (50 Stat. 526; 7 U.S.C. 1011(f)), to provide that violators of rules and regulations pertaining to protection and use of the national forests and national grasslands may be tried and sentenced by any U.S. commissioner specially designated for that purpose by the court by which he was appointed.

The Secretary of Agriculture has the authority and responsibility of promulgating necessary rules and regulations for the use, protection, development, and administration of the national forest and national grassland areas. Violations of such rules and regulations are classed as petty offenses. All Forest Service employees have authority to enforce the laws and regulations.

Over the years this Department and the Forest Service have had no readily available or practical means for speedy, local settlement of the minor problems such as is available to the National Park Service. The national park commissioners, who are U.S. commissioners specially designated to try petty offenses (28 U.S.C. 632) within named national parks (28 U.S.C. 631) have provided an easy and expeditious means for settling petty offense cases. Because of the general restrictions as to jurisdiction of U.S. commissioners to areas over which the United States has exclusive or concurrent jurisdiction (18 U.S.C. 3401) and the fact that the United States generally exercises only proprietary jurisdiction over national forest and national grassland areas, the only legal forum available for handling trial and sentencing of violators of the rules and regulations of the national forests and national grasslands has been the U.S. district courts. Due to the long distances and expense involved, the minor nature of many of the violations, the crowded condition of district court dockets and other reasons, it has been impractical to use this avenue of approach for the average "petty violation" case. Consequently, rules and regulations have been difficult of enforcement except through persuasion, or in those instances where there were parallel local or State laws which could be enforced either by Forest Service employees or cooperating officers through the local courts. The difficulties of using the standard procedure of trial in district court is extremely burdensome to the minor violator as well as to the officers involved.

The problem involved is not new. The great increase in visitors and users since 1945 and the ever increasing variation and complexity of the uses involved have, however, complicated everyday administration. The newer type of problems tends to be limited to specific activities. A few examples are: "litterbugging" particularly in campgrounds and "off highway" areas; use of four-wheel drive vehicles for prohibited "off road" or cross-country travel; use of motor scooters on closed trails or in wilderness areas; reckless or dangerous use of ski slopes; parking of cars and trailers or various types at reservoirs and other recreation areas so as to impede traffic or create safety hazards. Some of these such as "litterbugging" have always been a problem, but have become major ones because of the astronomical increases in visitors to the national forest and grassland areas. Several of the activities involve the safety of other users as a major factor, such as control of motor scooters on trails long used by riders and pack outfits.

In order that the responsibilities of national forest officers may be properly redeemed, it is essential to provide a simple, localized, and practical means of bringing "petty violators" to hearing and settlement. The number of violators

has never been large, and it is not anticipated that the volume will increase percentage-wise. The existence of a known means of prompt and practical enforcement of rules and regulations generally has a salutary effect on respect for control and the fairness and vigor of enforcement. By the same token the fact that rules and regulations are difficult of practical enforcement, regardless of their merit or need, in itself encourages violations. This is one of the major problems of our field rangers in administration of our forests and protection of the vast numbers of careful and law-abiding visitors and users.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

Mr. GRANT. If you will come around, sir, we will be glad to hear from you now.

STATEMENT OF HON. HAROLD T. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Mr. Chairman and members of the committee, it is a pleasure for me to appear before this committee in support of my bill, H.R. 7588.

This bill is designed to facilitate the administration of our national forests and national grasslands. The bill under consideration today would allow designated U.S. commissioners to try and sentence persons found violating the rules and regulations of the Secretary of Agriculture. Violations of such rules and regulations are classed as petty offenses.

The Department of Agriculture and the Forest Service have no readily available or practical means for speedy, local settlement of the minor problems such as is available to the National Park Service at the present time. The Forest Service administrator must rely on the Federal courts as a forum for meting out justice. To date, this avenue of law enforcement and the prevention of these petty offenses has been woefully inadequate.

All of the Federal court calendars are overcrowded, necessitating a 3- or 4-day delay before a case is heard. For this reason, these courts and the U.S. attorneys are reluctant to use this forum for petty offenses. The long delays, and the expenses that must be incurred through waiting and traveling to both the person accused and the forest officers charged with the responsibility for enforcing the laws and regulations is indeed a frustrating experience. More important, however, it works to the detriment of the real purpose of law enforcement—prevention of these petty offenses.

It is true that some States have parallel State laws whereby many of these petty offenses may be tried by local justices of the peace. My home State of California is one of these. However, even here there are gaps that leave the total law enforcement job wanting. There are many instances where, because of the press of other business, local sheriffs, district attorneys, and justices of the peace are unable to give the necessary assistance.

The number of visitors to the National Forest Service is increasing greatly each year. In 1963 there were some 122 million visits to the 1,954 national forests. Now, most of these visitors are fully appreciative of these wonderful areas. However, there are a few people, for reasons not entirely clear, that violate the rules and regulations estab-

lished for the benefit of all citizens. Illegal cutting of Christmas trees, motorized violations of wilderness areas, destruction of Government property, rowdyism, "litterbugging," and violation of fire closures are but a few of the petty offense violations perpetrated by the irresponsible few.

Mr. Chairman, I do not want to overburden this committee with details and take up its valuable time, but I would like to cite a case or two where the appointment of a U.S. commissioner would have been a boon to the administration of the national forests.

Bass Lake in the Sierra National Forest in my home State of California is a heavily used recreation area. It is also a particular problem area. It is easily available. It seems to attract a lot of young people who give law enforcement authorities a bad time, including the forest officers administering the campgrounds and beaches in the area. Many times these youngsters are engaged in clear-cut violations. Because of the burdens on State and county law enforcement officers, there has been a reluctance of sheriffs' personnel to help out in Government campgrounds where parking, length of stay, and similar offenses that are contrary to campground regulations but are not against any State law or county ordinance have been committed. The forest officers dealing with these minor offenses, almost daily, have had a large percentage of success with even the rough customers by some skillful bluffing. Frequently, however, they run up against a customer who doesn't bluff.

In my home district, on the Inyo National Forest, the Forest Service has been experimenting with user fees in selected campgrounds. In one case a camper refused to pay the daily use fee, and the sheriff refused to take action to remove the camper without consent of the district attorney. The only State law applicable seemed to be the Innkeeper's Act, but the district attorney was reluctant to use it in this type of case. The camper left when he was ready, seemingly flaunting the law in the faces of the local forest officers.

Mr. Chairman, I cite these as being typical of the types of law enforcement problems facing today's national forest administration.

In conclusion, I would like to say that to authorize U.S. commissioners to try and sentence violators of petty offenses appears to be the most equitable solution to this long-term problem. If we are to meet the needs of today and those of the future in administering the national forest system for the benefit and pleasure of all Americans this additional tool for adequate law enforcement is a must.

Mr. Chairman, it has been a pleasure for me to appear before this committee in support of this much-needed legislation.

I want to further say that I think that all of us throughout the West and perhaps in other areas as well are experiencing this same type of violator on the national forests, the national parks, and our grassland areas.

In the national parks of California, five of which are located in my district, we have much better law enforcement, because in most of the cases the commissioner is available, and most of the cases are handled by those available, and within our national parks we seem to have a better acceptance on the part of those using the parks to abide by the rules and the regulations.

We have approximately 22 million acres of forest service lands in California, which are being heavily used. We are having our prob-

lems with this type of violator. The forest officers have about all that they can do to take care of their jobs dealing with the maximum number of people wanting to use these areas. It is unbelievable what happens in some of these areas on the part of this type of person who needs to be apprehended and taken to court to pay a fine and to recognize his penalty as it relates to the damage done to Federal properties. They will go in and tear up a complete campground in many instances. They will do a little bit of everything.

We have had these motorcycle clubs move into a forested area and just about chew up the whole place before they get through with it. And the erosion control and the problem left behind is a real costly one.

In our State—I do not know about other States—there are approximately 28 of these commissioners scattered throughout the State. I have five in my own district. I understand they are appointed for life. They have acted very favorably, so far as the National Park Service is concerned, in carrying out the responsibilities in the national park areas of California and within my own district.

This bill was brought to my attention by the Northern California Supervisors Association; specifically, one of their directors, Supervisor Clair Donnenwirth, of Plumas County. Plumas County is experiencing a great deal of this type of violation. They have a great many users in the Plumas National Forest. And it really has gotten out of control in certain areas.

I believe that the technical questions can be asked of Mr. Florance who knows much more about the operations throughout the United States. He knows much more about the judiciary functions of the commissioners and just how the persons are dealt with. And if there are any general questions I will be only too happy to try to answer them, Mr. Chairman.

Mr. GRANT. Thank you very much for your statement. I believe that this legislation has been recommended by the Department about a year ago.

Are there any questions?

Mr. SHORT. Mr. Johnson, may I say that we are happy to have you before our subcommittee this morning. Could I ask you this: When you are talking about violations here of regulations having to do with recreational use is that what you are talking about, or are we talking about violations of all kinds of forest regulations that would apply to any permittee such as a permittee harvesting timber or a permittee grazing on some of the forest lands?

Mr. JOHNSON. I do not know just what category the trespasser would be in. I believe that he would come under the general law. He—if he was a trespasser on the national forest harvesting timber, I think that he would be in violation and he would be tried in the Federal courts.

Mr. DUNCAN. Will you yield?

Mr. SHORT. Yes.

Mr. DUNCAN. This bill deals with petty offenses. I cannot give you a precise definition of a petty offense, but it provides an alternative means of disposing of the case at the option of the accused. He is given an opportunity, if he wants to do so, to take his case before the U.S. district court. The bill really is for the benefit of the accused as much as it is for the Federal Government, because it gives an expedi-

tious and inexpensive way to have the matter disposed of. The only other alternative they now have is to bring them up before the U.S. district court which may be some distance from the site of the offense. It would be comparable to a misdemeanor.

Mr. SHORT. Thank you.

Mr. JOHNSON. May I say this? I brought in the Christmas tree incident. The Forest Service designates certain areas in which to cut Christmas trees, but plenty of people go up and say, "I want to cut one over here," and they just defy the Forest Service officer who is there.

Mr. SHORT. May I say that I could not agree more with the need for some practical way of dealing with the litterbugs or the party who moves into a campsite and exceeds the time limit that the Forest Service has established for one individual to use a particular camp area and he just says: "I am not going to move—what are you going to do about it?"

It would seem, assuming that the rules which have been established are appropriate rules, in the first place, that there should be some way of dealing with this individual without having to go through the Federal courts. I certainly do not disagree with the need for a more practical means of dealing with this kind of situation. I am not a lawyer. The gentleman from Oregon is. If I interpreted you correctly, Mr. Duncan, is it your interpretation of this bill that this proposal is intended to deal with petty offenses and would not involve the kind of situation where they got into a dispute about reimbursement for timber harvested or a dispute between a rancher as regards grazing fees and that kind of thing?

Mr. DUNCAN. If you will yield for the purpose of answering the question, let me say that the jurisdiction of this commissioner is limited at the present time by the conditions in another section of the criminal code. Now, cutting Christmas trees would not probably be a petty offense.

Mr. SHORT. It would not be?

Mr. DUNCAN. It depends on the size of the punishment that is appropriate for that particular thing. It would be the same distinction as between a felony and a misdemeanor. And one of the conditions is that any person so charged may elect to be tried by the U.S. district court. The commissioner has to apprise him of his rights and shall not proceed to try the case unless the defendant gives his consent.

Mr. SHORT. This does not eliminate the opportunity of the individual to go before a Federal court with his case if he so desires?

Mr. DUNCAN. It permits him to do so.

Mr. TEAGUE of California. Will you yield?

Mr. SHORT. Yes.

Mr. TEAGUE of California. The way I understand it is to be this, and if I am wrong I wish that Mr. Johnson or Mr. Duncan would correct me. I have a very large military base in my district, Vandenberg Air Base. It is about 200 miles from Los Angeles. A civilian on that base, if he has a parking offense, or a speeding offense, which is in the nature of a misdemeanor, or a traffic offense, has the option of going to San Luis Obispo rather than going to Los Angeles to the Federal court, which is 200 miles away. Is that not what we are trying to get at basically here?

Mr. NELSON. That is right—it is limited to a misdemeanor. It is in terms of a petty offense. And then it goes on to say that the maximum fine would be \$500 or 6 months in jail. But the example that you cited is correct, because you do have a commissioner located at San Luis Obispo.

Mr. DUNCAN. The problem here, as I understand it, is that the district courts have authority to handle offenses in any area where the Federal Government has exclusive or substantial jurisdiction. And this would mean military installations and the like. In the national forests it has only a proprietary interest in the national forests and it is my understanding, from a little investigation, that the commissioner has no jurisdiction in such instances, and it is my understanding further that the State courts, the justice courts, and the like, would have no jurisdiction over a Federal offense. And this would take a big load of these off the backs of the district courts. And it helps for expeditious handling.

Mrs. MAY. I was wondering as to the legal procedures that would be followed here. Could we hear from Mr. Florance of the Department on that?

Mr. JOHNSON. Mr. Florance will testify. He is available for all of the technical questions as they relate to this measure.

Mrs. MAY. Thank you.

Mr. JOHNSON. I might say in closing that this was endorsed in our State by the county government, the Forest Service, all of the conservation groups and the chambers of commerce throughout the State of California.

Mr. GRANT. Thank you so much.

Mr. JOHNSON. You are welcome.

Mr. DUNCAN. May I ask Mr. Johnson one further question?

Mr. GRANT. Yes.

Mr. DUNCAN. Is there another bill broader in scope than yours in that it would encompass other areas of governmental land—to include what you have plus a lot more, do you know?

Mr. JOHNSON. I do not know. Mr. Florance would know that, but I do not.

Mr. DUNCAN. Thank you. That is all.

Mr. GRANT. We have with us our colleague, Mr. Ullman. We will be glad to hear from you now.

STATEMENT OF HON. AL ULLMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. ULLMAN. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to submit a short statement this morning in support of H.R. 7588, Congressman Johnson's bill to improve enforcement of regulations in our national forests.

With the ever-expanding American population, and the constant encroachment of city and suburb into once populated areas, pressures for recreational and other use of our public land resources are mounting higher each year. This makes the regulations to protect our forest resources vitally important, and such regulations are meaningless unless adequately enforced.

By empowering the U.S. commissioners with the authority to adjudicate violations of Forest Service regulations, a strain on the

crowded court calendars of district judges will be relieved, and equally important, there will be more incentive for enforcement in the knowledge that offenders can be quickly brought to trial. The bill will simply bring the level of protection of our forests up to what has, for some time, been the standard in our national parks. Congressman Johnson's bill, which has the support of the administration, is a reasonable approach to this problem, and I urge its approval by the committee.

Once again, I wish to thank the committee for the opportunity to appear in support of this worthwhile legislation.

Mr. GRANT. Thank you very much. It seems like we are pretty much in agreement here. Have you anything to offer or to suggest?

Mr. ULLMAN. Nothing, except to say that my district has many national forests and much public land, as a matter of fact about 60 percent of it is in public land and national forests. And I recognize that some of my constituents who are adjacent to public lands might not approve of additional authority on the part of the forest personnel and the U.S. commissioners, but overall I would say that my people do approve it. They recognize that this is a problem, that the pressures are building up on the forests to the extent that unless something of this order is done, as it is done in the national parks, very soon our regulations will be totally meaningless because you cannot go through the court procedures with every petty offense. And all this is aimed at is the petty offense in the forests. In my opinion, you are preserving your basic right to go to court. You are not depriving people of that right, but you are providing an administrative vehicle to enforce the regulations which you have.

Mr. GRANT. Are you a lawyer?

Mr. ULLMAN. No.

Mr. GRANT. There are some of them here. You know that someone asked me if I were a lawyer, and I told them that I used to be, but that the Supreme Court has taken care of that matter by repealing all the law that I learned.

Are there any further questions?

Mr. SHORT. Mr. Chairman, may I say first off that I am glad to have our colleague here. As he says and as I well know, he has a lot of forest lands in his district and I think there is beginning to be a real problem in this and other areas that this bill directs itself to; that is, that some reasonable means of enforcing the regulations concerning commitment of these little nuisance practices by some people visiting in the forest lands. In the gentleman's area there is a larger use by the general public seeking recreational opportunities in the forest lands, because perhaps the regulations are not quite as strict as they are in the park lands. This means, it seems to me, that there must be a means of enforcing reasonable regulations which must be enforced or the forest lands are going to be badly misused, for the simple reason that the opportunities for recreation and forest lands are considerably broader than they are on park lands. Within some reasonable limitations you can go on the forest lands about as you please. You can camp about where you please. You can hunt during the appropriate hunting season on the forest lands which you cannot do in the park lands. And, of course, the forest lands are subject to all kinds of additional uses that the park lands are not subject to at all, such as grazing and timber harvesting.

The only thing that some of us are a little bit concerned about is the possibility that the settlement of some dispute which may develop between a user and the Forest Service may be subject to being settled at a lower court level than would be appropriate if this dispute happened to be something of a major nature, such as there might come up about timber harvesting and the like.

If I understand rightly, this is not the intent of this bill. The only thing that I am concerned about is that there is a proper distinction made between the authority that is being granted here and the authority that is provided for, as Mr. Duncan said, under present law.

Mr. ULLMAN. I appreciate the comments of the gentleman. I am very skittish in this area myself. I do not want to make czars out of any forest ranger. I want the people to have a maximum access to the public lands. For instance, a proposal was before Congress to assess license fees for access to a national forest. I am very much opposed to that, because I think that this is a public property and it should be available to the public, though I am not opposed to a user's fee when the Government comes in and invests its money. I think that there is some reason for the payment for the use of the camping privilege and this kind of thing.

I think that this bill is a very reasonable approach to a very difficult and complicated problem. And in addition to what the gentleman has said I feel here that you are not depriving the citizen of any rights that he now has, because he does have under this legislation, according to my understanding, the alternative of going through the court procedures. I would be very much opposed to taking that right away from him, but as long as he has that right then I think that this is a very necessary and beneficial piece of legislation.

Mr. SHORT. Thank you very much. That is all.

Mr. GRANT. Thank you very much.

Mr. ULLMAN. Thank you.

Mr. GRANT. Does anyone here from the Department desire to make a statement on this?

**STATEMENT OF REYNOLDS G. FLORANCE, DIRECTOR, LEGISLATIVE
REPORTING AND LIAISON DIVISION, FOREST SERVICE, U.S.
DEPARTMENT OF AGRICULTURE**

Mr. FLORANCE. Mr. Chairman and members of the committee, I am Reynolds Florance. I am Director of the Division of Legislative Reporting and Liaison Division in the Forest Service. I do not have a prepared statement, but as you have indicated, the Department reported favorably on this bill, recommending its enactment by a letter signed by Secretary Freeman on December 24, 1963.

I think the discussion that has been had has highlighted some of the key points about this bill. This bill would provide that violators of rules and regulations pertaining to the protection and use of the national forests and national grasslands which are administered by the Forest Service may be tried and sentenced by any U.S. commissioner specially designated for that purpose by the court by which he was appointed.

The Secretary of Agriculture has the authority and the responsibility for issuing rules and regulations to govern the occupancy and

use and protection of the national forests. Violations of those regulations are petty offenses.

Now, as has been pointed out, there are many other statutes that make offenses against the Federal property greater than petty offenses. Those would not be covered at all by this bill.

Petty offense, actually, is defined as one for which the penalty shall not exceed \$500 in fine or 6 months' imprisonment.

Mr. SHORT. Mr. Chairman, right there, just to get this thing in perspective, we come to this proposition here of the trespasser grazing on forest lands and, particularly, since you mention grasslands, the use of which is primarily grazing, do we make a distinction under the law in regard to the petty offense as compared to the more major offense in that the trespasser might be 1 cow as compared to 20 cows. This becomes a problem in the areas where some of the grasslands are administered with a sort of second public entity stepping in between the Forest Service and the individual in the shape of a grazing association that has an agreement with the Forest Service for the use of all of the lands in a certain grassland area, and then they, in turn, issue permits to the eligible permittees. This creates a kind of a gray area in the law. I am just wondering if this bill could, perhaps, provide a means to get at the petty trespasser who says, "Well, I just have one cow out there and there is a lot of room on that grassland." And, "What are you going to do about it?" This is the kind of a problem that occasionally arises. I live right in the middle of one of these grassland areas. It would be desirable if a more simple method than trespass proceedings could be utilized to deal with a very minor trespass case.

Mr. FLORANCE. You have illustrated, I think, Mr. Short, very well one of the things that this bill would provide for. Actually, the violations that this bill talks of are not limited to violations in respect to recreation areas.

Mr. SHORT. I thought this was true, because there is nothing in the bill that says that.

Mr. FLORANCE. That is right. It covers any violation of the regulations of the Secretary governing the protection and the use of the national forests and the national grasslands.

Mr. SHORT. But limited to minor things?

Mr. FLORANCE. Limited to those that would by law and statute come within the petty offense category.

Mr. SHORT. Thank you.

Mrs. MAY. May I ask Mr. Florance one question at this time?

Would all rules and regulations so far promulgated by the Secretary of Agriculture applying to the national parks be in effect as they are now defined as petty offenses? And would the passage of this legislation be carried over to the Forest Service as such?

Mr. FLORANCE. The regulations of the Secretary of Agriculture to which this bill would apply are those regulations that are published in the Federal Register. They are codified in the Code of Federal Regulations, so that you would have through that means a listing of the regulations which would come into play, if they were violated.

Mrs. MAY. And let us assume the passage of this legislation, after that it might be that the Secretary of Agriculture would issue further regulations and rules?

Mr. FLORANCE. That is correct; he could.

Mrs. MAY. Covering these things?

Mr. FLORANCE. That is correct. Now, one point in connection with this bill is that, it does not establish any new criminal offense, because there is already a provision in the law which makes the violation of these rules and regulations a criminal offense. This bill would provide a convenient means for the trying of persons who have violated those regulations. And as Mr. Duncan has pointed out it would provide an equal convenience to the individual who might be charged as it would to the officers who are charged with the responsibility of administering the national forests and grasslands.

Mrs. MAY. Mr. Florance, under the present rules and regulations in national parks could you tell us very briefly or explain to us very briefly what action the U.S. commissioner takes for a violation in a national park? That is, where it concerns recreation and camping—what would he do?

Mr. FLORANCE. I am not too familiar with what they do in connection with the national parks which are handled by the National Park Service but on national forests if there is a violation that occurs now the forest officer may take the individual before the U.S. commissioner and the U.S. commissioner may determine from what he has heard as to whether there is probable cause for binding that person over to the U.S. district court; in other words, he acts more or less in the nature of a committing magistrate, but the person must be taken to the U.S. district court for the court trial.

Under this bill, if the person consented—and this, of course, is required—the U.S. commissioner could hear that case right then and there, just as a justice of the peace does in connection with a State violation.

Mr. TEAGUE of California. Will you yield there?

Mrs. MAY. Yes.

Mr. TEAGUE of California. Does he have an appeal to the Federal courts if he consents to having it tried by the Commissioner?

Mr. FLORANCE. Yes, the same right of appeal applies from a Commissioner's trial as would from any other.

Mr. SHORT. Will you yield?

Mrs. MAY. Yes.

Mr. SHORT. In enforcing the rules of the Forest Service, what authority does the forest ranger have to take this violator into custody as compared to the authority that the national park policeman has in taking the individual into custody? If I understand correctly, the ranger is not a police officer. The forest lands are more or less under the laws of the States. For instance, hunting on forest lands, would come under the State laws, would it not?

Mr. FLORANCE. It would come under the State law, but it might also come under the Federal law. In other words, the Secretary has issued a regulation which says, in effect, that hunting may be permitted on the national forests in accordance with State laws.

Mr. SHORT. He has that discretionary authority to permit or not to permit hunting on the forest lands?

Mr. FLORANCE. That is correct.

Mr. SHORT. Are you sure about the grasslands, because there is some difference in the legal authority applying to these lands, because they were not acquired as forest land?

Mr. FLORANCE. Yes, sir, that is correct, both as to the national forests and the national grasslands. Actually, the national forests and the national grasslands are held by the United States, not under either exclusive jurisdiction or concurrent jurisdiction. As Mr. Duncan mentioned a moment ago, where Federal lands are held by the Federal Government under either exclusive or concurrent jurisdiction, the U.S. Commissioner at the present time may try petty offenses. The national forests and grasslands are held under what is referred to as proprietorial jurisdiction. That is, as the owner of the land, the Federal Government may enforce rules and regulations that are authorized by Congress.

The States also have legislative jurisdiction over those areas. This is generally true.

It so happens that we have another bill coming later where this is an exception.

We have a very limited amount of national forest lands which are under the exclusive jurisdiction of the Federal Government. But, generally, the national forests are under what is known as the proprietorial.

There is a statute that gives to the forest officers authority to make arrests where they observe a person committing a violation. This does not apply, I do not believe, to the national grasslands, however, but it does to the national forests.

We do not like to look upon our forest rangers as being police officers, but they do have the authority to make arrests and on occasion they do.

Mr. SHORT. This would not apply on the grasslands?

Mr. FLORANCE. Not as far as making arrests are concerned.

Mr. SHORT. Thank you. That is all.

Mr. GRANT. Thank you.

Mr. DUNCAN. The State court has no jurisdiction to try a case involving a violation of a Federal regulation, am I substantially correct on that?

Mr. FLORANCE. That is correct. Where the violation is a Federal offense. If the State has a parallel law, such as the hunting reference a moment ago, it is also a violation of the State law, and the State courts could try that State offense, but not for a Federal offense.

Mr. DUNCAN. And this statute that we have here would apply only to lands under the jurisdiction of the Secretary of Agriculture. It would not apply, for instance, to the Bureau of Land Management.

Mr. FLORANCE. No, sir.

Mr. DUNCAN. Do you know whether a similar problem exists there or not?

Mr. FLORANCE. I do not know, Mr. Duncan, just what the situation there is.

Mr. DUNCAN. Is there any need, do you think, to add further requirements to this statute, this proposal, this bill, that the Commissioner should try the case in the locality where the offense is alleged to have been committed? I suppose that theoretically in the State of Oregon, which is a single Federal judicial district. I suppose theoretically they could assign this to a Commissioner in Portland, even if the offense occurred in Lakeview which is 400 miles away.

Mr. FLORANCE. Of course, that is correct. It can only be done with the consent of the person charged. Generally, it is my understanding that there are quite a number of Commissioners in a judicial district and in Oregon there are quite a number, so that normally they would take the defendant to the nearest Commissioner.

Mr. DUNCAN. So that your answer is that there is no need to clutter it up further.

Mr. FLORANCE. I do not think so.

Mr. DUNCAN. I think that is all. Thank you.

Mr. GRANT. Thank you so much.

Mr. FLORANCE. Thank you.

H.R. 8235, TO PROVIDE FOR THE CONVEYANCE OF CERTAIN REAL PROPERTY IN THE UNITED STATES

Mr. GRANT. Would you like to make your statement now in regard to H.R. 8235, Mr. Harding?

(H.R. 8235 and the Department report dated December 11, 1963, follow:)

[H.R. 8235, 88th Cong., 1st sess.]

A BILL To provide for the conveyance of certain real property of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey, without monetary consideration therefor, to Nick Andros, of Pocatello, Idaho, all right, title, and interest of the United States in and to the northwest quarter northeast quarter and the northeast quarter northwest quarter of section 34, township 7 south, range 34 east, Boise meridian, Idaho, containing approximately 80 acres, more or less.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 11, 1963.

HON. HAROLD COOLEY,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in response to your request of September 17, 1963, for a report by this Department on H.R. 8235, to provide for the conveyance of certain real property of the United States.

This Department recommends that H.R. 8235 not be enacted.

H.R. 8235 would provide that the Secretary of Agriculture convey, without monetary consideration, to Nick Andros, of Pocatello, Idaho, all right, title, and interest of the United States in and to the northwest quarter northeast quarter and the northeast quarter northwest quarter or section 34, township 7 south, range 34 east, Boise meridian, Idaho, containing approximately 80 acres, more or less.

This 80-acre tract is a part of the Caribou National Forest. It supports several sizable springs and is situated in the Gibson Jack Creek drainage about 5 miles south of Pocatello. Water from this drainage is piped from a point just inside the forest boundary to the city water system. The 80 acres are completely surrounded by national forest land, are now covered partially with Douglas-fir timber, and are now serving as protection of the public water supply.

The land was patented by John C. Weeter on December 6, 1902. Shortly after, the need for this land to be continued in public ownership for permanent protection of the water supply of Pocatello was recognized by the citizens of that city. As a result of a mass meeting of citizens on May 27, 1903, an agreement was reached by Mr. Weeter and a citizen's committee whereby Mr. Weeter was paid the sum of \$780 to:

"Immediately desist and refrain from cutting or otherwise destroying or using any live and standing brush or timber upon the above described lands, or any part thereof either in person or by his agents or servants, or by contract, pending the application heretofore made to the Honorable Secretary of the Interior to set

aside said lands as a Forest Reserve for the protection of the Water Supply of the said City of Pocatello; and in the event said application for such Forest Reserve is favorably acted upon and the same established, then the said J. C. Weeter agrees to convey to the United States Government all his right, title, and interest in or to said lands, reserving the right to himself to procure Script or Lieu Certificates entitling him to other lands of like kind from the United States Government by reason of such conveyance;

"And the said J. C. Weeter further agrees that if the application for such Forest Reserve shall be denied, then to convey to the parties of the first part or to such other person or persons as may be found to be expedient, in trust for the Citizens of the City of Pocatello, his fee to the said lands for the purpose of preserving and protecting the water supply of the said City, upon the payment to him of the further sum of \$500.00 lawful money within 60 days, after such application shall be denied; * * *"

This agreement was recorded July 20, 1904, in book 1 of agreements at page 71, Records of Bannock County, State of Idaho.

On August 1, 1904, Mr. Weeter reconveyed the tract to the United States as a basis for lieu selection elsewhere. The reconveyance to the United States was by two deeds, dated August 1, 1904, and recorded on August 2, 1904, in book 15 of deeds, page 144, of Bannock County, Idaho. The lieu selection of lands outside the municipal watershed of the city was completed August 12, 1912, and patented September 16, 1912.

Bannock County erroneously began levying taxes on the tract in 1931. On November 10, 1936, the county deeded the tract to Mr. Nick Andros after it had failed to sell it at a public auction for delinquent taxes. We understand he has been paying taxes on it since then.

In 1962, Mr. Andros negotiated to sell the 80 acres to Mr. E. O. Ritzman, but it developed that he had no title. Subsequently an application for exchange was made to the forest supervisor in connection with this tract of land. On February 21, 1963, the forest supervisor notified both Mr. Andros and Mr. Ritzman, by certified mail, that the 80-acre tract was national forest land. The tax deed issued to Mr. Andros by Bannock County was in error and did not diminish the U.S. title to the tract. We know of no evidence to indicate use by adverse claimants of the tract since it was reconveyed to the United States in 1904.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

STATEMENT OF HON. RALPH R. HARDING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. HARDING. Mr. Chairman and members of the committee, first I want to express my appreciation to you and the members of the subcommittee for allowing me this hearing on H.R. 8235.

In 1936, Nick Andros, a resident of Bannock County, Idaho, purchased from Bannock County at a tax sale, the 80 acres of land described in H.R. 8235. For 28 years Mr. Andros has annually paid his property taxes on his land and no one challenged his ownership. In October 1962, he entered into a contract to sell the land to Mr. E. O. Ritzman for the sum of \$5,000.

In connection with this sale it was discovered that Mr. Andros did not have a clear title to the land in Bannock County in selling the land in 1936 had made a mistake, that actually this land had been reconveyed to the United States in 1904 and had, therefore, been owned by the Federal Government in 1936 when the tax sale was consummated.

I introduced my bill, H.R. 8235, in behalf of Mr. Andros to correct a great injustice that will result in this matter if legislative action is not taken. Mr. Andros assumed that he had owned this property for 28 years and paid taxes on the property. During this time, how-

ever, the Forest Service, also, assumed Mr. Andros owned this property. In 1962 when it was discovered for the first time that the Federal Government was the legal owner of the property, Mr. Andros suffered a severe financial loss and the Federal Government benefited from a windfall financial gain.

I introduced H.R. 8235 to correct this matter. However, Mr. Chairman, since introducing the bill I have learned that the Forest Service wants to retain this land because of its location in the Gibson Jack Creek drainage area and the land in question is completely surrounded by national forest land and is partially covered with Douglas-fir timber.

I have also had letters from city and county officials in Pocatello informing me that they also would prefer to see the land remain in public ownership.

Inasmuch as the Government is now aware of their ownership of this property, something they have not been aware of for the past 28 years and will now have the full use and benefit of the property, something they have been denied for the past 28 years, I believe that it is only fair that Mr. Andros be compensated for his loss.

Therefore, Mr. Chairman, at the appropriate time in the subcommittee, if it is in order, I will offer an amendment to my bill to provide that Mr. Andros be compensated in the amount of the fair market value for this land.

I want to state in conclusion that Mr. Andros is a Greek-American. He is over 70 years old. He does not have too good an understanding of the English language. Certainly, you might argue that he had an obligation to clarify the title to the land before paying taxes on it for 28 years. However, a counterargument could very well be made that Bannock County was in error in 1931 in issuing tax notices on this land and selling it 5 years later for delinquent taxes.

As I have pointed out, there has been one great gainer and one sizable loser and the gainer has been the Federal Government and it now finds itself with the full ownership of 80 acres of land that for 28 years officials of the Federal Government did not realize they owned. The sizable loser is this over-70-year-old Greek-American, who made an investment 28 years ago and suddenly finds himself without the land he invested in.

Mr. TEAGUE of California. Will you yield?

Mr. HARDING. Yes.

Mr. TEAGUE of California. I should like to ask you whether under this second approach of yours to pay this man \$5,000, rather than to give the land back to him, whether we have jurisdiction over that or whether that is under the jurisdiction of the Judiciary Committee. I would like to ask that question of Mr. Heimburger.

Mr. HARDING. That is why I made the reservation.

Mr. HEIMBURGER. The answer is that so far as the rules of the House are concerned, a committee having acquired jurisdiction of a bill may make amendments to the bill.

Mr. GRANT. Have you completed your statement?

Mr. HARDING. Yes.

Mr. McINTIRE. Your point is well made. The proposal that Mr. Harding has is somewhat different than the bill. Would this in your opinion change it?

Mr. HEIMBURGER. No, Mr. Chairman, the rules of the House says that where a bill has been properly referred to a committee and it is presumed to be properly referred unless it is challenged, the committee may report an amendment to that bill, even though the amendment might be such as to change the entire character of the bill in such a manner that it would not be in its jurisdiction had the amendment been presented as the original bill. It might be subject to a point of order, but the committee may make this amendment, and after the committee report has been filed, then the jurisdiction of the committee would no longer be challenged.

Mr. GRANT. Mr. Harding, how much did he pay for this land?

Mr. HARDING. In 1936, I do not know the exact amount that he paid for the land—I believe that it was under \$100 and the taxes that he has paid since are approximately \$500. Actually, he has invested in the neighborhood of \$600 as I understand it.

Mrs. MAY. What has he been using the land for? Has he put any improvements on the land?

Mr. HARDING. I understand that he has not put any improvements on the land. He purchased it as an investment and as a possible summer homesite.

Mr. DUNCAN. If that is so, how does the Federal Government gain by this?

Mr. HARDING. It gains inasmuch as they assumed for 28 years that this was Mr. Andros' property.

Mr. DUNCAN. No improvement has been put on it. I do not see how the Federal Government has gained anything though I cannot see that Mr. Andros has lost. I do not see that there is any gain to the Federal Government, any more than if somebody sold a piece of property of mine which he had no right to sell.

Mr. HARDING. If he sold your property and for 28 years you recognized the ownership of the purchaser and didn't claim your ownership of the property—

Mr. DUNCAN. There is no adverse possession, as I understand the law, here. I do not think it runs against the Government, anyway. Is he barred by the statute of limitations on collecting back the taxes he paid? The county made no effort to correct this error. They were the ones that profited, because they received the taxes.

Mr. MCINTIRE. Are these 80 acres agricultural land?

Mr. HARDING. Not at all. It is surrounded on all sides by Forest Service lands. After Mr. Ritzman bought the land from Mr. Andros and made the downpayment, he went to the Forest Service to try to work out a trade for other Forest Service land in a different area, and that is when it was discovered that the Forest Service already owned the land.

Mr. SHORT. There seems to be another step involved here of someone making an error in assuming that this land belonged to someone other than the Forest Service in the original instance of the record owner who became delinquent in the payment of taxes, to the extent that the land became available for sale for taxes to Mr. Andros.

Mr. HARDING. That is right. As I pointed out, the person in the local county office in 1931 assumed that this land belonged to an individual. I further feel that inasmuch as the Forest Service for 28

years did not recognize their ownership of the land and did recognize Mr. Andros' ownership of the land for 28 years he is entitled to it.

Mr. SHORT. It would appear that there must be some responsibility somewhere. I am not a lawyer. But it would appear that the Forest Service or the Federal Government should have had some responsibility to call someone's attention somewhere along the line in some prior years to the fact that this land belonged to the Federal Government. There was a presumption, at least at the local county level, that it belonged to someone other than the Federal Government. I would guess that if your title is good to a piece of land you are not supposed to have to do anything to protect it. We have had a lot of this in North Dakota in connection with mineral rights on lands going for taxes. It would seem to me, inadvertently as it may be, that Mr. Andros has been done a disservice by the laws of the State, at least, by permitting him to pay taxes on this land all of these years. And now the statute of limitations prohibits him from recovering the taxes he improperly paid that had been assessed. And yet he was doing something that was going to be overturned by the simple fact that he did not have a legal title to the land from the county.

Mr. HARDING. I introduced this legislation, as I said earlier because there was one person who suffered a tremendous loss and one party received a windfall. I would think that the local Forest Service officials, the agents of the United States, at least, some time early in this 28-year period had an obligation to dispute Mr. Andros' ownership and to say, "This is our property," but it was not until 1962, when Mr. Andros sold the land that they discovered Federal ownership of the property. It was 1962, after 28 years before they notified Mr. Andros and Mr. Ritzman, the purchaser, that this was Forest Service land.

Mr. GRANT. It is my understanding that it is not the money that he has paid in that is being sought here by this bill. What amount would be necessary so that Mr. Andros would not have any loss?

Mr. HARDING. Of course—according to the contract sale, the purchaser of the property paid Mr. Andros \$1,000 on October 17, 1962, and had agreed to pay him \$500 annually each year thereafter with interest at 5 percent until he had paid off the \$5,000. Mr. Andros has now returned to Mr. Ritzman the sum of \$1,000 that he paid him which was done when this deficiency in title was discovered.

Mr. GRANT. So that would be the only legal title that he had?

Mr. HARDING. He does not have a legal action.

Mr. McINTIRE. Actually, what is involved here are the taxes which he paid in the prior years.

Mr. HARDING. That is correct along with his purchase price and the interest on the money that he invested. He would have been investing it in something else otherwise.

Mr. DUNCAN. Will you yield?

Mr. McINTIRE. Yes.

Mr. DUNCAN. I was interested in Mrs. May's question as to whether or not there were any improvements on the property and the answer to that I understood was no. If a man built a house and was living in it, even though adverse possession may not run against the Government, you might have a good claim, but how the Government could

be charged with the responsibility of knowing this and checking the title records is beyond me.

The Government has a right to rely upon the record of title which was in the courthouse. This is what disturbs me, because if this transaction involved any private citizen's right, I cannot see how the Government has been responsible. The Government paid for it years ago, and I do not see how anybody else can come along and sell it.

That is all.

Mr. GRANT. Is there anything further?

Mrs. MAY. What about this where he was paid the sum of \$700? Who paid that?

Mr. HARDING. Mr. Duncan assumed that it was the Federal Government that made that payment in 1904.

Mr. Chairman, I would like to include as a part of the record a statement by Mr. McDermott, Mr. Andros' attorney, a statement of appraisal, and a contract of sale by Mr. Andros to Mr. Ritzman.

Mr. GRANT. Without objection they may be included in the record at this point.

(The documents referred to follow:)

STATEMENT

Re: Nick Andros

In the year 1936, the above named purchased the real property hereinafter described at a tax sale from Bannock County, State of Idaho. He has paid taxes on the property since the year of purchase in the approximate sum of Four Hundred Fifty Dollars (\$450.00). During the intervening twenty-eight years no one has challenged his title to the property. On several occasions he had talked to various employees of the Forest Service concerning the land. Apparently the City of Pocatello, Idaho, wanted to get title to this land but Mr. Andros had informed these people that he was not interested in selling.

In October 1962, he entered into a contract of sale with E. O. Ritzman for the sum of Five Thousand Dollars, (\$5,000.00), and was paid One Thousand Dollars, (\$1,000.00), in cash, the balance payable in installments. Shortly after this sale was made the Forest Service Office in Pocatello, Idaho, checked the title on the property. At that time it was discovered that in the year 1904 this land had been reconveyed to the United States and through an error in the records office of Bannock County, Idaho, the property was put up for a tax sale in the year 1936. Apparently the County office had overlooked the deed to the government which was filed for record in 1904. For a period of almost thirty years the Forest Service has acknowledged Mr. Andros as the owner.

It so happens that Mr. Andros was born in Greece and does not understand the English language very well and does not remember the names of the different Forest employees that he had discussed this land trade with. We feel that this is a real hardship case, Mr. Andros is over the age of seventy years and the negligence of Mr. Andros may be excused but it is difficult to excuse the neglect on the part of the Forest Service in that they knew for almost thirty years that Mr. Andros claimed ownership of this land and they never had the title checked or claimed any interest in the land.

The following is a legal description of the real estate involved:

The Northwest Quarter of Northeast Quarter and the Northeast Quarter of Northwest Quarter Section 34, Township 7, S Range 34 E. B. M. Consisting of 80 Acres.

Dated this 10th day of March 1964.

Respectfully submitted.

P. A. McDERMOTT,
Attorney for Nick Andros,
Res.: Pocatello, Idaho.

APPRAISEMENT

The undersigned being familiar with real estate values in Bannock County, State of Idaho, and having examined a contract of sale for the following described property for the sum of Five Thousand Dollars (\$5,000.00) ;

We do hereby certify that the following described property is of the reasonable value of the sum of Five Thousand Dollars (\$5,000.00).

Said property is described as follows, to-wit :

The Northwest Quarter of Northeast Quarter and the Northeast Quarter of Northwest Quarter Section 34, Township 7, S Range 34 E. B. M. Consisting of 80 Acres.

Dated this 9th day of March 1964.

PERRY JOHNSON.
WILLIAM W. BECKER.
JEROME T. BAILEY.

Subscribed and sworn to before me this 9th day of March 1964.

P. A. McDERMOTT,
Notary Public for Idaho,
Res.: Pocatello, Idaho.

My Comm. Exp. : 11-10-65.

REAL ESTATE AGREEMENT

THIS AGREEMENT, made and entered into the 17th. day of October
in the year of our Lord one thousand nine hundred Sixty-two (1962). (1962)
Between Nick Andros, a single man

of Pocatello, County of Bannock, State of Idaho,
party of the first part, and E. O. Ritsman, a single man
of Pocatello, County of Bannock, State of Idaho,
the party of the second part.

WITNESSETH, that the party of the first part, in consideration of the covenants and agreements on the part of the said party of the second part, herein after contained, agree to sell and convey unto the said party of the second part, and the second party agrees to buy all the certain lot, piece or parcel of land, situate, lying and being in County of Bannock, State of Idaho, and bounded and particularly described as follows.
to-wit:

The Northwest Quarter of Northeast Quarter and the Northeast quarter of Northwest Quarter Section 34, Township 7, S Range 34 E. B. M. Consisting of 80 Acres

sum ofFive Thousand and no/100..... DOLLARS
 lay all money of the United States, and said part Y of the second part, in consideration of the
 purchase, agree A to pay to the said part Y of the first part
 the said sum ofFive Thousand and no/100..... DOLLARS,
 as follows, to-wit:

- \$1,000.00 October 17th. 1962, the date of this instrument, receipt whereof is hereby acknowledged, and
- \$500.00 October 17th. 1963, plus interest at the rate of 5% per annum, and
- \$500.00 on the 17th. day of October plus interest at the rate of 5% per annum on the unpaid principal balance on that date each and every year thereafter until the full sum of \$5,000.00 has been paid in full to- with the interest on each and every payment.

It is agreed that the buildings on said premises shall be kept fully insured against loss by fire, with loss payable to part of the first part as present owner, and to part of the second part as purchaser under contract, as their respective interests may appear; premiums on said policies to be paid by part of the second part on and after October 17, 19 62 .
 And the said part Y of the second part agree B to pay all State, City, School and County taxes, or assessments of whatsoever nature, which are or may become due on the premises above described, on or after January 1st, 1963 .

In the event of a failure to comply with the terms hereof, by the part Y of the second part, the said part Y of the first part shall be released from obligation in law or equity to convey said property, and said part Y of the second part shall forfeit all right thereto, and all payments made on said property. And the said part Y of the first part, on receiving such payment, at the time and in the manner above mentioned, agree B to execute and deliver to the said part Y of the second part, or to assigns, a good and sufficient warranty deed and abstract to said premises, free from all encumbrances, except or Title Insurance

Time is the essence of this agreement and in case the part y of the second part should fail, refuse or neglect to pay said part y of the first part the money as is agreed herein to be paid, or to pay taxes, assessments or insurance on the date same shall become due, and for a period of thirty days thereafter, or shall fail to fulfill any of the covenants or agreements on the Purchaser's part to be kept and performed, then and in that event, the part y of the first part may, at his option, forfeit any and all rights of the purchaser in and to said property, and all money paid to the part y of the first part by the purchaser under this agreement shall be retained by the said part y of the first part as liquidated damages for the non-performance of this contract, and as rent for said property; and the purchaser, if then living on the property shall be considered a lessee of the part y of the first part and shall be liable to ejection under the laws of the State of Idaho, relating to forcible entry and unlawful detainer. And the said part y of the first part, on receiving payment at the time and in the manner above mentioned, agrees to instruct the escrow holder to deliver to the said part y of the second part, or his heirs and assigns the escrow deed which shall be a good and sufficient Warranty Deed to said premises, together with abstract showing title free from incumbrances, except incumbrances above mentioned, excepting also, such encumbrances as may be created by the part y of the second part, or through his assigns or heirs. It is understood that the stipulations herein set forth, are to apply and bind the heirs, executors, administrators and assigns of the respective parties thereto.

I WITNESS WHEREOF, the said parties of these presents have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

J. H. Gathe, Jr.

Wick Andros (SEAL)
E. O. Nitzman (SEAL)
 _____ (SEAL)
 _____ (SEAL)

STATE OF IDAHO, } ss.
 COUNTY OF BANNOCK }

On the 17th. day of October, in the year 19 62, before me, a Notary Public in and for said State personally appeared Wick Andros known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)

Theodore W. Gathe, Jr.
 Notary Public

My commission expires April 19th., 19 66 .

Residing at Pocatello, Idaho

Mr. GRANT. Does the Department have any testimony on this?

Mr. FLORANCE. Mr. Chairman, the Department filed its report on this case, and I think that sets forth fully our position.

Mr. GRANT. Thank you.

Mr. HEIMBURGER. Could I ask one question?

Mr. GRANT. Yes.

Mr. HEIMBURGER. This was developed somewhat by Mr. Duncan and Mrs. May. They were raising the question: Why did not the Forest Service take some action at an earlier time to oust this trespasser? It occurred to me that it is entirely possible the Forest Service had no reason to question or to have any knowledge of the fact that somebody was paying taxes on this land until this contract of sale came about. Do you know whether or not that is correct—whether there had been any notice to the Forest Service that this man did claim title to these 80 acres?

Mr. FLORANCE. So far as I know, Mr. Heimburger, there was no reason for the Forest Service to verify the status of this particular piece of land prior to this 1962 date.

Mr. HEIMBURGER. In other words, so far as the Forest Service was concerned this was part of the national forest land and it had no idea that the county was levying taxes on it?

Mr. FLORANCE. That is correct.

Mr. HEIMBURGER. And, of course, it is true, I assume, that in Idaho and elsewhere that a tax deed is hardly worth more than the paper it is written on. And whatever title, if any, the county has is all that they give. And in this case since it had none—it never did transfer the title.

Mr. FLORANCE. That is correct.

Mr. SHORT. Getting back to my question how this thing got started—this is on the bottom of page 2, where it says, "Bannock County erroneously began levying taxes on the tract in 1931." Well, apparently, this is just an error that was made in the county office which included this land—on the list of tax-delinquent lands purely and simply by error. The point that I was making a while ago that there must have been someone else involved here in having some title to the land and having paid taxes on the land. It does not indicate here that anybody else had ever paid taxes on the land, since it was conveyed in 1904. So it appears from this letter, at least, to me to be a situation where somebody in the county office made an error and included the 80 acres of land in the description—in the list of descriptions of lands that had become tax delinquent.

Mr. FLORANCE. That is my understanding. There was no assessment of this property for taxes from the time it was reconveyed to the Government back in 1904 until it began to be assessed there in the 1930's. I do not know, Mr. Short, exactly the basis on which it was put on the tax list.

Mrs. MAY. Who would be paying taxes if there was no owner?

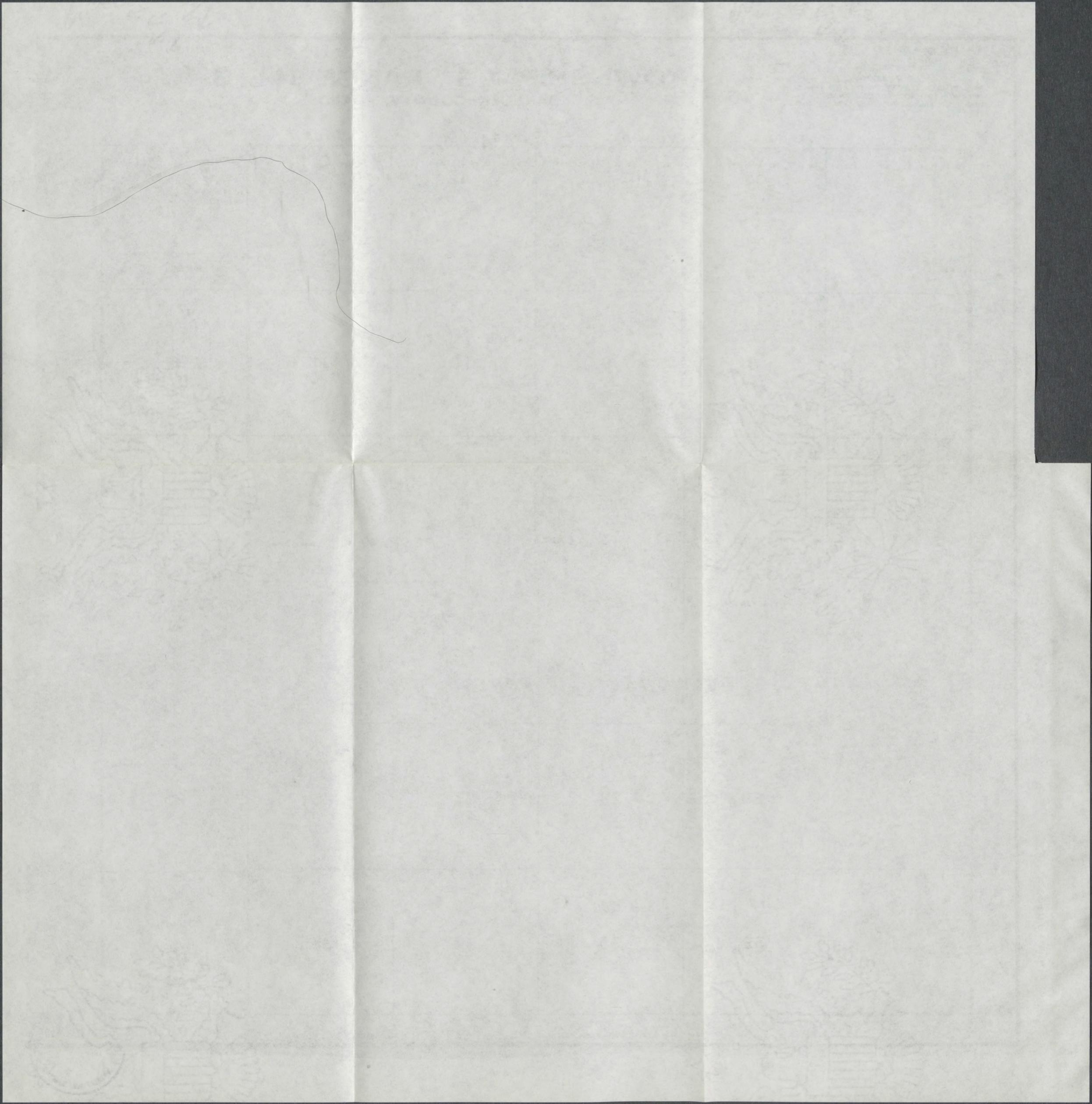
Mr. FLORANCE. It happens, Mrs. May, quite frequently. You get a piece of property that is erroneously assessed. The taxes are assessed and are not paid. The tax officials do not check back against the title record to see who is the actual owner. It is a mere fact that it gets on the tax assessment and the taxes are not paid, then they carry that as a delinquent tax property.

Mr. GRANT. Thank you very much.

Mr. HARDING. I would like to have unanimous consent to have the record held open to allow me to furnish additional information in this case. As I understand the matter, the local Forest Service officials have assumed private ownership of this property to be a fact for 28 years. It is not simply a matter where they were not aware that anyone else had a claim against it. I understand that the local officials of the Forest Service had assumed for 28 years that Mr. Andros owned this land.

Mr. GRANT. Without objection, the record will be held open to give you an opportunity to secure that information.

(The information referred to follows:)



Mr. FLORANCE. I would like to say in line with what Mr. Harding has just said that the local records there—I am not sure whether it is at the ranger office or the supervisor's office—did show this as patented land. The reason for that was that the land had been patented. It was reconveyed to the Federal Government in 1904. The lieu selection was made and completed in 1912. The fact that it had been reconveyed was fully recorded in the official records in the general land office, but that had not trickled back to the local supervisor's records. That, however, did not disturb the fact that no one was actually in occupancy of this property. Had there been timber cuttings or some other occupancy on this land I am sure that the local forest officer would have checked to make sure whether the land was national forest land.

Mr. HARDING. I feel that the fact that you just agreed to, "That the local records there * * * did show this as patented land" accounts for Mr. Andros and his party having access to the land at various times and it was assumed that it was his up until this sale had been consummated.

Mrs. MAY. It was desirous for drainage purposes, according to this letter? It was just part of the watershed?

Mr. HARDING. That is right—just part of the watershed.

Mr. GRANT. If there are no further questions, thank you very much.

Mr. HARDING. Thank you, sir.

S. 51, TO AUTHORIZE THE SECRETARY OF AGRICULTURE TO RELINQUISH TO THE STATE OF WYOMING JURISDICTION OVER THOSE LANDS WITHIN THE MEDICINE BOW NATIONAL FOREST KNOWN AS THE POLE MOUNTAIN DISTRICT

Mr. GRANT. We have before us S. 51. Is there anyone here from the Department who would like to make a short statement on this?

(S. 51 and the report follow:)

[S. 51, 88th Cong., 1st sess.]

AN ACT To authorize the Secretary of Agriculture to relinquish to the State of Wyoming jurisdiction over those lands within the Medicine Bow National Forest known as the Pole Mountain District

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture is authorized to relinquish to the State of Wyoming such measure as he may deem desirable of legislative jurisdiction heretofore acquired by the United States over lands within the Medicine Bow National Forest constituting the area known as the Pole Mountain District, created by Executive Order Numbered 4245, dated June 5, 1925, as amended by public land order numbered 1897, dated July 10, 1959.

(b) Relinquishment of jurisdiction under the authority of this Act may be made by filing with the Governor of the State of Wyoming a notice of such relinquish, which shall take effect upon acceptance thereof by the State of Wyoming in such manner as the laws of such State may prescribe.

Passed the Senate June 25, 1963.

Attest:

FELTON M. JOHNSTON, *Secretary.*

[S. Rept. 282, 88th Cong., 1st sess.]

RETROCESSION OF JURISDICTION TO WYOMING

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 51), to authorize the Secretary of Agriculture to relinquish to the State of Wyoming jurisdiction over those lands within the Medicine Bow National Forest known as the Pole Mountain District, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill would authorize retrocession to the State of Wyoming of such measure of legislative jurisdiction over the Pole Mountain District of the Medicine Bow National Forest as the Secretary of Agriculture may deem desirable. The Department of Agriculture recommends enactment of the bill, since lack of clear legislative jurisdiction by the State in certain matters creates problems of protection and administration for the national forest.

The bill is identical to S. 3370 which passed the Senate on October 2, 1962. No objections or requests for hearings were received by the committee.

The need for the bill is fully explained in the attached report of the Department of Agriculture.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 12, 1963.

HON. ALLEN J. ELLENDER,
*Chairman, Committee on Agriculture and Forestry,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reply to your request of January 18, 1963, for a report on S. 51, a bill to authorize the Secretary of Agriculture to relinquish to the State of Wyoming jurisdiction over those lands within the Medicine Bow National Forest known as the Pole Mountain District.

There are other problems of legislative jurisdiction involving a number of areas administered by this Department, which indicate that there is a need for a general authorization for retrocession of legislative jurisdiction, such as would be afforded by S. 815, a bill to provide for the adjustment of the legislative jurisdiction exercised by the United States over land in the several States used for Federal purposes, and for other purposes.

The particular situation regarding the Pole Mountain District of the Medicine Bow National Forest in Wyoming makes prompt action desirable to authorize the retrocession of certain legislative jurisdiction held by this Department over that area to the State of Wyoming. Therefore, we recommend the enactment of S. 51.

A similar bill, S. 3370, was introduced in the 87th Congress. On September 11, 1962, this Department recommended the enactment of that bill with clarifying amendments. The recommended changes have been incorporated into S. 51.

S. 51 would authorize the Secretary of Agriculture to relinquish to the State of Wyoming such measure as he may deem desirable of legislative jurisdiction heretofore acquired by the United States over lands making up the Pole Mountain District of the Medicine Bow National Forest. Under the bill, a notice of relinquishment filed with the Governor of the State of Wyoming would take effect upon acceptance of jurisdiction by the State of Wyoming as prescribed by State laws.

The lands comprising the Pole Mountain District of the Medicine Bow National Forest formerly were a part of the Fort D. A. Russell Military Reservation which subsequently became a part of the Francis E. Warren Air Force Base. They were set apart and reserved for military purposes by a series of Executive orders beginning in 1869. They became a part of the national forest by Executive Order No. 4245 of June 5, 1925, and Public Land Order No. 1897 of July 10, 1959, issued pursuant to section 9 of the act of June 7, 1924 (16 U.S.C. 505). The previous military withdrawals as to these lands were revoked by Public Land Order No. 2446 of July 20, 1961, leaving the lands in national forest status.

By act of February 17, 1893 (laws of Wyoming, 1893, p. 43), exclusive jurisdiction was ceded by the State of Wyoming to the United States over certain military reservations, including Fort D. A. Russell, and any lands thereafter acquired or held by the United States for military purposes. The revocation of the military withdrawals does not clearly have the effect of terminating the exclusive jurisdiction of the United States over these lands.

Lack of certain legislative jurisdiction by the State creates problems of protection and administration for the national forest. For example: The State of Wyoming lacks authority to regulate or control hunting and fishing under State laws on the Pole Mountain District. It also lacks authority to apply State laws relating to forest fires, theft and property destruction, taxation of personal property, and other matters normally covered by State laws. Authority for State officials to enforce State and local laws is often beneficial in the protection and administration of national forests, particularly where some offense of a minor nature has occurred.

Generally the Federal Government does not exercise exclusive jurisdiction over national forest land but has in such lands a proprietary interest only. The Federal Government, through the Department of Agriculture, under S. 51 would, by reason of its proprietary interest, retain the power under article IV, section 3, clause 2 of the Constitution and legislation enacted by Congress pursuant thereto to administer and protect these lands in accordance with the laws, rules, and regulations applicable to the national forests. This Department, therefore, is of the view that a proprietary interest in its properties is satisfactory to its functions. Both this Department and the State of Wyoming desire that the State have authority for the enforcement of the State's hunting and fishing and other laws on the Pole Mountain District just as it does on other national forest lands in the State.

Provisions contained in the Organic Administration Act of June 4, 1897 (30 Stat. 36), and the Weeks Act of March 1, 1911 (36 Stat. 963), make it clear that the jurisdiction, both civil and criminal, over persons within national forests shall not be affected or changed by reason of their existence, except so far as the punishment of offenses against the United States therein is concerned. An intent of such provisions in these acts is expressed as being that the State wherein any such national forest is situated shall not, by reason of the establishment thereof, lose its jurisdiction. It, therefore, is evident that the provisions of S. 51 would be consistent with the basic national forest legislation cited.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

**STATEMENT OF REYNOLDS G. FLORANCE, DIRECTOR, LEGISLATIVE
REPORTING AND LIAISON DIVISION, FOREST SERVICE, U.S.
DEPARTMENT OF AGRICULTURE**

Mr. FLORANCE. S. 51 would authorize the Secretary of Agriculture to relinquish to the State of Wyoming such measure of legislative jurisdiction as he deems desirable heretofore acquired by the United States over lands making up what is known as the Pole Mountain District of the Medicine Bow National Forest.

The purpose of this bill is to enable the Secretary to relinquish to the State jurisdiction over this property, so that it would be put in exactly the same category, so far as legislative jurisdiction is concerned, as national forest lands generally.

This Pole Mountain District is an area almost 55,000 acres which was originally part of a military reservation and as such the Federal Government has exclusive jurisdiction over it. This means that the State cannot enforce their hunting and fishing laws, cannot enforce their other laws on this land as it does on other national forest lands. And the State officials, I understand, have expressed a desire that this bill be enacted in order that they can enforce the hunting regulations in particular over this land as they do over the rest of the national forests.

That, I think in a nutshell, is the purpose of this bill, and the Department recommends it favorably.

Mr. TEAGUE of California. This is the first time I ever heard the Federal Government proposing to relinquish any jurisdiction to a State government. I am all for it.

Mr. GRANT. Are there any further questions?

Mr. SHORT. This is just a matter of putting this area which is now for all practical purposes a part of the Medicine Bow National Forest under the same legal provisions of the law, is it not?

Mr. FLORANCE. That is correct, to make it the same as the other national forest lands.

Mr. GRANT. Thank you very much.

Mr. FLORANCE. Thank you very much.

Mr. GRANT. With that the subcommittee will stand adjourned and go into executive session.

Thank you.

(Whereupon, at 11:35 a.m., the subcommittee proceeded into executive session.)

H.R. 6601, RELATING TO LAND SALE, GRAND JUNCTION,
COLO.

MONDAY, MARCH 23, 1964

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DEPARTMENTAL OVERSIGHT AND
CONSUMER RELATIONS OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11 a.m., in room 1310, Longworth House Office Building, the Honorable Paul F. Jones, (chairman of the subcommittee) presiding.

Present: Representatives Jones (presiding), Abernethy, Johnson of Wisconsin, Hagen of California, Matsunaga, Dole, and Beermann.

Also present: Christine S. Gallagher, clerk; John J. Heimburger, counsel; and Robert C. Bruce, assistant counsel.

Mr. JONES (presiding). The subcommittee will come to order.

We are met this morning to consider H.R. 6601, presented by Mr. Aspinall, who has informed me that he will not be able to be present, because of other committee business. This bill before us is to authorize the Secretary of Agriculture to sell certain land in Grand Junction, Colo., and for other purposes. We do have a favorable report from the Department in which they say that, "We believe that the land and buildings presently owned by the Government could be sold for a sufficient amount to make possible the purchase of lands desirable in size and location for present and future needs, and also the construction thereon of adequate modern warehouse and related facilities."

We will make the bill and the Department's letter dated September 5, 1963, a part of the record at this point.

(H.R. 6601 and the report follow:)

[H.R. 6601, 88th Cong., 1st sess.]

A BILL To authorize the Secretary of Agriculture to sell certain land in Grand Junction, Colorado, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey by a quitclaim deed, for not less than fair market value, all right, title, and interest of the United States in and to lots 23 and 24, block 119, in the city of Grand Junction, Colorado, and the improvements thereon and to apply the proceeds of such sale to the purchase of other land in or near Grand Junction and the construction thereon of similar improvements.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 5, 1963.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of July 18, 1963, for a report on H.R. 6601, a bill to authorize the Secretary of Agriculture to sell certain land in Grand Junction, Colo., and for other purposes.

Because of the special circumstances in this case, this Department favors the enactment of this bill.

H.R. 6601 would authorize the Secretary of Agriculture to convey certain described land and the improvements thereon in the city of Grand Junction, Colo., for not less than fair market value. The bill would authorize the application of the proceeds of such sale to the purchase of other land in or near Grand Junction and to the construction thereon of similar improvements.

The two lots described in H.R. 6601 were purchased by the Federal Government from two private individuals in 1936-37 under provisions of the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115). They were acquired in order to make available suitable land for the installation of a warehouse facility for the north end and mesa ranger districts of the Grand Mesa-Uncompahgre National Forest. The warehouse was constructed thereon a number of years ago by the Civilian Conservation Corps. In recent years a Forest Service field research unit has also used this warehouse facility for incidental vehicle and other storage. As of August 28, 1962, the warehouse was put under special use permit to the Eisenhauer Motor Co. of Grand Junction and other more adequate temporary arrangements made for storage of Government supplies and equipment.

The lots, when purchased, and the improvements, when built, were well located and adequate for the purpose intended. Subsequently the city of Grand Junction has grown so that the installation is now in the center of a congested business area. For this reason the location is not desirable for the storage of Government vehicles and heavy equipment, or for efficient use as a Forest Service warehouse facility. Also, the available space and building are entirely inadequate for meeting present and future needs in carrying out expanding work responsibilities and programs for national forest resource management and development of two ranger districts and for needs of the Forest Service field research unit. Furthermore, we understand that officials of the city of Grand Junction are anxious that the Forest Service move its operations to a more suitable location in or adjacent to the city, particularly since this would make possible the more intensive development of the two lots involved.

The Forest Service work could be performed much more efficiently and economically in a more suitable location and installation. Also, as the city grows and the Department's programs expand, the usability of this site for warehouse purposes will continue to deteriorate. Therefore, it would be in the interest of the Government, the city of Grand Junction, and the public for this installation to be located in a less-congested area and at a location where these Forest Service operations could be more closely related to national forest use and development.

We believe that the land and building presently owned by the Government could be sold for a sufficient amount to make possible the purchase of lands desirable in size and location for present and future needs, and also the construction thereon of adequate modern warehouse and related facilities. Thus, the authority which the bill would provide for using the proceeds of such a sale would appear to offer a prompt and practical means for the Forest Service to meet its needs at little or no cost to the Government.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

Mr. JONES. We will be glad to hear from you now, Mr. Florence.

STATEMENT OF REYNOLDS FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING AND LIAISON; ACCOMPANIED BY PAUL SWARTHOUT, LAND ADJUSTMENT DIVISION, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. FLORANCE. Thank you, Mr. Chairman. I have no prepared statement. I really came mainly to talk from the Department's report which you have referred to, and to try to answer any questions the committee may have.

H.R. 6601 authorizes the Secretary of Agriculture to convey for not less than its fair market value two lots in the city of Grand Junction, Colo., and the bill would authorize applying the proceeds of such sale to the purchase of other land in or near Grand Junction and the construction thereon of similar improvements.

The two lots covered by this bill were acquired by the Government in mid-1930 for the installation of a warehouse facility for two ranger districts on the Grand Mesa and Uncompahdre National Forests. At the time these lots were acquired they were on the edge of the town, the town has grown around them, and they are now located about in the heart of the business district. As such, they are not suitable, really, for warehouse facilities.

We understand that the city of Grand Junction has been interested in having the Forest Service move out to the edge of the town, and we hope that we would be able to do so, by the enactment of this bill.

Mr. JONES. Are there any questions that the members of the subcommittee would like to ask?

Mr. ABERNETHY. Are there buildings on the lots?

Mr. FLORANCE. Yes, sir; there are buildings on the lots.

Mr. ABERNETHY. Are they used for warehouse purposes?

Mr. FLORANCE. These buildings were used by the Forest Service up until very recently for warehouse purposes, yes.

Mr. ABERNETHY. What are they used for now?

Mr. FLORANCE. At the present time and when this proposal arose, the Forest Service moved its warehouse and is now using other facilities and is renting this building out.

Mr. ABERNETHY. You are renting the building now?

Mr. FLORANCE. Yes.

Mr. JONES. To the Eisenhauer Motor Co.?

Mr. FLORANCE. Yes.

Mr. JOHNSON of Wisconsin. Do you know whether they might buy it?

Mr. FLORANCE. We do not know who would want to buy it. We would offer it for sale. We have no actual bids for the property at the present time.

Mr. JOHNSON of Wisconsin. Does the motor company want to buy it, I repeat?

Mr. FLORANCE. It is possible that they would, but that we do not know.

Mr. JOHNSON of Wisconsin. Do you have any idea as to the value of these two lots and the building?

Mr. FLORANCE. We have not had it appraised, but our people tell us that they think it is worth approximately \$45,000.

Mr. ABERNETHY. Do you have any intention of clouding up the fee simple title by reserving the minerals?

Mr. FLORANCE. No, sir; we would make no mineral reservation.

Mr. ABERNETHY. That is characteristic of the Federal Government, you know.

Mr. JONES. Are there any other questions?

Mr. DOLE. May I ask one?

Mr. JONES. Yes.

Mr. DOLE. I have no objection to the bill. It will be a public bid-type sale?

Mr. FLORANCE. That is correct. It will be advertised. Probably we would use sealed bids and sell it to the highest bidder.

Mr. DOLE. As I understand the proceeds should be enough to buy additional property and to erect necessary buildings? There would not be any additional cost to any Government agency?

Mr. FLORANCE. That is what our people tell us.

Mr. DOLE. That is all I have.

Mr. JONES. Are there any other questions?

If not, thank you Mr. Florance.

Mr. FLORANCE. Thank you, Mr. Jones.

Mr. JONES. This concludes the open session and the subcommittee will now go into executive session.

Thank you.

(Whereupon, at 11:05 a.m., the subcommittee proceeded into executive session.)

H.R. 10069, TO AUTHORIZE THE EXCHANGE OF PUBLIC LANDS ADJACENT TO THE LASSEN NATIONAL FOREST IN CALIFORNIA, AND FOR OTHER PURPOSES

TUESDAY, JUNE 30, 1964

HOUSE OF REPRESENTATIVES,
FORESTS SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 1310, Longworth House Office Building, at 10 a.m., Hon. George Grant (chairman of the subcommittee) presiding.

Present: Representatives Grant, Matthews, Harding, Hagan of Georgia, Duncan, McIntire, Teague of California, Short, and Mrs. May.

Also present: Mrs. Christine Gallagher, clerk, and John Heimburger, general counsel.

Mr. GRANT. The subcommittee will come to order. We have for consideration this morning H.R. 10069, a bill by our colleague, Congressman Harold Johnson of California.

(H.R. 10069 and the Department report thereon follow:)

[H.R. 10069, 88th Cong., 2d sess.]

A BILL To authorize the exchange of lands adjacent to the Lassen National Forest in California, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of March 20, 1922 (42 Stat. 465), as amended and supplemented by the Act of February 28, 1925 (43 Stat. 1090), and the Act of June 11, 1960 (74 Stat. 205), are hereby extended to the following described lands:

TOWNSHIP 31 NORTH, RANGE 11 EAST, MOUNT DIABLO MERIDIAN

Section 8, southwest quarter southwest quarter, west half southeast quarter southwest quarter;

Section 18, north half northeast quarter northeast quarter, northwest quarter northeast quarter, northeast quarter southwest quarter, lot 3.

Lands conveyed to the United States under this Act shall, upon acceptance of title, become parts of the Lassen National Forest and shall be subject to the laws, rules, and regulations applicable thereto.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 12, 1964.

HON. HAROLD D. COOLEY,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request of March 13, 1964, for a report on H.R. 10069, a bill to authorize the exchange of lands adjacent to the Lassen National Forest in California, and for other purposes.

We recommend that this bill be enacted.

H.R. 10069 would extend the provisions of the act of March 20, 1922 (42 Stat. 465), as amended and supplemented by the acts of February 28, 1925 (43 Stat. 1090) and June 11, 1960 (74 Stat. 205), to 198.24 acres of privately owned land as described in detail in the bill. Lands conveyed to the United States pursuant to the authority in the bill would upon acceptance of title become parts of the Lassen National Forest and subject to the laws, rules, and regulations applicable thereto.

The tracts described in H.R. 10069 adjoin lands now part of the Lassen National Forest. However, they are outside of the exterior boundaries of that national forest and hence are not subject to the land exchange authority in the acts cited above. They are timbered lands, largely cutover, and suitable for national forest purposes including public recreation. They are presently owned by companies engaged in logging and sawmilling in the area.

The described lands lie close to Eagle Lake, a large body of water in eastern Lassen County, which is being used increasingly for public recreation. National forest areas adjoin the lakefront on the west, south, and southeasterly shores. However, on the south and southeasterly periphery of the lake, which is the most accessible and best suited for public use, national forest land consists of a very narrow strip some of which is only 200 to 300 feet wide. Development of public use areas to accommodate future demands for camping and other outdoor recreation pursuits requires a small acreage of additional lands to augment this narrow strip and expand the present public ownership. The tracts described in H.R. 10069 are very well suited to this purpose. If acquired by the United States, they will provide an excellent supplement to the present national forest area to accommodate the anticipated public-use impact during the next two decades.

Acquisition of the described lands in exchange for national forest lands and timber of comparable value at locations mutually satisfactory to the owners involved and the Government appears feasible and desirable. Enactment of H.R. 10069, therefore, will help promote systematic, long-range multiple-use plans and programs for this section of the Lassen National Forest adjacent to Eagle Lake.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

Mr. GRANT. We will recognize Mr. Johnson.

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. I have a brief statement, Mr. Chairman, which I will submit for the record with your permission.

Mr. GRANT. Very well.

(Mr. Johnson's prepared statement follows:)

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I appreciate the opportunity to appear here today in support of my bill, H.R. 10069, which would authorize the exchange of lands adjacent to the Lassen National Forest in California.

We have here a situation whereby a reservoir, known as Eagle Lake, is developing rapidly as a recreation center. I might say that some of the biggest trout caught in California are caught in this lake. It is the center of a biological field station of Chico State College and it has become a popular boating and swimming area.

There is a great need to protect the shores for continued public use and also recreation development in the immediate vicinity of the lake. A private timber company which owns some lakefront property with the finest recreation potential has agreed to exchange it for other timber property well away from the lake. This is the most economical way that the Forest Service can acquire valuable lakefront access.

The only problem is that the land offered by the Fruit Growers Supply Co. and Shasta Forest Co. is adjacent to the Lassen National Forest, but not actually

within its boundaries. My legislation would permit the exchange regardless of this.

The Forest Service, as you know, has endorsed the proposal completely. Local government has concurred in the proposal and I might add, have recognized the great recreation potential of the area by proper zoning. Lassen County is prepared to assist in the development of the recreation facilities there.

Mr. Chairman, I appreciate the hearings being held today and certainly hope that this committee will look with favor upon the legislation. It seems to me to be a most realistic solution to the problem.

Mr. JOHNSON. Speaking in support of H.R. 10069, I certainly appreciate the opportunity to have this heard this morning. This measure was agreed to by local government and the Forest Service. The county of Lassen in California and Lassen National Forest got together and agreed to ask for an exchange of property. There is a private holding there adjacent to Eagle Lake that is owned by the Fruit Growers Supply Co. and the Shasta Forest Co. They are old logging people that have been in the lumber business for years in Lassen County prior to the time this lake was developed by the State. The State has moved in there and built some launching ramps and other recreation facilities, and our State college at Chico has a station there on the lake for research work. The lake is being used by many, many people in California. Access to the lake is rather limited.

This piece of property, the 198.24 acres, will give them a sizable piece of real estate adjacent to the lake with lake frontage for public development. The county has agreed to go in and assist the Forest Service in the initial development and then turn their facilities over to the Forest Service for operation.

The Forest Service will work out exchanges within the Lassen National Forest in exchange for this land with the Fruit Growers Supply Co. and Shasta Forest Co. They still own timber in Lassen County. They are interested in timber, not in recreation development.

I might say the reason for this bill is that the property that the lumber company owns, adjacent to Eagle Lake, is outside the Lassen National Forest. Therefore, it is necessary that this bill be passed enabling the Forest Service and the lumber company to get together and work out the exchange. As I understand it, it is agreeable to both parties, is agreeable to the local government, the county of Lassen, and certainly our State is in full support and welcomes this type of development to assist us in providing recreation for our people.

I do not know how many of you people have been to Lassen County, but this is one of the most picturesque lakes we have in that region. It has established in it a fishery second to none, and people are there by the thousands. Since our State is growing, naturally we need more access for the public to these lakes that lie in the mountains.

If there are any questions, I will try to answer them.

Mr. GRANT. Thank you. Am I correct in assuming that there is no cash consideration either way?

Mr. JOHNSON. No; there is no money involved, Mr. Chairman. The Forest Service is in complete agreement. The Secretary of Agriculture reported favorably, and the Bureau of the Budget has no objection. It is strictly an exchange of lands. Under the exchange program, they are supposed to get dollar for dollar. I think that is pretty much the history of the Forest Service. They have made some very good deals.

Mr. GRANT. If there are no questions, thank you, Mr. Johnson.

Mr. JOHNSON. Thank you, sir.

Mr. GRANT. We will recognize at this time Mr. Grover from the Forest Service.

STATEMENT OF FREDERICK W. GROVER, DIRECTOR, DIVISION OF LAND CLASSIFICATION, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GROVER. My name is Frederick W. Grover and I am Director of the Division of Land Classification, Forest Service.

In regard to H.R. 10069, the Secretary of Agriculture on May 12, recommended enactment of the bill and explained the reasons why the Department is in favor of it. I have no formal statement to submit to the committee at this time, but I will be very glad to answer any questions or to provide any additional information the committee may wish.

Mr. GRANT. I do not have any further questions. Mr. Matthews?

Mr. MATTHEWS. I think this is the kind of bill everybody is agreed on. I see no reason for delaying. I have no questions. I certainly favor the bill.

Mr. HELMBURGER. Mr. Chairman.

Mr. GRANT. Mr. Heimbürger.

Mr. HELMBURGER. Has the land to be exchanged been determined, Mr. Grover?

Mr. GROVER. No, Mr. Heimbürger; we have not worked out a specific transaction involving the land to be selected.

Mr. HELMBURGER. In an exchange such as this, is the land which you would receive forested? Is it all covered with timber or has it been cut over?

Mr. GROVER. The land described in the bill, the land the Government would obtain, has been cut over. It is forested land that has been cut over and now bears some residual timber and a considerable amount of young forest growth.

Mr. HELMBURGER. As a result of this bill, then, the owners of this land would receive in exchange some Forest Service land?

Mr. GROVER. They would receive land of comparable value.

Mr. HELMBURGER. Regardless of whether the acreage is comparable, the value of the land, including the timber stand, would be substantially the same as that which you are receiving?

Mr. GROVER. That is correct. The exchange legislation, which would be extended to cover these lands, provides that the lands received by the Government must at least equal the value of land conveyed by the Government.

Mr. HELMBURGER. That is all, Mr. Chairman.

Mr. TEAGUE of California. Mr. Chairman.

Mr. GRANT. Mr. Teague.

Mr. TEAGUE. Do I understand, then, that the land the Federal Government will receive in the exchange is more suitable for recreation purposes than that which it will dispose of?

Mr. GROVER. That is correct, Mr. Teague.

Mr. TEAGUE. Thank you.

Mr. GRANT. Thank you very much.

Mr. GROVER. Thank you, Mr. Chairman.

(Whereupon, the subcommittee proceeded to the consideration of other business.)

H.R. 9179, H.R. 12012, AND S. 2218, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACCEPT THE TRANSFER OF CERTAIN NATIONAL FOREST LANDS IN COCKE COUNTY, TENN., FOR PURPOSES OF THE FOOTHILLS PARKWAY, AND FOR OTHER PURPOSES

TUESDAY, JUNE 30, 1964

HOUSE OF REPRESENTATIVES,
FORESTS SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 1310, Longworth House Office Building, at 10:15 a.m., Hon. George Grant (chairman of the subcommittee) presiding.

Present: Representatives Grant, Matthews, Harding, Hagan of Georgia, Duncan, McIntire, Teague of California, Short, and Mrs. May.

Also present: Mrs. Christine Gallagher, clerk, and John Heimburger, general counsel.

Mr. GRANT. We have another bill here, H.R. 9179, by Mr. Cooley.

Mr. HEIMBURGER. The Senate has passed a bill, Mr. Chairman, which is also before the subcommittee. I believe it is identical.

(H.R. 9179 by Mr. Cooley, H.R. 12012 by Mr. Quillen, and S. 2218 follow:)

[H.R. 9179, 88th Cong., 1st sess.]

A BILL To authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Cocke County, Tennessee, for purposes of the Foothills Parkway, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to transfer to the jurisdiction of the Secretary of the Interior, who is hereby authorized to accept such transfer, not to exceed three hundred and sixty acres of national forest land in Cocke County, Tennessee, now part of the Cherokee National Forest, located within and adjacent to the right-of-way for section 8A of the Foothills Parkway between Tennessee Highway Numbered 32 and the Pigeon River.

Upon publication in the Federal Register of an order of transfer by the Secretary of Agriculture, the lands so transferred shall be a part of the Great Smoky Mountains National Park and available for the scenic parkway as authorized by the Act of February 22, 1944 (58 Stat. 19; 16 U.S.C. 403h-11).

[H.R. 12012, 88th Cong., 2d sess.]

A BILL To authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Cocke County, Tennessee, for purposes of the Foothills Parkway, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to transfer to the jurisdiction of the Secretary of the Interior, who is

hereby authorized to accept such transfer, not to exceed three hundred and sixty acres of national forest land in Cocke County, Tennessee, now a part of the Cherokee National Forest, located within and adjacent to the right-of-way for section 8A of the Foothills Parkway between Tennessee Highway Numbered 32 and the Pigeon River.

Upon publication in the Federal Register of an order of transfer by the Secretary of Agriculture, the lands so transferred shall be a part of the Great Smoky Mountains National Park and available for the scenic parkway as authorized by the Act of February 22, 1944 (58 Stat. 19; 16 U.S.C. 403h-11).

[S. 2218, 88th Cong., 1st sess.]

AN ACT To authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Cocke County, Tennessee, for purposes of the Foothills Parkway, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to transfer to the jurisdiction of the Secretary of the Interior, who is hereby authorized to accept such transfer, not to exceed three hundred and sixty acres of national forest land in Cocke County, Tennessee, now a part of the Cherokee National Forest, located within and adjacent to the right-of-way for section 8A of the Foothills Parkway between Tennessee Highway Numbered 32 and the Pigeon River.

Upon publication in the Federal Register of an order of transfer by the Secretary of Agriculture, the lands so transferred shall be a part of the Great Smoky Mountains National Park and available for the scenic parkway as authorized by the Act of February 22, 1944 (58 Stat. 19; 16 U.S.C. 403h-11).

Passed the Senate December 6 (legislative day, December 5), 1963.

Attest:

FELTON M. JOHNSTON, *Secretary.*

Mr. GRANT. What is the Senate number?

(Discussion off the record.)

Mr. GROVER. There were two Senate bills introduced. The legislation was recommended by the Department of the Interior as an administration bill. S. 2211, according to my file, was introduced by Senator Ellender, by request. Then Mr. Walters, the Senator from Tennessee, introduced S. 2218. I believe S. 2218 was the one the Senate acted upon.

Mr. HELMBURGER. I am sure that is correct. In other words, they had two identical bills and reported one.

Mr. GROVER. They are identical.

(Discussion off the record.)

Mr. HELMBURGER. S. 2218 has passed the Senate.

STATEMENT OF FREDERICK W. GROVER, DIRECTOR, DIVISION OF LAND CLASSIFICATION, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GRANT. Mr. Grover, will you give us a little information concerning this bill, please, sir.

Mr. GROVER. Mr. Chairman, the legislation was originally recommended by the Secretary of the Interior, by the Assistant Secretary of the Interior, on September 23, 1963, in letters to the two Houses of the Congress. On November 7, 1963, the Secretary of Agriculture favorably reported on S. 2211, recommending that it be enacted. That is identical with S. 2218 now before you.

The purpose of this bill is to authorize the Secretary of Agriculture to transfer to the jurisdiction of the Department of the Interior a tract not exceeding 360 acres which is now part of the Cherokee National

Forest in Tennessee. This tract was acquired many years ago under the Weeks law of March 1, 1911, for national forest purposes, and an act of Congress is necessary to permit its transfer to the jurisdiction of the Department of the Interior.

This particular tract will be used in part as a right-of-way for a parkway which is being constructed on the west side of the Great Smoky National Park. It is more or less of a peripheral parkway round the west side of the park. The Park Service is now engaged in constructing this particular section of it. A part of the 360 acres will also be used by the National Park Service to develop public accommodations along this parkway.

This particular tract of land is now utilized for timber production and wildlife and hunting and other typical national forest uses. We feel that it can properly and appropriately be transferred to the Park Service without interfering with the administration of the national forest and that such transfer will benefit the construction of this parkway. Therefore, the Department has recommended the enactment of the bill.

Mr. McINTIRE. Mr. Chairman.

Mr. GRANT. Mr. McIntire.

Mr. McINTIRE. The development of the Foothills Parkway is what you were referring to as the project of the National Park Service?

Mr. GROVER. Yes, sir.

Mr. McINTIRE. Will the development of this parkway involve any other Forest Service land?

Mr. GROVER. No, sir; this is the only tract that will be involved.

Mr. McINTIRE. There are no subsequent actions involved so far as Forest Service lands are concerned?

Mr. GROVER. It is my understanding this is the only tract involved.

Mr. McINTIRE. Does this leave any islands of Forest Service land?

Mr. GROVER. No, sir; it will not. It takes off the exterior limits of the tract of national forest land.

Mr. McINTIRE. So that in development of this parkway there are no parcels of Forest Service land that are going to be separated?

Mr. GROVER. No, sir; it will not leave any isolated tracts. In the construction of the parkway we have an agreement with the National Park Service that a certain underpass will be constructed to permit access to lands to the south and east of this tract.

Mr. McINTIRE. That is all.

Mr. GRANT. Are there any other questions?

Mr. HARDING. In whose congressional district is this land located?

Mr. GROVER. I am sorry, Mr. Harding, I could check and find out for you.

Mr. HARDING. The Member of Congress has not been notified of this transaction within his district?

Mr. GROVER. I cannot answer that either, Mr. Harding. I assume he has. This land is in Cocke County, Tenn. I am sorry I cannot answer whose district it is in.

Mr. TEAGUE. Mr. Chairman.

Mr. GRANT. Mr. Teague.

Mr. TEAGUE. As far as you know, sir, is there any opposition from any local governmental body down there in Tennessee or any individual or group of individuals or any company or anybody opposed to this anywhere along the line?

Mr. GROVER. No, sir; we have had no indication of any opposition.

Mr. TEAGUE. Do your files or records show anybody being opposed to this?

Mr. HEIMBURGER. No, sir; I have no record of it at all.

Mr. SHORT. If the gentleman will yield, do any of the local people know that this transfer is about to be made?

Mr. GROVER. Mr. Short, I cannot answer that. I am sure they know the parkway is being built, but whether they have been specifically notified of this, I am sorry, I cannot say. Our local Forest Service people are fully aware of it, and I am confident that if there had been any question about it, our local supervisor would have advised us.

Mr. SHORT. I am always inclined to question transferring forest lands to the Park Service. We are taking a rather important step in some instances because the revenues to the local political subdivision in lieu of taxes are going to be lost if there is any. We are changing the possibility of the recreational uses on this land very considerably. The Forest Service does have a recreation program of its own, which is somewhat less restrictive than the Park Service.

I wonder why it is necessary to transfer this land. It would be just as easy to obtain an easement from the Forest Service to construct this highway across this land, would it not?

Mr. GROVER. That is so. It could have been made available in that fashion.

Mr. SHORT. Is this highway being constructed by the Park Service as a development of the park area?

Mr. GROVER. That is right. It is appurtenant to Great Smokys Park.

Mr. SHORT. Therefore, it becomes necessary for the Park Service to own the right-of-way upon which they are constructing the highway in order that they can spend the development funds for construction of a road; is that right?

Mr. GROVER. I think that is correct, Mr. Short. This is a quite small tract on the periphery of an ownership, and a large part of it would be devoted to right-of-way purposes and to control of the land along the parkway.

Mr. SHORT. You said about 320 acres?

Mr. GROVER. 360 acres maximum. We have not worked out the exact description, but it is a maximum of 360 acres.

Mr. SHORT. That is all, Mr. Chairman.

Mr. HARDING. Assuming we are going to report this out today, I feel that, if as one of the staff members pointed out, this is in Mr. Quillen's district, I think he should be notified of the transfer, that this bill is before the committee, and give him the chance to let the chairman know his feelings on it before we report it out to the full committee.

Mr. GRANT. He is being notified.

Mr. MCINTIRE. Mr. Teague has gone to call him.

Mr. GRANT. Thank you very much, Mr. Grover.

Mr. HEIMBURGER. That is all we have, Mr. Chairman.

Mr. GRANT. If there is no further business, the committee will go into executive session.

(Whereupon, at 10:30 a.m., the subcommittee went into executive session.)

H.R. 4242, TO PROVIDE FOR THE RELEASE AND TRANSFER OF ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES OF AMERICA IN AND TO CERTAIN TRACTS OF LAND IN PENDER COUNTY, N.C.

WEDNESDAY, JULY 1, 1964

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DEPARTMENTAL OVERSIGHT AND
CONSUMER RELATIONS OF THE COMMITTEE ON AGRICULTURE.
Washington, D.C.

The subcommittee met at 10 a.m., in room 1310, Longworth House Office Building, the Honorable Paul C. Jones (chairman of the subcommittee) presiding.

Present: Representatives Jones of Missouri, Abernethy, Hagen of California, Johnson of Wisconsin, Matsunaga, Dague, Harvey, and Beermann.

Also present: John Heimbürger, general counsel; Martha Hannah, staff assistant.

Charles E. Brodersen, Office of the General Counsel; and Milton B. Allman, Farmers Home Administration, U.S. Department of Agriculture.

Mr. JONES. The subcommittee will come to order.

The first bill we will consider this morning is H.R. 4242, introduced by the gentleman from North Carolina, Mr. Henderson, who is here. (H.R. 4242 by Mr. Henderson follows:)

[H.R. 4242, 88th Cong., 1st sess.]

A BILL To provide for the release and transfer of all right, title, and interest of the United States of America in and to certain tracts of land in Pender County, North Carolina

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized and directed to take such action as may be necessary to release and transfer, by quitclaim deed or otherwise, without consideration, to the Board of Education of Pender County, North Carolina, all right, title, and interest retained by the United States of America in and to five parcels or tracts of land and the improvements thereon located in Pender County, North Carolina, conveyed to the said board of education, and more particularly described in the following deeds from the United States of America and the Penderlea Farms Homestead Association, Incorporated, listed in section 2 of this Act.

SEC. 2. The deeds referred to in the first section of this Act are the following:

(1) The quitclaim deed, dated September 22, 1941, and recorded in book 249, page 397, of the Pender County Registry, Pender County, North Carolina, from the Penderlea Farms Homestead Association, Incorporated, to the County Board of Education of Pender County, North Carolina, conveying .430 acres, more or less, and the improvements thereon.

(2) The quitclaim deed, dated December 6, 1941, and recorded in book 229, page 605, of the Pender County Register, Pender County, North Carolina,

from the United States of America to the County Board of Education of Pender County, North Carolina, conveying 23.663 acres, more or less, and the improvements thereon.

(3) The correction deed, dated October 24, 1946, and recorded in book 262, page 340, of the Pender County Registry, Pender County, North Carolina, from the United States of America to the County Board of Education of Pender County, North Carolina, conveying 23.663 and .78 acres, more or less, and the improvements thereon.

(4) The quitclaim deed, dated June 13, 1945, and recorded in book 255, page 573, of the Pender County Registry, Pender County, North Carolina, from the United States of America to the Board of Education of Pender County, North Carolina, conveying 9.282 acres, more or less, and the improvements thereon.

(5) The quitclaim deed, dated January 18, 1946, and recorded in book 257, page 436, of the Pender County Registry, Pender County, North Carolina, from the United States of America to the Pender County Board of Education, conveying 2.584 acres, more or less.

Mr. JONES. We shall be glad to hear from Mr. Henderson.

We also have from the Department Mr. Charles Brodersen, accompanied by Mr. Milton Allman.

Mr. Brodersen is from the Office of the General Counsel and Mr. Allman is the Space and Property Officer.

Proceed, Mr. Henderson.

STATEMENT OF HON. DAVID N. HENDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. HENDERSON. Mr. Chairman, I want to thank you and the members of the subcommittee for considering H.R. 4242 and giving me an opportunity to be heard in support of it.

Without going into all of the minute technical details, I will say that the gist of the matter is that back during the 1930's, the Federal Government, under authority of a depression era program no longer in existence, acquired title to certain lands in Pender County, N.C., and developed these lands into what was known as the Penderlea Farms Homestead Association. This was a sort of farm cooperative community where housing was provided to support what amounted to a small village, whose inhabitants worked on the farmlands jointly owned by the association.

By 1941, there appeared to be a need for a school in the immediate area of the Penderlea project and consequently to enable the Pender County Board of Education to build and operate a school in the area, the Federal Government, by a series of conveyances, conveyed some 30-odd acres of the lands to the Pender County Board of Education. The deeds contained language to the effect that the lands were "to be used for public school and community purposes only." The deeds likewise reserved mineral rights to the United States.

Except for some $2\frac{1}{2}$ acres, this land is still all owned by the Pender County Board of Education. By special authorization of the North Carolina General Assembly, the Pender County Board of Education was permitted to convey and did purport to convey a $2\frac{1}{2}$ -acre tract of the land to the Penderlea Baptist Church, which in good faith proceeded to make considerable improvements thereon.

The current situation is that the title to that portion of the property owned by the church is confused, and the county board of education is severely restricted as to the use it can make of the remaining property.

H.R. 4242 would authorize and direct the Secretary of Agriculture to convey to the Pender County, N.C., Board of Education all retained interest of the Federal Government in and to these lands.

The Departments of Agriculture and Interior have approved this bill with suggested amendments. The amendments would delete the phrase "without consideration" and provide for Pender County to pay to the United States the fair value of the mineral rights which the United States retained. They would also provide for Pender County to pay the administrative costs incurred in effectuating the transfer.

I have no objection, Mr. Chairman. In fact, I consider the amendments wise and an improvement to the bill.

The U.S. Government has no real claim or title to these lands other than the mineral rights. The language in the initial deeds is not sufficient, under North Carolina law, to provide for a reverter of the lands if they should cease to be used "for public school and community purposes"; but it raises a sufficient cloud on the title that a title attorney could not certify it for purposes of a loan or sale. If the bill is amended to provide for the county to pay the value of retained mineral rights to the Federal Government, and administrative costs, the Government will not be conveying away anything of value, but will simply remove a cloud on the title to the property.

I ask that the report from the Department of Agriculture as submitted to Chairman Cooley be made a part of the record of these hearings.

If you have questions I can answer I will be delighted to respond.

Mr. JONES. The letter from the Department giving its comments and suggesting the amendments will be made part of the record.

(The letter referred to follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., November 20, 1963.

HON. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives,
Washington, D.C.

DEAR MR. COOLEY: This is in reply to your request of May 29, 1963, for a report on H.R. 4242, 88th Congress, 1st session, which would authorize and direct the Secretary of Agriculture to convey, without consideration, to the Board of Education of Pender County, N.C., all right, title, and interest retained in and to five parcels or tracts of land and the improvements thereon located in Pender County, N.C. These five parcels are more particularly described in the following deeds. Four of them were conveyed by the United States to the said board of education and one was conveyed by the United States to the Penderlea Farms Homestead Association, Inc.

(1) The quitclaim deed, dated September 22, 1941, and recorded in book 249, page 397, of the Pender County Registry, Pender County, N.C., from the Penderlea Farms Homestead Association, Inc., to the County Board of Education of Pender County, N.C., conveying 0.430 acre, more or less, and the improvements thereon.

(2) The quitclaim deed, dated December 6, 1941, and recorded in book 229, page 605, of the Pender County Registry, Pender County, N.C., from the United States of America to the County Board of Education of Pender County, N.C., conveying 23.663 acres, more or less, and the improvements thereon.

(3) The correction deed, dated October 24, 1946, and recorded in book 262, page 340, of the Pender County Registry, Pender County, N.C., from the United States of America to the County Board of Education of Pender County, N.C., conveying 23.663 and 0.78 acres, more or less, and the improvements thereon.

(4) The quitclaim deed, dated June 13, 1945, and recorded in book 255, page 573, of the Pender County Registry, Pender County, N.C., from the United States of America to the Board of Education of Pender County, N.C., conveying 9.282 acres, more or less, and the improvements thereon.

(5) The quitclaim deed, dated January 18, 1946, and recorded in book 257, page 436, of the Pender County Registry, Pender County, N.C., from the United States of America to the Pender County Board of Education, conveying 2.584 acres, more or less.

The above described property was a part of the Old Penderlea Homestead project and was a part of lands conveyed to the United States by deed from the Federal Subsistence Homestead Corporation, dated June 15, 1935, recorded in book 180, page 565 in the office of the Register of Deeds of Pender County, N.C.

The property described in deed (1) was conveyed to the Penderlea Farms Homestead Association, Inc., by deed dated July 8, 1941. This deed contained various restrictions on the use and disposal of the property and reserved unto the United States all the oil, gas, coal, and other minerals of whatsoever nature upon, in or under the property, together with the usual mining rights.

Deeds (2) and (3) reserved unto the United States all the oil, gas, coal, and other minerals of whatsoever nature. Deed (4) reserved to the United States (a) all oil and gas, coal and other minerals except as may have heretofore been vested in others and (b) water and sewer pipelines and related equipment. Deed (5) reserved unto the United States (a) three-fourths of all oil, gas, coal, and other mineral rights and (b) the water and sewer pipelines and related equipment. These reserved mineral interests have been transferred to the Department of the Interior pursuant to Public Law 760, 81st Congress (7 U.S.C. 1033-1039).

The property described in the above deeds were conveyed by the United States to be used for public school and community purposes only. Our files show that the recording information set forth in the bill on deeds (2), (4), and (5) is correct. They do not show the recording information on deeds (1) and (3) but we assume that the bill shows the correct books and pages. We do not have a copy of deed (1).

The water and sewer pipelines and related equipment retained by the Government in deeds (4) and (5) were quitclaimed by the Government to the Dextdale North Carolina Co. by deed dated March 21, 1946, filed for record on April 4, 1946, in the office of the Register of Deeds of Pender County, N.C., and recorded in book 257, at page 529 in that office. Accordingly, we construe H.R. 4242 as providing for release and transfer of the right, title, and interest presently owned by the Government.

A 2½-acre parcel of deed (4) property was conveyed by the board of education to the trustees of the Penderlea Baptist Church by deed dated April 12, 1947. This conveyance was made pursuant to chapter 179 (H.B. 334) 1947 Session Laws of North Carolina, for a consideration of \$1. The conveyance was made subject to all of the restrictions, provisions and other terms and limitations contained in deed (4), but was executed without approval by the Government. It is our understanding that the church has made some improvements on the 2½-acre tract. If H.R. 4242 is enacted, the Department of Agriculture would negotiate with and convey to the board of education all of the Government's presently owned rights and interests in the tracts covered by the five deeds first described above, including those in the 2½-acre tract. This would enable the board of education to carry out any commitments it may have with the church with respect to the retained interests so acquired by the board in the 2½-acre tract.

This Department favors enactment of the bill with respect to the retained interests under its jurisdiction and concurs in the recommendation made by the Department of the Interior in its letter of October 11, 1963, to the Director of the Bureau of the Budget, that the bill be amended as follows:

"(1) On page 1, line 5, delete the following: 'without consideration,'.

"(2) On page 1, line 3, insert after 'directed' the following: "., subject to the requirements of section 3 of this Act,".

"(3) Add a new section reading as follows:

"SEC. 3. No conveyance shall be made under this Act unless the Board of Education of Pender County, North Carolina, pays to the Secretary of Agriculture within one year after notification thereof, the sum of (a) the fair market value of the mineral interests conveyed under this Act, as determined by the Secretary of Agriculture as of the effective date of this Act; and (b) such

amount as may be fixed by the Secretary of Agriculture to reimburse the United States for the administrative costs of the conveyance under this Act.'"

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

CHARLES S. MURPHY, *Under Secretary.*

Mr. JONES. There is one thing I wondered about, Mr. Henderson. At the time this land was conveyed to the County Board of Education of Pender County it was apparently done in five different deeds. I see they were under different provisions and different deeds had different provisions with regard to retaining mineral and oil rights, and so on.

At the time those were conveyed was there any conversation or any payment made for the land? Do you recall that?

Mr. HENDERSON. Mr. Chairman, I am not informed on that but I am under the impression it would have been a very nominal sum, possibly not covering more than the cost of transfer.

Mr. JONES. Do you know from whom the Federal Government acquired the land in the original instance?

Mr. HENDERSON. The principal acreage acquired was owned by Hugh McCrea, of Wilmington, N.C., but there were parcels owned by local people. This land was all woodland, cutover timberland. There may have been some small acreage which was cleared and farmed prior to the development.

The idea behind the development of the Penderlea Homesteads was to go in, lay out a model farming community. They cleared land and drained this land, put in roads and built very small farmhouses on each of the plots. The 30-acre area we are talking about is where the principal community center was planned and laid out. I have a copy of a map of this Penderlea project. It is rather small and difficult to follow what was there, but right in the center there was proposed a community center for future development.

At the present time this is where the 30 acres for the school was acquired. This is where the Baptist Church has been built on the 2½ acres. There is also a manufacturing plant in that area and the community fire department is located in the central area here.

To specifically answer your question, the Federal Government bought up this entire tract of land from individual owners in the area to develop it as a model farm.

Mr. JONES. What has happened to the main portion of the land?

Mr. HENDERSON. About half of the houses that were built have been moved off or abandoned. The size of the farms vary more than at the time it was first developed. The farmers living there found it was necessary to acquire two or three farms to get an economic unit. We have principally dairy, livestock, some tobacco farms. A good number moved into the poultry and livestock operation, and the farmers there now individually own their farms having acquired them from the Government, and it is a successful farming community.

Mr. JONES. The land involved in this bill, as I see it, is a little over 36 acres, is it not?

Mr. HENDERSON. That is right.

Mr. JONES. All of that would be retained by the Board of Education of Pender County with the exception of the Baptist Church, did you say, which has 2½ acres?

Mr. HENDERSON. That is right, 2½ acres conveyed to the Baptist Church.

Mr. JONES. In other words, it was originally conveyed from the Government to the Board of Education of Pender County, and then they later conveyed it to the church; is that correct?

Mr. HENDERSON. That is correct. As I pointed out in my statement, they went to the General Assembly of North Carolina to get specific authority to convey. I think they thought that would be sufficient to authorize the conveyance.

Of course, a subsequent check raised serious doubts as to title of the property owned by the church.

Mr. JONES. That was on account of the oil and mineral rights?

Mr. HENDERSON. And also the restrictive language in the deeds to the board of education which said: "It shall be used for public schools and community purposes only."

Mr. JONES. In other words, in this title 5, that is the part whereby the quitclaim deed would release this to the Board of Education of Pender County. It would actually clear up the title for the church; is that correct?

Mr. HENDERSON. That is correct. I might say that the request to me to introduce this legislation came from the board of education.

I am informed that subsequent to the enactment of this legislation they will quitclaim, or convey, such title as they did not convey to the Baptist Church.

Mr. JONES. Questions, gentlemen?

Mr. HAGEN. The remainder of this land will be devoted for school purposes?

Mr. HENDERSON. It is now being used for school purposes. They have a very fine campus there. In addition to the main school building they have a building that houses some of the teachers. They have a gymnasium. There is a vocational and educational building on the campus and it is all being used by the Pender County School Board for school purposes.

Mr. HAGEN. If they get this legislation will they continue this use for education?

Mr. HENDERSON. I feel confident they will. Of course, this school serves children in a far greater area than the homestead property itself. It is about 12 miles from the nearest school. I know of no plan at the present time for any changes in the school unless they will consolidate the high schools in that county.

There are no consolidated high schools in the county now. There has been some talk of doing that and this possibly could move out the high school students, but the grammar school still would remain in this building, I am sure, so we can envision for the next 20 to 25 years that they will continue to use this property for school purposes in my opinion.

Mr. HAGEN. You might run into trouble with Senator Morse in the Senate. He has a formula. I have a bill involving some property. He more or less insists the local communities pay the market value.

Mr. HENDERSON. Of course, I will defer to the General Counsel of the Department, but we understand that the only thing of value the Government owns now is the mineral rights, and through amendment

of the bill we are providing they will pay the fair value of the mineral rights. Nobody ever has heard of any mineral rights in this part of North Carolina or anywhere in my district.

Mr. HAGEN. Except getting rid of the restriction. The board of education could sell it for commercial use, could they not?

Mr. HENDERSON. Well, as they did before, I think they would have to have special legislation. It is my understanding that the special legislation they obtained from the general assembly was with regard only to the $2\frac{1}{2}$ acres of land for church purposes.

I think a good argument could be made that even under the restrictive language that conveyance was for community purposes.

Any lawyer, of course, would ask "What is community purposes?" We will have to take our chances with the Senate, as we usually do.

Mr. HAGEN. Maybe we can get my bill passed, too.

Mr. JONES. Further questions?

Mr. ABERNETHY. Is the principal object of this bill to remove a cloud on the title, specifically with regard to mineral rights?

Mr. HENDERSON. The Government has retained the mineral rights.

Mr. ABERNETHY. I realize that.

Mr. HENDERSON. In addition there was restrictive language the property should be used for public school and community purposes only. This will also remove that restrictive—

Mr. ABERNETHY. Did the Government secure the property from private individuals or the board of education?

Mr. HENDERSON. Private individuals.

Mr. ABERNETHY. Since then it has been converted for use in the field of education?

Mr. HENDERSON. That is correct.

I might point out that the reason for the school being needed was because of the Government activity coming in and building up a model community. I was surprised there was restrictive language in the conveyance.

Mr. ABERNETHY. Is this one of those projects where the Government set up a communal-type farm project?

Mr. HENDERSON. It was the Penderlea homestead area.

(Discussion held off the record.)

Mr. ABERNETHY. I was just digging into some history, Mr. Chairman.

Mr. JONES. Mr. Brodersen, have you anything to add?

Mr. BRODERSEN. No. The only comment I might make, I think, is this: We would not agree that the reversionary rights are not valid reversionary rights. We think they are valid reversionary rights which could be exercised if the Government chose to do it.

Mr. JONES. In the event it was used for other purposes; is that correct?

Mr. BRODERSEN. Yes, and I think that would be true with respect to the $2\frac{1}{2}$ acres conveyed to the Baptist Church, and that is the basic reason, as I understand it from what Congressman Henderson said, which led to the introduction of this bill.

I believe that the church intends to further develop its property and was unable to get financing because of the reversionary rights in the deed.

Mr. HENDERSON. I certainly would agree with the Department's position on this. As I say, the request came to me from the Pender County Board of Education.

I have had informal conversations with members of the church and they told me when they went to the board of education to get title cleared they were informed that the board of education could not clear title and the problem was with regard to the reversionary rights.

That is all, Mr. Chairman.

Mr. BRODERSEN. There is one other remark that should be made here. The minerals are no longer under the jurisdiction of the Department of Agriculture.

Mr. JONES. They were transferred to the Department of the Interior.

Mr. BRODERSEN. That is right. That would be the only agency that could speak with regard to their value at this time. We are not familiar with that.

Mr. JONES. Mr. Allman, have you any comment on this?

Mr. ALLMAN. No, sir; other than the sewer and pipelines mentioned in items 4 and 5 later were conveyed in 1946 to the Dexdale North Carolina company. The Government now would have no interest in those.

Mr. JONES. As I understand it from the report of the Department, they are recommending the passage of the bill with the two amendments that are indicated?

Mr. ALLMAN. That is correct.

Mr. HEIMBURGER. Mr. Brodersen, to get this clear, the only interest of the Department of Agriculture in this property at the present time is the reversionary interest which occurs on account of the language in the deeds, is that correct?

Mr. BRODERSEN. That is correct.

Mr. HEIMBURGER. The mineral rights have been transferred to the Department of the Interior but this is a transfer for only administrative purposes, is it not, so a quitclaim deed from the Secretary of Agriculture could also convey the mineral interests?

Mr. BRODERSEN. Under this bill, if enacted, that would be the way it would be handled. In other words, Interior has made a report on this bill. It has not objected to the conveyance being made by the Department of Agriculture. The Department of Agriculture would make the conveyance and would remit to Interior whatever Interior determines to be the value of these Government-owned minerals.

Mr. HEIMBURGER. Let me call your attention to some of the language on page 2. It seems we have a wrong number on a deed registry book.

Item 1: "The quitclaim deed, dated September 22, 1941, and recorded in book 249 of the Pender County Registry."

Item 2: "The quitclaim deed, dated December 6, 1941, and recorded in book 229 of the Pender County Register."

I assume that should be "Registry" rather than "Register," and it seems one of these numbers must be wrong. They seldom go backward in these registry deed books.

Mr. BRODERSEN. It surely looks as though it is wrong. I should think they would both be the same book.

Mr. HEIMBURGER. 249 is my guess from the way the rest of the numbers go.

Here we have a 1945 deed which is item 4, recorded in book 255. Just guessing I would say 229 on line 14, page 2, should be 249.

Have you any way of checking that for us so if we should take action on this bill we can amend it and correct it?

Mr. HENDERSON. I can check it and will be glad to do so.

My resolution from the board of education shows these two but I am not sure of the order of them and my file does not show it.

After we get through this week I will be in that county next week and I will make an actual check and will respond.

Mr. HELMBURGER. As you are aware, it will be some time after the middle of July before the full committee can take action.

Mr. HENDERSON. I shall see we are absolutely correct with regard to that.

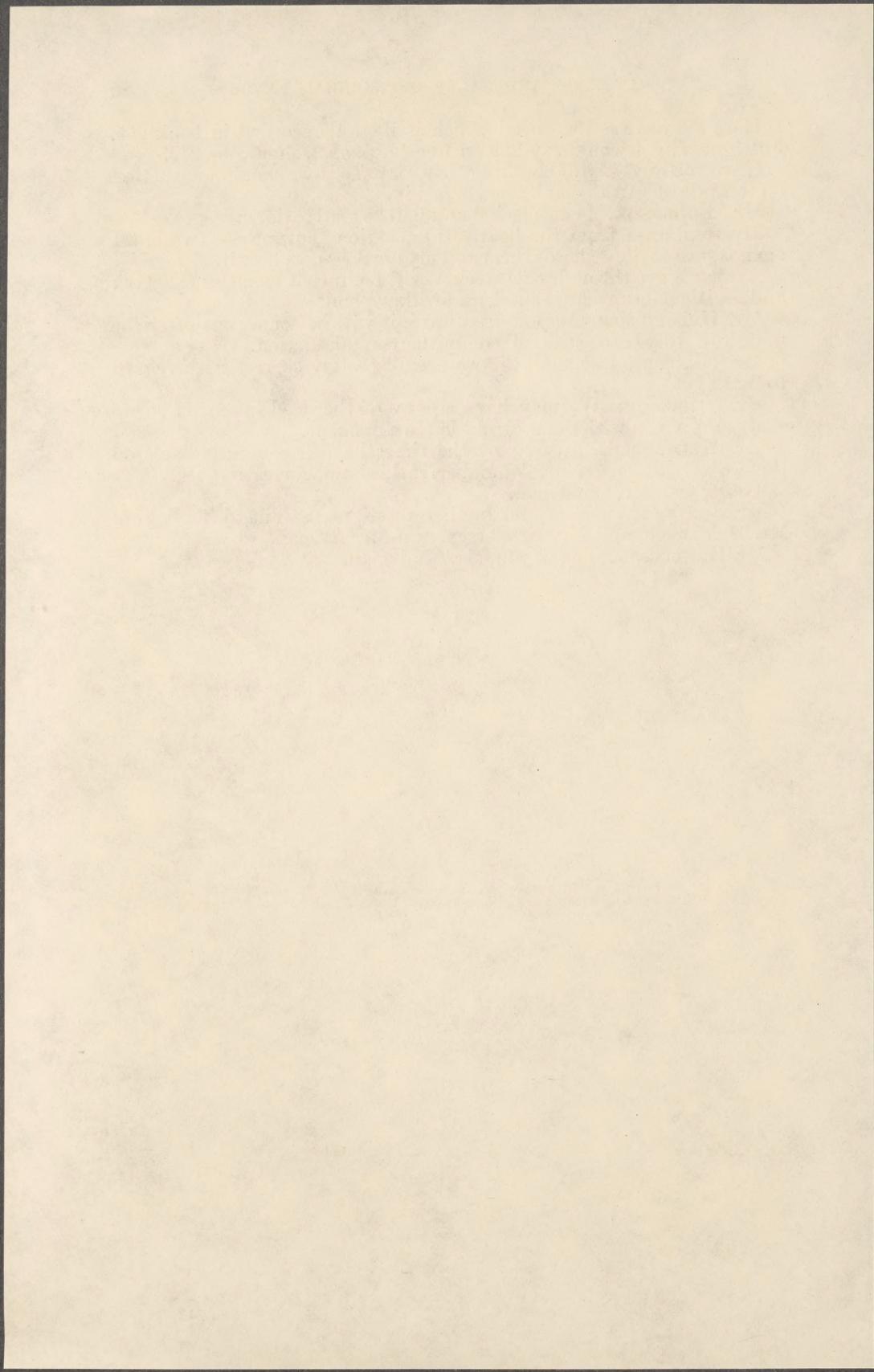
Mr. BRODERSEN. We may have a copy of the deed here. If so we shall supply you with the information in a moment.

Mr. HELMBURGER. Just so by the time the full committee acts on this we have the correct book number, if this is not correct.

Thank you, Mr. Chairman.

Mr. JONES. If there are no further questions, I want to thank you, Mr. Hendersen, and Mr. Brodersen, and Mr. Allman.

Mr. HENDERSON. Thank you, Mr. Chairman.



H.R. 8290 AND S. 2082, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACCEPT A TRANSFER OF CERTAIN LANDS WITHIN EVERGLADES NATIONAL PARK, DADE COUNTY, FLA., FOR ADMINISTRATION AS A PART OF SAID PARK, AND FOR OTHER PURPOSES

MONDAY, JULY 27, 1964

HOUSE OF REPRESENTATIVES,
CONSERVATION AND CREDIT SUBCOMMITTEE
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1310, Longworth House Office Building, Hon. W.R. Poage (subcommittee chairman) presiding.

Present: Representatives Poage, Gathings, Hagen of California, Johnson of Wisconsin, Matthews, Stubblefield, Hagan of Georgia, Harvey, and Dole.

Also present: Christine S. Gallagher, clerk; John Heimburger, general counsel; and Robert C. Bruce, assistant counsel.

Mr. POAGE. The committee will come to order.

We have Congressman Fascell, of Florida, with us this morning on H.R. 8290, introduced by him, to authorize the Secretary of the Interior to accept transfer of certain lands within Everglades National Park, Dade County, Fla., for administration as a part of said park, and for other purposes.

(H.R. 8290 by Mr. Fascell and S. 2082 follow:)

[H.R. 8290, 88th Cong., 1st sess.]

A BILL To authorize the Secretary of the Interior to accept a transfer of certain lands within Everglades National Park, Dade County, Florida, for administration as a part of said park, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to accept a transfer from the Administrator of the Farmers Home Administration, United States Department of Agriculture, which transfer is hereby authorized, of a tract of land consisting of approximately four thousand four hundred and twenty acres, lying within the boundaries of Everglades National Park, in Dade County, Florida, and more particularly described in the masters deed dated December 21, 1962, in the proceeding entitled "The Connecticut Mutual Life Insurance Company against Toni Iori, a single man; Peter Iori and Helen Iori, his wife, d/b/a Iori Bros., et al.," No. 61C-3823, in the Circuit Court of the Eleventh Judicial Circuit of Florida, in and for Dade County, and recorded in the official records of said county in book 3494 at page 457, or in any modification of such masters deed, for administration as a part of the Everglades National Park. Such transfer may be accepted when title to the property is vested in the United States.

SEC. 2. There is hereby authorized to be appropriated to the emergency credit revolving fund, upon the transfer authorized in section 1, such sum as may be necessary to reimburse the fund for costs incurred by the Farmers Home Administration in connection with the aforesaid property.

[S. 2082, 88th Cong., 2d sess.]

AN ACT To authorize the Secretary of the Interior to accept a transfer of certain lands within Everglades National Park, Dade County, Florida, for administration as a part of said park, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to accept a transfer from the administrator of the Farmers Home Administration, United States Department of Agriculture, which transfer is hereby authorized, of a tract of land consisting of approximately four thousand four hundred and twenty acres, lying within the boundaries of Everglades National Park, in Dade County, Florida, and more particularly described in the masters deed dated December 21, 1962, in the proceeding entitled The Connecticut Mutual Life Insurance Company against Toni Iori, a single man; Peter Iori and Helen Iori, his wife, d/b/a Iori Bros., et al., No. 61C-3823, in the Circuit Court of the Eleventh Judicial Circuit of Florida, in and for Dade County, and recorded in the official records of said county in book 3494 at page 457, or in any modification of such masters deed, for administration as a part of the Everglades National Park. Such transfer may be accepted when title to the property is vested in the United States.

SEC. 2. There is hereby authorized to be appropriated to the emergency credit revolving fund, upon the transfer authorized in section 1, such sum as may be necessary but not in excess of \$452,000 to reimburse the fund for costs incurred by the Farmers Home Administration in connection with the aforesaid property.

Passed the Senate June 25, 1964.

Attest:

FELTON M. JOHNSTON, *Secretary.*

Mr. POAGE. Mr. Fascell, we will be glad to hear from you regarding this bill.

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FASCELL. Thank you very much, Mr. Chairman. I appreciate the promptness with which you have scheduled hearings on this bill. This is a small bill in terms of the work of this important committee but it is very important to us down in the district I represent in Florida, the Everglades National Park being totally in my district. This is a park consisting of several million acres and the land we are talking about in this bill is some 4,000 acres within the boundaries of the park fixed by congressional act back in 1948, I believe.

This land, involved in this bill, which was acquired by the Farmers Home Administration in a foreclosure proceeding, was land that had been held out from the park because it was in agricultural use and under the original act of Congress it could not be condemned until that use had been terminated. The agricultural use has now been terminated and the land is within the park boundaries. Some \$452,000 was expended by the Farmers Home Administration in the acquisition of this land.

Mr. POAGE. How did the Farmers Home Administration ever make a \$450,000 loan on this property?

Mr. FASCELL. Well, I would guess because it is tomato land and we are very resourceful people down there.

Mr. POAGE. But how did the Farmers Home Administration ever loan that amount of money on that land? That is out of line with what it ordinarily does.

Mr. FASCELL. I am not familiar with the transaction, Mr. Chairman.

Mr. POAGE. Is there anyone here who can help us on that?

Mr. FASCELL. Maybe a representative of the Department can.

STATEMENT OF HOWARD V. CAMPBELL, DIRECTOR, FARMERS HOME DIVISION, GENERAL COUNSEL'S OFFICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. CAMPBELL. Mr. Chairman, my name is Howard V. Campbell. I am Director of the Farmers Home Division, General Counsel's Office, U.S. Department of Agriculture.

The initial loan to the Iori Bros., who were operating some 4,400 acres of tomato and vegetable land, in this area, was made because they were out of operating credit sources. The amount originally advanced was \$125,000 out of the emergency credit revolving fund in 1957. They had some more bad years and there were additional expenses. The Farmers Home Administration took crop and chattel liens and also real estate liens on lands the Iori Bros. owned. Those real estate liens were subject to a first mortgage held by Connecticut Mutual in the amount of about \$300,000 at that time, and they were also subject, in respect of several separate tracts, to two or three or four small loans made by local investors and local banks. In our real estate security position we were second on a few tracts and third, fourth, and fifth on other tracts.

The major portion of the present investment of the Farmers Home Administration is in the way of protection to the Government's investment. The first lien holder, Connecticut Mutual, started foreclosure proceedings. Shortly thereafter the Iori Bros., a partnership, went into bankruptcy. The bankruptcy court found there was no equity in the real estate and permitted Connecticut Mutual to proceed with bankruptcy proceedings in the State court. The Farmers Home Administration did not come in on that but came in on the master sale. The Farmers Home Administration bid at the foreclosure of the first lien holder to protect its investment. There was at that time a deficiency in repayment on our original loan and supplemental loans and proceeds of chattel security.

Our bid was \$299,000 to pay off Connecticut Mutual. We thus acquired title to the entire tract and after some extended litigation finally got the title confirmed in the Government to most of it.

So our present investment of \$450,000 is made up of that \$299,000 cash bid to the marshal in foreclosing Connecticut Mutual's first lien, plus the deficiency on our loan plus some advances for taxes and other incidental items.

Mr. POAGE. And now the Department of the Interior offers to pay you what you have invested in that land?

Mr. CAMPBELL. That is my understanding.

Mr. POAGE. That is your understanding too?

Mr. FASCELL. Yes, if we pass this bill, Mr. Chairman.

Mr. POAGE. Where will the Department of the Interior get this money?

Mr. FASCELL. This would authorize an appropriation for that purpose.

Mr. POAGE. This bill authorizes an appropriation?

Mr. FASCELL. Yes, in section 2 of the bill.

Mr. POAGE. There is no authorization for such an appropriation now?

Mr. FASCELL. That is correct.

Mr. POAGE. In other words, the Appropriations Committee has to have the authorization contained in this bill?

Mr. FASCELL. Yes.

I might add at this point that this great national park, no Federal funds have been spent for the establishment of this park. Some \$2 million was expended by the State of Florida for the condemnation of land and some 850,000 acres of State-owned lands were transferred to the Federal Government for this park. If this bill were passed this would be the first appropriation of Federal money for the acquisition of land within that park, so we do not feel it is an unreasonable bill at all. This land is within the park boundaries and should be under the jurisdiction of the park people. As a matter of fact, this is just west of what is known as the Royal Palm Hammock Park and a fire started on this land which was endangering the whole park area, and it is for this purpose and others that the land should be under the jurisdiction of the park people, and it was included in the original boundaries of the park.

Mr. POAGE. This bill is to assure that the Department of Agriculture gets its money back?

Mr. FASCELL. Well, section 2 provides:

There is hereby authorized to be appropriated to the emergency credit revolving fund, upon the transfer authorized in section 1, such sum as may be necessary to reimburse the fund for costs incurred by the Farmers Home Administration in connection with the aforesaid property.

Mr. POAGE. I know, but that merely says to the Department of the Interior that if they want to they can pay the Department of Agriculture for this.

Mr. CAMPBELL. Mr. Chairman, we feel this bill merely authorizes the Secretary of the Interior to accept a transfer of title. As Congressman Fascell points out, the bill does contemplate that there would be an appropriation to the Secretary of Agriculture to reimburse the disaster loan revolving fund, upon which reimbursement the Department of Agriculture would transfer the title. There is no guarantee in this bill that the money will be available. It will have to go through the Appropriations Committee.

In the Senate, Senator Holland was very much in favor of this bill for the same reasons Congressman Fascell has outlined. He felt by reason of his capacity on the Appropriations Committee as well as his interest in this bill, that the Senate would make the appropriation.

Mr. POAGE. I think Senator Holland will see that they get the money, I have no question about that, but I think if it were my land nobody would get it until I got my money for it. What assurance is there in this bill that the Department of Agriculture will ever get a dime out of this?

Mr. FASCELL. I would say, Mr. Chairman, you have the assurance probably of the good sense of the Secretary to work out something with respect to the transfer on the appropriation, and also the good judgment of Congress to see that it gets done.

Mr. POAGE. I do not have too much faith in the good sense of the Secretary or in the good sense of the Congress either, do you?

Mr. FASCELL. As far as I am concerned I would be for a bill that would authorize the transfer, period.

Mr. POAGE. Well, this committee would not.

Mr. FASCELL. Mr. Chairman, I gather you might not be as equally disposed as I am.

Mr. POAGE. We are trying to work out something we can approve. If you write the bill so that you can guarantee the Department of Agriculture would get their money, I think the Members would pass it right away. But if you ask us to gamble on Senator Holland's life—

Mr. FASCELL. It is really not his bill, it is my bill we are talking about.

Mr. POAGE. Why can't we put in the bill that the land will be transferred upon the payment by the Department of the Interior to the Department of Agriculture? Would you write a private contract for sale of land whereby you would transfer the land without the payment of anything and hope that the parties would pay off later on? Would you, Mr. Campbell?

Mr. CAMPBELL. No, sir.

Mr. POAGE. Why would you recommend it for the Government?

Mr. CAMPBELL. There has been no interpretation of this transaction which contemplated the transfer of this land without consideration being paid out of an appropriation. Of course we could not put the appropriation in this bill because it would be subject to a point of order. If you want to meet a point of order on the floor we could write the appropriation in here or put in "transfer authorized upon appropriation" if you wish.

Mr. POAGE. Isn't that the way you would write a contract for the sale of land between private individuals?

Mr. CAMPBELL. Yes, and I think all the parties understood that reimbursement was involved here.

Mr. POAGE. You have studied law, Mr. Campbell. Didn't you hear a long time ago that in the transfer of land you had to put into the written contract the terms of the contract, that you could not by oral evidence write the contract? You have to put in the contract what is required. Nobody will be hurt if you put this in there, will they?

Mr. FASCELL. No, sir.

Mr. MATHEWS. You would not object to writing in a word or two to that effect?

Mr. FASCELL. As far as I am concerned we might as well abolish section 2, but I can understand the problem of this committee. I have not researched the matter of a conditional transfer by act, and I do not know if it would be better to put it in the act or in the report. But I would not object, if the committee finds it necessary, to do that.

Mr. POAGE. I think I can speak for the committee that the committee is not about to report this bill out until we have some assurance written into the bill that will make this transfer conditional upon the payment, authorize the transfer upon payment of the sum. And the sum is not even mentioned in the bill.

Mr. FASCELL. I think that would do two things. The Senate did place a limitation with respect to the appropriation based upon the amount of money testified to. In the House bill we do not have that and I would certainly support a similar limitation in the House bill. The chairman is absolutely correct.

Mr. MATTHEWS. In other words, if Mr. Bruce and Mr. Fascell got together and worked out a statement?

Mr. FASCELL. There is no need to contact me, Mr. Chairman.

Mr. MATTHEWS. Mr. Campbell and Mr. Bruce could get together and work it out.

Mr. FASCELL. Thank you very much, Mr. Chairman. I appreciate your situation. As I say, this is a very important matter and we have been a long, long time trying to get this Everglades National Park matter settled and this is vital land to the park, and I appreciate action by the chairman and the committee on this bill.

Mr. HARVEY. I am sorry I was late. Could you tell me what the purpose of this bill is?

Mr. FASCELL. Yes. This involves some 4,000 acres of land now held by the Farmers Home Administration which they acquired by foreclosure, which land is in the boundaries of the Everglades National Park.

Mr. HARVEY. I have been there. Where is this particular land located?

Mr. FASCELL. It is between the Royal Palm Hammock Park and the entrance to the park.

Mr. HARVEY. The east entrance?

Mr. FASCELL. Yes. It is known as the "Hole in the Doughnut." This was land that was in agricultural use at the time the park was established and therefore while it is within the park boundaries it was not actually acquired by the park.

Mr. HARVEY. You want to transfer this land to the park now?

Mr. FASCELL. Yes, and reimburse the revolving fund for the amount of money that has been spent by them.

Mr. HARVEY. I see. How much money is involved?

Mr. FASCELL. \$452,000, I believe, is the amount.

Mr. HARVEY. And under the provisions suggested by the chairman, the Department of the Interior would reimburse the Farmers Home Administration for the amount involved?

Mr. FASCELL. Right, and the transfer would take place on the receipt of the money.

Mr. MATTHEWS. And this \$450,000 would be the first Federal money appropriated for this park.

Mr. HARVEY. Thank you very much.

Mr. FASCELL. Thank you.

Mr. POAGE. Thank you very much, gentlemen.

(Thereupon, the hearing on H.R. 8290 and S. 2082 was concluded.)





