PUBLIC LAND LAWS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5159

AN ACT TO AUTHORIZE AND DIRECT THAT CERTAIN LANDS EXCLUSIVELY ADMINISTERED BY THE SECRETARY OF THE INTERIOR BE CLASSIFIED IN ORDER TO PROVIDE FOR THEIR DISPOSAL OR INTERIM MANAGEMENT UNDER PRINCIPLES OF MULTIPLE USE AND TO PRODUCE A SUSTAINED YIELD OF PRODUCTS AND SERVICES, AND FOR OTHER PURPOSES

H.R. 5498

AN ACT TO PROVIDE TEMPORARY AUTHORITY FOR THE SALE OF CERTAIN PUBLIC LANDS

AND

H.R. 8070

AN ACT FOR THE ESTABLISHMENT OF A PUBLIC LAND LAW REVIEW COMMISSION TO STUDY EXISTING LAWS AND PROCEDURES RELATING TO THE ADMINISTRATION OF THE PUBLIC LANDS OF THE UNITED STATES, AND FOR OTHER PURPOSES

JUNE 29 AND 30, 1964

Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1964

35-329

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico
ALAN BIBLE, Nevada
FRANK CHURCH, Idaho
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
QUENTIN N. BURDICK, North Dakota
CARL HAYDEN, Arizona
GEORGE McGOVERN, South Dakota
GAYLORD NELSON, Wisconsin
HERBERT S. WALTERS, Tennessee
THOMAS H. KUCHEL, California
GORDON ALLOTT, Colorado
LEN B. JORDAN, Idaho
MILWARD L. SIMPSON, Wyoming
E. L. MECHEM, New Mexico
PETER H. DOMINICK, Colorado

JERRY T. VERKLER, *Staff Director*
STEWART FRENCH, *Chief Counsel*
ROY M. WHITACRE, *Professional Staff Member*

SUBCOMMITTEE ON PUBLIC LANDS

ALAN BIBLE, Nevada, *Chairman*

CLINTON P. ANDERSON, New Mexico
ERNEST GRUENING, Alaska
FRANK E. MOSS, Utah
CARL HAYDEN, Arizona
GAYLORD NELSON, Wisconsin
GORDON ALLOTT, Colorado
LEN B. JORDAN, Idaho
MILWARD L. SIMPSON, Wyoming

CONTENTS

STATEMENTS

COMMUNICATIONS

MISCELLANEOUS INFORMATION

PUBLIC LAND LAWS

MONDAY, JUNE 29, 1964

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 3110, New Senate Office Building, Senator Alan Bible presiding.

Present: Senators Bible, Gruening, Jordan of Idaho, and Simpson.

Also present: Jerry T. Verkler, staff director; Stewart French, chief counsel; Roy Whitacre, professional staff member; and Richard Andrews, minority counsel.

Senator BIBLE. The Subcommittee on Public Lands will come to order.

This is the time that has been regularly set and noticed for the hearings on three bills that are very similar and pretty much constitute a package, as I view it.

The three bills are, first, H.R. 8070. This act, as passed by the House on March 10, 1964, is for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States.

We are hearing two very closely related bills, H.R. 5159, which was introduced in the House at the request of the Department of Interior, and was passed by the House on April 6, 1964. This act provides legislative guidelines for the orderly classification and management of public lands during the period that the overall study of these lands is being made by the Commission created by H.R. 8070.

And, Mr. Reporter, we will place in the record a copy of H.R. 5159, together with the accompanying report in support of this study.

The third bill is H.R. 5498. It, too, was introduced in the House at the request of the Department of Interior. This is the bill to which we will direct our testimony this morning.

It was also passed by the House on April 6, 1964, and is the logical next step to H.R. 5159. This bill is the bill that is known as that for the sale of public lands, a public sale bill.

These two bills are closely related to the Land Law Review Commission bill. This latter bill describes the procedures under which land classified for disposal will be sold. We will make a part of the record this bill, as well as the accompanying report.

And in addition, we will make as a part of the record the Department report that has since been received from the Department, indicating no objection to the House bills as amended in the House. That report is dated June 26, 1964, and covers both H.R. 5159 and H.R. 5498.

(H.R. 5159, together with the House report, and H.R. 5498, together with the House report, and the Department of Interior report dated June 26, 1964, follow:)

[H.R. 5159, 88th Cong., 2d sess.]

AN ACT To authorize and direct that certain lands exclusively administered by the Secretary of the Interior be classified in order to provide for their disposal or interim management under principles of multiple use and to produce a sustained yield of products and services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, consistent with and supplemental to the Taylor Grazing Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315), and pending the implementation of recommendations to be made by the Public Land Law Review Commission—

(a) The Secretary of the Interior shall develop and promulgate regulations containing criteria by which he will determine which of the public lands and other Federal lands, including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (a) disposed of because they are (1) required for the orderly growth and development of a community or (2) are chiefly valuable for residential, commercial, industrial, or public uses or development or (b) retained, at least during this period, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, or (10) preservation of public values that would be lost if the land passed from Federal ownership. No such regulation shall become effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon. Before such public hearing is held, a notice of at least thirty days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives, both of whom shall receive with a notice a copy of the proposed regulation.

(b) The Secretary of the Interior shall, as soon as possible, review the public lands as defined herein, in the light of the criteria contained in the regulations issued with this section to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership for interim management under the principles enunciated in this section. In making his determinations the Secretary shall give due consideration to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

(1) None of the land subject to this Act shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior.

SEC. 2. At least sixty days prior to taking the following action the Secretary of the Interior or his designee shall give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land:

(a) Classification for sale or other disposal under any statute of a tract of land in excess of two thousand five hundred and sixty acres.

(b) Classification for management by the Bureau of Land Management of an area in excess of two thousand five hundred and sixty acres when the action will exclude from the area permanently, or for a substantial period of time, one or more uses enumerated in section 1 of this Act.

SEC. 3. The Secretary of the Interior shall develop and administer for multiple use and sustained yield of the several products and services obtainable therefrom those public lands that are determined to be suitable for interim management in accordance with regulations promulgated pursuant to this Act.

SEC. 4. Publication of notice in the Federal Register by the Secretary of the Interior of a proposed classification under this Act shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under the public land laws, including the mining and mineral leasing laws, except to the extent that the proposed classification or sub-

sequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws. The segregative effect of such proposed classification shall continue for a period of two years from the date of publication unless classification has theretofore been completed in accordance with the provisions of this Act and the regulations to be promulgated hereunder, or unless the Secretary of the Interior shall terminate it sooner. Lands classified for sale or other disposal shall be offered for sale or such other disposal within two years of the date of publication of the proposed classification and if not so offered for sale or other disposal the segregative effect shall cease at the expiration of two years from the date of publication. The proposed classification or proposed sale or other disposal may be continued beyond the two-year period if notice of such proposed continuance, including a statement of necessity for continued segregation, is submitted to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register not more than ninety days nor less than thirty days prior to the expiration of the two-year period specified herein; and thereupon the segregative effect shall be extended for such additional period as is specified in the notice, not exceeding two years, unless Congress or the Secretary of the Interior terminates the segregation at any earlier date.

SEC. 5. As used in this Act, the following terms shall have the following meanings:

(a) The term "public lands" means any lands (1) withdrawn or reserved by Executive Order Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal use or purpose.

(b) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(c) "Sustained yield of the several products and services" means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

SEC. 6. The purposes of this Act are declared to be supplemental to the purposes for which any of the Federal lands in section 1 of this Act have been designated, acquired, withdrawn, reserved, held, or administered. This Act shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws.

SEC. 7. Nothing herein contained shall be construed as—

(a) Restricting prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the lands to which this Act applies under law applicable thereto pending action inconsistent therewith under this Act.

(b) Restricting the entry and settlement of lands open to entry and settlement under the public land laws pending action inconsistent therewith under this Act.

(c) Restricting the Secretary of the Interior from disposing of lands under applicable statutes after the land has been classified in accordance with this Act.

(d) Affecting the jurisdiction or responsibilities of the several States with respect to the lands referred to herein.

SEC. 8. The authorizations and requirements of this Act shall expire June 30, 1968, except that the segregation prior to June 30, 1968, of any public lands from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws shall continue for the period of time allowed by this Act.

Passed the House of Representatives April 6, 1964.

Attest:

RALPH R. ROBERTS, *Clerk.*

[H. Rept. 1243, 88th Cong., 2d sess.]

AUTHORIZING AND DIRECTING THAT CERTAIN LANDS EXCLUSIVELY ADMINISTERED BY THE SECRETARY OF THE INTERIOR BE CLASSIFIED IN ORDER TO PROVIDE FOR THEIR DISPOSAL OR INTERIM MANAGEMENT UNDER PRINCIPLES OF MULTIPLE USE AND TO PRODUCE A SUSTAINED YIELD OF PRODUCTS AND SERVICES

The Committtee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5159) to authorize and direct that certain lands exclusively administered by the Secretary of the Interior be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following language:

"That, consistent with and supplemental to the Taylor Grazing Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315) and pending the implementation of recommendations to be made by the Public Land Law Review Commission—

"(a) The Secretary of the Interior shall develop and promulgate regulations containing criteria by which he will determine which of the public lands and other Federal lands, including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (a) disposed of because they are (1) required for the orderly growth and development of a community or (2) are chiefly valuable for residential commercial, industrial, or public uses or development or (b) retained, at least during this period, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, or (10) preservation of public values that would be lost if the land passed from Federal ownership. No such regulation shall became effective until the expiration of at least thirty days after the Secretary or his designee has held a public hearing thereon. Before such public hearing is held, a notice of at least thirty days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives, both of whom shall receive with the notice a copy of the proposed regulation.

"(b) The Secretary of the Interior shall, as soon as possible, review the public lands as defined herein, in the light of the criteria contained in the regulations issued with this section to determine which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them more suitable for retention in Federal ownership for interim management under the principles enunciated in this section. In making his determinations the Secretary shall give due consideration to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

"(1) None of the land subject to this Act shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior.

"SEC. 2. At least sixty days prior to taking the following actions the Secretary of the Interior or his designee shall give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land:

"(a) Classification for sale or other disposal under any statute of a tract of land in excess of two thousand five hundred and sixty acres.

"(b) Classification for management by the Bureau of Land Management of an area in excess of two thousand five hundred and sixty acres when the action will exclude from the area permanently, or for a substantial period of time, one or more uses enumerated in section 1 of this Act.

"SEC. 3. The Secretary of the Interior shall develop and administer for multiple use and sustained yield of the several products and services obtainable therefrom those public lands that are determined to be suitable for interim management in accordance with regulations promulgated pursuant to this Act.

"SEC. 4. Publication of notice in the Federal Register by the Secretary of the Interior of a proposed classification under this Act shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under the public land laws, including the mining and mineral

leasing laws, except to the extent that the proposed classification or subsequent notification thereof specifies that the land shall remain open for one or more of such forms of disposal under the public land laws. The segregative effect of such proposed classification shall continue for a period of two years from the date of publication unless classification has theretofore been completed in accordance with the provisions of this Act and the regulations to be promulgated hereunder, or unless the Secretary of the Interior shall terminate it sooner. Lands classified for sale or other disposal shall be offered for sale or such other disposal within two years of the date of publication of the proposed classification and if not so offered for sale or other disposal the segregative effect shall cease at the expiration of two years from the date of publication. The proposed classification or proposed sale or other disposal may be continued beyond the two-year period if notice of such proposed continuance, including a statement of necessity for continued segregation, is submitted to the President of the Senate and the Speaker of the House of Representatives and published in the Federal Register not more than ninety days nor less than thirty days prior to the expiration of the two-year period specified herein; and thereupon the segregative effect shall be extended for such additional period as is specified in the notice, not exceeding two years, unless Congress or the Secretary of the Interior terminates the segregation at any earlier date.

"SEC. 5. As used in this Act, the following terms shall have the following meanings:

"(a) The term 'public lands' means any lands (1) withdrawn or reserved by Executive Order Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal use or purpose.

"(b) 'Multiple use' means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

"(c) 'Sustained yield of the several products and services' means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

"SEC. 6. The purposes of this Act are declared to be supplemental to the purposes for which any of the Federal lands in section 1 of this Act have been designated, acquired, withdrawn, reserved, held, or administered. This Act shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws.

"SEC. 7. Nothing herein contained shall be construed as—

"(a) Restricting prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the lands to which this Act applies under law applicable thereto pending action inconsistent therewith under this Act.

"(b) Restricting the entry and settlement of lands open to entry and settlement under the public land laws pending action inconsistent therewith under this Act.

"(c) Restricting the Secretary of the Interior from disposing of lands under applicable statutes after the land has been classified in accordance with this Act.

"(d) Affecting the jurisdiction or responsibilities of the several States with respect to the lands referred to herein.

"SEC. 8. The authorizations and requirements of this Act shall expire June 30, 1968, except that the segregation prior to June 30, 1968, of any public lands from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws shall continue for the period of time allowed by this Act.

Amend the title so as to read:

"A bill to authorize and direct that certain lands exclusively administered by the Secretary of the Interior be classified in order to provide for their disposal or interim management under principles of multiple use and to produce a sustained yield of products and services, and for other purposes."

PURPOSE

Enactment of H.R. 5159, as amended by the committee, will provide legislative guidelines for the orderly management and disposal of public lands during the period that an overall study of the public lands is being made.

BACKGROUND

On March 10, 1964, the House of Representatives passed H.R. 8070, a bill for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States. That bill had been reported by this committee after consideration of many proposals for piecemeal amendment to the public land laws had convinced the committee that a comprehensive review, taking into consideration all aspects, must be undertaken.

The legislation passed by the House contemplates that the Public Land Law Review Commission will complete its study and submit its report to the President and the Congress not later than December 31, 1967.

NEED

The Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) provides for the establishment of grazing districts, the use of grazing lands, and the classification of the vacant unappropriated public lands of the United States "in order to promote the highest use of the public lands pending its final disposal." Because neither that act nor any other sets forth any long range management objectives for the public lands that might be retained in Federal ownership, the Secretary of the Interior submitted an executive communication last year proposing the enactment of legislation "to authorize and direct that certain lands exclusively administered by the Secretary of the Interior be managed under principles of multiple use and produce a sustained yield of products and services, and for other purposes." This draft bill was introduced as H.R. 5159.

The committee subscribes to the principles of multiple-use management but submits that any legislation must be consistent with the overall objectives of H.R. 8070, referred to above, which will permit a Public Land Law Review Commission to study the entire spectrum of public land use, management, and disposal.

As pointed out in this committee's report on H.R. 8070 (H. Rept. 1008, 88th Cong., 1st sess.), existing public land laws do not provide the means whereby the needs of our present-day economy and population can be met. As a result, the Bureau of Land Management operates with no central guidelines from the policy-making authority, the U.S. Congress.

A review of departmental cases has disclosed, for example, that a public sale under existing authority was vacated 2 years after receipt of a proper bid because of a determination, under no precise guidelines, that the land is required for some undefined "Federal management program."

Therefore, although long-range policies for the use, management, and disposal of public lands will evolve from the Public Land Law Review Commission's study and recommendations, it is essential that we provide immediate tools for use of the Secretary of the Interior and the Bureau of Land Management during the study period.

COMMITTEE AMENDMENT

The committee has, accordingly, amended H.R. 5159 to provide interim authority pending the implementation of recommendations to be made by the Public Land Law Review Commission. By its terms the authority that would be conferred by H.R. 5159 would expire June 30, 1968, 6 months after the final report of the Commission is due.

As amended by the committee, H.R. 5159 would require the Secretary of the Interior to develop and promulgate regulations setting forth criteria by which he would determine which of the public lands shall be either (a) disposed of because they are (1) required for the orderly growth and development of the community or (2) are chiefly valuable for residential, commercial, industrial, or public uses or development, or (b) retained, at least during the Commission's study period, in Federal ownership and managed for a variety of multiple-use purposes.

Provision is made for classification before land is designated for either disposal or retention.

During the process of regulation making and classification, the Department of the Interior would be required to furnish notice to the Congress and to those in the vicinity of the affected lands.

In order to preserve the freedom of the Public Land Laws Review Commission to make recommendations for long-range modification of the public land laws, and in keeping with the temporary nature of the authority contained in H.R. 5159, the bill specifically preserves the authority contained in existing public land laws, including the mining and mineral leasing laws. In other words, the classification and management procedures recited in H.R. 5159 would be superimposed on the entire body of public land law pending modifications that might come about as a result of recommendations from the Public Land Law Review Commission. In the meantime, these public land laws, including the mining and mineral leasing laws, would remain applicable to the public lands in the same manner as they have been to date.

Even though H.R. 5159 is temporary interim legislation, the committee submits that it represents a long step forward toward reasserting the congressional responsibility to make rules for the management and disposal of the Federal public domain. This bill furnishes legislative guidelines as to which lands shall be classified for disposal and which lands shall be classified for retention during the study period. Further, the notification procedure will enable the responsible committees of Congress to exercise oversight responsibilities and thereby make certain that the intent of Congress is being carried out while the Commission is preparing its report.

COST

It is not expected that enactment of H.R. 5159 will cause any increase in budgetary requirements.

DEPARTMENTAL RECOMMENDATION

Enactment of the Multiple Use Act was requested by the Department of the Interior as set forth in an executive communication from the Secretary of the Interior dated March 25, 1963, included below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 25, 1963.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of proposed legislation to authorize and direct that certain lands exclusively administered by the Secretary of the Interior be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The proposed bill would direct the Secretary of the Interior to manage the public lands and other Federal lands, including those situated in the State of Alaska, which are administered exclusively by the Secretary of the Interior through the Bureau of Land Management under the principles of multiple-use and sustained-yield management. The national forests were directed to be managed under these same principles by the act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528–531).

The lands which would be affected by this bill comprise a total of approximately 467 million acres, and contain an almost infinite variety of publicly owned resources. Through the years, the desirability of the planned management of these resources for maximum benefit to the general public has become increasingly apparent, not only to various organizations promoting conservation, but also to distinguished Members of the Congress and the executive branch of the Government.

The President in his special message to Congress on natural resources dated February 23, 1961, termed these lands "a vital national reserve that should be devoted to productive use now and maintained for future generations." The President took cognizance of the need for improved management of the public lands and directed the Secretary of the Interior in the above message to "develop a program of balanced usage designed to reconcile the conflicting uses—grazing, forestry, recreation, wildlife, urban development, and minerals * * *."

Congress took an important step in the direction of providing for the management and conservation of the public lands with the enactment in 1934 of the Taylor Grazing Act (43 U.S.C., sec. 315, et seq.). This law, in part, authorized the Secretary of the Interior, "in order to promote the highest use of the public lands pending its final disposal * * *" to classify the public lands for various types of disposition and to establish and manage grazing districts in those areas where the lands are chiefly valuable for grazing and raising forage crops.

Three years later, in the historic Oregon and California Act (43 U.S.C. 1181(a)) Congress directed that the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road grant lands under the jurisdiction of the Secretary of the Interior be managed "* * * for *permanent* forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal (sic) of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities * * *." [Emphasis supplied.]

When, in 1955, legislation was enacted authorizing the disposal of materials on public lands of the United States (30 U.S.C. 601), the Department, in conformity with the principles enunciated by Congress in the landmark Oregon and California Act, adopted the goal of disposing of timber "in such a manner and in conformance with sound timber management principles as to obtain maximum permanent benefits and in addition, dispose of forest products under the principles of sustained yield management * * *" (43 CFR 259.4(a)).

Thus, in fiscal year 1962 under the provisions of these various management and sustained yield acts, almost 11 million head of sheep, horses, and cattle grazed on the lands administered by the Secretary through the Bureau of Land Management, and 1,165 million board feet of timber, of a value of over $30 million, was harvested therefrom. These same lands supported well over 2 million big game animals, and in addition, pursuant to leases issued under the Mineral Leasing Act (30 U.S.C. 181, et seq.) yielded revenues of slightly over $100 million.

It is now timely and highly desirable to have statutory recognition of multiple-use principles with respect to the lands being administered by the Secretary of the Interior through the Bureau of Land Management.

The enactment of the proposed bill would not preclude the disposition of any lands subject to classification and disposition under the Taylor Grazing Act, as amended (43 U.S.C. 315f). Similarly, lands would continue to be disposed of under the Small Tract Act, as amended (43 U.S.C. 682a), the Recreation and Public Purposes Act, as amended (43 U.S.C. 869), and under such other public land laws as may require or render desirable the disposition of lands.

The proposed bill explicitly provides that it is not to be construed as a repeal, in whole or in part, of any existing law, including, without limitation, the U.S. mining laws and mineral leasing laws. The bill is not intended to, and would not, prohibit the reserving of lands for specific purposes.

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

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

"A BILL To authorize and direct certain lands exclusively administered by the Secretary of the Interior be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is the policy of the Congress that (a) the public lands, (b) the revested Oregon and California and Coos Bay Wagon Road grant lands, and (c) all other Federal lands, including those situated in the State of Alaska, which are exclusively administered by the Secretary of the Interior through the Bureau of Land Management, shall be managed for (1) domestic livestock grazing, (2) fish and wildlife development and utilization, (3) industral development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness preservation, and (10) other beneficial purposes. Nothing herein shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to these lands.

SEC. 2. The Secretary of the Interior is authorized and directed to develop and administer the lands described in section 1 for multiple use and sustained yield

of the several products and services obtainable therefrom. In the administration of such lands due consideration shall be given to all pertinent factors, including, but not limited to, ecology, priorities of use, and the relative values of the various resources in particular areas.

"SEC. 3. As used in this Act, the following terms shall have the following meanings:

"(a) The term 'public lands' means any lands (1) withdrawn or reserved by Executive Orders Numbered 6910 of November 26, 1934, as amended, or 6964 of February 5, 1935, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, or (3) located in the State of Alaska, which are not otherwise withdrawn or reserved for a Federal use or purpose.

"(b) 'Multiple use' means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resoures; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

"(c) 'Sustained yield of the several products and services' means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

"SEC. 4. The purposes of this Act are declared to be supplemental to the purposes for which any of the Federal lands in section 1 of this Act have been designated, acquired, withdrawn, reserved, held, or administered. This Act shall not be construed as a repeal, in whole or in part, of any existing law, including, but not limited to, the mining and mineral leasing laws."

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 5159, as amended.

[H.R. 5498, 88th Cong., 2d sess.]

AN ACT To provide temporary authority for the sale of certain public lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That pending the implementation of recommendations to be made by the Public Land Law Review Commission, in addition to any other authority that he may have, the Secretary of the Interior is authorized and directed to dispose of public lands that have been classified for disposal in accordance with a determination that (a) the lands are required for the orderly growth and development of a community or (b) the lands are chiefly valuable for residential, commercial, industrial, or public uses or development. Such disposals shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary of the Interior or to qualified individuals through competitive bidding at not less than the appraised fair market value as determined by the Secretary of the Interior.

SEC. 2. At least ninety days prior to offering lands for sale in accordance with this Act, the Secretary of the Interior shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local planning and development. Nothing herein contained, however, shall be construed as requiring the Secretary of the Interior to withhold sale of the lands until zoning action has been completed.

SEC. 3. At least thirty days before entering into an agreement with a governmental agency or of the opening of bids from individuals, notice of the offering of lands for sale in accordance with this Act shall be furnished by the Secretary of the Interior through a newspaper of general circulation in the area in which

the lands are situated and by publication of the notice in the Federal Register.

SEC. 4. All patents or other evidences of title issued under this Act shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title shall also contain such conditions, reservations, and reasonable restrictions as the Secretary of the Interior considers necessary in the public interest including, but not limited to, such conditions as the Secretary may deem necessary to insure proper development of the lands after they have passed from Federal ownership.

SEC. 5. For the purposes of this Act the following terms have the following meanings—

(a) "Public lands" means any public lands which are withdrawn by Executive Order Numbered 6910, dated November 26, 1934, as amended, or by Executive Order Numbered 6964, dated February 5, 1935, as amended, or pursuant to section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not otherwise reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

(b) "Qualified governmental agency" means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

(c) "Qualified individual" means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and (C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

SEC. 6. The authority granted by this Act shall expire June 30, 1968, except that sales concerning which notice has been given in accordance with section 3 hereof prior to June 30, 1968, may be consummated and patents issued in connection therewith after June 30, 1968.

Passed the House of Representatives April 6, 1964.

Attest:

RALPH R. ROBERTS, *Clerk.*

[H. Rept. 1244, 88th Cong., 2d sess.]

PROVIDING TEMPORARY AUTHORITY FOR THE SALE OF CERTAIN PUBLIC LANDS

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5498) to promote the sale and beneficial use of public lands by amending section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following language:

"That pending the implementation of recommendations to be made by the Public Land Law Review Commission, in addition to any other authority that he may have, the Secretary of the Interior is authorized and directed to dispose of public lands that have been classified for disposal in accordance with a determination that (a) the lands are required for the orderly growth and development of a community or (b) the lands are chiefly valuable for residential, commercial, industrial, or public uses or development. Such disposals shall be in tracts not exceeding five thousand one hundred and twenty acres each to qualified governmental agencies at the appraised fair market value thereof as determined by the Secretary of the Interior or to qualified individuals through competitive bidding at not less than the appraised fair market value as determined by the Secretary of the Interior.

"SEC. 2. At least ninety days prior to offering lands for sale in accordance with this Act, the Secretary of the Interior shall notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located or, in the absence of such political subdivision, the Governor of the State, in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local planning and development. Nothing herein contained, however, shall

be construed as requiring the Secretary of the Interior to withhold sale of the lands until zoning action has been completed.

"SEC. 3. At least 30 days before entering into an agreement with a governmental agency or of the opening of bids from indivduals, notice of the offering of lands for sale in accordance with this Act shall be furnished by the Secretary of the Interior through a newspaper of general circulation in the area in which the lands are situated and by publication of the notice in the Federal Register.

"SEC. 4. All patents or other evidences of title issued under this Act shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title shall also contain such conditions, reservations, and reasonable restrictions as the Secretary of the Interior considers necessary in the public interest including but not limited to such conditions as the Secretary may deem necessary to insure proper development of the lands after they have passed from Federal ownership.

"SEC. 5. For the purposes of this Act the following terms have the following meanings—

"(a) 'Public lands' means any public lands which are withdrawn by Executive Order Numbered 6910 dated November 26, 1934, as amended, or by Executive Order Numbered 6964 dated February 5, 1935, as amended, or pursuant to section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not otherwise reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

"(b) 'Qualified governmental agency' means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

"(c) 'Qualified individual' means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and (c) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

"SEC. 6. The authority granted by this Act shall expire June 30, 1968, except that sales concerning which notice has been given in accordance with section 3 hereof prior to June 30, 1968, may be consummated and patents issued in connection therewith after June 30, 1968."

Amend the title so as to read:

"A bill to provide temporary authority for the sale of certain public lands."

OTHER BILLS CONSIDERED

In addition to H.R. 5498, introduced by Congressman Aspinall by request, the committee considered H.R. 106, introduced by Congressman Rhodes of Arizona, and H.R. 255, introduced by Congressman Udall, which were designed for the same general purpose of providing authority for the disposition of public lands.

PURPOSE

H.R. 5498, as amended by the committee, would provide the Secretary of the Interior with temporary authority for the disposal of public lands during the period that an overall study of the public lands is being made.

BACKGROUND

On March 10, 1964, the House of Representatives passed H.R. 8070, a bill for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States. That bill had been reported out by this committee after consideration of many proposals for piecemeal amendment to the public land laws had convinced the committee that a comprehensive review, taking into consideration all aspects, must be undertaken.

The legislation passed by the House contemplates that the Public Land Law Review Commission will complete its study and submit its report to the President and the Congress not later than December 31, 1967.

NEED

In hearings before the Subcommittee on Public Lands, representatives of organizations having diverse interests agreed that additional general disposal authority is necessary; but several expressed the fear that too much land might be disposed of if a general disposal authority were granted without adequate legislative safeguards. The committee has resolved the problem by providing that (1) only lands that have been classified for disposal in accordance with regularized procedures may be sold, and (2) notice shall be given to all concerned.

Under H.R. 5498 the Secretary of the Interior would be authorized to sell lands that have been classified for disposal because those lands are required for the orderly growth and development of a community or because they are chiefly valuable for residential, commercial, industrial, or public uses or development.

In H.R. 5159, reported simultaneously by the committee, the Secretary of the Interior is authorized and directed to classify public lands for either disposal or retention in accordance with the criteria contained therein. H.R. 5498, as a logical next step, prescribes the procedures under which land classified for disposal will be sold.

Notification to Congress and interested persons will have been provided for significant land disposals in accordance with the classification procedure established under H.R. 5159. In addition, there is a requirement in H.R. 5498 for notification to the local body having zoning jurisdiction in the area in order to permit local government to zone for the use of the land. Then, finally, publication of a notice of sale would be required in both the newspaper in the area as well as in the Federal Register before large-scale disposals could be made.

This temporary legislation will relieve the Congress from considering individual bills to alleviate situations requiring attention during the time that the Public Land Review Commission is making its study and report.

COMMITTEE AMENDMENT

The amendment in the nature of substitute language for H.R. 5498 provides the temporary authority for sale of public lands as discussed above.

COST

It is not anticipated that there will be any increase in budgetary requirements as the result of enactment of H.R. 5498.

DEPARTMENTAL RECOMMENDATION

The Department of the Interior recommended enactment of expanded public land disposal authority in its executive communication dated May 7, 1963, requesting enactment of the draft bill submitted therewith and subsequently reiterated its view in reports on H.R. 106 and H.R. 255 which are all set forth below.

DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 27, 1963.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of a proposed bill to amend section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), and for other purposes.

We recommend that the draft bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The statute now provides that the Secretary of the Interior may order into market for sale at public auction, at the land office district in which the land is situated, isolated tracts not to exceed 1,520 acres. He may also, upon the application of an adjoining owner or an adjoining entryman, order into the market tracts not exceeding 760 acres, the greater part of which is "mountainous or too rough for cultivation." For a period of not less than 30 days after the highest bid is received any owner or owners of the contiguous lands must be afforded a preference right to buy the offered land at the highest bid price, and where two or more persons exercise such preference right the Secretary of the Interior is authorized to make an equitable division of the lands among such preference

right claimants. However, an adjacent landowner or owners cannot be required to pay any more than three times the appraised price.

The requirement that land be sold at the land office has impeded the administration of the public sale law and has resulted, we believe, in many situations where the United States has failed to obtain the maximum monetary return from the sale of lands. A sale held at a most advantageous place would bring greater competition and would enhance the probability of greater pecuniary returns to the United States. Today the fact that public lands are isolated or rough or mountainous does not necessarily mean that they are suitable for disposition. On the other hand, the fact that lands lack such characteristics does not mean that they are needed for retention by the Federal Government. Therefore, the criteria embodied in the present law are obsolete.

The preference right provisions embodied in the present law have led sometimes to results not in keeping with good land tenure and use. Presumably, these provisions were designed to protect activities on adjoining privately owned lands which were dependent on the public lands in issue. Not uncommonly, preference rights have been asserted, and recognized by this Department as required by law, by persons who bought a few adjoining feet of privately owned land in order to establish a preference right claim. In many situations persons who owned private land having a considerable acreage contiguous to the public land and whose activities were interrelated with the lawful use of the public land have sustained economic damage because of the inflexibility of the preference right provisions. Since the statute allows a period of 30 days for the assertion of preference rights to buy lands at public sale, many persons have bought adjoining lands during the 30-day period merely to establish a preference right claim under the law. The provision in the existing law that a preference right claimant may purchase the offered land at no more than three times the appraised price has on occasion resulted in loss of revenue to the United States.

In recent years the increasing economic activity in the public land States has caused a growing demand for public land by local governments and private enterprises for commercial and industrial purposes and for urban and suburban development. The demand for land is particularly urgent for those industries, such as the electronics, aircraft, and missile industries, requiring locations within large areas of open land and climatic conditions of the type found in certain regions where a great deal of public land is situated. There is no readily available means for the sale of public lands in tracts of sufficient size to meet these needs of local governments and private enterprises.

The acreage limitations embodied in the existing statute do not permit sufficient flexibility to satisfy changing demands by industry, local communities, and others.

The draft bill takes cognizance of governmental and industrial requirements for public lands and would grant the Secretary of the Interior authority to sell public lands, not needed for Federal program requirements, in tracts not exceeding 5,000 acres to qualified governmental agencies by negotiated sale for not less than the fair market value and to qualified individuals at public auction at the highest bid price. The bill also contains certain criteria to be followed in the determination whether land is to be sold. The bill also envisages in the interest of protecting the stability of dependent economic activities that the Secretary of the Interior may by regulation establish criteria to grant owners of lands contiguous to the land offered for sale a preference right to buy the offered lands at the highest bid price.

In order to facilitate sales under the bill, it provides that the Secretary would have authority to segregate the lands from other disposition upon a proposal to classify lands for disposition at public sale and that no application shall be accepted to purchase the land except for those lands which have been opened to such application by the Secretary of the Interior. One of the major problems facing our Bureau of Land Management has been the uncontrolled filing of applications under various public land laws. We believe that a more business-like mode would suggest that applications be filed only for those lands which have been determined to be proper for disposition under the public sale law.

Our bill also envisages that the Secretary would be authorized to issue such regulations as may be necessary to effectuate the purposes of the act and that he may consider and proceed to act upon valid and subsisting applications pending on the effective date of enactment of the bill.

35-329—64——2

We believe that the enactment of this proposed bill will enable the Department to meet more readily the ever-increasing needs of local governments and private enterprises for public lands.

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

Sincerely yours,

JOHN A. CARVER, JR.,
Assistant Secretary of the Interior.

"A BILL To amend section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), and for other purposes

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), is further amended to read as follows:

"'SEC. 2455. (a) Nothwithstanding the provisions of section 2357 of the Revised Statutes (43 U.S.C. 678) and of the Act of August 30, 1890 (26 Stat. 391), the Secretary is authorized to sell any public lands which he classifies as proper for disposition and as not needed for Federal program requirements or the long range administration of the public lands, in tracts not exceeding five thousand acres each, to qualified governmental agencies at the fair market value of the lands or to qualified individuals at public auction at not less than their fair market value. The Secretary may provide by regulation, under such terms as he deems appropriate, that owners of land contiguous to the land offered for public auction under this section and authorized users of such offered land may have a preference right to buy the offered land at the highest bid price, considering such factors as extent of contiguity of the offered and privately owned land, duration of ownership of the privately owned land, legitimate historical use and topography of the offered land, and desirable land pattern and use.

"'(b) The Secretary shall administer this section to promote the beneficial use and disposition of public lands. Proposed classifications and sales under this section shall be considered in the light of their effect upon the conservation of natural resources and upon the welfare of the individuals and communities involved, and their consistency with local governmental laws, ordinances, plans, and programs.

"'(c) The notation in the proper land office of a proposal to classify lands under this section, or the classification of lands under this section, shall segregate the lands from further application to make entry, selection, or location, and from settlement and location under the public land laws, including the U.S. mining laws, but not the mineral leasing laws, to the extent the Secretary considers appropriate, but all segregations under this section shall be subject to valid rights existing at the time of segregation. No application shall be filed to purchase lands under this section except lands which have been opened thereto by the Secretary.

"'(d) For the purposes of this section—

"'(1) The word "Secretary" means Secretary of the Interior.

"'(2) The term "public lands" means any public lands which are withdrawn by Executive Order Numbered 6910 dated November 26, 1934, as amended, or by Executive Order Numbered 6964 dated February 5, 1935, as amended, or pursuant to section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not otherwise reserved, or which are vacant, unappropriated, and unreserved public lands in Alaska.

"'(3) The term "qualified governmental agency" means any of the following, including their lawful agents and instrumentalities: (A) the State, county, municipality, or other local government, subdivision within which the land is located and (B) any municipality within convenient access to the lands if the lands are within the same State as the municipality.

"'(4) The term "qualified individual" means (A) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged twenty-one years or more; (B) any partnership or association, each of the members of which is a qualified individual as defined in subparagraph (A); and (C) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

"'(e) The Secretary is authorized to issue such regulations as he deems appropriate to effectuate the purposes of this section.'

"SEC. 2. The Secretary is authorized to consider and proceed with the applications filed and transactions initiated under section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), prior to the effective date of this Act which were valid and subsisting on the effective date of this Act, as if this Act had not been enacted."

DEPARTMENT OF THE INTERIOR,
Washington, D.C., May 7, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This responds to your committee's request for our views on H.R. 106, a bill to provide that certain public lands of the United States shall be disposed of for their highest and best use, and for other purposes, and H.R. 255, a bill to provide for the orderly classification and disposition of public lands not required for any Federal purpose.

We recommend that consideration of these bills be deferred.

Section 1 of H.R. 106 would authorize the head of each department, agency, and instrumentality of the United States, having jurisdiction over public lands of the United States, to conduct jointly with the State in which the land is situated, a study of any such land for the purpose of classifying its future development based upon the most probable highest and best use for such land. If an agreement could not be reached between such head and the State as to the classification, the Secretary of the Interior would be required to make such classification after notice and hearing.

Under subsection (a) of section 2 of H.R. 106, whenever any public land is so classified for immediate urban or industrial development or for such development within a 10-year period immediately following such classification, the head of the department, agency, or instrumentality having jurisdiction over the land would be required at the request of the State to cause it to be appraised in order to determine its fair market value based upon such classification.

Subsection (b) of section 2 provides that in the case of any public land so appraised the head of the department, agency, or instrumentality of the United States having jurisdiction over such land shall upon the request of the interested State transfer jurisdiction of such land to the State.

Subsection (c) of section 2 provides that no public land shall be so transferred to any State unless the transfer is made not later than 1 year after the date of which the appraisal of the real property is made and the State agrees to pay to the United States the appraised value of such property within 10 years of the date of transfer or to return such land to the United States at the end of such 10-year period without cost, except that if such land is sold by the State at any time it shall immediately pay such appraised value, or assign to the United States sufficient proceeds from deferred payments from such sale equal to the appraised value. Any public land classified in accordance with the bill for immediate urban or industrial development or for such development within the 10-year period immediately following such classification may be conveyed without consideration by the Federal department, agency or instrumentality of the United States having jurisdiction over such property to the appropriate political subdivision of the State for use as a park, playground, school, or public building site, or for any other public purpose, without consideration subject to the terms and conditions as may be necessary to protect the interests of the United States.

Section 4 of H.R. 106 provides that any money received by the United States as a result of the sale of any public land under the bill shall be deposited in the Treasury as miscellaneous receipts.

Section 5 of H.R. 106 defines the term "public lands" to mean such lands and interests in lands owned by the United States as are subject to private appropriation and disposal under the public land laws, and does not include national monuments, parks, tribal lands within Indian reservations, military reservations, or any other lands or interests in lands owned by the United States and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws or acquired and held for any public purpose. The term "urban" includes residential or business purposes.

Section 1 of H.R. 255 would direct the Secretary of the Interior to classify and dispose of public lands not required for any Federal purpose whenever he determines that the lands are required for the orderly growth and development of a

community and are chiefly valuable for use in connection with residential, commercial, or industrial development. Section 1 further explicitly provides that the bill is not to be construed as limiting the authority of the Secretary to dispose of lands under other statutes.

Section 2 of H.R. 255 provides that at least 90 days prior to offering lands for sale in accordance with the terms of the bill the Secretary of the Interior shall furnish public notice to a newspaper published in the county in which the lands are situated and shall furnish notice in the Federal Register of his intention to classify and dispose of the lands involved.

Section 3 of H.R. 255 recites that for 30 days after the lands are offered for sale the State, in which the lands are located, and the appropriate political subdivision of the State shall have priority of opportunity to negotiate a purchase of the lands at fair market value, with first opportunity going to the State. No more than 1,280 acres may be conveyed to a State or local governmental agency during any calendar year.

Section 4 of H.R. 255 provides that following the expiration of the 30-day period the lands shall be offered for sale under competitive bidding system with award to be made to the highest responsible bidder at not less than the appraised fair market value as determined by the Secretary of the Interior. No more than 640 acres shall be conveyed under the bill to any individual or private association or corporation within any calendar year.

Section 5 of H.R. 255 provides that all patents or other evidences of title issued under the bill shall contain a reservation to the United States of all mineral deposits which would thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title shall also contain such conditions, reservations, and restrictions as the Secretary of the Interior considers necessary in the public interest including but not limited to such conditions as the Secretary may deem necessary to insure proper development of the lands after they have passed from Federal ownership.

The chief objective of these bills appears to be to facilitate the classification and disposition of public lands for urban, suburban, and industrial development. This objective is indeed a laudable one. However, we feel that the administration proposal "To amend section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), and for other purposes," which the Department submitted to the Congress by executive communication dated February 27, 1963, and was introduced as H.R. 4697, and with a modified title as H.R. 5498, embodies the provisions which we believe are sufficiently comprehensive to enable us to effectively classify and dispose of public lands for such beneficial uses, including those both in the public and private sectors.

Our proposal permits dispositions in units up to 5,000 acres, contains authority for the recognition of such factors as legitimate historical use and land-use pattern in the formulation of preference right regulations, and authorizes the segregation of land from the operation of the public land laws, pending consideration of disposition of land under the bill. We believe that H.R. 4697 or H.R. 5498, if enacted, would not only resolve the need for legislation as to urban, suburban, and industrial development, but also would have a great ameliorative effect on the administration of other public land laws.

H.R. 4697 and H.R. 5498 reflect the distillation of our experience under the present public sale law and we, therefore, urge your favorable consideration of H.R. 4697 or H.R. 5498.

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,

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 5498, as amended.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 26, 1964.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: There are pending before your committee H.R. 5159, an act to authorize and direct that certain lands exclusively administered by the Secretary of the Interior be classified in order to provide for their disposal or interim management under principles of multiple use and to produce a sustained yield of products and services, and for other purposes, and H.R. 5498, an act to provide temporary authority for the sale of certain public lands.

We recommend favorable consideration of these bills and that they be enacted into law.

H.R. 5159 and H.R. 5498 stem from administration proposals.

H.R. 5159 contains six major provisions and directives affecting public land management.

First, the Secretary of the Interior is to develop criteria for determining which lands should be disposed of for certain purposes and which lands should be retained for certain purposes (see sec. 1(a)).

Second, the Secretary is to review the public lands in light of the criteria developed under section 1(a), and to separate them into two categories: lands suitable for disposal, and lands more suitable for retention (see sec. 1(b)).

Third, the Secretary is not to classify or designate lands without first having a legislative authorization or regulatory definition therefor (see sec. 1(b)(1)).

Fourth, a public notice procedure is established for all proposed classifications for disposal or retention for management by the Bureau of Land Management involving more than 2,560 acres (see sec. 2). A publication in the Federal Register of a notice of proposed classification under the act will segregate the lands (see sec. 4). We assume that actual classification will have the same segregative effect.

Fifth, the Secretary is directed to develop and administer under the principles of multiple use and sustained yield those public lands which he determines to be suitable for retention for interim management (see sec. 3).

Sixth, the legislation would supplement all other disposal legislation and would not prevent the disposition under other laws of lands classified under the new legislation (see secs. 6 and 7).

H.R. 5498 provides that, pending the implementation of the recommendations of the Public Land Law Review Commission, the Secretary, in addition to any other authority which he now has (e.g. sec. 14 of the Taylor Grazing Act, 48 Stat. 1274 (1934) as amended, 43 U.S.C. 1171 (1958)), is directed to dispose of public lands that have been classified for transfer into non-Federal ownership upon a determination that the lands are required for the orderly growth and development of a community, or that the lands are chiefly valuable for residential, commercial, industrial, or public uses or development. An individual tract may not exceed 5,120 acres and may be sold to governmental units at the appraised fair market value or to individuals through competitive bidding at not less than fair market value.

H.R. 5498 also provides for (1) local zoning authorities to be afforded an opportunity to zone lands proposed for sale, (2) public notice of negotiated sales with governmental agencies and competitive offerings, and (3) reservation to the United States of all mineral deposits which are thereby withdrawn from appropriation. It is our understanding that the withdrawal of the mineral estate is intended to (*a*) preclude disposals under the Materials Act, 61 Stat. 681 (1947) as amended, 30 U.S.C. 601 (1958), (*b*) permit the disposal of lands despite their mineral value, despite RS. 2318 (1878), 30 U.S.C. 21 (1958), and (*c*) preclude development of any minerals so reserved unless specifically authorized by future legislation.

H.R. 5159 would provide specific congressional guidelines for the long-range management of the public lands. Such guidelines have been implicit in past legislation such as the Taylor Grazing Act, 48 Stat. 1269 (1934), as amended, 43 U.S.C. 315 et seq. (1958), but explicit expressions have been related to areas of the lands administered by the Secretary through the Bureau of Land Management; e.g., the O. & C. Act, 50 Stat. 874 (1937), 43 U.S.C. 1181a (1958).

H.R. 5498 in large measure would obviate consideration of special bills for the disposition of lands for community, residential, commercial, or industrial development. The present public sale law authorizes sale of public lands only in sharply limited circumstances; i.e., isolated tracts and tracts which are mountainous or to rough for cultivation.

Both H.R. 5159 and H.R. 5498, as passed by the House of Representatives, are temporary legislation pending the recommendations to be made by the Public Land Law Review Commission, provided for by H.R. 8070, now pending in the Senate. That Commission's work would afford a modern framework for the revision of the public land laws, taking into account present social, economic, and governmental needs. We urge the enactment of H.R. 8070.

The House Committee on Interior and Insular Affairs, in revising the administration multiple-use proposal, added certain terms which we construe as follows:

"Determination" means a finding of the Secretary of the Interior or his delegate, in the light of the criteria developed in accordance with section 1(a) of the act, that lands administered by the Secretary of the Interior through the Bureau of Land Management should be placed in one of the two categories established by that section; i.e., disposal or retention for interim management. The legal effect of such a finding would be authorize the Bureau of Land Management to manage under principles of multiple use and sustained yield management those lands found to be suitable for interim management. (see sec. 3 of H.R. 5159, as passed by the House of Representatives).

"Designation" means the delineation and naming by the Secretary of the Interior or his delegate, for administrative purposes, of an area of lands under BLM administration. The legal effect of this delineation and naming would be to give an official name to such an area. It would have no effect on the permitted use or uses of the land.

"Classification" means an action taken by the Secretary of the Interior or his delegate which specifies the use or uses that will be permitted for a particular tract of land to be retained under BLM administration, or the mode of disposal for a particular tract of land to be disposed of.

We have set forth the foregoing definitions simply to indicate what these terms mean to us. We see no need for amendment of H.R. 5159 and H.R. 5498 and believe that their enactment into law will greatly aid this Department in its administration of the public lands and in satisfying demands in the non-Federal sector. We therefore strongly urge the enactment into law of H.R. 5159 and H.R. 5498.

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,

JOHN M. KELLY,
Assistant Secretary of the Interior.

Senator BIBLE. Since I came to Congress in 1954 it has been one of my deepest concerns that the public land laws and the congressional intent with respect to them were in dire need of review. I am pleased that it now appears to be the propitious moment for action, but I must admit some reluctance in creating a commission outside the framework of Congress to do this work. I expect, however, that the testimony we hear will lead to the proper decision. I expect that the testimony which we will hear on the third of the bills, H.R. 8070, the one for the Public Land Law Review Commission, will direct its attention to this particular problem. I am also pleased to see the related bills creating authority for classification, management, and sale of this property. Whether or not these should be temporary in nature and so interlocked with the Land Review Commission bill is something that I hope the testimony will develop for the information and use of this committee.

The lands of Nevada today are 87 percent owned by the Federal Government and it is of concern to me and all the citizens of our State that our economic base is so drastically reduced by this situation.

If the enactment of these bills will help to solve our problems then we will have done a good job. It certainly is evident to those of us who have worked in this field for many years that the land laws are outdated and outmoded and are due to be upgraded and do need a complete renovation to bring them into conformity with the 1960's. I sincerely hope that we can make some headway in this direction. The House of Representatives has performed a very laudable bit of work in moving these bills forward as they have, and I am hopeful that we can be of assistance on this side of the Hill in seeing that legislation of this extreme importance is enacted at this session of the Congress.

There are a number of statements that I want to file in the record.

First, there is a letter of support for the multiuse and public sales from Senator Moss, who is unable to be here this morning. His letter will be incorporated in full in the record.

I have, also, a statement from Senator McGee which will be incorporated in full in the record.

I have also received a number of letters from different groups of people. I have a communication from the American National Cattlemen's Association, a letter directed to the chairman of the full committee, with a copy to me that will, likewise, be made a part of the record.

I have a letter from my own Central Committee, Nevada State Grazing Boards, indicating their support of all three of the House-passed bills as amended by the House, and that will, likewise, be made a part of the record.

I have a letter from the National Wool Growers Association on each of these bills, the multiuse, the public sales bills and the Public Law Review Commission—and each of these expressions from the National Wool Growers Association will be made a part of the record, the two on H.R. 5159 and H.R. 5498 at this point and the one on H.R. 8070 in tomorrow's hearing.

I also have a letter from the Kaiser Industries Corp., directing his attention and making comments favorably in favor of H.R. 5498 and that will be made a part of the record.

(The documents referred to follow:)

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
June 27, 1964.

HON. ALAN BIBLE,
Chairman, Subcommittee on Public Lands, Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

DEAR ALAN: I regret very much that I find it impossible to attend your June 29 hearing which will cover H.R. 5159, a House-passed multiple-use bill, and H.R. 5498, a public sale bill.

These bills have my support. I am sure that you are aware that I was one of the first sponsors in the Congress of a multiple-use bill for the public lands.

All of the information available to me indicates that there is extremely strong support for both of these bills. I have reviewed, especially the multiple-use bill, and find that in many ways it parallels S. 601 in the amended form introduced by Senator McGee and myself last August 19. The legislation provides for local and public participation in the development of sound Federal land use. It provides for a review of the Federal lands and for the establishment via regulations of the criteria under which the lands will be designated. It provides for appropriate notice of actions proposed by the Department of the Interior and it defines the terms "public land," "multiple use," and "sustained yield."

The bill before you, H.R. 5159, however, has an effective life only until June 30, 1968.

It is my understanding that this is due to the House judgment that there should be a relation between this legislation and the activities expected under the Public Land Law Review Commission.

I would prefer to see permanent legislation enacted but I have no strong objection to this procedure which provides for a congressional review of legislation after a period of trial.

However, there is one aspect of the pending bill which I believe deserves clarification. In the August 19 amended version of S. 601, in section 3(b), there are listed six implications of the concept of multiple use. In my reading of the House bill it appears to me that these points are in complete conformity with the intent of that legislation.

I realize that the committee is operating under a time deadline and you may wish to drastically amend either this multiple-use bill before you or the public sale bill. However, I would like to request that this language be set forth in the committee report on the pending multiple-use bill with instructions to the Department of the Interior that these concepts will be fully operative in the application of the policy of multiple use.

As the first sponsor on the committee of multiple-use legislation, I would appreciate being afforded the opportunity to report the bill and to review the report prior to its being filed.

Sincerely,

FRANK E. MOSS.

STATEMENT OF HON. GALE MCGEE, A U.S. SENATOR FROM THE STATE OF WYOMING

It is a great privilege to present my testimony today on these two bills, H.R. 5159 and H.R. 5498. One-half of the State of Wyoming is in Federal ownership so you can see why legislation dealing with the use and disposition of such lands is very important to us.

Let me say to begin that I support both these bills very strongly. In fact, I am a cosponsor of a bill introduced by the junior Senator from Utah before the Department of Interior bill came down which had the same purpose as H.R. 5159.

The concept of multiple use is to me the only valid concept that can be used in the administration of public lands. In many areas of Wyoming Federal acreage can and does support a multitude of uses. With proper management it is possible to use the same land for recreation and for timber production, or for watershed protection and controlled grazing. The presence of a mining operation on a portion of Federal land should not bar that land from use by the hunter and fisherman, provided, of course, that suitable means are taken to protect the property and rights of each.

One example of an activity that is aptly suited for multiple use, and an activity very popular in Wyoming, is that of rock collecting. In Wyoming many citizens spend their weekends as "rock hounds" searching for rare and semiprecious stones. Certainly this form of recreation does not conflict with other uses of Federal lands and should be permitted wherever possible.

In my opinion, this bill would provide for the most efficient and effective management of Federal lands and would fulfill the obligations of good government. And I note that the bill contains safeguards which will protect those unique areas of wilderness or special beauty from exploitation and commercialization. And I note that it also contains limitations so that it will not interfere with the implementation of funds and recommendations of the proposed Public Land Law Review Commission.

Mr. Chairman, this bill enjoys wide support in the State of Wyoming, and I am pleased to join in that support for this worthwhile legislation.

The second bill which you are considering here today, H.R. 5498, also enjoys considerable support in Wyoming. It is natural that a State with half of its land in Federal ownership is very aware of the present complexity of law dealing with the sale of public land. Our State is growing rapidly and it is an everyday occurrence for that growth to run head on into a parcel of Federal land and the difficulties of obtaining that land either for private or public use.

The requirements of the space age and of our exploding population have become quite different from those that existed when the present laws on this subject were drafted. Indeed, these laws now often thwart equitable and profitable disposal of Federal lands because of unrealistic preference allowances.

Under H.R. 5498 it will be far easier and involve the consumption of greatly reduced quantities of redtape for a Wyoming city to buy land adjacent to its present boundaries or for a burgeoning space industry to find the space for expansion and improvement.

It is the function of this Congress to provide the best Government that is possible. By keeping the machinery of Government administration as efficient and effective as possible we take a major step in providing good government. This bill contains both major proposals for more efficient government and effective safeguards for protecting the public interest and the public domain. I join with many Wyoming citizens in recommending the committee's favorable consideration of this measure.

AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo., June 26, 1964.

Hon. HENRY M. JACKSON,
Public Lands Subcommittee,
Senate Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR JACKSON: Knowing of your busy schedule and the need to conserve time, we would like to submit this letter for record in lieu of an appearance before your committee June 29 and 30 of this year, on H.R. 5498 and H.R. 8070.

The American National Cattlemen's Association, representing 38 State associations and thousands of individual cattlemen throughout the country, endorses the principles in H.R. 5498, a bill to provide temporary authority for the sale of certain public lands, and H.R. 8070, a bill which would establish a Public Land Law Review Commission. The proposals are constructive and needed legislation.

H.R. 5498 would allow municipalities necessary expansion and would let some of the land move into private ownership, thus providing much needed expansion of the tax base in "public land States."

The Public Land Law Review Commission can provide an excellent opportunity for comprehensive study of the many laws governing the use of the public lands. No doubt many of these laws can be updated in line with modern day needs. However, many of the proposals enacted over the years by the Congress relative to the use of public lands continue to be meritorious. Foremost among these is the Taylor Grazing Act which, insofar as the principle use of the public lands goes, is a guide for the administration of these lands "pending its final disposal" as stated in the law as a reflection of the wishes of Congress and the public.

We are pleased to offer our support of the general intent of these legislative proposals and urge that your committee give these bills a favorable report.

Cordially,

C. W. MCMILLAN.

CENTRAL COMMITTEE NEVADA STATE GRAZING BOARDS,
Elko, Nev., June 25, 1964.

Hon. ALAN BIBLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIBLE: Members of the Nevada Cattlemen's Association, the Nevada Wool Growers, and the Central Committee of Nevada State Grazing Boards have reviewed H.R. 5498, H.R. 5159, and H.R. 8070 upon which hearings are to be held before the Public Lands Subcommittee, and I have been instructed by these organizations to inform you of their desires in connection with these bills. They are as follows:

H.R. 5498: These organizations support this bill as it is reported from the House.

H.R. 5159: This bill is supported as reported from the House, as long as it would not infringe upon the State's administration of all water rights.

H.R. 8070: Support this bill as reported from the House. These organizations are very desirous of retaining the amendment by the House which provides that six members of the commission be appointed from the land user groups.

All three of the above organizations would appreciate being notified of any amendments which may be proposed for the above bills.

Your cooperation and assistance in this matter and other past matters is appreciated.

Very truly yours,

WALTER I. LEBERSKI,
Secretary, Central Committee,

NATIONAL WOOL GROWERS ASSOCIATION,
Salt Lake City, Utah, June 26, 1964.

Re H.R. 5159 multiple use legislation.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands,
Senate Interior Committee,
Washington, D.C.

DEAR SENATOR BIBLE: In lieu of personal appearance at hearings before your subcommittee to present testimony on H.R. 5159, we respectfully request that this letter, representing the official views of the National Wool Growers Association, be made part of the hearing record.

The National Wool Growers Association is composed of 20 sheep producer organizations in a 25 State area where approximately three-fourths of the Nation's sheep, lambs, and wool are produced.

The National Wool Growers Association fully supports the multiple-use concept and fully endorses the principle that this only be pending legislation awaiting implementation of the recommendations to be made by the Public Land Law Review Commission, as set forth in H.R. 8070.

Furthermore, we feel the version now before your subcommittee is much improved over the original bill. However, we still feel that some of the language in H.R. 5159 is vague and misleading and needs further clarification.

Comments and recommendations on H.R. 5159 are as follows:

1. We feel that referral to multiple use as "compatible balanced multiple use" would more clearly state the intent. The wording "multiple use" by itself sometimes leaves room for several possibilities of interpretation.

2. The word "or" on page 2, line 14, section (a) we feel should be changed to "and." This would eliminate the possibility of single use interpretation which would be in direct conflict with intent of the act.

3. Under the definition of "multiple use," section 5(b), lines 4 through 8, we are opposed to the terms "the most judicious use of the land for *some or all* of these resources * * *" and the "the use of some lands for *less* than all of the resources." This would appear to be in direct conflict with the true multiple-use principle and certainly should not be part of the definition itself. Furthermore, we feel this could conceivably lead to indiscriminate setting aside of lands for less than all of the resource uses provided for in this bill.

4. Language in any Federal land laws that places in jeopardy any State water rights we view with considerable alarm. Lines 1 and 2, page 6, section 5(b), refers to the "management of the various surface and subsurface resources * * *." We strongly oppose this wording because we feel it implies that both surface and subsurface water could be placed under the jurisdiction of the Secretary of the Interior. Historically, water rights have been controlled by State water laws and State control should continue.

We continue our affirmative stand for a "compatible balanced multiple use" that would produce maximum sustained yield of product and services, and for other purposes, much of which has been set forth in H.R. 5159. We do support H.R. 5159 in principle and urge that consideration be given to the points of objections set forth above and that conflicts in the bill with the Taylor Grazing Act be eliminated.

Respectfully submitted.

JOSEPH M. DONLIN,
Chairman, Federal Lands Committee.

NATIONAL WOOL GROWERS ASSOCIATION,
Salt Lake City, Utah, June 25, 1964.

Re H.R. 5498 to provide temporary authority for the sale of certain public lands.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands,
Senate Interior Committee,
Washington, D.C.

DEAR SENATOR BIBLE: In lieu of personal appearance before your subcommittee to present testimony on H.R. 5498, we respectfully request that this letter, which represents the official views of the National Wool Growers Association, be made part of the hearing record.

The National Wool Growers Association is composed of 20 sheep producer organizations covering an area of 25 States where approximately three-fourths of the Nation's sheep, lambs, and wool are produced.

The National Wool Growers Association endorses the objectives of H.R. 5498 insofar as it provides for placing land into private ownership. We have long been for this principle and continue to wholeheartedly endorse section 14 of the Taylor Grazing Act, which provides that lands under the law shall be utilized "pending final disposition." We also recognize the need for legislation that will facilitate the orderly disposition of land for community expansion and feel that definite provisions should be made in that direction. Furthermore, we strongly support the provision that this only be interim legislation pending the implementation of the recommendations to be made by the Public Land Law Review Commission, as provided in H.R. 8070.

We recognize the need for legislation that will allow the orderly growth of communities which are practically or entirely surrounded by Federal lands. However, it should be made clear that H.R. 5498, which deals strictly with this problem, does not supersede any existing public land laws that now authorize sale of public lands, such as the right for contiguous land owners to purchase "rough or mountainous" and "isolated" tracts of land.

We also wish to point out that in spite of the fact that this is only interim legislation, geared toward community development and expansion, we feel strongly that the safeguards provided for in the Taylor Grazing Act must be maintained in all Federal land sales in order to adequately maintain stability in the livestock industry and other bona fide interests using the land. These safeguards give contiguous or adjoining land owners the opportunity to purchase lands bordering their private property at no more than three times the appraised value.

We respectfully request that serious consideration be given the points set forth in this letter.

Sincerely,

JOSEPH M. DONLIN,
Chairman, Federal Lands Committee,
National Wool Growers Association.

KAISER INDUSTRIES CORP.,
Washington, D.C., June 26, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR: Kaiser Steel Corp. has a keen interest in the enactment of H.R. 5498, which would provide a practical means of acquiring public lands pending anticipated general revision of the public land laws.

Kaiser Steel owns a large iron ore deposit in a desolate and arid region of the desert in Riverside County, Calif. At this location Kaiser Steel operates its Eagle Mountain iron ore mine which is the only supply of iron ore for the corporation's four blast furnaces and its integrated steel mill facility at Fontana, Calif. These are the only blast furnaces and the only integrated mill on the west coast of the United States. The mine currently employs approximately 625 miners, and the community of Eagle Mountain numbers about 2,500 people. Kaiser Steel Corp. is wholly dependent upon this iron ore deposit to continue with its steel mill operations which employ more than 10,000 people with an annual payroll in excess of $75 million. In order to efficiently conduct the mining operation, it is necessary to conduct certain activities outside of the boundaries of the patented mining claims themselves. Current laws pertaining to mill site locations and the like do not afford a practical means of acquiring land contiguous to

these patented mining claims for these purposes. For this reason Kaiser Steel urges the passage of H.R. 5498 which would permit it to purchase additional nonmineral public lands adjacent to its claims at an appraised fair market value as provided in this proposed legislation. We would then be in a position to recover greater quantities of the ore because we would have additional "elbow room" within which to:

1. Slope back walls of our open pit mine 35 to 45°;
2. Deposit overburden necessary to uncover the ore deposits;
3. Deposit milltails which result from improving the quality of the lower grades of iron ore; and
4. Miscellaneous purposes otherwise necessary to mining activities.

We might also add that we believe such legislation would permit more efficient handling of the acquisition of public lands for this purpose, thereby saving a great deal of time and paper work on behalf of both the Government and private individuals.

Kaiser Steel would deeply appreciate your interest and assistance in obtaining favorable consideration of H.R. 5498.

Warm personal regards.

Sincerely,

WALTER T. PHAIR,
Assistant to the Vice President.

Senator BIBLE. Do any of my colleagues have any statements that they would care to give at this time or possibly later?

Senator GRUENING. I have a statement which I will introduce into the record and discuss later after the Department witnesses.

Senator BIBLE. Senator Jordan.

Senator JORDAN. I have a statement for insertion in the record tomorrow, Mr. Chairman.

Senator BIBLE. Senator Simpson.

Senator SIMPSON. Mr. Chairman, I will submit a statement for the record tomorrow on S. 8070.

Senator BIBLE. That permission will be granted and the record will be kept open for a reasonable length of time for the submission of additional statements.

Our first witness is Mr. Charles H. Stoddard, Director of the Bureau of Land Management. We are packaging these hearings so that those of you who are appearing as witnesses can direct your attention particularly to the public sales bill and the multiple-use bill. You might just as well direct your attention to both of those. I think that they are very closely related. We will be happy to have you come forward to the witness chair and to have anyone accompany you that you desire.

Mr. STODDARD. I would like to have Mr. O'Callaghan and Mr. Wolf assist me.

Senator BIBLE. I might say before you start I hope that I have made the record clear as to the incorporation into the record of the official report of the Department of Interior dated June 26, 1964, approving H.R. 5159 and H.R. 5498, which are administrative proposals, one for the public sale of public lands and the second for the multiple-use provisions. Both of these House-passed bills have counterparts in the Senate. I do not know of any particularly useful purpose being served by having the Senate counterpart introduced as a part of the record, but we will have their numbers included. They are S. 1601 and S. 1602 which are the Senate counterparts. For the purpose of this hearing we will direct our attention to the House-passed bills as amended.

Very well, Mr. Stoddard, you may proceed. We have your statement before us.

STATEMENT OF CHARLES H. STODDARD, DIRECTOR; ACCOMPANIED BY JERRY A. O'CALLAGHAN, OFFICE, CHIEF OF LEGISLATION AND COOPERATIVE RELATIONS, ROBERT E. WOLF, ASSISTANT TO THE DIRECTOR, AND IRVING SENZEL, CHIEF, DIVISION OF LAND AND MINERALS STANDARDS AND TECHNOLOGY, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. STODDARD. Thank you, Mr. Chairman and members of the committee. I am grateful for the opportunity to appear before this distinguished committee to present some of the problems which the Bureau of Land Management has in connection with the administration of the public lands. In the interest of saving your time I will testify on both H.R. 5159 and H.R. 5498, although separate formal statements have been submitted.

Senator BIBLE. Each of your statements will be incorporated in full in the record at the end of your oral testimony and you may highlight them in your own manner.

Mr. STODDARD. I hope that my statements will contribute to the consideration of these bills by the committee.

There is a serious need for reconsideration of the public land legislation to authorize the Department of the Interior to administer these lands.

Public Land Management has reached a crossroad. The Nation's resource needs fall heavily on public lands, with the population growing rapidly, and the needs of modern life growing faster, and we have only limited authority in the handling of many of these matters.

As managers we have only limited authority to answer those needs, to deal with some of these modern processes and problems; the present congressional mandate that we have relates to the earlier needs of public lands.

There is great potential existing at the present time as indicated by present values, such as oil and gas development, providing employment for 100,000 people and an estimated end product value of $4 billion.

Timber, more than 1½ billion board-feet annually are harvested with an income of over $37 million.

Grazing, the grazing of livestock, to support over 7 million livestock and 27,000 ranches.

Vital watersheds are provided throughout the West.

And our wildlife, the public lands contain key wildlife ranges used by 3 million big game animals.

There are various recreational uses, which have been visited by more than 14 million recreationists last fall for hunting, fishing, hiking, camping, and other activities.

And total revenues have produced over $3.1 billion. If we are to utilize the lands to their fullest capacity we are in need of greater congressional direction.

I think that you can appreciate the situation that the Bureau of Land Management has in the administration of public lands when you look at this map here of the upper Missouri in Montana. This is northern Montana. This is the pattern of land that is under the responsibility of the Bureau of Land Management. The brown or tan colored areas are what we administer. The blue are the State lands.

The white are the private lands. The yellow are the Indian reservations. Here is a part of a national forest. This is a game range around the reservoirs.

Contrary to other agencies, our lands are quite scattered, as you can see. The difficulty has been that we have not the procedures or the guidelines from Congress with respect to how we actually go about managing both of these. We have been caught in situations where both the disposal and the retention have been quite a problem.

There are some 467 million acres that remain under the Bureau of Land Management. There are some 177 million acres in the 11 Western States and a few other States with, possibly, 290 million in Alaska. This is around 20 percent of the Nation's area.

In other words, our land pattern includes several types of situations. We have one area here which is a fairly solid block which is around a reservoir area; then we have the intermingled lands which are maybe one-third Federal and two-thirds other ownership. And here we have scattered holdings in these areas such as this down here (indicating). In other words, our management problem revolves around handling of these lands around three principal categories.

The land classification proposed in the multiple use and public sale is a first step toward applying well-known information about land classification. It amplifies the kind of guidelines we are anxious to see put into effect.

The multiple-use bill, H.R. 5159, had its origin some years ago in earlier versions both in the Senate and in the House and in the executive branch proposals:

Congressman Aspinall's multiple-use bill, H.R. 9084, introduced in the 87th Congress, S. 2516 in the 87th Congress, by Senators Moss and Morse, and S. 601 by Senators Moss and McGee this Congress. The Department bill, H.R. 5159 as amended by the House Interior Committee and passed in April.

The legislative background up to this time of the principal bills that relate to multiple use, that give us what authority we have now, consists of the Taylor Act of 1934, passed some 30 years ago which regulated use of public land ranges and authorized the Secretary to provide for "orderly use, improvement, and development and classification" pending ultimate disposal.

The Oregon and California Act in 1937 directed permanent forest management of revested Oregon and California railroad and reconveyed Coos Bay Wagon Road grant lands. This provided for sustained yield watershed protection, recreation, and economic contribution.

Then the Materials Act of 1947 was passed which authorized a system for disposition of materials from public lands.

And somewhat earlier, the Mineral Leasing Act of 1920 was passed, authorizing further disposition of mineral lands.

This background shows close interest in multiple use, but the issue of "final disposal" was postponed or has been postponed, and H.R. 5159 gives some further long-awaited management directives.

The purpose of the bill, as we see it, provides the Secretary with a temporary guide for management and disposition of public lands

and directs interim management under multiple use and sustained yield principles.

The Secretary's responsibilities under the bill are (1) to promulgate criteria for determining which lands are disposable for community growth and which are retainable during the life of the bill, and (2) the management of retained lands for several enumerated items, such as domestic livestock grazing, fish and wildlife development and utilization, industrial development, mineral production, occupancy, outdoor recreation, timber production, watershed protection, wilderness preservation and preservation of public values.

The Secretary would analyze the lands according to the criteria, then classify for retention or disposal under this bill.

He must first develop definitions.

And he would develop and administer the land under the multiple-use and sustained-yield principles, with public notice procedures for classification.

The bill would not repeal any existing laws. It does not prevent disposition, nor does it restrict mineral development or entry; it does not affect State jurisdictional responsibility.

Because of a variety of local and user requirements, the Bureau of Land Management has had to practice multiple-use management for years, within legal limitations.

It has been necessary to have land-use planning in three steps: One, inventory and analysis of natural resources; two, evaluation and designation of land-use potential; and, three, planning of programs based on designations.

We are now engaged in relevant studies for most areas.

Preliminary findings show three categories which I mentioned earlier, that is, the large block which can be handled by the direct management of the Bureau. These are lands that have been skimmed over and gone over for possible private uses.

Then there is the intermingled lands which are much more scattered among the private and State lands. They lend themselves to a coordinated or cooperative management. These are adjacent to ranches and ranchers who are living now on these lands. As well as other local groups.

Then there are the isolated tracts and lands near towns, such as these that I have indicated, that are very difficut, if not impossible to cover.

Senator SIMPSON. Where are those?

Mr. STODDARD. That is in the tan-colored sections up here and the lighter brown here and down here [indicating]. The darker brown areas are the lands which were acquired during the 1930's under the Bankhead-Jones Act by farmers who homesteaded. Because of drought conditions, these lands were abandoned. They had not learned the techniques of dry farming for wheat, and they were reacquired. They abandoned their lands.

The studies that we are undertaking will enable us to work with the Western States more effectively in working on their land problems. That is, their problems of selection, their problems of management, and which kinds of lands logically fit into private ownership and which lands, probably, will stay in Federal ownership for an indefinite period of time.

The benefits of the bill are clear-cut guidelines from the Congress for the Bureau of Land Management to review the lands with respect

to their probable and highest utilization in accordance with the potential of the lands.

Let us look at this map of Wyoming. Back in 1902 my father was a cowpuncher and a doctor in this State.

He finished medical school, and had tuberculosis and came to a ranch out there. About 2 weeks ago I was out there. This map essentially illustrates the variety and kind of uses that take place in the area. There just happens to be more of a concentration of a variety of uses here.

The public lands are in the tan. And the lands which are used for recreation are here [indicating]. Another one here along the river [indicating], which is in pink, and then the wildlife winter ranges are shown with a green line around them. These areas are used by the elk and the antelope for winter range. Then we have timberlands in the area in here [indicating], largely pine and some spruce. Then we have desert land, with an irrigation project here which is in the process of development, and then we have the Big Piney oilfield, which is a tremendous new development that has been taking place in this area.

With all of these uses taking place in this area you will notice that we have a wildlife wintering area right in the middle of the oilfield. They have an interest in the same area. And this is a problem that we face in our present legislative authority. I think that covers the multiple use.

Senator BIBLE. Before you complete your presentation of the multiple-use bill, I wish you would state for the record what you propose doing when this becomes enacted into law; that is, as to that which you cannot do under the existing law and why you need this legislation—why do you need this enactment? That is what I am trying to say. It does seem to have widespread agreement among these various user groups. Apparently they feel that there is a real need for this. I do not know that your statement has pinpointed what you would do under this bill that you could not do under existing legislation. I wish you would just highlight that, so that if someone would ask, "Why do they need this legislation?" I might be able, in layman's terms, to explain to them why the Department should have this legislation to better enable them to administer the public domain.

Mr. STODDARD. There are several reasons, Senator. In the first place the situation that the Bureau of Land Management confronts is that over the years the legislation guides that we have are not clear between what lands we will manage and what lands we will dispose of. Therefore, in making our presentation to congressional committees on appropriation and other matters there is the question—as well as the Bureau of the Budget—which comes up that this land may be up for final disposal; therefore, we cannot get very much in the way of forestry or recreational moneys. We have the situation where there has been a deterioration in the area of a need for improving a demand for range by improvements of various kinds or reforestation where we have not been able to make a convincing case to the people who provide us with the annual appropriations so that we can make the kinds of investments that are required to get the land up to full productivity.

For example, in the case of range improvement we can get a substantial increase by the application of various soil conservation and range

improvement techniques. There is a demand in many areas for timber that we have available but the question of getting the money for reforestation is a difficult one. There is an increase in demand on the part of many wildlife and game people who are interested in game for range improvement which is limited pretty largely to the money that we can get from the States to put in the wildlife habitat.

And for these reasons this bill, even though it is a temporary authority, would give us an opportunity to try out some of these techniques with enough classification authority to say where it should be done and where we should look forward to getting out of the business so that the Federal responsibility for the management can be carried on and the Federal responsibility for the disposal can be carried out.

Sentor BIBLE. Do you not do this under your present authority?

Mr. STODDARD. No, sir; there is inadequate, as my testimony will show, authority on the public sale part.

Senator BIBLE. I am not talking about public sale.

Mr. STODDARD. On multiple use there is a question with respect to whether we can provide basic recreational facilities. There is sanitation protection. That has been challenged. I mean that there is an argument between the lawyers on that. At the same time, we have heavy use in a number of areas, as indicated here on the West Green River, more than in other areas where there are campsites that are developing and we have to provide facilities for the use of these areas.

We are sort of caught in the situation where we have uses but no way of demonstrating to the Bureau of the Budget and to the Congress that these requirements need to be met, even though for an indefinite period. These are some of the reasons why we have need for this legislation. The fact that it gives us the authority to do this basic classification will enable us to make some determination of where we shall concentrate our efforts, rather than scattering them all over the map. And the one that I showed you earlier. We will be able to concentrate our fire protection and roadbuilding to certain blocks of lands and to work out arrangements with other agencies, either the State or the counties, for some of these functions, not in scattered areas, so that we will be able to come out with a more systematic approach to the management of the land.

Senator BIBLE. I think that we are all in concurrence that the proper management of Public Lands is most essential. Assuming this bill becomes law would there be a requirement for additional personnel for the Department of the Interior to carry out the mandate of the act?

Mr. STODDARD. Not that we can see immediately, Senator. I think that as the uses grow, as the country grows and the demands for the various kinds of services the land provides and the products as they grow, that we will have to have more men to provide supervision, but we will not know and we cannot know until we can work out and delineate some of these areas and develop the management plan as to the potential output to make a case before your committees here which will indicate that so much money put in will return so much money back to the Federal Treasury. Right now, as you know, the land produces considerably more and is paying more to the Treasury than it is costing the Government.

35-329—64——3

Senator BIBLE. What was the amount of the total income from the public domain per year, approximately?

Mr. STODDARD. It is roughly about one-half billion in the most recent year, 1963.

Senator BIBLE. From public domain lands?

Mr. STODDARD. Yes.

Senator BIBLE. They produced in 1963 $500 million in revenue?

Mr. STODDARD. Very close to that. And, of course, a portion of that goes to the State, the reclamation fund and other sources where it is allocated by earlier legislation. I can give you the exact figures right here, Senator Bible.

For 1963 it was $530 million and a large part of that was mineral leases and permits but, also, timber sales and timber lands, and grazing. Those are the principal sources of revenue.

Senator BIBLE. Has any attempt been made to place a value upon the public domain lands?

Mr. STODDARD. Well, I think that attempts have been made, but they have not been very satisfactory. I do not think that anybody has wanted to stick his neck out, because there is the problem of the values that are there, and nobody knows until they are actually discovered what they are. There is a situation in Colorado and Wyoming which are examples. That is with reference to oil shale and the new technology developed may make oil shale much more of an economic resource than it has been in the past. This could make a tremendous difference.

Senator BIBLE. You would not hazard a guess as to how much it is actually worth—can you put a value on it as land value?

Mr. STODDARD. There is a crude estimate of $5 billion. Mr. O'Callaghan tells me.

Senator BIBLE. You say that there is a crude oil value of $5 billion placed on the oil shale? Is that a General Services Administration figure or what? They carry an inventory of all property owned by the U.S. Government.

Mr. STODDARD. The $5 billion is the surface value.

Senator BIBLE. That is $5 billion, is that right?

Mr. STODDARD. Yes. This is not, of course, related to putting value on the wildlife and the watersheds and the nonmeasurable types of resource values.

Senator BIBLE. One further question: Why did you make this a temporary piece of legislation? Is this a trial period to see whether or not this legislation will make for better administration of the public lands?

Mr. STODDARD. Mr. Chairman, we did not recommend that this be a temporary piece of legislation. This is the House decision.

Senator BIBLE. You favorably recommend this legislation as it comes to us now, as it is before us, which is temporary legislation?

Mr. STODDARD. Yes, sir; we assume the responsibility for recommending the temporary enactment of the bill. This gives the Bureau of Land Management during 4 or 5 years an opportunity to do some of the inventorying and classifying and trying out some of these management programs. And during this time the Congress can watch the application of this process so that changes can be made.

We are, in effect, making recommendations concurring with this, that it is the best way that we can see right now and it might have to

be changed later so that a permanent bill will contain the things that we learn, which we can put into that, and you will make the decision with respect to the amendments in the light of the experience that we will obtain. We feel that during the next 4 or 5 years we can get experience on this bill that will be helpful toward that point.

Senator SIMPSON. May I ask a question right there?

Senator BIBLE. Yes.

Senator SIMPSON. You have asked for the enactment of a temporary sales bill which you say you need if you are to dispose of the land. What if the Commission decided against that procedure in its best judgment? Would you have a lot of trouble?

Mr. STODDARD. We would, because the two bills in one case provide authority direct for the disposal and the other for the management. And it would be a problem to us. It would give us this classification authority, but it does not give the sales authority that would present a problem.

Senator SIMPSON. The Public Land Law Review Commission, which is to review these problems is supposed to come up with some answers to the problems that you have been confronted with all of these years. What will happen if the Department of the Interior is doing things contrary to the recommendations of the Commission, and I assume there will be that possibility?

Mr. STODDARD. Well, I suppose that there will always be that possibility. However, if the Congress decided that we were not doing things the way the Commission would decide, then we would have to stop.

Senator SIMPSON. If you have recommendations from the Review Commission and you implement those by action of the Bureau of Land Management, we would be better off.

Mr. Chairman, I want to state my usual complaint and that is that we do not always know of the things the witnesses are going to testify about until the morning we come to our meeting. We seldom have their reports in advance. We have a letter here from the Department of the Interior dated today. It is difficult to go along and understand as we should without reviewing the subject matter. We have the cart before the horse. We have to take it back to our office and go over it with respect to the testimony given. It seems to me that the people in the Department should get their reports up here earlier so that we will have the benefit of them 2 or 3 days before we come here to hear the Department witnesses. That is my perpetual gripe but I thought that I would raise it again.

Senator BIBLE. I do think it is fair to say that the House report, which is based upon these many bills, has been before us for some little time. I think that is a fair statement.

Senator SIMPSON. Is that an indication of the Department's attitude with respect to this? As to the testimony here this morning?

Senator BIBLE. These are the three bills as amended. And they are, primarily, I believe, in the nature of making them temporary, not permanent. That is the main thrust of the House amendments. As it came to us initially from the Department of the Interior they were as presented. They are the departmental bills. I introduced them on this side as Mr. Aspinall introduced them on the House side. I think that the question the Senator from Wyoming asked is a very proper one, that is, why do you want this bill now—why do you not wait to see what the Review Commission determines and recommends

and then asks for legislation with respect to their recommendations rather than putting them in before there are these recommendations? I think that is what the Senator is driving at.

Mr. STODDARD. I will try to answer that question.

The first problem which we have is the practices which exist on the public lands and the administration of the several kinds of uses, including the sale of lands, and for this reason we wanted to have some kind of authority so that we could deal with these issues that arise now before us and then the Commission would be able to watch the results of this and modify any of our actions in such a way that they would conform to the Commission's ideas of what ought to be done in the future. In other words, you have a growing experiment that you can watch and see how it is working out and then make these decisions on the basis of that experience. And in having a short-term situation, not a lot of damage can be done, and some useful experience can be obtained during the interim period.

This is essentially our thinking behind having this legislation on a temporary basis while the study is underway. We simply would not be having a recodification of the old laws. Having a going experiment or the experience of the operation would make, I think, it more effective in the long run.

Senator BIBLE. What type of checkrein does the Congress have on the regulations you might promulgate over the next 3 or 4 years?

Mr. STODDARD. They are quite tight, Mr. Chairman, in that we must provide notice to the Congress of the various criteria that we use, the definitions of what will be retained and what will be recommended for retention and what will be recommended for disposal.

Fish and public game lands, which would be classified under one or the other—the new description would be published in the Federal Register—we would have that, we would have meetings with the people in the areas affected to get their own thinking of what the probable long-term use of these lands ought to be. And in the public sale we would have considerably more specific provisions made for consideration of community improvements on lands, so that the land can get into use.

Senator BIBLE. I notice on page 3, line 11 through line 14, that section 1 states:

> None of these lands subject to this Act shall be given a designation or classification unless such designation or classification is authorized by statute or defined in regulations promulgated by the Secretary of the Interior.

By the time regulations are promulgated as to which Members of Congress have some doubt or might have some doubt, what would Congress have to do with that situation?

Mr. STODDARD. Back on page 2, Mr. Chairman, down in about line 15, it states:

> No such regulation shall become effective until the expiration of at least 30 days after the Secretary or his designee has held a public hearing thereon.

And it further states:

> Before such public hearing is held, a notice of at least 30 days shall have been given through publication in the Federal Register and notification to the President of the Senate and the Speaker of the House of Representatives both of whom shall receive with the notice a copy of the proposed regulation.

Senator BIBLE. That is a notice. There is not any required action by either House, is that not true? This is just simply a notice?

Mr. STODDARD. That is right. There is not any majority of two-thirds or anything like that. I do not know whether there is congressional procedure or not.

Senator BIBLE. I am certainly in accord with the overall matter of improving the management of the public domain. I am a little concerned why you want this now rather than after the recommendations of the Commission, assuming it is enacted into law.

Mr. STODDARD. There is one additional point that I would like to make on this. As all of you gentlemen know, we have a number of requests for land under the various land laws; that is, applications. In many cases the land laws are not applicable to what the present need or the use of the land is. There are people who need it and they have to find some old law to comply with. Therefore, if we have the authority to classify as the land should be classified and could be logically disposed of, then we can take that pressure off. The present situation is that right now we have to go case by case and process these things and it takes a lot of manpower and a lot of money and a lot of time just to turn people down, because the old laws are not applicable. It is just about that simple. We can save a lot of money for the Government and make some in selling some of these lands and doing a better job of management, for which we are criticized.

Senator SIMPSON. I do not want to be obtuse about this. Let us suppose that the Bureau of Land Management decides upon extension of a watershed and a seeding project and that they wanted to do that in my State of Wyoming. The Review Commission might think that the best thing to do would be to homestead it back to some of the people who have contiguous property. What I am saying is that we are apt to get into a bind here with the enactment of this bill and the implementation of it prior to the enactment of the multiple-use bill and the recommendations of the Review Commission.

Mr. STODDARD. No, sir; I do not think you do. The lands where we will concentrate our range improvement work will be on the larger blocks of land under Federal ownership which are the ones that are retained primarily because nobody else wants them or wanted them through the years. Those are the lands that we would concentrate our efforts on. These would be the lands that would probably go into private ownership that we do not concentrate on. We could do that. You know that the law does provide that the value on the appraisal shall include such work as may have taken place in improving the lands, but basically I do not think that we would be in conflict on this. We will have to be rather practical in the administration of this with the authority that will be given us by these laws in trying to consult and work with the Commission that may be set up so that we can be guided as we go along as to what the thinking is about.

Senator BIBLE. Senator Gruening, any questions?

Senator GRUENING. You talked about a policy of turning down. Just what do you mean by that?

Mr. STODDARD. Essentially, as you know, Senator Gruening, the various land laws which have been enacted set up the criteria which must be satisfied by an applicant. And if the applicant has not satisfied them and there is something about the character of the land that

does not lend itself to classification under one of these land laws—and this is all searched out during the course of the applicant's period of consideration—frequently they are found not to be suitable and are just turned down.

Senator GRUENING. I would say from my observation as to the policy of the land management in Alaska in turning them down that there is a very accurate summary of a policy or a lack of policy as it appears to be. It has been the experience of homesteaders in Alaska where they go to a very uncomfortable situation, to a difficult wilderness and manage to overcome the obstacles of nature, that they run into difficulty when they run into a bureaucrat and the Department of Interior—that they are licked. They have to try to overcome the errors. There is no responsibility in the Department. The people do as they are told. And a year later they are told that somebody made a mistake and that it is just too bad. That is almost a common situation there. And turning down is the policy which I think ought to be changed. I think the policy of requirements should be for helping the homesteader rather than frustrating them, which has been almost the invariable policy as long as I have known it. It does not change much with a change of administration either. I hope it will be changed in the Bureau of Land Management. It is difficult enough for the homesteaders to establish themselves and to overcome natural obstacles. But when they have to overcome, too, the redtape of bureaucrats they have to give up.

Mr. STODDARD. I am not here to extend redtape or some of the bureaucratic runarounds that some of your constituents may have received in the past. I think the problem has been the case of people applying in your State for a tract of land where there has not been adequate authority under the law they used for the type of disposal or use of the land they seek. In these cases this is a real problem.

It is my job to see that we do not get a runaround in the situation as you have described. We are working on it and attempting to try to be more responsive. The principal thing that is involved here is that by being able to classify certain lands for disposal this is an outright proposition that we can make to the people in an area and that they will then know what their rights are, that this land is going to be appraised, it is going to be put up for sale, and they have an option to obtain it. That is a much more simplified procedure than having to go through one of the old land laws which balks the modern use of lands.

Senator BIBLE. Senator Jordan.

Senator JORDAN. Mr. Stoddard, under what authority do you now work when you improve waterholes and reseed the range—what statutory authority is there for that?

Mr. STODDARD. There is——

Senator JORDAN. Pardon me, but it does not go far enough to permit you to classify the land for its maximum use, does it?

Mr. STODDARD. There is the Taylor Act of 1934. The meaning of that classification is two ways. Essentially, it seems to us that the intent has been the classification under the Homestead Act, or any number of the various acts for the transfer of land rather than an objective classification system looking to it in terms of long-term economic and other better uses that the lands could be suitable for.

In other words, rural areas which are suitable, primarily, for watershed and wildlife improvements. That might not be within the best economic use of the area of the community, where it might better be shifted over into industrial parks or industrial locations and the like.

Senator JORDAN. It is frequently asked what justification is there for two Federal land agencies, the Forest Service and the Bureau of Land Management operating many times in areas where their supervision is a checkerboard pattern, both agencies dealing in grazing and timber and recreation and so on. Could you see any justification for two separate agencies of the Federal Government engaging in the same thing? How do you justify that?

Mr. STODDARD. This is the situation, Senator Jordan, that has just grown up in which there has been no Executive action to reorganize it. The national forests, as you know, were set up as a sort of classification system originally when Teddy Roosevelt set them aside, and then set up the Forest Service to administer them.

The General Land Office, which was our antecedent, was for the administration of the rest of the public domain lands. This is where we are today.

Senator JORDAN. In respect to these forest lands, would you recommend turning the forest lands of the Bureau of Land Management over to the Forest Service and changing, perhaps, the grazing lands from the Forest Service and putting them under the Bureau of Land Management—would you make such a recommendation?

Mr. STODDARD. You know that it is easy to classify lands by title. I think that probably either would be difficult, or something of that sort might work. However, maybe the forest lands are grazed. You have isolated bits of forest lands that are grazing lands, too. I think this is a matter that should be given some pretty intensive study by both the Congress and the executive branch. I am not prepared to say which direction it should go.

Senator JORDAN. Do you agree that it is essential to have the two bills that we have before us as interim measures just to pass the time to go forward under the land use bill?

Mr. STODDARD. Yes, sir, I think that.

Senator JORDAN. So as to have greater efficiency?

Mr. STODDARD. I think that we can handle some of the immediate problems we have and be able to report them to the Commission so that you gentlemen may decide what you wish to set up and then we can find out whether we are doing things the way they ought to be done or what changes ought to be made from the recommendations that will come out of the Commission.

Senator JORDAN. I am a little surprised at your running into opposition when you propose to classify these lands for the purpose of doing a more efficient job of administration. I was not aware until this legislation came up that you were handicapped in that regard.

Thank you, Senator Bible.

Senator BIBLE. I wonder if you would tell us about H.R. 5498, which provides for the sale of public lands. I am convinced that we need some type of similar legislation in this field.

I do not know whether it should be temporary or permanent. It may well be kept on a temporary basis pending the final recommendations of the Review Commission and possible future action of Congress. I personally feel very deeply on this point that we should work

out some way in the general law covering the sale of certain public lands.

Tell us what this law proposes to do.

Mr. STODDARD. This is a complementary bill which is for those lands that are classified for sale to provide temporary authority for that. The greatest pressure on the Bureau of Land Management is for lands in the West for various kinds of uses throughout the community. These are lands that have the highest value. And in the May 25 issue of U.S. News & World Report in an article it stated, "Boom in the Desert—Why It Grows and Grows." Well, there is a tremendous amount or number of people moving into the Western States and there is a great impact.

Our sales authority is very limited. Small tracts of 5 acres or less. There is a special act for that. And under another act, isolated tracts up to 1,520 acres or rough and mountainous tracts up to 760 acres.

Then we have recreational and public purposes which provide for parks and various other public needs. Those are the principal authorities.

The special congressional bills had to be enacted for individual situations. We have one here in Arizona just recently to the Kaibab Lumber Co. that the Senate acted on, which was for 160 acres in northern Arizona. And then we have another request, such as the city of La Junta, Colo., that wants an industrial site. We do not have the statutory authority to sell one.

In New Mexico, the Pan American Hondo Corp. could not buy 20 acres needed for oil processing plant.

In Utah, the Cane Creek project had to go through rather fancy exchanges with the State in order to be able to get the land transferred for the tracts for industrial development.

We have agriculture applications but very little suitable agricultural land, yet lands cannot be sold to applicants for nonagricultural use. In many cases the agricultural applications are too drastic because there is no other route they can go.

The Secretary's responsibilities under this bill would authorize the Secretary to sell lands he determines are "required for the orderly growth and development of a community," or, "chiefly valuable for residential, commercial, industrial, or public uses or development."

The bill again has a termination date, the year 1968.

It would authorize him to sell tracts of no more than 5,120 acres.

Senator BIBLE. There is a point, why the size of the acreage, the 5,120 acres—how did you arrive at that size?

Mr. STODDARD. Partly as a need for encouraging the local communities to plan and zone their areas.

Senator BIBLE. I do not disagree with that at all. I think that you need that. But how did you arrive at the figure of 5,120, why not 4,000 or 3,600 or 2,500 or 8,000 or 9,000 or some other figure? I just want to know why you arrived at a figure of 5,120.

Mr. STODDARD. That is eight sections. That still does not answer your question. I think the answer is that this is a fairly sizable block that can be moved readily and planned for by the community with respect to what kind of of uses they would like to make of it, and yet it is not too big. It does not upset the land market so much and yet it provides enough land for improvement and development. These are roughly my own ideas and my own thoughts on this.

Senator BIBLE. I am sure that the architects of this bill must have had something in mind for providing this figure. What I want to do is to get into the record why you have 5,120 as the figure.

Mr. STODDARD. This is a manageable area that would provide for the kind of community expansion necessary so that when that much land is made available for private purchase it will take a considerable amount of the pressure off and will provide an opportunity for some orderly growth. This is only a block at a time. It does not mean that one community can get this much land. This is part of a block. It is something that you can handle. It is a manageable area.

Senator BIBLE. That was going to be my next question. If any one of the qualified governmental agencies makes a selection of 5,120 acres, is that the total amount that they can receive or can they apply for another 5,120 acres the following year and make as many applications for 5,120 acres as they desire?

Mr. STODDARD. There is nothing in the legislation to prevent applications for other blocks. This is in each particular transaction this much.

Senator BIBLE. One community could apply for 10 blocks of 5,120 acres if they had use for it and had the money to pay for it?

Mr. STODDARD. If they had the money to pay for it.

Senator BIBLE. I think I am in favor of developing these areas, and they can do it much better than can the Federal Government.

No. 1 is as to the size and No. 2 is as to how many times they can make the election. Again, you frame this as temporary legislation.

Mr. STODDARD. Yes.

Senator BIBLE. For the reasons that you have previously given?

Mr. STODDARD. Yes.

Senator BIBLE. I think there is great urgency for this particular bill. I have no problem on that at all. Do you have any problem? You sell not only to qualified governmental agencies and you designate them, but you also sell to qualified individuals. How much could you sell to a qualified individual?

Mr. STODDARD. Well, there is no limit on the acreage that they could get. We have a public sale at which the tracts would be appraised and put up for competitive bidding. And the block that we have available will be sold.

Senator BIBLE. Then the individual who is qualified under the definition could buy 5,120 acres when it goes to competitive bidding. He can receive one block of 5,120 acres, and if he is the successful bidder—whether he is or is not—he could put in as many bids for other blocks as he desired. Without that acreage limitation there is no limit as to the amount that the qualified individual can buy?

Mr. STODDARD. No, there is not, neither on him nor the community.

Senator BIBLE. Is there a limitation upon the use to which he can put the land or make of the land?

Mr. STODDARD. No, this comes to our next aspect of the bill which provides for effective cooperation needed to carry out the intent of the bill between the Federal and the local. And the bill requires the Secretary to notify local governments of impending sales at least 90 days in advance and to encourage proper planning and zoning by the localities employed for best land uses.

The problem that we have had develop in Las Vegas is a case in point where we need this legislation. As you know, Senator, while we have had a number of small tract sales in the area unzoned and unplanned, this was in a block for sale and some were acquired and some were not. And this has been the subject of considerable criticism of the law and the like. And here in the red [indicating] you have other public lands around Las Vegas that lie in the path of expansion of the city. And if we make these tracts available under this law and work with the community, we would ask, "Where do you want industry? Where do you want suburbs? Where do you want schools? Where do you want parks? Where do you want your freeways?" And various other developments. So that the land that we put up for sale will fit into this pattern for forward-looking growth.

Senator BIBLE. Have you run into any problem about having an individual who has sufficient funds preempting the land market in, say, for instance, Las Vegas? Can one or two individuals come in and outbid the so-called small tract applicant and receive large acreages and dominate the market? How will that work out in practice? I do not have a problem as to the county or the city or the qualified governmental agency. I wonder if there is any danger of opening it up to a few individuals who end up with all of the land around Las Vegas, for example?

Mr. STODDARD. We can put in the regulation this language on page 3, lines 9 to 11—we can put in such conditions of reservations and restrictions as the Secretary may deem necessary to insure the proper development of the land after it passes from Federal ownership.

Senator BIBLE. I am posing the question, because I think it is one that we might very well have to face. Again, I am for disposing of as much of this land as we possibly can to qualified governmental agencies. Again, I see nothing wrong with selling to qualified individuals and getting the land back on the tax rolls. I am very much in favor of getting Uncle Sam out of the land business. I think that this would be a helpful thing with reasonable and realistical safeguards attached to it. If it becomes law, what would be the effect of the public recreational bill where they can come in and make a designation that they want x number of acres for recreational uses to put in a swimming pool, as I understand it, in public domain lands, where they can qualify under the public purposes statute—that they can come in and set a fair appraised value on the land and then they receive it at one-half the fair appraised value. There is some discount there.

Mr. STODDARD. At $2.50 an acre.

Senator BIBLE. A straight $2.50 an acre?

Mr. STODDARD. That is right.

Senator BIBLE. If you have public domain lands within the confines of the boundaries of the city of Las Vegas they can come in and select x number of acres for constructing a public park and they can receive that for $2.50 an acre?

Mr. STODDARD. Yes.

Senator BIBLE. Would there be any change in that law or would that still be the law?

Mr. STODDARD. The key to it is that it would be in the plan that the community would develop. In other words, if they would reserve certain areas here in the city and they want to put a park in here and they want to have a swimming pool on those acres that they have in

their plan, we would work with them to make the transfer under that law, which would be the most economical way, rather than to put it up for sale.

Senator BIBLE. That is the question I have.

Mr. STODDARD. That is in it.

Senator BIBLE. And if they did qualify under the Public Purposes Act, then, obviously, they would purchase it under that, because it would cost them less, but they would have to use it for that express purpose. And if they wanted another for industrial sites or residential development or other purposes set out in this bill, they would come under this particular public sale bill.

Mr. STODDARD. That is right.

Senator BIBLE. Rather than the Public Purposes Act?

Mr. STODDARD. Yes.

Senator BIBLE. There is nothing in that in any way that prevents that?

Mr. STODDARD. No. It starts right off, in addition to other authorities that the Secretary may have. This is an additional authority. It does not repeal or override any others.

Senator BIBLE. Do you have any questions on this, Senator Gruening?

Senator GRUENING. No.

Senator BIBLE. Senator Jordan?

Senator JORDAN. I am a little concerned with this section 4. You are talking now about H.R. 5498. In that part of it that you were just discussing with the chairman, you say—

> all patents or other evidences of title issued under this Act shall contain a reservation to the United States of all mineral deposits which shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws. Patents and other evidences of title shall also contain such conditions, reservations, and reasonable restrictions as the Secretary of the Interior considers necessary in the public interest including, but not limited to, such conditions as the Secretary may deem necessary to insure proper development of their lands after they have passed from Federal ownership.

Do you mean to say by this that the Secretary reserves the right in perpetuity to stipulate precisely what is going to be done with those lands even if those conditions may change 10 years, 15 years, 20 years hence?

Mr. STODDARD. No, sir; but the Recreation and Public Purposes Act does have this requirement built into it now. This is, in effect, that the land must always in perpetuity be dedicated to public uses. They are getting it for $2.50 an acre. However, under this act the purpose of this is really to get the community to develop a zoning system that makes some sense in the sense of their growth. This other map that I had here as to the city of Las Vegas, the county did not have a plan. It went ahead with the disposition of 5 acres without any kind of zoning system.

Senator JORDAN. This same right of the Secretary in perpetuity rules and governs the land; that is, the use that is to be made of that property by a qualified individual who might buy it?

Mr. STODDARD. I think that primarily this is to encourage the community to do the zoning of that land. In other words, this land that is in the title must conform with the zoning restrictions. This would be pretty much pro forma.

Senator JORDAN. If there are no zoning restrictions or laws in the community—suppose it is rangeland and this fellow wants to run cattle on it—maybe the Secretary wants to run sheep on it; that is, he wants for him to run sheep on it. How about that?

Mr. STODDARD. This land would not be put up for sale as rangeland. It would have to be for urban community purposes, although there is nothing to prevent him from keeping a cow out there if he wants to keep a cow or a sheep unless the city zoning ordinance says that you cannot keep a cow or a sheep in the suburbs.

Senator JORDAN. This applies only to land adjacent to a community, for land like that?

Mr. STODDARD. That is right.

Senator JORDAN. That is zoned and the like?

Mr. STODDARD. We are going to ask the community to develop a plan for their area as part of this whole transfer proposition. This map here indicates some of the cities where this shoe is pinching right now, where there is need for urban expansion, and where the authority would give us an opportunity to respond to the requirements of the community.

Senator BIBLE. Have you listed those towns in your prepared statement?

Mr. STODDARD. Yes, sir; this is not a conclusive list by any means. This could be added to considerably. I can think of a few myself. I am sure that all of you could, too. But this is an indication of areas where we do have public lands near communities where they are needed for growth.

Senator BIBLE. I think that the question of the Senator from Idaho is a very pertinent question. I am wondering if I were an individual and wanted to get title to the land, whether any title company would give me title insurance if it had some type of reservation as you suggest here in the patent that I would get from the U.S. Government? I wonder if I could get title to put a house on it? I would like to see the language that you propose using in that deed. I would like to have you talk it over with a lawyer. It seems to me that you might be getting into difficulty on that. I am sympathetic with your ideas of requiring that in orderly development. Where you have sold this property to an individual and he has a deed for it, how are you going to follow this through?

Mr. STODDARD. Another aspect is that this would be where the authority is to prevent speculation. This authority would provide for that. We have to look at this pretty hard. But, basically our interest is to keep the land from going into the uses that it should not go into, that it should be used within a zoning program in a community. This is the kind of thing that we want to insure that the community gets off on the right foot. We do not propose to tell them what the best use is, but when they say that this is the way that they want to divide up their area that we respond and cooperate with them.

Senator BIBLE. Would not the community follow that up under this zoning law?

Mr. STODDARD. I think they would.

Senator BIBLE. The person has to conform with the zoning order. You do not have to worry about that then.

Senator JORDAN. That would be on the title. There would be a cloud on the title.

Senator BIBLE. That would be a cloud on the title; yes.

Mr. STODDARD. I might state that I am not as responsive as I might be. This is not our Department language. This is language that came over from the other side of the Hill. I am not trying to put blame on them. We have been puzzled as to how to interpret this. Basically, I think it would be at the time that title transferred that we would try to get this into the zoning plan, but after that it would be up to them.

Senator BIBLE. I think that we should certainly study this a little more in depth. I would suggest that you explore this with the legal men in your Department and make whatever recommendations you care to and give us that information. I think that we have that difficulty with this type of legislation and we do not want to build something in here that will offset what we are attempting to do. I think that it would be a very difficult reservation or condition to attempt to enforce.

Senator GRUENING. Following up the very pertinent comments of Senator Jordan and the chairman, it seems to me that this contains such language as conditions, reservations and reasonable restrictions and the word "reasonable" is rather indefinite, that are considered necessary in the public interest, including but not limited to, such conditions as the Secretary may deem necessary after the land has passed from Federal ownership. How long after? That is an indefinite grant of power to the Secretary. He can pursue them for a year, 10 years, half a century. How long does this continue?

Mr. STODDARD. I will have Mr. O'Callaghan comment on that.

Senator BIBLE. Mr. O'Callaghan, do you have a comment on this?

Mr. O'CALLAGHAN. Not too much on the legality of the matter, sir, as the intent here. The intent being, of course, to see that a beneficial use is made of the public land. And this is directed principally to antispeculation. In other words, as to the terms and conditions in which the development will go forward and the time limits to meet the situation that you referred to earlier about large holdings which may not become developed.

Senator BIBLE. I would certainly dislike to see this bill used as a means of allowing speculators to come in and purchase this land. That is why I directed my attention to that. I do not want to sponsor the enactment of legislation that would give them the right to a title for years and years to come.

Senator SIMPSON. I am confused about some parts of the bill. You made a very frank exposition of your case. I want to ask you some things for the purpose of the record.

In the State of Wyoming, for instance, of 62½ million acres, approximately, you have exclusive jurisdiction over approximately 17½ million acres. I notice in your report on H.R. 5498 that you speak about the public domain for agricultural development and you show Wyoming with a considerable acreage of 92,000 acres of which 7,000 acres depends on water. Presupposing that water is available, would it be your intention to dispose of that to private ownership should the water be available and that be transferred into agricultural land?

Mr. STODDARD. Well, H.R. 5498 would not preclude in any way the operation of any of the other laws which might indicate that it is a reclamation project or something else. This land would still be available for those purposes.

Senator SIMPSON. You did not answer my question. Do you contemplate putting that in—is that an indication that land could be restored to the tax rolls, the 7,000 acres, if the water was secured? You contemplate that?

Mr. STODDARD. Yes; I think it is entirely possible.

Senator SIMPSON. Let me ask you this, then. Take West Green River. As I understand it, this applies to the entire State. What I want for the record is an answer to my question. Does this statement of yours contemplate these 7,000 acres which depend on water for development, does the Bureau of Land Management contemplate restoring that to the tax rolls should water be adequate?

Mr. STODDARD. I would say yes.

Perhaps Mr. Senzel could answer that more specifically.

Mr. SENZEL. My name is Irving Senzel. This figure of 7,000 acres is the estimate made by our State director as approximating the main acres of agricultural land in the public domain of Wyoming. As applications are received for these lands or as we reach it in our general study, a determination is being made whether the land may be disposed of otherwise. And I anticipate that a substantial part will be made available for other purposes.

Senator SIMPSON. Let me ask you one more question with respect to this particular area. Would the Bureau of Land Management consider the withdrawal of the mineral rights under the land, under that agricultural land?

Mr. SENZEL. Are you referring to the provisions of section 4?

Senator SIMPSON. I am just going to the general provisions.

Mr. SENZEL. The national forest land general provisions will apply with the reservation as to minerals.

Senator SIMPSON. I wanted to get those in the record. Now let me ask Mr. Stoddard something else. You have public land sales in H.R. 5498, and then we have the companion bill H.R. 5159 for multiple use. I am still worried about the situation with respect to the review because the Review Commission is called for in another bill entirely, H.R. 8070. Would the Department, or, rather, let me ask you three questions here. Would the Department want the enactment of H.R. 5459 and H.R. 5159?

Mr. STODDARD. We look at them from the standpoint of the administration of this program as being two parts of a forward moving resolution of our problem. We could legally administer them, but it would be like walking on one leg. We do not have the authority for the management.

Senator SIMPSON. I take it that your answer is that you want the two bills enacted.

Mr. STODDARD. That is right, sir. We want them.

Senator SIMPSON. How about H.R. 8070, which is the Review Commission bill which is now before the Senate?

Mr. STODDARD. As I indicated earlier, we would like to see a thorough review of the existing legislation that we have—an analysis of our problems and recommendations and guidelines from the Congress with respect to where we go in the future. If this will do it, or whatever form you gentlemen choose to set it up in, this is what our interest is.

Senator SIMPSON. Then I take it what you are really after is the enactment of these three measures which will lead to a compact enactment which will be of great benefit to the Department?

Mr. STODDARD. That is right.

Senator BIBLE. May I ask a question that was prompted by a question that Senator Simpson asked? If we enact all three of these bills will it in any way affect the mining laws of the United States?

That is, as they now exist as to gold or silver, et cetera?

Mr. STODDARD. They are specifically excluded. They have no effect on the mining laws. They are not affected in any way by these.

(Subsequent to the hearing Mr. Stoddard submitted the following clarification of the effect on mining laws:)

DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., July 8, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR BIBLE: During the recent hearings on H.R. 5159, H.R. 5498, and H.R. 8070 held by the Public Lands Subcommittee, you asked whether the enactment of those bills would in any way affect the mining laws of the United States. I indicated that they would not.

That statement was correct. Neither the mining nor mineral leasing laws would be amended by the enactment of any of these bills. I assume that the committee is aware, however, that section 4 of H.R. 5498 provides that all mineral deposits in lands sold under that bill shall be reserved to the United States and that such deposits "shall thereupon be withdrawn from appropriation under the public land laws including the mining and mineral leasing laws." Although the mining and leasing laws are not modified, the reserved mineral estate is withdrawn from their operation. This same kind of withdrawal was recently made by Congress in comparable cases (Public Laws 87-747 (76 Stat. 743) and 87-754 (76 Stat. 750)).

Also section 4 of H.R. 5159 provides that publication of a notice of proposed classification by the Secretary of the Interior "* * * shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other formal disposal under * * * the mining and mineral leasing laws, except to the extent that the proposed classification * * * specified that the land shall remain open * * *."

I hope this brief statement will clarify any confusion that may have resulted from the present hearing record.

Sincerely yours,

CHARLES H. STODDARD, *Director.*

Senator BIBLE. This will come up tomorrow but it is pertinent at this time. Will the Review Commission make a study of the mining laws as well as other laws—will the Commission do that?

Mr. STODDARD. Will you repeat that, please?

Senator BIBLE. Does the Land Review Commission law, H.R. 8070, provide for a study and recommendation as to the mining laws; is that within it?

Mr. STODDARD. That includes a review of all mining laws which would encompass your question, Senator.

Senator BIBLE. But up until this time, until this Congress acts in changing the mining laws, they will be exactly the same as they are now?

Mr. STODDARD. Yes.

Senator BIBLE. There is nothing in either the new public use or public sale bill that would eliminate that?

Mr. STODDARD. That is correct.

Senator BIBLE. I have a problem with a question that has been suggested to me by the mining interests and I would like to have your answer to comparable questions that were asked on the House side.

Presently, the acquisition of public lands by a corporation or a business under the public sales bill, that is, H.R. 5498, could that acquired land be used for disposing of overburden, mine tails, or other materials removed from it in the natural state as the result of mining or other related industrial activities?

Mr. STODDARD. Yes, sir. There is a provision, for example, in the multiple-use bill for industrial development. This would be interpreted to include exactly this kind of use, and mineral production is also provided for. This would be associated with mineral production.

Senator BIBLE. As I recall the mining laws, there are provisions in the mining laws for the acquisition of millsites and landholdings that are allied to a mine operation, but over and above that, under the public sales bill a mine could acquire land for other mine uses. Is this correct, under the public sales laws they could acquire them?

Mr. STODDARD. If it was related to the development of the community it could. If it was a long distance from a community, then there might be some question whether it would come under public sales.

Senator BIBLE. Maybe the next question brings that out more clearly than the one before. If such land were in a desert area several miles from any town or other residential area, except a mining town, not in a national park or a national forest, would there be any question about an individual engaged in mining activities to be enabled to acquire public lands under the Public Sales Act for the purpose of depositing mill ores from his mining operations—could he or could he not?

Mr. STODDARD. He could.

Senator BIBLE. Even though he was located some distance from a community development?

Mr. STODDARD. I would have to reverse my last statement. Whether valuable for residential or industrial or public use or development. In other words, the community development is a part of H.R. 5498, the public sales bill, and land chiefly valuable for residential and commercial or industrial and public uses is also available.

Senator BIBLE. As you well know, many mining locations and discoveries are many miles away from communities, in many instances. And if they are a distance from a community and a residential area, they could still acquire land for this purpose under the public sales bill?

Mr. STODDARD. This is quite clear in here.

Senator BIBLE. Under what word, "commercial" or "industrial" or what?

Mr. STODDARD. Under "commercial, industrial," either one of them.

Senator BIBLE. They could qualify, you think, either under the word "commercial" or the word "industrial" even though they were not within the proximity of any community?

Mr. STODDARD. Yes.

Senator BIBLE. The Senator from Alaska?

Senator GRUENING. No questions.

Senator BIBLE. Senator Jordan.

Senator JORDAN. Mr. Stoddard, would it be possible under the provisions of this act to acquire properties to start a new town?

Mr. STODDARD. I believe that section B would be adequate or you could use section A, lands required for other developments of a community. This means that you usually start from scratch. Item B, lands chiefly valued for residential, commercial, or public use, that would, also, cover that—anybody who wanted to start a new town or a new community.

Senator JORDAN. Thank you.

Senator GRUENING. Will the Secretary have the discretion, whether you sell the land or not, to refuse to sell it?

Mr. STODDARD. Yes; he would have that discretion. He would have the discretion, but there would not be any real reason for it if there was a demand for the land. The whole thrust of this legislation is such that it operates to dispose of public lands that are classified for disposal. I cannot envision such a situation because we do have this developing interest in land and we are not interested in having people try to qualify under the old laws when we would have a new instrument which is in response to public demand. This is really what our interest is.

Senator GRUENING. I think it is important to answer that, because Secretaries come and go, as we have seen in the past.

Thank you.

Senator BIBLE. Senator Simpson.

Senator SIMPSON. I am not sure that I understood. You said that disposal under it would apply to cities and towns. It seems to me that there was disposal in the mining areas where the scalings and the like were dumped on public lands. Do those two things correspond—there is not a hitch in that?

Mr. STODDARD. Did you say that the disposal was for new towns?

Senator SIMPSON. Well, no. You say that the bill is for the benefit of the town. You have that in it. But I was wondering in response to a question by Senator Bible whether you did say that you could dispose of it for mining property without a town or a community there.

Mr. STODDARD. That is right. We have a remote industrial development. There is a need for more land. It will be possible to make land available to the industry so that it would have more surface use of the land.

Senator SIMPSON. You have an area out there which is about 18 miles long and about 12 or 16 miles wide which is for gas exploration. And then you have superimposed on that some areas that are not recreational, just isolated tracts, are they not?

Mr. STODDARD. You mean some of these white lands? [Indicating.]

Senator SIMPSON. Yes. Go to the oilfields there.

Mr. STODDARD. Down here [indicating].

Senator SIMPSON. What are the white spots?

Mr. STODDARD. Those are private or State lands, I am not sure which. The map does not show. These are privately owned lands or State lands.

Senator SIMPSON. Are there any other areas that impose upon the oil and gas lands?

Mr. STODDARD. No, sir. This is a wildlife winter range. It indicates a combination of these that are taking place on the public lands but they are up around the oil wells.

Senator JORDAN. Pursuing this matter a little further, could I qualify for and receive title to a piece of land, 5,120 acres in size, for

the purpose of creating a new town, subdividing it and selling the acreage out in the desert? Could I do that under this provision of this bill?

Mr. STODDARD. Well, I see nothing that would stop you from doing so, Senator, if you meet the requirements of the various regulations. I think that, probably, we are going to make every effort to work with the counties, the county governments, that will be the principal local governments, to determine and get their thinking on the use of these lands. We would want them to concur in the use of such a proposal. We have all seen a good many of these land promotions that have been taking place in rural areas and a few people make money on things like that, and the local government does not. And local taxes will go up. But before we get into a situation like this I think that we want to talk to the county boards about it.

Senator JORDAN. It looks like a pretty good bonanza to me, if I could qualify and acquire 5,120 acres, and then go and get another section, and subdivide it and promote it and sell it.

Mr. STODDARD. You would have to do this at competitive bidding.

Senator JORDAN. Yes. How far would the jurisdiction of the Secretary reach into the future to tell me what I could do with this land?

Mr. STODDARD. This is a question that we have still not fully established. I think the nearest situation there is that we would, probably, require that the county have some sort of a plan for that area before we put it up for public sale.

And then, as a practical matter, I believe that if our restrictions were such that the land were put up for sale we would try to keep anyone from having too large an area; in other words, we would have some restrictions with respect to the size of ownership to any one bidder and the county plan a zoning system for such an area would be required. This is a thing that I think the President had in mind when he talked about the need for developing some concept of cooperation between the Federal Government and the leaders of local communities. If we go ahead and create some very high cost situations for the local government we cannot have anything but troubles and it is for this reason that we would like to have them make sure that this is the kind of development they want before we go ahead and encourage it.

Senator JORDAN. It seems to me that it is in a vague area. There are not many Western counties that have zoning regulations. I think that it is quite a vague area that needs much more clarification.

Mr. STODDARD. Yes, sir, it does. We will have to work with them.

Senator BIBLE. Are there other questions of the witnesses?

I hope that you will go into this one question that Senator Jordan raised on the cloud on the title—on the restrictions—how some individual wants to purchase it under the terms of the bill that he can, certainly, do it, provided he is the highest competitive bidder. It may very well be that one of the requirements of the Department of the Interior might be to require that he first secure approval from the governing board that they look with favor upon the development of the town. It seems to me that you may run into some speculation otherwise.

Mr. STODDARD. We will come up with an analysis of this, Mr. Chairman, and any suggestions that may be available with respect to handling this.

Senator BIBLE. It seems to me that it touches upon one point of the bill that could be subjected to a lot of abuse and misunderstanding.

Do we have any further questions?

Thank you very much, gentlemen.

Mr. STODDARD. Thank you.

(The prepared statements follow:)

PREPARED STATEMENT OF CHARLES H. STODDARD, DIRECTOR, BUREAU OF LAND MANAGEMENT, ON H.R. 5159

H.R. 5159 originated as a departmental legislative proposal. It was materially rewritten by the House Interior Committee and passed by the House of Representatives on April 8, 1964. This bill would chart useful, albeit temporary, guides for the Secretary of the Interior to follow in management and disposition of public lands. The Department of the Interior strongly recommends that H.R. 5159 be given favorable consideration by this subcommittee and that it be enacted by the Senate before adjournment of the 88th Congress.

MAJOR RESPONSIBILITIES

H.R. 5159 would place several important responsibilities upon the Secretary of the Interior. First, he would be required to promulgate criteria for determining which of the public lands and other Federal lands including those situated in the State of Alaska, exclusively administered by him through the Bureau of Land Management shall be: (*a*) disposed of for orderly growth of a community or for certain other purposes or (*b*) retained in Federal ownership (at least during the life of the bill) and managed for any or all of the following uses:

(1) Domestic livestock grazing;
(2) Fish and wildlife development and utilization;
(3) Industrial development;
(4) Mineral production;
(5) Occupancy;
(6) Outdoor recreation;
(7) Timber production;
(8) Watershed protection;
(9) Wilderness preservation;
(10) Preservation of public values.

The second major responsibility is to analyze the public lands under his administration in the light of the criteria and then to determine "which lands shall be classified as suitable for disposal and which lands he considers to contain such values as to make them suitable for retention in Federal ownership for interim management * * * ."

The third important responsibility is to develop and administer the lands determined to be suitable for interim management under the principles om multiple use and sustained yield.

The bill grants no new authority for the disposal of the lands that are classified as suitable for disposal. That is the subject of another bill, H.R. 5498.

The lands affected by H.R. 5159 total approximately 467 million acres administered by the Bureau of Land Management ranging from southwest deserts to Alaskan tundras and a great variety of resources ranging from oil to watershed, from timber to grasslands to wildlife. Coordinated management of these resources for optimum public benefit has received increasing attention, from all types of users, and from the Bureau.

PROGRAMS ON THE PUBLIC DOMAIN

A landmark in the conservation of the public lands was the enactment in 1934 of the Taylor Act (43 U.S.C. 315 et seq.). This law authorized the Secretary of the Interior "to provide for their orderly use, improvement, and development." It also authorizes him to classify the public lands withdrawn from settlement and location pursuant to the Taylor Act or Executive Orders 6910 and 6964, by which President Roosevelt had withdrawn the public lands from settlement or location under the nonmineral public land laws.

Three years later, in the farsighted O. & C. Act (43 U.S.C. 1181a–j), Congress directed that the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands be managed "for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watershed, regulating streamflow, and contributing to the economic stability of local communities and industries, and providing recreational facilities * * *."

In 1947, disposal of materials on public lands of the United States was authorized (30 U.S.C. 601). The Department has adopted regulations requiring the disposition of timber under this act "in such a manner and in conformance with sound timber management principles as to obtain maximum permanent benefits and, in addition, dispose of forest products under the principles of sustained yield management * * *."

Other legislation, such as the mineral leasing acts, form a pattern showing congressional interest in management and utilization under multiple-use and sustained-yield principles.

NEED FOR MODERN POLICY GUIDANCE

None of these important congressional acts, however, have dealt squarely with the issue of "final disposal" because in the past, postponing such decisions was possible and may have even been desirable. But today, if these public lands are to contribute fully to modern America, a congressional directive setting a new course is an absolute necessity.

H.R. 5159 is such a directive. Enactment if this bill would not prevent the disposition of public lands that are suitable for disposition. They will continue to be subject to the existing public land laws. The directive in the bill is for multiple use management of the lands that should be retained in Federal ownership. Such multiple use management would help foster wise use: (1) either through realistic classification of public lands proper for disposition where the objectives of multiple use can be best achieved through transfer of the lands to local governmental use or sold for higher private uses; or (2) through Federal management for the foreseeable future. More orderly administration could be expected.

The proposed bill explicitly provides that it is not to be construed as a repeal, in whole or in part, of any existing law, including, without limitation, the U.S. mining laws and mineral leasing laws.

Thus, lands would continue to be open under the criteria set forth in this bill to selective disposal under the Small Tract Act, the Recreation and Public Purposes Act, and other public land laws.

The Bureau of Land Management has for many years been faced in actual practice with the necessity of administering multiple uses of public lands. In essence, this management involves the formulation of appropriate plans and programs for the management of tracts of public lands and the renewable and nonrenewable natural resources on them where public uses are demanded and actually taking place.

LAND USE PLANNING

In assuming the directorship of the Bureau in June 1963, it became clear that more effective public land management would involve a three-step procedure: (1) inventory and analysis of the natural resources, (2) evaluation and designation of land use potential, and (3) planning and conduct of management and disposition programs based upon the designation of land use potential.

To accomplish these we are conducting studies to identify classes and areas of public land in terms of their best long-term use and management. These studies will make it easier to comply with the Secretary's proposed responsibility to "determine which lands shall be classified as suitable for disposal" and the lands he considers to contain "such values as to make them more suitable for retention in Federal ownership for interim management."

Our work has thus far been devoted to distinguishing the 175 million acres of public land in the western United States (excluding Alaska) into three types and attempting to present the appropriate management and use of those lands. Within each type the Bureau would have different program responsibilities—ranging from full management to complete disposition.

The three types of areas and their appropriate programs are:

DIRECT RESOURCE MANAGEMENT AREAS

These are areas encompassing a well-blocked public land pattern sufficient to support a multiple-use management appropriate for the areas. These lands have remained and probably will continue to remain in Federal ownership during the foreseeable future for a variety of reasons, including: (1) failure to qualify under one of several land disposal laws, (2) relatively low economic productivity (hence, not profitable in private ownership), (3) relatively unstable soil and cover which requires more conservative and expensive management and capital investment than can be justified on the basis of workable resources produced, (4) their potential resource production can be best realized under public ownership and management, and (5) public programs require their dedication to public use.

The Bureau of Land Management is the dominant land manager in these areas and would take the direct and principal resource management lead, involving full provisions of multiple use and sustained yield. These areas, nationwide, would receive investment priority for public funds. Close coordination and cooperation will be exercised with landowners located within the areas. Forestry, range, and watershed conservation measures would be applied vigorously to maintain resource productivity and to increase local and national economic and other benefits. These are the areas that can exhibit the attributes of traditional land management such as marked boundaries with a specific name, usually geographic.

COOPERATIVE MANAGEMENT AREAS

These are areas with extensive intermingling of public domain with other public and private land. Here the pattern of public land is so scattered that full multiple-use programs cannot be conducted without intensive coordination and cooperation between all landowners in the area. The public land ownership is not dominant but often constitutes the largest individual portion of the total land ownership in any area.

Some major reduction of public land acreage is anticipated, and a substantial acreage may be involved in land consolidation exchanges to establish more effective private and public management units. Until their future use becomes clearer the Bureau would continue to carry out needed management responsibilities on these public lands. Instead of the direct and principal resource management lead exercised in the direct management areas (large, relatively solid blocks), the Bureau would rely more heavily on cooperative approaches. Consequently, the Bureau's program would be primarily oriented toward coordinated management with adjacent landowners and with established local organizations, such as counties, soil conservation districts, fire protective associations, etc. The Bureau would do its share, and work most actively to organize and lead this cooperative relationship. The Bureau would oversee the conduct of as full a multiple-use program as is possible, depending upon the resource and type of cooperative relationships achieved.

TRANSFER AREAS

These are areas of widely scattered individual tracts, or in some cases, more consolidated patterns around population centers. Most of the lands in these areas will find their highest uses under private or local public ownership.

The Bureau's program would be largely directed toward transferring these lands to non-Bureau administration under other provisions of law. This would be accomplished in an orderly manner, consistent with the private land needs of the communities involved. The Bureau would not expect to enter into substantial long-term resource management in these areas, either because it would be economically unfeasible to do so, or because transfer is imminent, or both.

We will not know how many acres will fall into each of these three types of areas until our studies are complete. At this time, our crude estimate, and it should be interpreted as such, placed 140 million acres in the direct management areas, 25 million acres in the cooperative management areas, and 10 million acres in the transfer areas.

ALASKA

None of the activity we have outlined has been extended to Alaska. There are many special factors there: (1) The State selection program; (2) different legal status of the lands (Alaska is not covered by the Taylor Act and the general orders of withdrawal, and there are numerous special laws applying solely to Alaska); (3) the native land claims; and (4) the character of the land itself. This suggests that a multiple-use and classification act would not engender the same administration as in the 11 Western States. Cooperation with Alaska in its grant selection, including the surveys, and protection (principally against fire) will be the main thrust of administration in Alaska. We believe that community development and related demands for lands will be largely met by the State of Alaska from its grant.

I have necessarily spoken here in very broad categories. I wish to emphasize that with respect to any individual tract its geographical location within one of these areas would not be conclusive. For example, any specific request for the purchase of the tract of land among the scattered isolated tracts would be considered on its own merits based upon detailed field study. On the other hand, the sale or exchange of specific tracts within the cooperatively managed or directly managed areas would not be precluded.

As soon as tentative and possible boundary lines are identified for the three types of areas, local units of government and civic associations with an interest in public land management will be consulted and their views will be fully considered before a decision is reached regarding the proper designations of any area.

President Johnson called for "creative federalism," which will need "new concepts of cooperation * * * between the National Capital and the leaders of local communities." In the Department of the Interior and the Bureau of Land Management we welcome this opportunity. The successful administration of H.R. 5159, if it is enacted, will depend upon rallying the knowledge and wisdom of local leaders. We intend to tap their knowledge. In a recent reorganization of the Washington office I have created a special unit to develop techniques of local cooperation and, furthermore, to follow through to see that they become working tools at the local level. The joint planning at Las Vegas is only a beginning.

As I have already indicated, effective modern public land management requires the establishment of clear-cut guidelines and objectives which only the Congress can provide. The Department believes that H.R. 5159 would fulfill this need. We strongly recommend that it be enacted.

PREPARED STATEMENT OF CHARLES H. STODDARD, DIRECTOR, BUREAU OF LAND MANAGEMENT, ON H.R. 5498

On August 22, 1963, the Senate Public Lands Subcommittee announced a review of the public land laws. "The goal of the review" it said "is to enact legislation responsive to the need to dispose of lands required to fulfill State and private development opportunities while continuing in Federal management lands needed for national purposes." [1]

We of the Department of the Interior and Bureau of Land Management are in complete accord with the subcommittee's goal. We feel that the time has definitely arrived when a "revision of the laws can * * * make the policy and procedure both for land management and disposal more responsive to today's requirements and thus prove beneficial and productive."

The bill before the subcommittee today is H.R. 5498. It originated as a departmental legislative proposal and passed the House of Representatives on April 8, 1964, materially rewritten but favorably endorsed by the Department of the Interior.

H.R. 5498 would authorize the Secretary of the Interior, until June 30, 1968, to sell public lands which he determines are (1) "required for the orderly growth and development of a community" or (2) "chiefly valuable for residential, commercial, industrial, or public uses or development." These lands could be sold in tracts of not more than 5,120 acres each to States or local governments at the appraised fair market value or to qualified individuals through competitive bidding at not less than appraised fair market value.

---

[1] "The Public Lands, Background Information on the Operation of the Present Public Land Laws," committee print, Aug. 22, 1963.

The most pressing demand for public lands today centers around community developments, especially in the southwestern desert. U.S. News & World Report, in its May 25 issue, featured "Boom in the Desert—Why It Grows and Grows." "It's here in the desert that year round living, a new American way of life, is being developed to its fullest degree. Increasingly, it's a life in self-contained communities planned from the ground up in attractive and scenic surroundings." There is also a marked demand in the related use of land for industrial, commercial, and residential sites.

PRESENT AUTHORITY VERY LIMITED

The Secretary's authority to respond is very limited. Except for small tracts not exceeding 5 acres, his authority to sell lands for these purposes is confined to isolated tracts not exceeding 1,520 acres or tracts "mountainous or too rough for cultivation" not to exceed 760 acres. Because of this lack of authority three things happen: (1) the demand is not met; (2) the public land laws are twisted and pulled to meet the demand; or (3) Congress is asked to enact a special bill for an individual area but the basic problem is left untouched. For example, members of the subcommittee will recall the recent hearing on S. 1477, a bill to convey 160 acres in northern Arizona to the Kaibab Lumber Co.

I would like to mention briefly several other situations which are typical of those occurring throughout the public land States. In Colorado, the city of La Junta has desired an industrial site but we have been unable to sell it one. In New Mexico, we have been unable to meet the needs of Pan-American Hondo Corp., for 20 acres and oil processing facility. The Texas Gulf Sulphur Co. obtained 160 acres in Utah for the headquarters, plant, and railroad terminus of a $30 million mining development only by an unnecessarily complex series of actions. Texas Gulf Sulphur had no land which it might have offered to the United States in exchange. The State of Utah selected the needed land and in turn transferred it to Texas Gulf Sulphur.

INEFFICIENT ADMINISTRATION

The lack of responsive public sale authority not only hinders, where it does not prohibit, the transfer of land that can and should be made, but it reacts against the public interest in other important ways. Last fiscal year we had 7,800 applications for title transfer under the various public land laws. Many of these applications were made under the agricultural disposition laws; yet a recent land law effectiveness study by the Bureau shows that for the agricultural applications made in the decade beginning in 1950 there was very little cultivation compared to the amount of paper suffling and thousands of man-hours and dollars wasted. The agricultural prospects of the public lands are not particularly bright as this tabulation taken from your committee print entitled "The Public Lands" indicates.

Public domain potential for agricultural development

State	Acres (estimated)	Remarks
Arizona	None	Lack water. New water developed will be needed to supplement existing acreage.
California	26,000	Water needed.
Colorado	5,500	Economic factors including estimate that land is best suited to the production of the crop now in surplus.
Idaho	176,000	Geographical and soil factors make 76,000 acres suitable for forage only.
Montana	None	
Nevada	250,000	Water needed.
New Mexico	7,000	Water supplies adequate but very costly.
Oregon	22,000	Marginal due to climate, soil, or water.
Utah	174,000	Water needed and soil composition.
Washington	None	
Wyoming	92,000	70,000 depends on development of water.
Total	752,000	

All experienced land managers know that a very high percentage of the applications are made in the hope of acquiring land for nonagricultural use which is not available because of an inadequate sale law.

ERA OF COOPERATION

Besides giving much needed authority, enactment of H.R. 5498 would also launch a new era in Federal and local cooperation. The bill requires the Secretary to notify the political subdivision of any State having jurisdiction over zoning in the geographic area in which the lands are located "in order to afford the appropriate body with the opportunity of zoning for the use of the land in accordance with local planning and development."

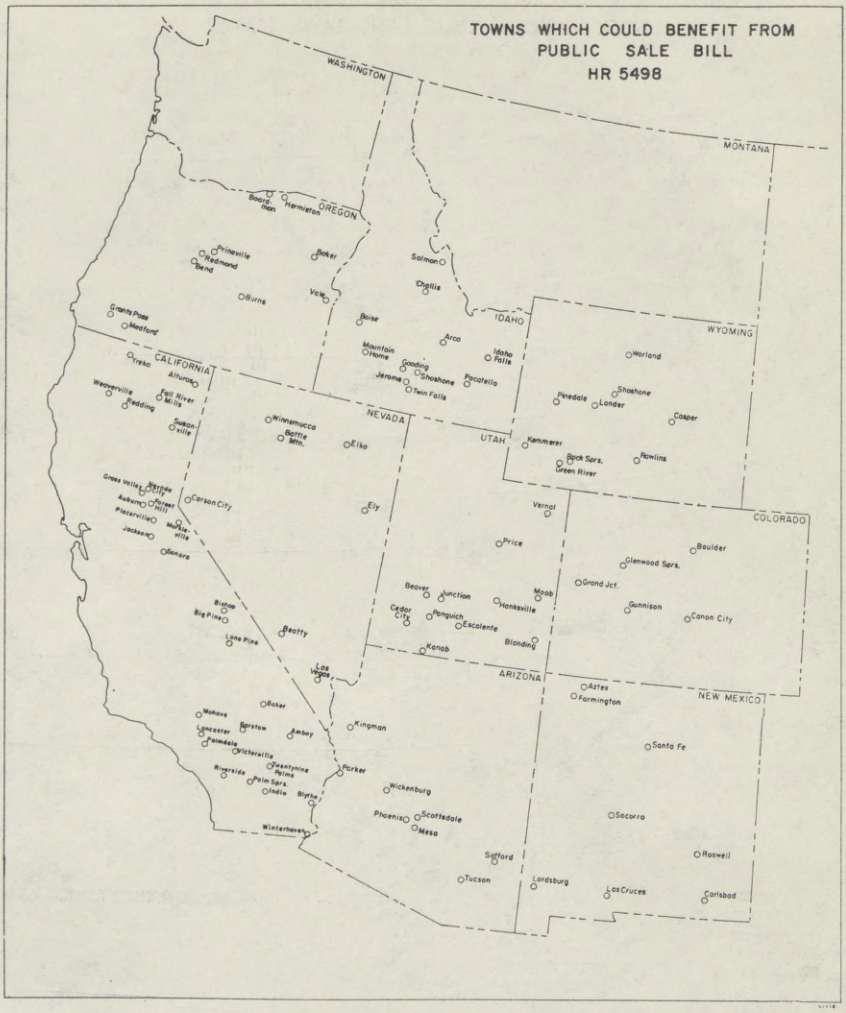
While no sales can, of course, take place except under present sale authority, the Bureau of Land Management is already cooperating most closely with the local officials of Clark County, Nev.; Las Vegas, North Las Vegas, and Henderson, Nev., to work out jointly plans to insure a rational land-use pattern in the Las Vegas Valley.

The Las Vegas Valley study will be one prototype for similar activities throughout the West which will be greatly facilitated if H.R. 5498 is enacted. In short, we are attempting to develop techniques of cooperation with local governments which will give life to the requirements of H.R. 5498. We are not interested in mere pro forma compliance with the law. The study at Las Vegas is being conducted by Federal, State, county, and municipal officials and will involve a complete evaluation of all public lands in the Las Vegas Valley in terms of local needs for lands and other natural resources. We think of this joint planning effort at Las Vegas as one of the first applications of President Johnson's "creative federalism" which will require us, in his words "to create new concepts of cooperation * * * between the National Capitol and the leaders of local communities."

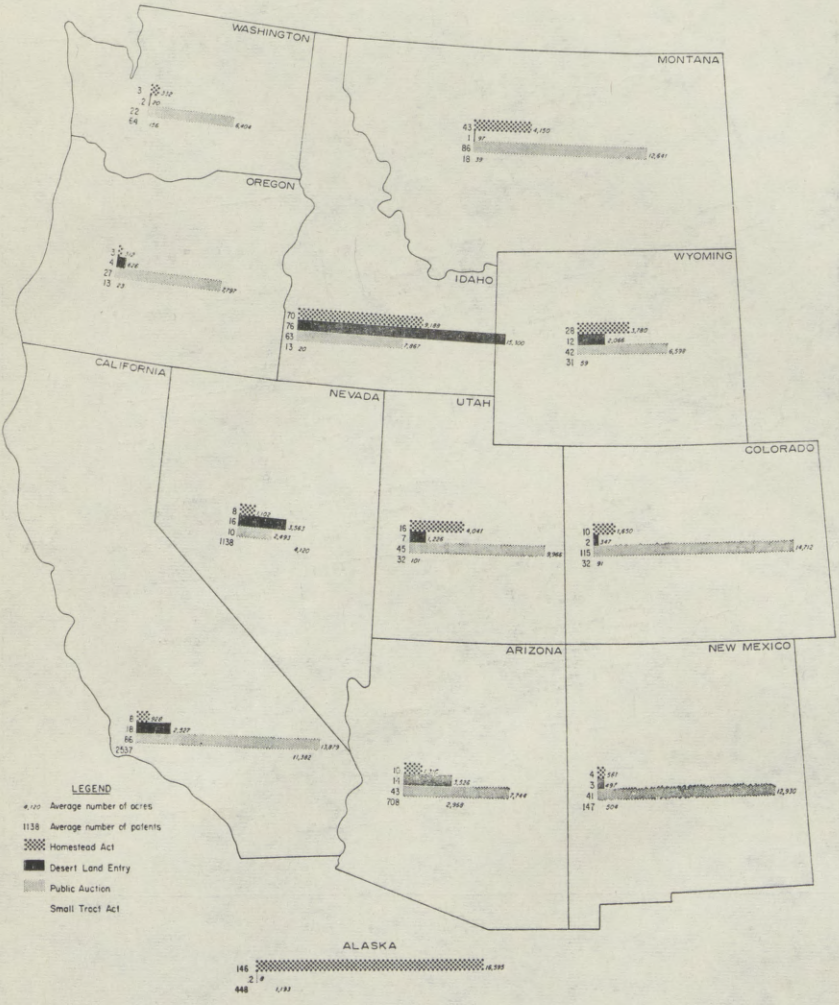
From my own experience on the land I am convinced that the key to successful land management is tapping the fund of local knowledge and wisdom of local community leaders. In a recent reorganization of the Washington office I have created a special office reporting directly to me to develop the "new concepts of cooperation" and then put them into operation.

H.R. 5498 would make it possible to meet the legitimate demands for modern uses in a more expeditious manner. It would also meet President Johnson's requirement that Government respond to the emerging needs by curtailing or abolishing Government activity no longer needed.

We have identified some 60 communities which we believe would have land made available for community expansion. They are shown on an outline map with other illustrative material at the end of the statement.

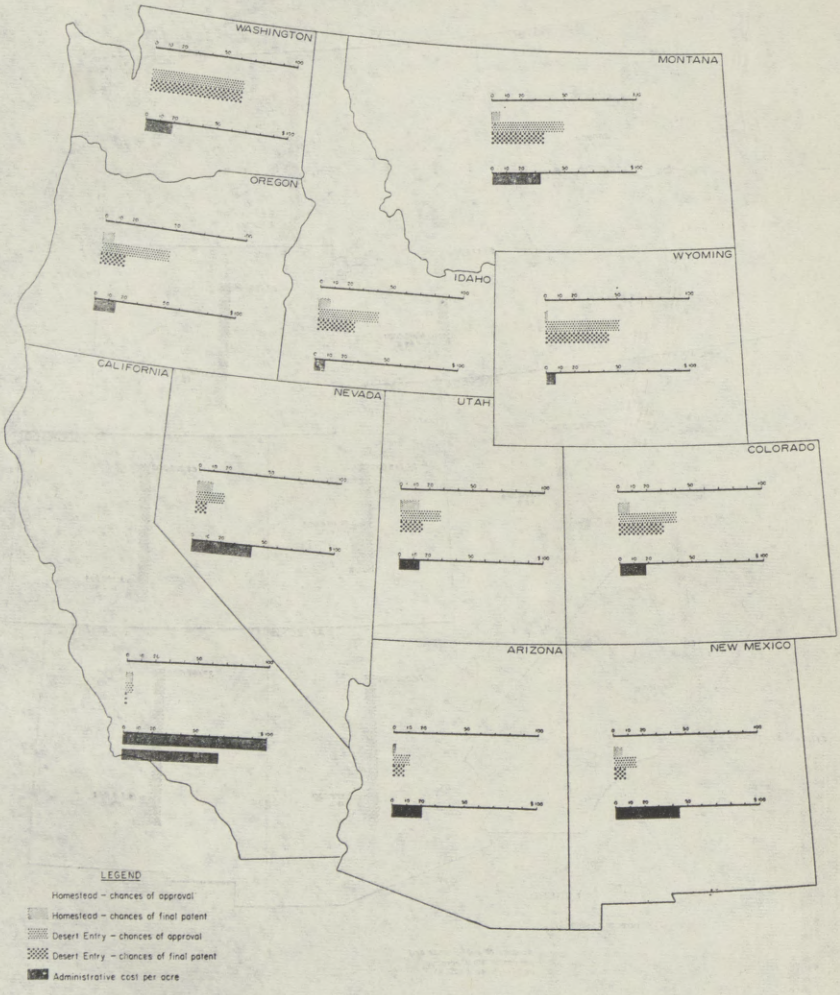

TOWNS WHICH COULD BENEFIT FROM
PUBLIC SALE BILL
HR 5498
WASHINGTON
OREGON
MONTANA
IDAHO
WYOMING
NEVADA
UTAH
COLORADO
CALIFORNIA
ARIZONA
NEW MEXICO
Boardman
Hermiston
Prineville
Redmond
Bend
Baker
Salmon
Dillis
Burns
Vale
Boise
Grants Pass
Medford
Arco
Mountain Home
Gooding
Jerome
Shoshone
Twin Falls
Idaho Falls
Pocatello
Worland
Pinedale
Lander
Shoshone
Casper
Kemmerer
Rock Sprs.
Green River
Rawlins
Vernal
Price
Boulder
Glenwood Sprs.
Grand Jct.
Gunnison
Canon City
Moab
Hanksville
Beaver
Junction
Cedar City
Panguich
Escalente
Blanding
Kanab
Aztec
Farmington
Santa Fe
Socorro
Roswell
Carlsbad
Las Cruces
Lordsburg
Sanford
Tucson
Phoenix
Scottsdale
Mesa
Wickenburg
Kingman
Parker
Winterhaven
Blythe
Indio
Palm Sprs.
Riverside
Victorville
Palmdale
Lancaster
Barstow
Amboy
Mohave
Baker
Lone Pine
Big Pine
Bishop
Beatty
Las Vegas
Ely
Wells
Elko
Battle Mtn.
Winnemucca
Susanville
Weaverville
Redding
Willow Creek
Alturas
Yreka
Grass Valley
Auburn
Placerville
Jackson
Sonora
Oakdale
Fresno
Bridge
Carson City

AVERAGE NUMBER AND ACRES OF PUBLIC LANDS PATENTED PER YEAR UNDER VARIOUS PUBLIC LAND LAWS, 1953-62



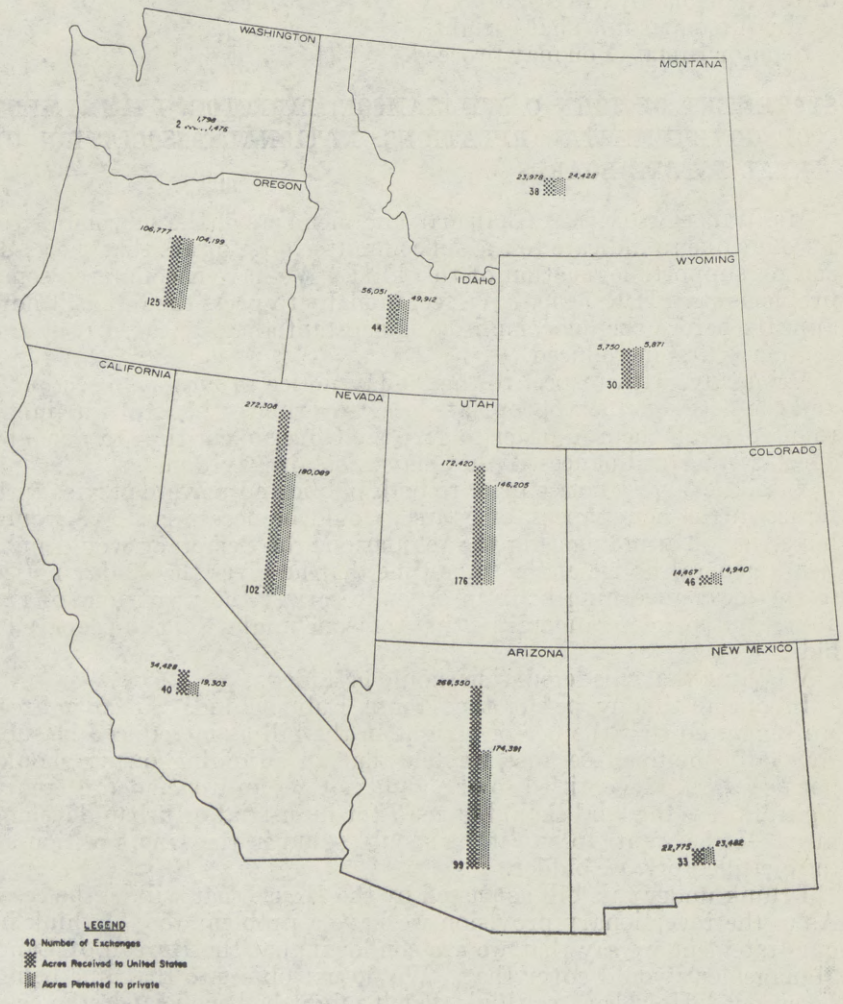
AGRICULTURAL LAND LAWS

Effectiveness study - applications filed 1950-59



PUBLIC LANDS UNDER EXCLUSIVE JURISDICTION of the BUREAU OF LAND MANAGEMENT, 1962

TAYLOR ACT PRIVATE EXCHANGES BY STATE
FISCAL YEARS 1953-62



Senator BIBLE. Our next witness is Mr. John C. Williamson, director of the department of governmental relations, National Association of Real Estate Boards. I take it that your testimony is directed primarily to H.R. 5498.

Mr. WILLIAMSON. That is right.

Senator BIBLE. You may proceed.

STATEMENT OF JOHN C. WILLIAMSON, DIRECTOR, DEPARTMENT OF GOVERNMENTAL RELATIONS, NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

Mr. WILLIAMSON. Mr. Chairman and members of the subcommittee, I would like to indicate to the subcommittee, first of all, that the association supports legislation of this kind. We have encountered some problems with H.R. 5459. We feel in many respects the bill as it now appears before the subcommittee is substantially improved over the version as first introduced.

Primarily, with respect to the 90-day notice provision in section 2 and the notice to the appropriate local government body of the intent to offer to sell them in order to give the Government time to put into effect zoning ordinances if they have not already done so.

Also, the 30-day notice prior to both public and private parties with notice in the newspapers, of course, would be necessary. We would hope that in promulgating the regulations the Secretary would publish a general notice at the same time that he gives the 90-day notice to the local governing body in order to satisfy the provisions of the act and to make arrangements that someone might want to prepare to bid.

We think that this regulation should be added.

In our testimony before the House Public Lands Subcommittee, we suggested that the person's right in the bill as introduced be substantially modified because we felt that an adjoining owner should not necessarily be entitled to or should not get an ironclad preference right, in case the land should be used for industrial or urban development. If he wants to buy it, he should stand in the same position as the qualified private bidder.

I think under this bill as passed by the House that will be the case. As to the reversionary provision we have a problem, too. I think in our statement we say that we are confident that the Bureau of Land Management would cover that. We do not object to that line being taken out. However, we think that it might be beneficial in the case that Senator Gruening cited where someone purchased a remote tract and intended to develop it and, perhaps, intended to develop a land scheme which is primarily designed to be a part of the operation or is not brought into the lease, perhaps he is on a shaky financial basis, that perhaps something should be covered in the bill to cover that.

I think our association would want to give more study to how this should be done.

Senator BIBLE. If you come up with any suggestions on this section I wish that you would undertake that study and give us the benefit of it.

Mr. WILLIAMSON. We certainly will.

Senator BIBLE. We would appreciate that.

Mr. WILLIAMSON. We will do that.

(The information requested is as follows:)

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS,
Washington, D.C., July 6, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands,
Senate Interior and Insular Affairs Committee,
Washington, D.C.

DEAR SENATOR BIBLE: This responds to your subcommittee's request for our further views on section 4 of H.R. 5498, a bill providing temporary authority for the sale of certain public lands. The last sentence of the section authorizes the Secretary of the Interior to place "such conditions, reservations, and reasonable restrictions" on patents and other evidences of title of the lands which are sold as he considers necessary in the public interest.

The question was raised as to the effect of a reversionary provision on title insurance. Such insurance would be available to a buyer in this case so long as the revisionary provision or condition subsequent was clearly stated in the insurance policy. The policy would insure that the title is clear of defects prior to the sale except the stated conditions.

Our concern with reversionary clauses has been primarily in the field of financing. A mortgage lender would, of course, be reluctant to advance funds for a project on land which is subject to a strict reversionary clause. It is our position, however, that this discretionary authority should be used in a very small number of cases and that it should be so imposed as not to hinder the availability of financing. The effectiveness of this provision would of course be reviewed at the time the Secretary's authority expires.

An example of such a restriction is in the area of remote, undeveloped lands. The subcommittee is well aware of the problems of fraudulent sale of undeveloped lands through interstate channels. The Senate Special Committee on Aging is currently conducting an intensive study of fraudulent land sales, especially as they affect the elderly. Tracts which are currently subject to such activities are typically located in remote areas, are completely undeveloped, and are not easily supervised by the appropriate governmental body. We think that a reversion to the Federal Government in clear cases of fraud or misrepresentation in the sale of lands with these characteristics might be appropriate. We do not think that such a provision would deter adequate financing to the developer since mortgage funds would not be forthcoming unless the lender had confidence in the developer's integrity and his ability to develop a financially sound project.

A restriction which reverts land to the Federal Government if there were no activity whatsoever with respect to the land for a period of 4 years, for example, would not hinder adequate financing. It would prevent a buyer with no interest in development from holding it only for resale at a profit. The condition subsequent to full title would disappear as soon as development financing were obtained. If title were to revert only upon certain specified use of the land, such as industrial for example, financing for residential use should not be hindered.

As to public or nonprofit purchasers, we think that restrictions similar to those in the Recreation and Public Purposes Act, as amended (43 U.S.C. 869), should be within the Secretary's power in cases where the lands are purchased for public purposes.

I hope these views will be of assistance to the subcommittee.

Sincerely yours,

HARDING DEC. WILLIAMS.

Mr. WILLIAMSON. The last thing I want to comment on is the temporary nature of the bill. We think that this is a desirable provision because it would insure that the program under this bill would come up for a review at the appropriate time, but in addition it would seem to us that this would give, if it is a fact, and we certainly hope it will be, an opportunity to observe this bill in action. There may be some problems that are unforeseeable at the present time, and this would give an opportunity to observe those. This would present an opportunity for that, to see how well this goes ahead.

We urge that the subcommittee act favorably on it.

Senator BIBLE. Thank you very much, Mr. Williamson.
I have no questions.
Your statement will be made a part of the record.
(The prepared statement referred to follows:)

PREPARED STATEMENT OF JOHN C. WILLIAMSON, DIRECTOR, DEPARTMENT OF GOVERNMENTAL RELATIONS, NATIONAL ASSOCIATION OF REAL ESTATE BOARDS

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to present this statement of the National Association of Real Estate Boards in favor of H.R. 5498, as passed by the House of Representatives.

Our association is made up of over 78,000 realtors in the 50 States, who engage in all phases of the real estate industry. We have long favored legislation of the type embodied in this bill, and our current policy statement on the subject is as follows:

"We recommend a policy of retaining in the public domain lands which are clearly charged with a public interest. With respect to public lands that now lie in the path of urban development, all or a part of which are not required for public use, we urge the Congress to enact legislation to expedite disposition to private ownership at market value representing the highest and best use."

Our members report that the growth and development of many western communities is hampered by the unnecessarily narrow restrictions on the sale of public lands imposed on the Department of the Interior by statute. The Small Tracts Act, in particular, limiting sales of public lands to tracts of no more than 5 acres, has caused fragmented and patchwork development of many communities and hampered the ability of local governments to plan for orderly growth and development. The sale of public lands in small parcels in areas of increasing land values has led to scattered and uncoordinated development and in some cases to land speculation. These practices have been curbed in large measure by the vigorous action taken by the Bureau of Land Management, but regulatory action can only go so far. The power to classify and sell large tracts of land which this bill would confer on the Secretary, coupled with close cooperation with State and local governments and the requirement that sales be at not less than fair market value, would minimize the chances of abuse in the disposition of public lands.

In our opinion, the bill in its present form is much improved over its original version and previous bills on this subject. Bills similar to H.R. 5498 have, in the past, contained clauses creating a reversionary title in the Secretary to lands sold for urban or industrial development, whereby title would revert to the Secretary in cases where private developers did not carry out the approved plan for development. In some of these the Secretary would be empowered to subdivide lands prior to sale and provide for the construction of streets, sewers, etc. We think, and the Department apparently agrees, that this reversionary right, with the resulting inspections and enforcement procedures, would impose an inordinate administrative burden on the Bureau and would be hamper adequate financing for private development because the purchaser would not have a clear title. Provision for adequate subdivision and proper development can and should be provided by the appropriate governing body.

In its present form, H.R. 5498 would give the Secretary discretionary authority to place limits on the title of the lands to insure proper development. Such a power might well be in the public interest if applied to extreme cases of mismanagment by private or public purchasers. In view of the Department's reluctance to retain reversionary rights, we are confident that this discretionary power would be exercised with restraint.

Because of the size of the parcels which would be sold under the bill, we urged the House Public Lands Subcommittee to consider language making the exercise of preference rights much more restricted in instances where the lands are classified for intensive urban or industrial development. Otherwise, an adjacent landowner might attempt to exercise his preference right in order to hold the new tract for speculation or to prevent what he might consider to be undesirable use of the tract.

If the adjoining owner wished to have the lands because of their value for urban uses, then he would be in the same position as any other private bidder. We would not object, however, to a provision in the bill which would allow a preference right to be exercised in cases where the absence of this right would work undue hardship on the adjoining owner.

We commend the 90-day notice requirement of section 2 of the bill. We feel it is essential to the proper exercise of local governmental responsibility for zoning and planning. It would be highly desirable, however, in most cases that both public and private interests be informed of each of the Secretary's actions at the same time. This goal would be met as to the initial classification by section 2 of H.R. 5159, the multiple-use bill, which requires a 60-day notice in the Federal Register and a newspaper of general circulation of the intention to classify for sale areas in excess of 2,560 acres. Publication of a general notice of intent to offer for sale at the same time that the local governing body is notified for zoning purposes would give all parties interested in purchasing the lands—as well as persons concerned with their reuse—additional time to prepare their case before the local zoning board or, perhaps in a rare instance, prod an inactive board into action. This is a matter which could well be handled by regulation, and we are confident that the Secretary will keep all interested parties fully informed of his actions.

In conclusion, I would like to comment that H.R. 5498 is especially timely in view of the proposed Public Land Law Advisory Commission. Under the bill the Secretary's authority would terminate in 4 years and Congress would then be in a position to evaluate the land sales program in the light of the recommendations of the Commission. At the same time the Commission would be able to observe the new program in actual operation prior to its final report, due on December 31, 1967. Thus the bill would meet an urgent practical need and also assist the formulation of an overall subcommittee's approval of H.R. 5498.

We respectfully urge the subcommittee's approval of H.R. 5498.

Senator BIBLE. Does the Senator from Alaska have any questions?

Senator GRUENING. You heard the views expressed by the Senator from Idaho and by me that it would extend the power of the Secretary somewhat indefinitely.

Mr. WILLIAMSON. Yes, sir. In our opinion it gives the Secretary discretionary power to do that. I do not think that anything has to be so drastic. For instance, he might well provide in the patent issued that if the land is in its present state or after a period of time is undeveloped, it might revert back. This is only in cases where the lands are in remote areas. This would not have to be invoked in tracts near areas like Las Vegas and the like.

In other words, he might well, under this regulation, require specific use of the land.

Senator GRUENING. What would be your view as to the powers of the Secretary under the language that he retains control after the land has passed from Federal ownership? Supposing that he chose to interpret that so that it is subject to the restrictions and conditions and reservations on others but not limited to those, not having been fully complied—do you understand that he could move in and take back the land?

Mr. WILLIAMSON. I think that he could under the statutory language, yes.

Senator GRUENING. That is something that should be considered.

Thank you.

Senator JORDAN. Your organization would have no objection to that broad provision?

Mr. WILLIAMSON. We would have no objection. Let me say this, we would have objection if we thought that the Secretary were going to interpret it in such a broad manner. In our experience dealing with officials of the Department of the Interior we have been convinced, first of all, that the Department has not advocated that. And, therefore, we feel that if we could get such legislation they would use it with restraint and we would hope to make our views all known to the Department before they issue the regulations.

As I say, we will give it further study.

Senator JORDAN. It is not what a reasonable man might interpret the bill to be, but what could be done by unreasonable people under the authority granted by the bill. I think that is something that you should protect yourself against.

Senator SIMPSON. The concluding paragraph presupposes the passage of H.R. 8070 which is the one setting up the Review Commission.

Mr. WILLIAMSON. Yes, that is true.

Senator SIMPSON. Would you still want the passage of H.R. 5498 if H.R. 8070 got lost in the shuffle and was not passed?

Mr. WILLIAMSON. Yes, we would, because when we testified before the House committee we still found it desirable legislation.

Senator SIMPSON. Thank you very much.

Senator BIBLE. Thank you very much.

Mr. WILLIAMSON. Thank you.

Senator BIBLE. Our next witness is Dr. Spencer M. Smith, Jr., secretary of the Citizens Committee on Natural Resources.

STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES

Mr. SMITH. Mr. Chairman and members of the committee, my name is Spencer M. Smith, secretary of the Citizens Committee on Natural Resources, and I have two brief statements which I hope the committee will incorporate into the record.

Senator BIBLE. The statements will be received and they will be incorporated in full in the record, Dr. Smith, and you may highlight them in your own manner.

(The prepared statements referred to follow:)

PREPARED STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES, ON H.R. 5159

Mr. Chairman, I am Dr. Spencer M. Smith, Jr., secretary of the Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C. The board of directors, which is the governing body of our committee, is composed of some of the Nation's outstanding conservationists. The matter with which the measures before the committee (S. 601, S. 1602, H.R. 5159) are concerned is the establishment of multiple-use administration on the public lands. This subject has been a sustaining and serious interest of our committee for a considerable period of time.

As we interpret the general provisions of these related but not identical bills they direct the management of public lands to be one of multiple use. Such management would provide for a consideration of a wide variety of uses which are capable of being produced upon the public lands. In addition, it charges the administration of these lands to effect the best combination of these uses for the maximum benefit obtainable.

The existing requirements of law in administering public lands do not consider sufficiently the ability of such lands to provide recreational opportunities. This is not surprising in terms of the need for land use at the time most of the legislation was passed. During the 19th and early 20th century there was no serious population pressure which manifested a variety of wants from public land uses that compare with the present day. Certainly this is true as far as recreational needs are concerned. There was no concerted demand for programing and planning the use of such lands for recreation purposes in terms of public visits and public needs. The evidence that such circumstances are changing rapidly, especially since World War II, is marked by the consideration of recreational needs in almost every major natural resources program.

Two administrations have now recognized the wealth of opportunities that are available in administering the public lands for many recreational purposes. The first was published by the Department of Interior under the title "Project 2012,"

which was a projection of uses of the public lands that could meet the public needs by 2012. Three years later in 1963, the Department of Interior published another program called, "A Program for Public Recreation on the Public Lands."

While it is not our purpose to disparage the efforts of either or both of these reports, it should be noted that the Department has been driven to take cognizance of the enormous recreation activities. It is not now a question as to whether we should have public recreation of a variety of types on the public lands. Recreation is now going on. The question becomes whether proper facilities to protect the lands and other uses can be accomplished in a logical and well-ordered manner. The 1963 report by the Department gives voice to this problem in the following statement:

"The people find almost no facilities * * * no designated campsites, no sanitation, no wells for safe water, no tables, no fireplaces, no access roads, or parking areas. The land itself is being abused, streams are being polluted, trash left over the ground. Without sound planning, scenic areas and hunting camps are becoming crowded slums."

There is always considerable debate when one suggests that a program be initiated by the Federal Government on the public lands especially when such a program conveys a sense of permanency. It is argued that the role of the Federal Government is to dispose, in an orderly fashion, these public lands and many feel that this procedure has lagged behind.

There is the contrary view, which we fully share, that the public lands could be of significant help in meeting the serious need of recreation. Practically every projection in terms of the management of the public lands, whether it is by 1980 or by 2012, still considers a significant amount of the present acreage public lands area to be in Federal ownership. The earlier thinking as to public land use must be modified to meet the changing patterns of our life and environment and seek to solve the new problems which require new dimensions.

We feel strongly, therefore, that a statement of policy on the part of the Congress is needed to the effect that not only should the public lands be utilized for satisfying a multiplicity of wants but further, that a real effort be made to enhance the administration of these lands for such purposes. In order to do this, it is quite evident that the Bureau of Land Management be given both the opportunity and the direction, if necessary, to bind their existing holdings into a more manageable unit. The difficulty of establishing management units that are really homogenous and therefore can be effectively administered must be facilitated if the whole concept of multiple-use administration is to have its full feasibility. If this were accomplished, it would seem reasonable to expect a greater awareness on the part of many segments of the public and perhaps as a consequence a greater willingness to be concerned about the ongoing and sustaining programs that would be initiated. Certainly there is a great deal of work to be done to place the public lands at a higher productive level, whatever the product or combination of products that flow therefrom. As evidence of this concern, the "Trial Public Lands Reappraisal" was published in June 1962, which indicated the need for estimating the condition of the rangeland and the further assessment of remedial measures necessary to place such lands in full productivity.

While our primary concern is the need for recreational resources, we are not oblivious to other uses that would naturally flow from a well-managed program of multiple use on the public lands. Urban areas that have been looked upon as distinct and separate, if for no other reason because of distances between such settlements, now find that areas of public land are coming close to commingling with zoned urban areas. Certainly prudent management does not suggest that many of these areas strangle an expanding urban development nor should appropriate industrial uses be precluded. By the same token, there may be a serious need to acquire land, especially, commingled lands that make unit management difficult if not impossible.

It is not our purpose to be overly redundant in announcing to the committee the great pressure for recreational needs. I am sure the gentlemen of this subcommittee, as well as those of the full committee, have heard our tale, seen our charts, and our accompanying tables of statistics to the extent that they, in all probability are as conversant with them as are we. We merely wish to emphasize that it is our judgment that no serious hardship or a contravention of existing uses would result from adopting an ongoing multiple-use program of administration of the public lands. It would be our judgment that there would be a large net gain for the public as a whole opposed, at the maximum, by minimal losses. It is our hope that the committee finds favor with this proposal and will act accordingly.

PREPARED STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES, ON H.R. 5498

Mr. Chairman, I am Dr. Spencer M. Smith, Jr., secretary of the Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C. The governing body of our organization is a board of directors which is comprised of some of the Nation's outstanding conservationists.

It is with some trepidation that we offer comment on H.R. 5498. Whenever the area of public lands is discussed, even by professionals who have spent their life in dealing with the problems thereto, there are often sharp differences of opinion as to the meaning and application of land laws as well as the background of such laws.

In our effort to understand H.R. 5498, we feel that the purport of the proposed legislation is to improve the ability to manage public lands by the Bureau as well as offering an opportunity to others who have a greater need for such lands than the envisaged Federal program requirements.

Certainly we are anxious to improve the climate for better management of our public lands and we are equally interested in better utilizing our lands if the opportunities are present. There are three main parts of the bill which would specifically provide the Secretary with authority to dispose of property not needed for the long-range Federal program. The Secretary may classify such lands on his own motion; he may sell such land at fair market value; and he may consummate such sales in tracts up to 5,120 acres. In addition, the Secretary may allow certain preferences to owners of land contiguous to the land offered for sale. In all sales, of course, prior agreements and transactions are respected.

We are concerned whenever there is an authorization given for the sale of public land. It would be incorrect to say that we oppose any sale of public lands for any purpose. The need for acquiring necessary public land to meet many of the objectives that we support has been extremely difficult. As a result, we have generally taken the attitude that great scrutiny should take place before the Government divests itself of its landholdings in view of the problems that the Federal Government has in the area of acquisition. We do not aspire, however, to the dogmatic position that no Federal lands should be sold. We think this position would be as incorrect as those who contend that the Federal Government should never purchase land for any purpose.

We can see how the measure before the committee would be helpful, providing appropriate guidelines are established for the sale of properties that qualify. We think such guidelines are important in order to protect, as well as to restrain, the executive branch of the Government for no good purpose would be served to move the argument, by those who desire a liberal disposition of Federal lands with those who desire restrictive or cautious disposition of Federal lands, downtown to the Office of the Secretary. Certainly the arguments before the committee of the Congress are public and are always available for the consideration of the public at large. The same requirements are not necessarily involved with the pleas and protestations that are made to the executive branch of the Government.

We are aware that at present there is an exhaustive study underway that seeks to classify the present and potential use of the lands now owned by the Federal Government and to project both of these considerations into the future, which will provide a better basis for determining policy. The uses vary extensively and the potentialities change constantly. We would hope that before a final guideline is established that the committee would have the results of this study before it. We can understand the sale of land for schools, parks, and recreation, especially when the existing or projected uses appear far less worthy. We can also see the need for disposing of land that is in close proximity to expanding urban areas. It would be our desire that the request for urban acquisition or industrial investment be bona fide. By the same token, we would hope that the Secretary, in disposing of land for these purposes, be guided by the responsibilities of making sure that sufficient open spaces remain, in order that the agonies of metropolitan sprawl in the East not be repeated.

We would feel that a more prudent course of action in administering public lands would be to grant authority for both the sale and purchase of land by the Secretary. The Bureau of Land Management has no authority to acquire land in fee simple title by purchase for cash. While the Bureau has fallen heir to managing certain land that was acquired by other Government agencies, it has never had the authority to purchase. Nor is the authority to engage in land exchanges equivalent to the authority to purchase.

Often the circumstances of land exchange cannot meet the objectives the Bureau has in mind. Often, when the Bureau engages in land exchanges, the Federal Government can be the loser. For example, it may be to the best interest of all concerned for the Bureau to acquire inholdings of private lands which are commingled with Federal lands. It may also be appropriate for the Bureau to dispose of lands in close proximity to an expanding city. About the only motive for making such a land exchange with the private individual would be for speculative purposes on the part of the private landowner. If the Government, therefore, enters into such an exchange it is criticized for such action by becoming a party to the objectives of the land speculation. In addition to this problem is the obvious problem that any barter arrangement inevitably faces, that is, the willingness of both parties to forgo present uses in exchange for the new uses to which the exchanged land must be put. If the Bureau had the authority to buy and sell, with the appropriate restrictions imposed on each action, it would seem that the overall purpose of H.R. 5498 would be far better achieved. Any sales would be for cash to the highest bidder with no sales being consummated at less than fair market value and no purchases could be made at inflated or excessive costs.

While we subscribe therefore to the overall objectives of H.R. 5498, we feel its effectiveness is limited without the ability of the Bureau to acquire land for cash as well as dispose of land for cash. At the risk of being redundant, we would once again urge the need for spelling out in some detail the conditions that would constrain and guide the implementing of both actions.

Senator BIBLE. First, I think that you should put in the record your identification.

Mr. SMITH. We have been in existence since December of 1954.

Before I go any further, I want to say that I do have a statement of Mr. C. R. Gutermuth, vice president of the Wildlife Management Institute, on each of these two bills. He is unable to be here at this hearing. And I ask that he be permitted to file a statement for the record.

Senator BIBLE. That permission will be granted. The record is going to be kept open for 10 days for the purpose of receiving statements.

(The prepared statements follow:)

STATEMENT OF C. R. GUTERMUTH, VICE PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE, ON H.R. 5159

Mr. Chairman, I am C. R. Gutermuth, vice president of the Wildlife Management Institute. The institute's program has been devoted to the restoration and improved management of natural resources in the public interest for more than a half century.

The institute joined with other conservation groups in supporting the objectives of H.R. 5159 before the House Committee on Interior and Insular Affairs. We did because we believed that a congressional declaration that the approximately 477 million acres of public lands administered by the Secretary of the Interior through the Bureau of Land Management shall be managed "under principles of multiple use and to produce a sustained yield of products and services" would be one of the greatest conservation accomplishments of this century. Such action would compare in many ways with the achievements of the Roosevelt-Pinchot era nearly 60 years ago.

We still support H.R. 5159 as it was introduced, but we have serious reservations about the bill as it was amended by the House committee and approved by the House. Enactment of H.R. 5159 along the lines that it was introduced would put Congress firmly on record as favoring a modern-day approach to public land management. It would show that the Congress, acting for the citizenry, is cognizant of the need for and has accepted its responsibility for caring for the vast public land resources in such a way that continuing benefits and uses would be assured for this and future generations. Such a policy declaration would provide the starting point for the long-needed reorientation of public land laws.

H.R. 5159, as approved by the House, falls far short of that worthwhile objective. First, it subordinates the authority of the Secretary with regard to multiple-use management of the public lands to the future recommendations,

if any, of the proposed Public Land Review Commission in such a way that the authorities that would be conferred for multiple-use management would be for only an interim period. The practical effect of H.R. 5159, if enacted as approved by the House, would be to project urgently needed multiple-use authorities for the public lands on a temporary or interim basis. In other words, the authority of the Secretary to administer the public lands for multiple-use and sustained yield purposes would be subject to fully as much question as the Taylor Grazing Act with its clause "in order to promote the highest use of the public lands pending its final disposal."

The Public Land Law Review Commission may never be authorized. Even if it is, there is no assurance that any of its recommendations will be implemented. Congress has the authority to make changes whenever it sees fit, and conservationists cannot understand why the Congress should be asked, as it is in H.R. 5159 now before the committee, to give only a provisional authority for administering one of this Nation's most valuable resources—its 477 million acres of public lands—on a multiple-use, sustained yield basis. Congress should grant that authority, and make whatever changes are required, when and as they become necessary.

Public lands administrators have been fed a piecemeal legislative fare for years, and only in comparatively recent times have the inadequacies of the basic land laws become increasingly obvious to more and more people. Much of the BLM's present difficulties in properly managing the public domain stems from the undecided, inconsistent, and sometimes unrealistic positions taken in past years by both the legislative and executive branches of the Government.

Conservationists are convinced that no future Congress or administration ever will support the wholesale disposition of the public land estate. We believe that, because of its capability to produce multiple uses on a sustained yield basis, a large core of the public lands always will remain in public ownership with management responsibility vested in a Federal agency.

This belief and the associated belief that the public is going to insist on a higher level of resources rehabilitation and management on the public lands is strengthened by two reports, both published in recent years. Both showed that improved public land management is an attainable objective—politically, socially, and economically.

The first, "Project Twenty Twelve," is a long-range BLM program statement of the Eisenhower administration. The second and newer publication is "Program for the Public Lands and Resources" of the Kennedy administration. "Project Twenty Twelve" envisioned a disposal of not more than 10 million acres in the next half century, with accretions from previously withdrawn military lands and others canceling any significant net change.

The newer program statement says essentially the same thing. "As comprehensive social, economic, and resource data from the master unit system is analyzed," the report comments, "a continuing program of needed land tenure adjustment will be conducted. This program will gradually bring about a desirable consolidation of public land ownership by land exchanges involving an estimated 12 million acres. In addition, about 400,000 tracts—involving some 5 million acres of public lands—will be transferred to other Federal, public, or private status by 1980. Restoration of lands previously withdrawn, plus acquisition—primarily by land exchange—will offset these dispositions so that the total acreage of public lands, except for Alaska, will remain approximately the same during the next two decades."

This general unanimity of support for the continuance of a sizeable public domain acreage, Mr. Chairman, calls for the declaration of a positive policy of multiple use and sustained yield management—as originally recommended by H.R. 5159. The public lands comprise a tremendous national asset—one that will become more valuable with the passing of time, and conservationists believe that now is the time for the Congress to take a position that will give new direction and impetus in the administration of these valuable lands.

It is hoped that Congress will approve a positive and forward-looking multiple-use act for the public lands.

STATEMENT OF C. R. GUTERMUTH, VICE PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE, ON H.R. 5498

Mr. Chairman, I am C. R. Gutermuth, vice president of the Wildlife Management Institute, with headquarters in Washington, D.C. The institute is one of the older national conservation organizations, and its program has been

devoted to the improved management of natural resources in the public interest for more than 50 years.

The institute endorses the objectives of H.R. 5498. The desirability of enacting a suitable law to facilitate the sale of certain public lands to qualified agencies of Government and to individuals for all sorts of proper and recognized purposes cannot be disputed. Public lands encircle some western towns and cities where, particularly in the Southwest, population expansion is significantly greater than in other areas of the country. In many places, the resultant demand for adequate space for residential, park, and industrial sites and for other purposes can be met most conveniently on contiguous public lands.

These needs cannot be accommodated satisfactorily under the present law that limits public land sales to isolated tracts and to areas too rough and too mountainous for cultivation. The existing system is unrealistic and cumbersome, and its inequities are well known. By overcoming the obstacles that hamper the present land classification and sales system, the Congress would enable the Bureau of Land Management to provide a batter and more efficient level of service to the public.

The institute's endorsement of the objectives of H.R. 5498 is based on three factors—(1) That the proposal contains no provision to include any lands under the administration of the U.S. Forest Service, (2) that the public interest would be served by a new law that establishes clearer guidelines for the classification of, the sytematic application for, and the orderly sale of public domain lands that are not needed for Federal program requirements or the long-range administration of the public lands, and (3) that the enactment of this proposal in no way diminishes the imperative need for prompt, affirmative action by Congress on the recommended Public Lands Multiple-Use and Sustained Yield Act, H.R. 5159, also before this committee.

As approved by the House committee and passed by the House, H.R. 5498 has been changed considerably from its introduced form. Originally, it would have amended section 2357 of the Revised Statutes (43 U.S.C. 678) to authorize the Secretary of the Interior "to sell any public lands which he classifies as proper for disposition and as not needed for Federal program requirements or the long-range administration of the public lands, in tracts not exceeding 5,000 acres each * * *." As passed by the House, the bill merely authorizes and directs the Secretary to "dispose of public lands that have been classified for disposal in accordance with a determination that (*a*) the lands are required for the orderly growth and development of a community or (*b*) the lands are chiefly valuable for residential, commercial, industrial, or public uses or development."

While it is expected that the Secretary, under the terms of H.R. 5498 as passed by the House, would classify public lands for disposal only when such action did not conflict with more important purposes that would be realized by retaining lands in public ownership, conservationists prefer the wording of the bill as originally introduced. That wording gave the Secretary clear alternatives on which to base his decision. It overcomes the seeming subterfuge which by which some of the Secretary's public land management programs must be conducted because of the vagueness and the inadequacy of existing law.

The need for this clarification can be illustrated by the comments of Congressman Aspinall, the chairman of the House Interior and Insular Affairs Committee, before the House Appropriations Committee last year. Referring to the administration's request for $700,000 during fiscal year 1964 for the construction of recreational facilities on the public lands, Chairman Aspinall said: "We are particularly concerned with the statement in the appendix to the budget that these facilities are to be constructed on 'certain public domain lands to be retained in Federal ownership for multiple-use management,' when in fact there are no statutes authorizing the Bureau (BLM) to designate lands to be retained. Quite the contrary is actually the present situation: All the public land laws are disposition laws, statutes designed to facilitate the transfer of public lands into non-Federal ownership or permitting their temporary retention pending ultimate disposal."

Enactment of H.R. 5498 with the language approved by the House in section 1 would, in the opinion of many persons, continue the indecision to which Congressman Aspinall referred. The proposal would authorize the Secretary to classify public lands for disposal and to dispose of them, without Congress giving him any clear guidance to the purposes for which some of the lands might better remain in public ownership and under public management.

Conservationists do not believe that the people of this country want the public estate whittled away by a never-ending cycle of classifications and disposals. Rather, it is believed that they support the retention of the bulk of the public lands for their values as watersheds and for timber, recreation, grazing, mining, and all the other recognized and legitimate uses. They do not object to the sale of small tracts of public lands in those areas and at those times and under those conditions where the public interest would be better served by an ownership other than the Federal Government. But at the same time, they do not want the Secretary of the Interior placed in a position where he can be subjected to all kinds of pressures and schemes to turn valuable public lands over to private ownership for individual gains. This bill, as passed by the House, would appear to place the Secretary in that position.

It is believed that the implementation of H.R. 5498 would be improved by clarification at certain other points. First, in section 1, paragraph c, as originally introduced, a notation of a proposal to classify lands would have segregated the lands from further application to make entry, selection, or location, and from settlement and location under the public land laws, including the mining laws. That provision is absent in the bill before the committee. It is believed that such a provision would be extremely helpful to the Secretary. It would remove unnecessary paperwork and lessen the expense of classification.

Further, it is hoped that the Secretary will hold such public hearings as are deemed advisable and that he will consult with the Bureau of Outdoor Recreation, the National Park Service, the U.S. Fish and Wildlife Service, and the appropriate State and other official agencies concerning the recreational, fish, wildlife, scenic, and allied values directly or indirectly associated with any public lands under consideration for classification and possible sale.

The values that I have enumerated are most generally enjoyed by the public at large. Conservationists are opposed to the conveying of public lands that have important community resource values to private ownership in a manner that would result in the denial of their continued public appreciation and use.

It also is suggested that the Congress make clear that the Secretary of the Interior, in carrying out the objective of H.R. 5498, shall take such action and require such compliance in the disposition and use of public lands through the stipulation of rights of way, access, preservation, zoning and such other devices that will protect the public interest in and adjacent to areas which may be classified and offered for sale. This aspect does not appear to be covered in the bill as approved by the House.

In conclusion, conservationists believe that a law along the lines suggested by H.R. 5498 is necessary and desirable. It is further believed that the proposal, as originally introduced in the House, is preferable to the bill as it was subsequently reported by the committee and approved by the House. We question the advisability of making the tenure of this proposal subordinate to possible recommendations of the proposed Public Land Law Review Commission. We believe that the authority that would be conferred by H.R. 5498 is urgently needed and that the Congress, at any future time, can judge the adequacy of the classification and disposal program that is developed under the terms of this legislation, without awaiting the recommendations of a Commission that may never be authorized. The report of that Commission is 4 years in the offing at least, and the need for the Secretary of the Interior to have adequate authority to classify and dispose of public lands in the public interest already is long overdue. Congress should give the Secretary the authority he needs now.

Mr. SMITH. It is my understanding that the Department of the Interior has requested, first of all, in the public sales bill, I think, by and large, the support of conservation organizations. We support it primarily in the hope that it will give enough of a string to the bow to the Bureau of Land Management in their efforts to better administer the land they have under their jurisdiction. The reason for this is I think that most of us are sympathetic to them and with their difficulties for the past 2 years.

Communities continue to grow. The problems of the areas which are suitable for industrial development are required and in all probability are not suitable for much else. And there is land required for conservation uses, including land required for Government parks and recre-

ational areas. It is our understanding, at least, that the language of the act will provide the Department of Interior Bureau of Land Management with additional authority to move with dispatch in trying to clean up some of these problems that are in this situation. And where they do not have a management unit, where the lands are quite clearly needed for other activities and other uses, that they be put to such use.

In response to Senator Gruening's inquiry that the Secretary be authorized to dispose of these lands, I would assume that this would be done only after a classification study has been made. And the real issue in terms of whether these lands are up for disposal, as a number of Senators have indicated, the purposes would be dependent upon what classification the Secretary had made of them. It is not my understanding that the law in itself directs the Secretary to make any particular classification; and, therefore, it would be at his discretion what kind of classification would be made. Once it is made, then I think that under the terms of the act he certainly is authorized and directed to make the sale in accordance with the statute, at least, the recommended statute.

This is our understanding of this.

Senator BIBLE. I think that is one of the reasons why there would be the classification and management of the public domain lands covered under one bill and public sales covered under the other bill. And that is why they came up together.

Mr. SMITH. I agree. So far as the use of the land we strongly support that. Some of these discussions made in opposition to the multiple-use bill amaze me, because there seems to be some question as to whether this affords more opportunity for recreation. In my judgment, recreation is going on now and has been going on for many, many years. I think the question is whether the Bureau of Land Management is going to have to direct and protect really the land that goes into recreation uses, because this area needs management and needs management of the important recreation that is taking place. I do not think it is a question of authorizing new legislation. It is there.

I think this needs management to take care of it in order that we do not have some difficulty in that area. Certainly we are not suggesting that recreation in and of itself is excessive, but there must be proper management and without its being extravagant.

We hope that the Bureau of Land Management will cover that in their situation, whereby they can handle it. This is essentially the only comments we have.

I would want to speak for these people mentioned. It is my understanding that both of these organizations do support the multiple-use and public sale bills.

Senator BIBLE. One is by the Izaak Walton League of America. I am not sure that Mr. Kimball of the National Wildlife Federation has that viewpoint.

Mr. SMITH. This is all I had to say.

Senator BIBLE. Senator Gruening, any questions?

Senator GRUENING. No questions.

Senator BIBLE. Senator Jordan, any questions?

Senator JORDAN. No questions.

Senator BIBLE. Senator Simpson, any questions?

Senator SIMPSON. No questions.

Senator BIBLE. Thank you very much.

This seems to be the list of witnesses we have on these bills for today. If there are no further witnesses to be heard the hearing will be closed, subject to a 10-day period for the filing of statements and subject to the Department and the real estate board as well furnishing their comments on the public sales bill and the question of the cloud on the title.

Without objection, the hearing will be adjourned and we will stand recessed until tomorrow morning at 10 o'clock, when we will commence our hearings on H.R. 8070, the Public Land Review Commission.

(Whereupon, at 12:10 p.m. the hearing adjourned to reconvene at 10 a.m., Tuesday, June 30, 1964.)

(Subsequent to the hearing the following communications were ordered printed:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1964.

Hon. ALAN BIBLE,
Chairman, Public Lands Subcommittee, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: I am enclosing a copy of the letter which I received on June 29 from Mr. Obed M. Lassen, State land commissioner of Arizona, relative to H.R. 5498, currently before your subcommittee for hearings. Mr. Lassen is opposed to this bill, particularly because of the provisions of section 2455(c), and in his letter sets forth the reasons for opposition.

I concur with Mr. Lassen's opinion of section 2445(c), and will appreciate your serious consideration of amendment of this section.

Yours sincerely,

JOHN J. RHODES.

[Enclosure]

OFFICE OF STATE LAND DEPARTMENT,
STATE OF ARIZONA,
Phoenix, Ariz., June 24, 1964.

Hon. JOHN J. RHODES,
Congressman from Arizona,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: A copy of H.R. 5498 as introduced on April 4, 1963, by Congressman Aspinall (by request) has recently been made available for study within the land department. The bill, as you know, purports to promote the sale and beneficial use of public lands by amending a certain existing section of the Revised Statutes.

Section 2455(c) of the bill reads as follows: "The notation in the proper land office of a proposal to classify lands under this section, or the classification of lands under this section shall segregate the lands from further application to make entry, selection, or location, and from settlement and location under the public laws, * * * to the extent the Secretary considers appropriate * * *."

It is to be noted that the action by the Secretary of proposing to classify or his classification of lands has the immediate effect of closing such lands to selection by the State. I am very much opposed to H.R. 5498 as it is written, particularly because of this provision. I believe that an enactment giving such power to the Secretary would result in irreparable injury to the State through his unlimited ability to withdraw, in effect, any highly desirable land from selection purposes and by this token would be completely contrary to the provisions and spirit of Arizona's Enabling Act.

It is my hope that you will agree with me on this point after you have had the opportunity to study the implications contained in paragraph (c), and that you will take appropriate action in accordance with the best interests of the State.

Sincerely yours,

OBED M. LASSEN,
State Land Commissioner.

CITIZENS COMMITTEE FOR THE OUTDOOR RECREATION
RESOURCES REVIEW COMMISSION REPORT,
Washington, D.C., July 14, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR BIBLE: The Outdoor Recreation Resources Review Commission made several recommendations pertinent to H.R. 5159, a bill relating to management of certain lands administered by the Secretary of the Interior under the principles of multiple-use and sustained yield.

The Citizens Committee for the Outdoor Recreation Resources Review Commission Report was established to encourage public understanding of the commission's report, "Outdoor Recreation for America" and to further the aims and objectives of the ORRRC report.

The purpose of this letter is to comment on the proposed legislation from the standpoint of the ORRRC report, and to cite portions of the ORRRC report and of the ORRRC study reports which may be useful to your committee.

In summary, the objectives of H.R. 5159 are consistent with the commission's charter, findings, and recommendations.

In the 1958 law establishing the commission, Congress explicitly instructed the commission to recognize the validity of multiple-purpose resource management:

"The commission shall recognize that lands, waters, forests, rangelands, wetlands, wildlife, and such other natural resources that serve economic purposes also serve to varying degrees and for varying uses outdoor recreation purposes, and that sound planning of resource utilization for the full future welfare of the Nation must include coordination and integration of all such multiple uses" (Public Law 85–740).

ORRRC's findings and recommendations are equally pertinent.

A major responsibility of the Federal Government toward meeting the predicted threefold increase in outdoor recreation demand by the year 2000, the Commission said, should be "management of Federal lands for the broadest possible recreation benefit consistent with other essential uses" (ORRRC report, p. 6).

The Commission found improved management of existing public areas to be an effective and economical way of helping to meet demand without additional acquisition.

On this point the Commission said:

"Over the next 40 years, recreation uses of land and water resources will come into vigorous competition with demands for wood, minerals, agricultural crops, highway development, industry, residential construction, and commercial enterprise of many kinds.

"To assure present and future generations of American outdoor recreation opportunities of adequate quantity and quality, more effective management of land and water resources, and more careful planning are urgently needed.

"Effective supply can be expanded through more efficient utilization of existing resources, as well as through private and public acquisition and development of additional recreation lands. Both approaches have to be employed if future needs are to be met" (ORRRC report, p. 95).

ORRRC's survey of the Nation's outdoor recreation resources included the recreation potential of the vast acreage of public lands under BLM administration. The report noted that while these lands now provide "substantial recreation opportunities," particularly for hunting and fishing, "the trouble with the big open spaces is that large parts of them are being underused" (ORRRC report, pp. 67 and 86).

"To a large degree * * * there has been a failure to use well what is already available. The problem, essentially, is one of management" (ORRRC report, p. 86). 'The (recreation) development potential of these lands is great" (ORRRC report, p. 67).

And the Commission identified what it considered the principal problem which prevents this promise from being fulfilled:

"These lands have been limited as a recreation resource by the restricted authority of the administering agency to develop them for recreation * * *.

"Broadened statutory authority, development capital, and a solution to some serious problems of land and water management must be achieved before this development can take place" (ORRRC report, p. 67).

The commission observed that "management policies governing public recreation lands vary among agencies" and that "these policies reflect the diverse objectives and statutory responsibilities of the various agencies."

"The result," the commission said, "is a diversity of management practices, some duplication and gaps, and, in many cases, less than optimum resource utilization. This situation, aggravated by the lack of consistent standards for recreation management, constitutes a major obstacle to a balanced national program" (ORRRC report, p. 95).

In the chapter in the ORRRC report on "Federal Policies and Programs" the commission noted that some Federal agencies—including the National Park Service, Forest Service, and Corps of Engineers—have responded to the increasing pressures for outdoor recreation that have been so apparent since the end of World War II.

And, it observed, other Federal agencies which administer areas which serve or could serve recreation purposes—including the Bureaus of Land Management, Sport Fisheries and Wildlife, and Reclamation—"are seeking legislative authority to recognize outdoor recreation in their programs."

The commission said: "In order for each agency to participate fully in a national recreation effort, there should be a consistent approach to similar problems of recreation development, regardless of administrative jurisdiction" (ORRRC report, p. 128).

In recent years the Congress has moved more and more in this direction.

In 1960 the Forest Service Multiple Use Act (Public Law 86–517) declared the policy of the Congress that the national forests be administered for purposes of outdoor recreation and wildlife and fish as well as for range, timber, and watershed purposes.

And in 1962 the Congress gave the Bureau of Sport Fisheries and Wildlife, the Army Corps of Engineers, and the Soil Conservation Service increased authority to seek appropriations for public recreation development, maintenance, or operation.

The Bureau of Sport Fisheries and Wildlife was authorized to construct and maintain recreational facilities at national wildlife refuges, game ranges, and fish hatcheries where recreational use would be compatible with the primary purposes of these areas and facilities (Public Law 87–714).

The Corps of Engineers was authorized to construct, maintain, and operate recreational facilities in conjunction with all types of corps water resource development projects, and to permit maintenance and operation of such facilities by local interests (sec. 207 of Public Law 87–874, the River and Harbor Act of 1962). Previously, the corps authority to provide for recreation was limited to reservoir projects. Last year's action extended this authority to all corps flood control projects, including levee and other channel improvement projects, and to all harbor and other navigation improvement projects.

The Watershed Protection and Flood Prevention Act was amended to permit Federal cost sharing with local interests for recreational development at small watershed projects built by local interests in cooperation with the Soil Conservation Service (sec. 103 of the Food and Agricultural Act of 1962; Public Law 87–703). Federal 50–50 cost sharing was authorized for minimum basic facilities needed for public health and safety, for access to reservoirs or other project areas with recreation values, and for land acquisition for these purposes.

Each of these congressional actions is consistent with the commission's recommendations relating to realization of recreation potentials through multiple-purpose resource development. Enactment of legislation embodying the principles of H.R. 5159, providing for the management of lands administered by the Bureau of Land Management for outdoor recreation purposes, along with other essential uses, would be consistent with ORRRC recommendations.

The commission's support of multiple-purpose management of lands administered by the Bureau of Land Management was not based on a presumption that all such lands are to remain permanently in Federal ownership.

The commission recommended that "Federal high-density areas that serve primarily local recreation needs should be placed under State or local government control" (ORRRC report, p. 128). "High-density recreation areas" are defined as those at which mass use is the most dinguishing characteristic and which are usually, though not necessarily, located near urban centers (ORRRC report, p. 117).

The ORRRC report noted with approval that BLM sells or leases public lands to State and local governments and nonprofit associations for recreation use at nominal cost—under authority of the Recreation and Public Purposes Act of 1926. The commission recommended that this program be extended.

Explaining its recommendation that Federal high-density areas primarily serving local needs be placed under State or local government control, the commission said:

"The longrun interests both of the Federal agencies and of the local users will be best served by placing responsibility for management of local high-density recreation areas in local hands, provided such management can be readily separated from that of the total Federal administrative unit. This would place the burden of financing upon the major beneficiaries. There is no reason why Federal agencies with national responsibilities should provide for essentially local needs" (ORRRC report, pp. 128–129).

The commission cited several ways of transferring responsibility for locally significant recreation areas:

"Many cooperative arrangements already are in effect between Federal agencies and local public bodies. In California, State and local public agencies contribute to the maintenance of national forest recreation facilities. Long-term permit arrangements are used in a number of southern and Rocky Mountain national forests. The Bureau of Land Management has made public domain lands available for local use. For many years the Corps of Engineers and the Bureau of Reclamation have looked to nearby cities and towns to take responsibility for the management and operation of Federal reservoir shoreline areas. These arrangements have generally operated to the benefit of all. In view of increasing recreation demands and the patterns of those demands, efforts along these lines should be extended."

In chapter 6 of the ORRRC report, the commission suggested a system of classifying outdoor recreation resources as a tool for more effective management of them.

The commission recommended that managers of land and water areas with existing or potential outdoor recreation values should adopt a system for classifying them according to the recreation uses for which they are best suited. Such a classification system should cover the full range of physical resources needed for all kinds of outdoor activities. It should specify the type of management most appropriate for each kind of area.

Six broad classes are recommended:

High-density recreation areas, intensively developed for mass use, such as for swimming, playing outdoor games, ski tows, and docking and servicing boats.

General outdoor recreation areas, substantially developed for a wide range of activities such as picnicking, boating, nature walks, trailer parks, and camping at well-developed campgrounds.

Natural environment areas, suitable for such traditional outdoor activities as hiking, camping with simple facilities, hunting, and fishing—all in a natural "as is" environment and usually in combination with other resource uses.

Unique natural areas, of outstanding scenic splendor, natural wonder, or scientific importance, managed to permit visitors to enjoy the central features preserved in their natural condition.

Primitive areas, with natural wild conditions undisturbed by roads and managed solely to preserve their primitive characteristics.

Historic and cultural sites, of local regional or national significance.

The commission said that such a classification system provides guidance for recreation zoning, based on available resources and terrain and on judgments as to which uses and developments are compatible and which are not. It recognizes that each area has its individual recreation potential and that any one administrative unit may include areas of more than one class.

The commission also recommended that a balance among kinds of resources and areas should be sought, keping in mind the differing quality of different kinds of resources and outdoor experiences as well as number of users.

In closing, we suggest that information in the following citations may also be of interest:

1. ORRRC study report 1, "Public Outdoor Recreation Areas—Acreage, Use, Potential." Data on present and potential recreation uses of lands administered by the Bureau of Land Management are given on pages 143–149.

2. ORRRC study report 13, "Federal Agencies and Outdoor Recreation." The role of the Bureau of Land Management is discussed in some detail beginning on page 40.

3. ORRRC study report 17, "Multiple Use of Land and Water Areas," is of obvious interest.

Sincerely yours,

FRANK GREGG, *Executive Director.*

PUBLIC LAND LAWS

TUESDAY, JUNE 30, 1964

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 o'clock a.m., in room 3110, New Senate Office Building, Senator Alan Bible presiding.

Present: Senators Bible, Gruening, Moss, Jordan of Idaho, and Simpson.

Also present: Jerry T. Verkler, staff director; Stewart French, majority counsel; Roy M. Whitacre, professional staff member; and Richard Andrews, minority counsel.

Senator BIBLE. The Subcommittee on Public Lands will come to order.

Yesterday I made a preliminary statement about the three bills that this committee was considering, all of which are very closely related and give common problems. Yesterday we considered the public sales bill, and we considered the multiple-use bill. Today we will consider the so-called Public Land Law Review Commission.

I think we are all very, very acutely and keenly aware of the need for a complete updating of our outmoded public land laws. We are really operating in a space age with horse and buggy laws in this area. I am hopeful that we can come up with a workable and realistic formula and framework for updating the land laws.

We are delighted this morning to have with us the Secretary of the Interior. We would be very happy to have you, Secretary Udall, and Assistant Secretary John Carver, or whoever else you would like to have accompany you to the witness table. We would be very happy to have your presentation, if you will just be seated there.

Senator Jordan has indicated to me that he would like to make a brief statement.

Senator JORDAN. Mr. Chairman, I just wish to be recorded as saying that I heartily endorse this legislation. I think we have had few bills before this committee that have a greater potential benefit in resources management of our public lands than the one we are considering today, H.R. 8070.

I do have a statement, Mr. Chairman, which I would like to include in the record at this point.

Senator BIBLE. Very well. The statement will be incorporated in full in the record.

First, perhaps, we should include in the record at this point H.R. 8070, together with the House Report No. 1008.

(The documents referred to follow:)

[H.R. 8070, 88th Cong., 2d sess.]

AN ACT For the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

DECLARATION OF POLICY

SECTION 1. It is hereby declared to be the policy of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public.

DECLARATION OF PURPOSE

SEC. 2. Because the public land laws of the United States have developed over a long period of years through a series of Acts of Congress which are not fully correlated with each other and because those laws, or some of them, may be inadequate to meet the current and future needs of the American people and because administration of the pubilc lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and the rules and regulations promulgated thereunder and to determine whether and to what extent revisions thereof are necessary.

COMMISSION ON PUBLIC LAND LAW REVIEW

SEC. 3. (a) For the purpose of carrying out the policy and purpose set forth in sections 1 and 2 of this Act, there is hereby established a commission to be known as the Public Land Law Review Commission, hereinafter referred to as "the Commission."

(b) The Commission shall be composed of nineteen members, as follows:

(i) Three majority and three minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the President of the Senate;

(ii) Three majority and three minority members of the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House of Representatives;

(iii) Six persons to be appointed by the President of the United States from among persons who at the time appointment is to be made hereunder are not, and within a period of one year immediately preceding that time have not been, officers or employees of the United States; but the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

(iv) One person, elected by majority vote of the other eighteen, who shall be the Chairman of the Commission.

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive $50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) The Commission shall (i) study existing statutes and regulations governing the retention, management, and disposition of the public lands; (ii) review the policies and practices of the Federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands; (iii) compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the forseeable future; and (iv) recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy set forth in section 1 of this Act.

(b) The Commission shall, not later than December 31, 1967, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report or on June 30, 1968, whichever is earlier. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

DEPARTMENTAL LIAISON OFFICERS

SEC. 5. The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this Act.

ADVISORY COUNCIL

SEC. 6. (a) There is hereby established an Advisory Council, which shall consist of the liaison officers appointed under section 5 of this Act, together with 25 additional members appointed by the Commission who shall be representative of the various major citizens' groups interested in problems relating to the retention, management, and disposition of the public lands, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor, and public utilities. Any vacancy occuring on the Advisory Council shall be filled in the same manner as the original appointment.

(b) The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

(c) Members of the Advisory Council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the Council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

(d) The Chairman of the Commission shall call an organization meeting of the Advisory Council as soon as practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission.

GOVERNORS' REPRESENTATIVES

SEC. 7. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council in matters pertaining to this Act.

POWERS OF THE COMMISSION

SEC. 8. (a) The Commission or, on authorization of the Commission, any committee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attend-

ance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matters which would require the presence of the parties subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or transacts business.

A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 102–104, inclusive, of the Revised Statutes (2 U.S.C. 192–194) shall apply in case of any failure of any witness to comply with any subpena or testimony when summoned under this section.

(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requires of any witness or of any governmental agency production of any materials which have theretofore been submitted to a government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held confidential by the Commission.

APPROPRIATIONS, EXPENSES, AND PERSONNEL

SEC. 9. (a) There are hereby authorized to be appropriated such sums, but not more than $4,000,000, as may be necessary to carry out the provisions of this Act and such moneys as may be appropriated shall be available to the Commission until expended.

(b) The Commission is authorized, without regard to the civil service laws and regulations and without regard to the Classification Act of 1949, as amended, to fix the compensation of its Chairman and appoint and fix the compensation of its staff director, and such additional personnel as may be necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this Act to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

(d) Service of an individual as a member of the Advisory Council, as the representative of a Governor, or employment by the Commission of an attorney or expert in any job or professional field on a part-time or full-time basis with or without compensation shall not be considered as service or employment bringing such individuals within the provisions of the Act of October 23, 1962 (76 Stat. 1119).

DEFINITION OF "PUBLIC LANDS"

SEC. 10. As used in this Act, the term "public lands" includes (a) the public domain of the United States, (b) reservations, other than Indian reservations, created from the public domian, (c) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws, (d) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws, (e) national forests, and (f) the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf.

Passed the House of Representatives March 10, 1964.

Attest:

RALPH R. ROBERTS, *Clerk.*

[H. Rept. 1008, 88th Cong., 1st sess.]

ESTABLISHMENT OF PUBLIC LAND LAW REVIEW COMMISSION

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 8070) for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: "That—

"DECLARATION OF POLICY

"SECTION 1. It is hereby declared to be the policy of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public.

"DECLARATION OF PURPOSE

"SEC. 2. Because the public land laws of the United States have developed over a long period of years through a series of Acts of Congress which are not fully correlated with each other and because those laws, or some of them, may be inadequate to meet the current and future needs of the American people and because administration of the public lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and the rules and regulations promulgated thereunder and to determine whether and to what extent revisions thereof are necessary.

"COMMISSION ON PUBLIC LAND LAW REVIEW

"SEC. 3. (a) For the purpose of carrying out the policy and purpose set forth in sections 1 and 2 of this Act, there is hereby established a commission to be known as the Public Land Law Review Commission, hereinafter referred to as 'the Commission.'

"(b) The Commission shall be composed of nineteen members, as follows:

"(i) Three majority and three minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the President of the Senate;

"(ii) Three majority and three minority members of the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House of Representatives;

"(iii) Six persons to be appointed by the President of the United States from among persons who at the time appointment is to be made hereunder are not, and within a period of one year immediately preceding that time have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

"(iv) One person, elected by majority vote of the other eighteen, who shall be the Chairman of the Commission.

"(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

"(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

"(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

"(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

"(g) The members appointed by the President shall each receive $50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

"DUTIES OF THE COMMISSION

"SEC. 4. (a) The Commission shall (i) study existing statutes and regulations governing the retention, management, and disposition of the public lands; (ii) review the policies and practices of the Federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands; (iii) compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the foreseeable future; and (iv) recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy set forth in section 1 of this Act.

"(b) The Commission shall, not later than December 31, 1967, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report or on June 30, 1968, whichever is earlier. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

"DEPARTMENTAL LIAISON OFFICERS

"SEC. 5. The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this Act.

"ADVISORY COUNCIL

"SEC. 6. (a) There is hereby established an advisory council, which shall consist of the liaison officers appointed under section 5 of this Act, together with 25 additional members appointed by the Commission who shall be representative of the various major citizen's groups interested in problems relating to the retention, management, and disposition of the public lands, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor, and public utilities. Any vacancy occurring on the Advisory Council shall be filled in the same manner as the original appointment.

"(b) The advisory council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

"(c) Members of the advisory council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

"(d) The Chairman of the Commission shall call an organization meeting of the advisory council as soon as practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission.

"GOVERNOR'S REPRESENTATIVES

"SEC. 7. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council in matters pertaining to this Act.

"POWERS OF THE COMMISSION

"SEC. 8. (a) The Commission or, on authorization of the Commission, any committee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

"The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matters which would require the presence of the parties subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or transacts business.

"A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 102–104, inclusive, of the Revised Statutes (2 U.S.C. 192–194) shall apply in case of any failure of any witness to comply with any subpena or testimony when summoned under this section.

"(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

"(c) If the Commission requires of any witness or of any governmental agency production of any materials which have theretofore been submitted to a government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held confidential by the Commission.

"APPROPRIATIONS, EXPENSES, AND PERSONNEL

"SEC. 9. (a) There are hereby authorized to be appropriated such sums, but not more than $4,000,000, as may be necessary to carry out the provisions of this Act and such moneys as may be appropriated shall be available to the Commission until expended.

"(b) The Commission is authorized, without regard to the civil service laws and regulations and without regard to the Classification Act of 1949, as amended, to fix the compensation of its Chairman and appoint and fix the compensation of its staff director, and such additional personnel has may be necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

"(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this Act to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

"(d) Service of an individual as a member of the Advisory Council, as the representative of a Governor, or employment by the Commission of an attorney or expert in any job or professional field on a part-time or full-time basis with or without compensation shall not be considered as service or employment bringing such individuals within the provisions of the Act of October 23, 1962 (76 Stat. 1119).

"DEFINITION OF 'PUBLIC LANDS'

"SEC. 10. As used in this Act, the term 'public lands' includes (a) the public domain of the United States, (b) reservations, other than Indian reservations, created from the public domain, (c) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws, (d) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws, (e) national forests, and (f) the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf."

OTHER BILLS CONSIDERED

In addition to H.R. 8070, introduced by Congressman Aspinall, the committee also considered companion bills introduced by Congressman Baring (H.R. 8071), Congressman Kyl (H.R. 8072), and Congressman Udall (H.R. 8073), and a joint resolution (H.J. Res. 52), introduced by Congressman Rhodes, of Arizona, proposing the establishment of a commission to study the nonmineral public land laws.

PURPOSE AND BACKGROUND

Enactment of H.R. 8070 will permit a comprehensive review of the policies applicable to the use, management, and disposition of the public domain lands of the United States. The first public domain of the United States was created when the original 13 States ceded to the Federal Government lands westward to the Mississippi River as part of the compromises attendant upon the formation of the Union and the adoption of the Constitution.

The Constitution itself provides in article IV, section 3, clause 2:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States."

Disposal policy

From the beginning, Congress followed a policy of disposing of the public lands. Land was plentiful; it was sold to raise revenue and at the same time it was used to pay our soldiers and to reward our heroes.

In the Homestead Act of 1862 and the mining laws of 1866 and 1872, along with several acts of that day of lesser applicability, the Congress adopted the policy of permitting the developers of land to obtain title thereto with little or no monetary payment to the United States. The land-grant college system was established on this principle. The United States entered an era that saw the West develop.

It has been commonplace for many years to say that the "good" agricultural lands have long since been settled; and that the "easily found" minerals have been discovered and developed. The inference of these truisms is that the public land laws must be examined to ascertain whether they serve the changed conditions.

The most recent public land law is the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), which starts with the proclamation:

"In order to promote the highest use of the public lands pending its final disposal * * *."

The Taylor Act provided for the establishment of grazing districts, for the use of grazing land, and for the classification of our vacant public lands before title could be transferred under any of the disposition laws. The 1934 act, aside from stabilizing the distressed cattle and sheep industries, may be considered to have been a holding action insofar as public land use is concerned. Congress, in recognition of the underlying policy that had been followed until that time, prefaced its grant of authority to the Secretary of the Interior by the statement quoted above regarding interim use of the public lands, "pending its final disposal." At the same time Congress recognized that the vacant public lands could no longer all be kept open for appropriation and settlement.

The one exception was the mining law. Locations and entries under the mining laws were specifically permitted without regard to the classification of the lands. Nonetheless, the Secretary of the Interior has withdrawn from the operation of the mining laws millions of acres of public lands without express statutory authority therefor.

It is also well to note at this time that the acquisition of the public domain, which had started in 1781 with State cessions, was completed in 1867 with the purchase of Alaska, with the last acquisition within the area now constituting the Southern 48 States having been accomplished in 1853. In other words, Alaska and the acquisition of land through exchange aside, there had been only reductions in the public lands for 110 years.

We should also take note at this time that in 1872 the Congress passed an act creating the Yellowstone National Park and thereby established the principle that some of our public lands should be set aside and retained for future genera-

tions. The act of March 3, 1891 (26 Stat. 1103), authorized the President to reserve suitable lands as national forests.[1]

Another landmark statute is the act of June 8, 1906 (34 Stat. 225) which authorizes the President to set aside, as national monuments, lands containing objects of historic interest. In the meantime Congress, by individual acts, had established certain national parks and by the act of August 25, 1916 (39 Stat. 535), established the National Park Service to administer the national parks and monuments.

Despite the fact that, statutorily, the policy of the United States envisions ultimate disposal of the public lands unless specifically directed otherwise by the Congress, President John F. Kennedy pointed up the gaps in existing law when he stated, in a letter to the chairman of this committee dated January 17, 1963:

"My predecessors have been acutely aware of the dilemmas facing the Secretaries of Agriculture and Interior as principal administrators of the original public domain. Whenever they have been faced with a reasonable alternative of continued public ownership and management, or disposition, they have generally elected the former."

The committee does not mean to infer that the executive branch has not sought new legislation. Quite the contrary is true. Since the 80th Congress this committee has been engaged in a continuing study of proposed basic changes in the public land laws. Many of these proposed changes have been submitted by executive communication, others were initiated by individual members.

In the 81st Congress this committee recommended and the House of Representatives passed a bill (H.R. 3576) submitted by an executive communication for the purpose of repealing certain obsolete public lands sales laws; action was not completed on the bill.

A Special House Subcommittee on Revision of the Public Land Laws in the 82d Congress reported (H. Rept. 2511) in December 1952 its conclusion that there was a need to revise the public land laws. Its recommendation that the study be continued was not implemented in the 83d Congress. The Subcommittee on Public Lands, however, held hearings on 5 days on legislation for the revision of the public land laws "to provide for orderly use."

During the 84th Congress attention was again given to public use of the public domain. No broad disposition bills were enacted. Legislation was passed providing for the multiple use of mining claims (act of July 23, 1955, Public Law 167, 84th Cong.). In addition, the House passed a bill requiring defense withdrawals in excess of 5,000 acres to be accomplished by act of Congress.

The defense withdrawal bill became law in the 85th Congress (act of February 28, 1958, Public Law 85–337). Thereafter in the 85th and again in the 86th Congresses the emphasis was on seeking legislation whereby public lands could be made available for sale for residential, commercial, and industrial development. Lengthy hearings were held and considerable consideration given to the legislation; but no final action was taken.

In the 87th Congress the Secretary of the Interior recommended several pieces of legislation to govern the disposal of public lands involving proposed repeal of many of our basic land laws. After hearings had been held on these proposals it became clear to the committee that no one proposal could be considered in a vacuum without also considering other proposals and all of the competing demands for the use of the public lands.

During the 88th Congress among the proposals submitted by the Secretary of the Interior are bills to (1) grant broad sales authority to the Secretary of the Interior; (2) broaden the exchange authority of the Secretary of the Interior; and (3) consolidate and "simplify" the laws governing the grant of easements across public lands.

Deficiencies in existing public land laws

The committee does not rely on the pendency of legislation as an indicator of deficiencies or inadequacies found in existing statutes. The hearings conducted by this committee's Subcommittee on Public Lands demonstrated conclusively that there are several such deficiencies or inadequacies:

---

[1] The act of June 25, 1910 (36 Stat. 847) prohibits additions to forests established theretofore or the creation of new forests in California, Oregon, Washington, Idaho, Montana, Colorado, and Wyoming.

1. The principal difficulty is the failure of Congress to provide for the Secretary of the Interior legislative guidelines by which the executive department can make determinations between competing demands for the same piece of land. The fact of the matter is that, although there is no general statute permitting retention of lands, a Secretary of the Interior so oriented could, by failure to classify lands as suitable for disposition, provide for their retention. And the requirement of the Taylor Grazing Act that the public lands remain open to location and entry under the mining laws could likewise become meaningless through administrative determinations under the mining laws.

2. Another situation examined by the subcommittee involved the termination of grazing permits granted under the Taylor Grazing Act. Because of the widespread demand for the use of public domain lands in our buildup for World War II, the act of July 9, 1942 (56 Stat. 654), provided that whenever grazing permits were terminated because of defense utilization, the permittee or licensee would be paid for all his losses. However, there is no general law to permit similar payment of losses in situations where land is taken for other public use.

3. The presence on the statute books of such acts as the Desert Land Entry Act invites people to spend time and money in an endeavor that may be foredoomed because of changed conditions or, in any event, the absolute discretion placed in the Secretary of the Interior to classify the lands as being suitable for such purpose before they can be opened to entry.

4. Although many western communities cannot expand without utilizing public lands, there is no general authority on the statute books whereby lands can be made available for such purpose. Accordingly, it has been necessary for the committee to consider and act on individual bills authorizing the sale of land to individual communities. Similarly, there is no general authority whereby lands can be made available for necessary private development of residential, commercial, and industrial facilities.

5. In 1926 Congress enacted the Recreation and Public Purposes Act to encourage local and State agencies and nonprofit private organizations to obtain public lands for recreational development. Nonetheless, many lands that should be developed for recreational purposes apparently cannot be transferred to non-Federal ownership. While the alternative would seem to indicate that the lands should be retained by the United States, there is no general statutory authority for the retention of public lands for Federal recreational development.

No purpose would be served by listing other acts and actions requiring review. The committee has concluded that only by reviewing all the public land laws can we hope to frame legislation that will satisfy the requirements of the 1960's.

Extent of public lands

Bureau of Land Management statistics indicate that there are approximately 438 million acres of public lands that have not been committed to specific use; of the total 271 million acres are in Alaska and 167 million acres are in the continental United States.

The so-called vacant public lands that have not been committed for a specific use either by statute or regulation pursuant to statute, while distributed among 28 States, are primarily concentrated in the 11 Western States comprising the 8 Mountain States and the 3 continental Pacific States. The eight Mountain States are Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada; the three Pacific States are Washington, Oregon, and California.

The impact of all public lands, whether committed or uncommitted, on the economy of these 11 Western States can be recognized readily when we consider the following pertinent facts:

1. Statistics compiled by General Services Administration in its inventory report on real property owned by the United States show that 48.1 percent of the total land area in the 11 Western States is owned by the Federal Government. The percentages range from 86.9 percent owned by the Federal Government in the State of Nevada to 29.5 percent in the State of Washington.

2. The 11 States involved had, according to the latest available Statistical Abstract of the United States, a combined 1961 population of 28.1 million people.

3. There have been definite trends toward an increase in population in the 11 Western States mentioned above; it is estimated that the westward movement will continue, and that by 1970, 37 million people will live in the Mountain and Pacific States.

The committee submits the obvious conclusion that in these areas where the Federal Government is such a large owner it will be necessary to make more intensive use of the public lands in order to accommodate the increased population.

Temporary commission required

It is the considered opinion of the committee that the necessary comprehensive study required of the public land laws cannot be carried out successfully by this committee acting alone. The committee believes that due to the many and varied factors, considerations, and interests involved, only a bipartisan commission supplemented by an advisory council made up of the many interested users of the public lands would be in a position to coordinate and supervise effectively such a broad study.

H.R. 8070, if enacted as amended, will establish such a bipartisan commission to conduct a review of existing public land laws and regulations and recommend revision necessary therein. The commission and its staff would be assisted by liaison officers from Federal agencies with a direct interest.

SECTIONAL ANALYSIS

H.R. 8070, as amended by the committee, provides the necessary framework for the study outlined above:

1. In a declaration of policy the bill presents the necessary guidelines for the Commission in declaring that public lands of the United States shall be "(a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public."

The committee takes no position as to these alternatives, which shall be exclusively within the scope of recommendations to be made by the Commission.

2. The declaration of purpose recognizes that the public land laws of the United States have not been fully correlated and that a comprehensive review is necessary to determine whether and to what extent revisions are necessary.

3. The bill would establish a 19-member Commission composed of 6 members of the House Interior Committee, 6 members of the Senate Interior Committee, 6 members appointed by the President from persons outside of the Federal Government, and a Chairman elected by the first 18.

4. The Commission would be charged with the responsibility of studying existing statutes and regulations governing public lands, of reviewing policies and practices of Federal agencies in the field, compiling data necessary for a determination and understanding of the various demands on the public lands which now exist and which are likely to exist in the future, and finally to recommend modifications deemed necessary in existing laws, regulations, policies, and practices.

5. The Commission would be required to submit its report to the President and the Congress by December 31, 1967. It would cease to exist 6 months after submission of its report or by June 30, 1968, whichever is earlier.

6. Each Federal agency concerned with public lands would appoint a liaison officer to work with the Commission and its staff.

7. There would be established an advisory council consisting of the Federal agency liaison officers together with 25 additional members representing those interested in the use of the public lands. This advisory council would not be an independent body and would function only for the benefit of the Public Land Law Review Commission.

8. Provision is made for a representative from each State to work closely with the Commission and its staff and with the advisory council.

9. The Commission would be given limited subpena power in order to enforce attendance of witnesses and the submission of required data.

10. In authorizing appropriation of funds the committee has placed a limitation of $4 million on the amount to be afforded the Commission during its life. The Commission would be authorized to appoint and fix compensation of its full-time Chairman and staff director; all members of the Commission, except the Chairman, would serve without compensation.

11. The term "public lands," as used in the act, is defined in section 10 of H.R. 8070.

COMMITTEE AMENDMENT

In addition to technical modifications the committee amendment will—

1. preclude Government employees from serving on the Commission;
2. limit the use of the subpena power granted to the Commission;
3. protect the confidentiality of certain material furnished to the Commission;
4. extend the definition of "public lands" to include all the national forests, in view of the intermingling in many areas of acquired and public lands in the national forests;
5. the definition of "public lands" was also clarified to indicate that it includes reserved mineral interests in lands heretofore disposed of by the United States as well as mineral interests in the Outer Continental Shelf.

COSTS

H.R. 8070 authorizes maximum appropriations of $4 million during the projected tenure of the Public Lands Law Review Commission.

DEPARTMENTAL RECOMMENDATIONS

The executive departments involved favor establishment of a Public Land Law Review Commission as set forth in the following reports:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 6, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This responds to your committee's request for our views on House Joint Resolution 52, a joint resolution for the establishment of a commission to study the nonmineral public land laws of the United States to facilitate the enactment of a more effective, simplified, and adequate system of laws governing the transfer of title to public lands to individuals, associations, corporations, and the States and local governments or their instrumentalities, and on H.R. 8070, H.R. 8071, H.R. 8072, and H.R. 8073, identical bills for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes.

We recommend that any of the H.R. 8070 group be enacted, if amended as set forth below, and we recommend that House Joint Resolution 52 not be enacted.

House Joint Resolution 52 would establish a commission to study present nonmineral public land laws. It would be charged with the responsibility of recommending an adequate, modern, and simplified body of nonmineral public land laws to be administered by the Secretary of the Interior through the Bureau of Land Management. The nine-member Commission would be bipartisan. Three members would be appointed by the President of the Senate, and three would be appointed by the Speaker of the House of Representatives; in each case, not more than two would be from the same political party. The remaining three members would be appointed by the President from persons either in private life or in the Federal Government who have a professional interest in proper land use and tenure. The members of the Commission would elect from among their own members a Chairman and Vice Chairman. The Commission would be authorized to employ such a staff as it deemed necessary and advisable. Finally, the resolution would authorize the appropriation of $150,000 to finance the study.

Section 1 of H.R. 8070 declares it to be the policy of the Congress that the public lands of the United States shall be retained or managed or disposed of, all in a manner to provide the maximum benefit for the general public.

Section 2 of H.R. 8070 recites that because the public land laws of the United States have developed over a long period of years through a series of laws which are not fully correlated with each other and because those laws or some of them may be inadequate to meet the current and future needs of the American people and because administration of the public lands and the laws relating thereto has been divided among several agencies of the Federal Government, it is necessary to have a comprehensive review of those laws and to determine whether, and to what extent, revisions are necessary.

Section 3 of H.R. 8070 sets up a Commission to be known as the Public Land Law Review Commission, composed of 19 members. The President of the Senate would select three majority and three minority members of the Senate Interior and Insular Affairs Committee, the Speaker of the House of Representatives would similarly select three majority and three minority members of the House Interior and Insular Affairs Committee, and the President would select six persons from the executive branch of the Government. These 18 persons would elect by majority vote another person who would be the Chairman of the Commission. Any vacancy which might occur on the Commission would not affect its powers or functions but would be filled in the same manner in which the original appointment was made. The organization meeting of the Commission would be held at such time and place as would be specified in the call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives. Ten members of the Commission would constitute a quorum, but a smaller number, as determined by the Commission, could conduct hearings. The Commission members, except the Chairman, would serve without any compensation in addition to their regular salary but each member would be entitled to reimbursement for travel and subsistence expenses incurred in the service of the Commission when engaged in Commission business.

Section 4 of the bill provides that the Commission shall study existing statutes and regulations governing the retention, management, and disposition of the public lands, review the policies and practices of the Federal agencies charged with the administrative jurisdiction over such lands insofar as such policies and practices relate to the administration of those lands, compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the foreseeable future, and recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy enunciated in section 1 of the bill.

The Commission would be required not later than December 31, 1967, to submit to the President and the Congress its final report. The Commission would cease to exist 6 months after submission of that report or on June 30, 1968, whichever is earlier. The documents of the Commission would thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

Section 5 of the bill provides that each Federal department or independent agency concerned with public lands would appoint, upon the request of the Commission, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to the Commissioner's operations.

Section 6 of the bill would establish an advisory council consisting of the liaison officers appointed under section 5, together with 25 additional members appointed by the Commission who would be representative of the various major citizens groups interested in problems pertaining to the retention, management, and disposition of the public lands, including the following: Organizations representative of State and local government, private organizations working in the field of public land management and outdoor recreation resources and opportunities, landowners, forestry interests, livestock interests, mining interests, oil and gas interests, commercial and sport fishing interests, commercial outdoor recreation interests, industry, education, labor, and public utilities. The advisory council would be required to advise and counsel the Commission concerning matters within its jurisdiction. Members of the advisory council would serve without compensation but would be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Commission or its Chairman. The Chairman of the Commission would call an organization meeting of the advisory council as soon as practicable, a meeting of such council each 6 months thereafter, and a final meeting prior to approval of the final report by the Commission.

Section 7 of the bill invites the Governor of each State to designate a representative to work closely with the Commission and its staff and with the advisory council in matters concerning the bill.

Section 8 of the bill recites that the Commission, or on proper authorization thereof, any committee of the Commission may for the purpose of carrying out the purposes of the bill hold hearings, administer oaths, issue subpenas as may be deemed advisable. The Commission would also be authorized to secure from

any department, agency, or individual instrumentality of the executive branch any information it deems necessary to carry out its functions.

Section 9 of the bill would authorize to be appropriated such sums, but not more than $4 million, to carry out the purposes of the bill and such moneys as may be appropriated shall be available to the Commission until expended. The Commission would be authorized to fix, without regard to the civil service laws, the compensation of its Chairman, appoint and fix the compensation of its staff director, and such additional personnel as may be necessary. Any Federal employee subject to the civil service laws and regulations who may be employed by the Commission would retain civil service status without interruption or loss of status or privilege. The Commission would further be authorized to enter into contracts or agreements for studies and surveys with public and private organizations and if necessary to transfer funds to the Federal agency from appropriated funds to carry out special studies. Service of an individual as a member of the advisory council, as a representative of a Governor, or employment by the Commission of an attorney or expert in any area, whether on a part-time or full-time basis, with or without compensation, would not be considered as service or employment bringing such individuals within the purview of the conflict-of-interest statute, the act of October 23, 1962 (76 Stat. 1119).

Section 10 of the bill defines the term "public lands" as including (*a*) the public domain of the United States; (*b*) reservations, other than Indian reservations, created from the public domain; (*c*) land permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws; and (*d*) the surface and subsurface resources of all such lands.

The limitation in House Joint Resolution 52 as to the scope of the study, i.e., the nonmineral public land laws, sharply curtails the possible effectiveness and utility of the study. The interrelationship between mining claims and mineral leasing to surface disposition and resource management is so closely bound together as to require consideration of all. In contradistinction, H.R. 8070, and the other identical bills, provide for a study of all the public land laws, both mineral and nonmineral, but also (sec. 4(a)) of the "regulations governing the retention, management, and disposition of the public lands * * * the policies and practices of the Federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands * * *." A study of the public land laws without reference to their administrative implementation as envisaged by House Joint Resolution 52, undoubtedly would be regarded by this Department as only of limited value. Moreover, H.R. 8070 provides for appointment of departmental liaison officers who would be members of an advisory council, together with 25 additional members representative of groups interested in various facets of public lands, thus tending to insure broad representation. Similarly, H.R. 8070 invites the Governor of each State to designate a representative to work with the Commission. House Joint Resolution 52 does not provide for such participation by non-Federal groups and entities. Moreover, H.R. 8070 authorizes the appropriation of up to $4 million for the study in contradistinction to House Joint Resolution 52 which authorizes the sum of $150,000 for such purpose, a sum, in our judgment, woefully inadequate for the desired purpose. It is our judgment, therefore, that enactment of House Joint Resolution 52 would not be likely to lead to fruitful results.

There is today an urgent need for a thorough study of the existing public land laws, policies, and procedures in order for the Congress to develop a sound public policy for the management, use, and disposition of the public lands which will meet the present and future needs of the American people. The various agencies managing public lands are presently operating under a complex system of public land laws which have developed in a "patchwork" fashion since the beginning of the Republic. Thousands of laws now govern the management, use, and disposition of the public lands of the United States. Many of the laws reflect the social and economic conditions of the 19th and early 20th century and thus are predicated on essentially obsolete concepts, are of special purpose, and of limited scope. We believe the creation of the kind of commission contemplated by H.R. 8070 will focus professional attention to this urgent need. It should give considerable impetus to the establishment of coordinated public land management procedures and practices designed to meet the current and future demands on the public lands.

Section 1 of H.R. 8070 declares that it is "the policy of Congress that the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefit for the general public." This language conceivably might lend itself to the construction that disposition of all public lands is one of the alternatives envisaged by the policy. However, the statement made by the chairman of the House Interior and Insular Affairs Committee, at the American Bar Association meeting in Chicago on August 14, 1963, in explanation of the bill and an examination of other sections of the bill indicates rather clearly that the policy is intended to be both (a) and (b) as and where appropriate. We believe that section 1 of the bill envisages selective disposition of public lands and we are in accord with that principle.

We believe that section 10 should embrace, in the term "public lands," the reserved mineral interest owned by the United States in lands conveyed under the public land laws. Although the lands of the Outer Continental Shelf are not public lands, we believe that the Congress may wish to consider them in conjunction with the public lands study. Similarly, we believe that it would be desirable for the Commission's activities to embrace the interests retained by the United States in the disposition of public lands. We have in mind specifically (1) outstanding interests of the United States in railroad rights-of-way, (2) mineral and other reservations in dispositions of lands under the public land laws, and (3) defeasible titles or interests granted under the public land laws.

The scope of the study, as provided by section 4(a), i.e., "* * * the retention, management, and disposition of those lands * * * ", when read in conjunction with section 10(d) which defines "public lands" as including "reservations, other than Indian reservations, created from the public domain * * *" deserves further comment. Under those provisions, the Commission would have a mandate to study (1) the administration of military areas, (2) wildlife refuges and fish hatcheries, (3) natinoal parks, (4) power projects, (5) Coast Guard stations, (6) national forests, and (7) many other areas withdrawn from the public domain.

The study of the public land laws, policies, and practices is in and of itself a complex and time-consuming project. To proliferate the study into a study of any land which is still in Federal ownership, and which had an unwithdrawn public land status at some time, would inevitably spread the study so widely as to seriously impair its feasibility. It is noteworthy that national parks are established only by individual enactments of Congress. It would appear, therefore, that the establishment of such areas receives adequate congressional consideration. The administration of national parks is substantially different from that of the public domain—to a degree the objectives differ. Insofar as the lands administered by the Secretary of the Interior through the National Park Service are concerned, we believe that only those lands which have not been established through specific statutory enactments should be included in the study, e.g., national monuments, and only as to their creation, but not their administration. For the Commission to get into a study of concession contracts, for example, in national parks and monuments, would be, in our judgment, a deviation from the purpose of the Commission.

We note that the definition of public lands in section 10(a) encompasses lands in the State of Alaska. The public lands in that State have problems which are sui generis, and probably will require special consideration and disposition by the Commission, in the light of the selection program under the Statehood Act of July 7, 1958 (72 Stat. 339), which provides for the selection of over 100 million acres of public lands.

We are not unaware that there are some acquired lands being managed in conjunction with public domain. It is our view, however, that the main thrust of the study should not be burdened by adding matters to the scope of the Commission's study which are not properly an integral and essential part thereof.

We wish to point out that the definition of "public lands" in the bill would not clearly encompass the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road grant lands in Oregon, which are administered by the Secretary of the Interior through the Bureau of Land Management.

We suggest for your consideration the following proposed amendments:

1. One page 4, line 18, insert after the period the following: "The duties of the Commission under this subsection shall not include a review of the management of any reservations heretofore established from the public domain."

2. On page 9, delete lines 5 to 11, inclusive, and substitute the following: "means (a) lands, including the surface and subsurface resources thereof, administered by the Secretary of the Interior through the Bureau of Land Management, including the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road grant lands in Oregon, but excluding acquired lands; (b) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws; and (c) the lands of the Outer Continental Shelf as defined in the Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1331, et seq.)."

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,

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 9, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. ASPINALL: This is in response to your request of August 15, 1963, for the report of this Department on H.R. 8070, H.R. 8071, H.R. 8072, and H.R. 8073, bills for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes.

We recommend the enactment of this legislation with the changes hereinafter suggested.

These bills would recognize the need for a comprehensive review of the public land laws which have developed over a long period of years and would establish a Commission for such purpose to be know as the Public Land Law Review Commission. The Commission would be comprised of 19 members—6 from the Senate Committee on Interior and Insular Affairs, to be appointed by the President of the Senate; 6 from the House Committee on Interior and Insular Affairs to be appointed by the Speaker of the House; 6 from the executive branch, to be appointed by the President; and 1 to be chosen by the other members. This member would be the Chairman.

The bills would provide that the Commission would (1) study the existing statutes and regulations governing the retention, management and disposition of the public lands; (2) review the policies and practices of Federal agencies insofar as they relate to the retention, management, and disposition of the public lands; (3) compile data to understand and determine the present and future demands on the public lands; and (4) recommend modifications in existing laws, regulations, policies, and practices.

The Commission would submit its final report not later than December 31, 1967, and would cease to exist 6 months after the submission of the report.

The bills would provide for liasion officers to be appointed by each Federal department or independent agency concerned with the retention, management, or disposition of public lands. An advisory council would be comprised of such liaison officers and 25 additional members to be appointed by the Commission representative of various interests.

The Governor of each State would be invited to designate representatives to work closely with the Commission.

The bills would provide for an appropriation of not to exceed $4 million.

The bills would define "public lands" to include (1) the public domain; (2) reservations, other than Indian, created from the public domain; (3) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws; and (4) the surface and subsurface resources of such lands.

President Kennedy in his letter to you of January 17, 1963, states that "Your invitation to enter into a joint effort to review and revise the public land laws is * * * most welcome." Representatives of this Department have expressed to you our general concurrence in the Commission approach to this problem.

The present body of public land laws, including the mining and mineral leasing laws, is comprised of a multiplicity of separate enactments covering a span of a century and a half. During this period this Nation has grown from a

relatively small number of States to the present 50. Areas which at the outset were totally undeveloped and unsettled are now developed and settled.

The constant increase in our population, our expanding commerce and industry, increases in productive capacity, improvements in our standards of living, increased leisure time, upsurging demands for outdoor recreation opportunities—all these have brought about new pressures and changes in philosophy on the use and disposition of our public lands.

There can be no doubt that a study of our public land laws, including the mining and mineral leasing laws, is needed. The scope of the study must be carefully defined in order that the results may be expected to be as specific and beneficial as possible.

The definition of the term "public lands" in the bills would include basically the public domain, the reservations other than Indian created from the public domain, those lands of the public domain temporarily or permanently withdrawn from disposition under the public land laws (including the mining laws), and the surface and subsurface resources thereof. Thus "public lands" as used in the bill would in general mean the public domain land and the lands reserved or withdrawn from the public domain. We believe this is desirable if the scope of the study is limited as suggested hereinafter.

Lands which are reserved or withdrawn from the public domain are administered by many Departments and agencies. The purposes for which these lands are administered are so varied and so numerous as to make it impracticable to enumerate. We believe that if the Commission should be required, as in items (i) and (ii) of subsection (a) of section 4 of the bills, to study all of the laws and regulations and the policies and practices of all the Federal departments and agencies administering lands reserved or withdrawn from the public domain insofar as they relate to the retention, management, and disposition of such lands and the surface and subsurface resources thereof, the study would become too complex and unwieldy and would embrace the activities of too many executive branches and congressional committees to be expected to reach its real objective.

We believe that this study should encompass what are generally known as the public land laws, including the mining and mineral leasing laws, the laws and authorities under which public lands are reserved and withdrawn or otherwise segregated from the public domain, and the manner in which these laws and authorities are executed. We therefore, recommend that items (i) and (ii) of subsection (a) of section 4 be amended accordingly.

Many of the lands which are reserved or withdrawn from the public domain are administered for the same purpose and in conjunction with lands which have been acquired from non-Federal ownership by the administering agency. This combination of reserved or withdrawn public domain and acquired land often is managed and various resources thereof are permitted to be utilized under the same laws regardless of the source of the land. This is so in large measure to the 186 million acres comprising the national forest system.

Therefore, if your committee should favor the study and review by the Commission of the laws, regulations, policies, and practices of the Federal agencies insofar as they relate to the management of the lands and the disposition of the renewable resources thereof after such lands have been reserved or withdrawn or otherwise dedicated to particular Federal management purposes, we would recommend that, insofar as this Department is concerned, those relating to acquired lands also be included. We believe that these would need to be treated and considered together.

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.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 11, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on identical bills H.R. 8070, H.R. 8071, H.R. 8072, and H.R. 8073, and on House Joint Resolution 52, measures to establish commissions to study the public land laws.

The Commission proposed to be estabished by House Joint Resolution 52 would be limited in its investigation to the nonmineral public land laws administered by the Secretary of the Interior through the Bureau of Land Management. Without reference to other particulars of this joint resolution, it seems to this Department that a study of broader scope would be desirable at this time. It should be noted, incidentally, that section 5(e) of this measure specifies April 1, 1962, as the date by which the proposed Commission would be required to make its report.

With respect to H.R. 8070, H.R. 8071, H.R. 8072, and H.R. 8073, this Department agrees that a broad review of the land laws of the United States with a view to their modernization is needed. In general, these bills would provide the means from such a review. We have comments with respect to certain provisions of the bills, however.

The provision in section 3 of these bills for election of a Chairman by a majority vote of the appointed membership not only is extremely unusual but is, we believe, undesirable, and we would recommend that any bill enacted provide for appointment of the Chairman by the President.

The Department believes it would be desirable to vest the executive powers of the Commission in the Chairman, thereby enabling the other members to concentrate on the substantive work of the Commission. The following revisions would accomplish this objective:

Insert "Chairman of the" before the word "Commission" in line 5, page 5; line 16, page 5; line 15, page 7; line 4, page 8; and line 14, page 8.

Delete "Commission or its" from line 12, page 6.

We urge that section 9(d) of the bills, exempting certain service or employment thereunder from the provisions of the act of October 23, 1962 (76 Stat. 1119), the conflicts of interest statute, be deleted. It is our view that exemptions made in the 1962 statute with respect to special Government employees are adequate for the purposes of the present bills.

The Bureau of the Budget concurs in our report and recommendations, and has asked us to comment regarding several additional matters.

The Bureau believes that a 19-member commission would tend to be excessively large and somewhat cumbersome for a study effort of the kind envisioned by this bill. An orderly study and evaluation of so complex a subject as the public land laws may be unduly hampered by an unnecessarily large executive body. It would recommend, therefore, that section 3 of the bill be changed to provide for four members each from the House and the Senate, the same number as were members of the Outdoor Recreation Resources Review Commission, and that the number of noncongressional members be reduced to five, including the Chairman. This would provide for a total Commission membership of 13.

The Bureau of the Budget would also recommend that section 3(d) be revised to read: "The Commission shall meet at the call of the Chairman"; and that section 3(f) be revised to read: "Commission members, including the Chairman if he is otherwise employed in the Federal service, shall receive no additional compensation by reason of membership on the Commission, but shall be entitled to reimbursement for travel and subsistence or per diem in accordance with the laws and regulations applicable to their usual employment. If the Chairman is from private life he shall be compensated at the rate of $100 per diem when actually engaged on business of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently."

Also delete "fix the compensation of its Chairman and" from lines 6 and 7, page 8, of the bill.

The Bureau of the Budget further recommends that the limitation of $4 million now included in section 9(a) of the bill be deleted. In view of the difficulty involved in predicting the cost of this type of study, and considering the time limitation for study completion provided elsewhere in the bill, the provision for total budgetary limitation is considered undesirable.

In recent years it has been customary to make the General Services Administration responsible for furnishing common services to temporary agencies of this kind. This arrangement gives the agency the benefit of an experienced administrative staff and, therefore, expedites the work of the agency. The Bureau of the Budget therefore recommends that the following language be included in the bill:

"Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided

the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided*, That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission: *And provided further*, That the Commission shall not be required to prescribe such regulations."

The legal title of the office involved, "Administrator of General Services," should be used in lines 1 and 2, page 5, of the bills.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., September 9, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on H.R. 8070, H.R. 8071, H.R. 8072, and H.R. 8073, identical bills for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes.

Section 1 of the bill sets forth the general policy that the public lands of the United States shall be retained, managed, and disposed of so as to provide the maximum benefit for the general public; section 2 states that because existing public land laws are not fully correlated a comprehensive review of these laws is necessary; section 3 establishes the Public Land Law Review Commission, and provides the procedure for the appointment of members and other administrative details relating to the function of the Commission; section 4 describes the various subjects to be considered by the Commission, and the contents of the report it shall submit; sections 5 through 7 provide for participation and assistance in the Commission's operations by departments of the Federal Government, State governments, and interested citizens' groups; section 8 sets forth the powers of the Commission; section 9 authorizes the appropriation of $4 million to carry out the provisions of the act, and provides for the appointment of staff members; and section 10 provides a definition of the term "public lands."

The Department of Defense is fully in accord with the purpose of undertaking a comprehensive review of existing public land laws, as is provided in the present legislation. The Department has, in fact, been working with other departments of the Federal Government in a similar study relating to all land laws. If the Congress believes that a review of this type can be more effectively accomplished by a statutory commission, the Department of Defense will interpose no objection. As the bills are presently worded, the definition of public lands in section 10 to include only those lands which are in the public domain would appear to exclude from the proposed study lands which have been acquired by purchase, donation, or condemnation; since even this limited definition will require a fairly extensive review of existing laws and practices, the limitation is believed to be desirable.

The enactment of this legislation will have no effect on the budgetary requirements of the Department of Defense.

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

Sincerely,

JOHN T. MCNAUGHTON.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that H.R. 8070, as amended, be enacted.

MINORITY VIEWS ON H.R. 8070

The proposed Commission of 19 members, numerous liaison officers representing unspecified Federal departments and independent agencies, and an advisory council of 25 additional members, plus 50 Governors' representatives, would represent an unwieldy group of conflicting interests for the purpose of revising our public land laws.

We feel that the entire period of 4 years envisioned by the provisions of the bill would be consumed in assembling a huge mass of incompatible and probably unread testimony, which would leave current problems totally unresolved at that late date.

Even assuming that the requested authorization of $4 million might prove adequate for the job, which fact may well be historically questioned, we are of the opinion that a substantial waste of public funds will be involved for a task which can better be—in fact, eventually must be—undertaken by both of our legislative bodies through the standing committees of Congress.

J. ERNEST WHARTON.
HOMER. E. ABELE.

Senator BIBLE. At this point the statement of Senator Jordan will be incorporated in the record.

(The prepared statement of Senator Jordan follows:)

STATEMENT OF HON. LEN B. JORDAN, A U.S. SENATOR FROM THE STATE OF IDAHO, ON H.R. 8070

Mr. Chairman and members of the subcommittee, there have been few bills before this subcommittee which have a greater potential benefit in resource management on our public lands than the one being considered today, H.R. 8070. I appreciate the opportunity to present this statement to you in connection with it.

If enacted it will establish a public land law review commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes. In the declaration of policy it is declared that decisions will be forthcoming as to the lands that will be retained and managed or if certain public lands will be disposed of in a manner to provide maximum benefit to the general public.

These questions are very important to us in Idaho as 65 percent of the lands within our State boundaries are owned by the U.S. Government and managed by Federal agencies.

Idahoans, whose economy centers around use of these public lands, find it more difficult each day to plan their future growth operations, both as individuals and as corporations, because of the lack of coordination and correlation of public land laws and regulations that have been established piecemeal over the past century.

We in Idaho do not oppose sound public land management and we are not the scoundrel exploiters of these lands that some misinformed persons attempt to picture the ranchers, loggers, and miners of my State. Actually the public land users in Idaho and the other Western States are among the greatest conservationists. Westerners realize that these public lands represent not only our present and future economic welfare but they also are a part of our home.

Idahoans together with our western neighbors make sound conservation practices and wise use of public lands a part of their daily lives. To us public land laws are more than pieces of paper—they are guides to economic, social and civic welfare and progress.

I was born and raised in a public land State. My earliest recollections are interwoven with the use of these resources. I have operated livestock ranches where the use of public lands was a part of the total operation. As a State legislator in Idaho, I studied the problems of others who used public lands and resources. Later as Governor I learned how closely the operation of private and State lands needs to be coordinated with Federal land and resources.

In 1954, as Chairman of the U.S. section of the International Joint Commission, I found how necessary it is to reconcile our public land and water policies with those of our neighbor Canada. Now as a member of this Senate Subcommittee on Public Lands of the Interior and Insular Affairs Committee I find that my past experiences are of great help to me in consideration of legislation concerning these tremendous lands and resources.

I have been confounded by a lack of congressional policy and also bothered further by inadequate regulations and rules set up by public land management agencies. However, it is my belief that the executive department agencies have been handicapped severely because Congress has refused to accept its proper role in this matter.

With this thought in mind, I am pleased to join with those who feel that we should, if possible, update the policy concerning our public lands that are a great resource of all the people of the United States and so vital to every Idahoan. I believe that the work of the Public Land Law Review Commission could do much to chart a sound course for public land use that would bring both users and the general public in closer harmony and accord.

Thank you for this privilege.

Senator BIBLE. I would be very happy now to recognize the Senator from Utah. I believe he was not with us yesterday, and I am very happy to recognize him, a very hard working and valuable member of the subcommittee.

STATEMENT OF HON. FRANK E. MOSS, A U.S. SENATOR FROM THE STATE OF UTAH

Senator Moss. Thank you, Mr. Chairman. I regret that I didn't return to Washington in time to participate in the hearing yesterday on the public sale bill and the multiple use bill, both of which I support very fully.

I have been working particularly on the multiple use problem ever since I came to the Senate, and I am anxious that we adopt this legislation.

On the bill that we have before us this morning, the Public Land Review Commission bill, I would like to be recorded as supporting this also. As a matter of fact, I introduced a bill similar to this of my own, and I commend the chairman of the House committee, Mr. Aspinall, for his action in introducing this bill and pushing it forward.

My State has more than 70 percent of its area owned by the Federal Government, and therefore this is a particularly critical problem for us.

One of our great problems has been in the selection of lands. I am happy to report that we have made phenomenal progress in recent years. We were at a dead standstill in 1959 and 1960, but we now have been moving forward at a rapid rate, and there are indications that we can by the end of 1965 complete all of the selection and transfers for which the State has made application at this time.

I have a statement that I would like to include in the record at the beginning and express my appreciation to the chairman for going forward with this hearing at this time.

Senator BIBLE. Without objection, the statement will be incorporated in the record at this point.

(The prepared statement referred to follows:)

STATEMENT OF HON. FRANK E. MOSS, A U.S. SENATOR FROM THE STATE OF UTAH

Mr. Chairman, I feel this is one of the most significant bills which has been before this subcommittee for some time. One has only to represent for a brief time a public land State like Utah—where over 70 percent of the land is owned by the Federal Government—to know that we must modify and streamline our present laws and procedures on the use, management, and disposition of our public lands if we are to meet mid-20th century demands.

Land is no longer plentiful, as we all know, and as more and more of our citizens seek to use the land in some way, pressures mount, and problems grow.

There is a constant stream of questions and complaints from State officials and from individual citizens who feel they have been denied their constitutional rights. Pressures will grow as the West continues to expand. So it is eminently wise that we take stock now and see what needs to be done to handle more expeditiously, and with complete fairness, our mounting land problems.

I commend Chairman Aspinall for his foresight in introducing this fine piece of legislation before us. I was working on a public land survey bill when the Congressman's bill was introduced, and I immediately saw in it the kind of approach we needed. I am pleased that the House has passed the measure, and I am hopeful that the Senate will do likewise before adjournment. The review of our public land laws should be started as soon as possible.

One of the major problems in my State of Utah, and the one around which I was drafting my bill, has been the State-in-lieu selection problem. When I first came to the Senate in 1959, this program was stalled on dead center. During the entire calendar year of 1959 not one single State-in-lieu selection was consumated. In 1960, only 80 acres were transferred.

However, after the Kennedy administration took over in 1960 the logjam was broken and the record since that time has been excellent. Some 550,000 acres were involved at the beginning of 1961. During the 3½-year period from January 1, 1961, to June 10, 1964, approximately 158,828 acres have been processed. Some 122,477 acres in 229 applications are now pending, with approximately 348,000 acres left to satisfy the program. The State has filed applications on 225,000 acres, which leaves 165,143 acres yet to be designated.

Utah has notified the Bureau of Land Management that the State plans to apply for 34,000 acres in Spanish Valley, Johns Valley, and Asphalt Ridge and 26,480 acres in the Kaiparowits area, so another 60,000 acres are in the mill.

I want to commend at this time the two men who are most responsible for this accomplishment—Mr. Max Gardner, director of the Utah State Land Board, and Mr. R. D. Neilson, state director of the Bureau of Land Management in Salt Lake City. Their achievement is all the more remarkable in view of the fact they started from almost a dead stop. Mr. Neilson tells me that their target is to complete the entire selection program by December 30, 1965.

Senator BIBLE. I have a statement here from Senator Bennett, of Utah, and also a statement from Senator Cannon, of Nevada, which will be incorporated into the record at this point.

(The statements referred to follow:)

STATEMENT BY HON. WALLACE F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH

Mr. Chairman, I greatly appreciate the opportunity of testifying before this distinguished subcommittee today in support of H.R. 8070. I heartily endorse the purposes and objectives of the proposed Public Land Law Review Commission and believe it is deserving of the overwhelming approval of the Senate, just as it received the overwhelming approval of the House of Representatives.

Certainly a broad-scale review of our public land laws is long overdue. Our public land laws have developed over many years until we presently have many overlapping laws and policies, together with some obsolete statutes, governing the use of the public lands. Obviously the time has come to make a comprehensive review of our entire public land governing structure to determine what revisions are necessary and to bring our national land policy into much sharper focus. With the comprehensive recommendations of a professional study, congress will be in a position to develop a sound public policy for the management, use, and disposition of the public lands which will meet the present and future needs of the American people and the demands on the public lands.

The West has a vital interest in the proposal to create a Public Land Law Review Commission. Our future is at stake because the Federal Government owns 69.9 percent of the land in Utah and 65 percent of the land in the 11 Western States as a whole. It is absolutely essential, therefore, that this land be administered in the best interests of the citizens of this region, and in the best interests of the Nation. Moreover, it is essential that the administrative policies be consistent and thoroughly understood.

The last major, far-reaching public domain legislation passed on a policy basis by Congress, as the committee well knows, was the enactment of the Taylor Grazing Act in 1934. This was aimed at promoting the highest use of the public domain pending "its final disposal * * *". The framers of this law foresaw the

necessity of continuing a traditional program of Congress in disposing wherever possible and practical of the domain to citizens of the Nation.

Unfortunately, however, transfers of public land to private ownership have been proportionately very small. Less land is going into private ownership because the administrators are finding more and more reasons why and how public lands should be retained in public ownership. Much of the public domain, we will all agree, is better suited to public management. However, much of this public land could and should be transferred into non-Federal ownership to provide for its full development and to broaden the tax base of the communities and States involved. If appropriate portions of the vast areas held by the Government were acquired by income-producing, taxpaying groups it could be a monumental contribution to the Nation's economic growth.

For the land which is retained in Federal ownership we must achieve the best possible degree of multiple use and obtain the wisest use of our public lands for the maximum good of the maximum number.

Not all, or even most, of our present Federal land policies are wrong. Some agencies have done an outstanding job. But in some cases it is hard to avoid the conclusion that Federal policies are unnecessarily restricting development and use of our resources, particularly in the area of oil and minerals.

The Constitution of the United States specifically confers upon Congress the responsibility and authority to regulate our public lands. Unfortunately, Congress has abdicated much of its authority to the Secretaries of Interior and Agriculture, who in turn have arrogated unto themselves power which should not be theirs. It is time for Congress to reassert its constitutional responsibility and to both halt and reverse unjustified accretions of power by the executive branch.

All in all, the Public Land Law Review Commission looks like a feasible method for bringing needed reform to public land regulation. I believe the Commission could chart a badly needed course for the development and administration of public lands. The Commission would put the present laws governing the uses of the public lands under close scrutiny. It could arrange for basic studies in the field of natural resources administration. It could analyze our present laws against a backdrop of coming needs and recommend a course of legislative action. I believe the passage of H.R. 8070 will be a landmark in public land management.

Thank you.

STATEMENT OF HON. HOWARD W. CANNON, A U.S. SENATOR FROM THE STATE OF NEVADA

Mr. Chairman, I appreciate the opportunity to present a statement on legislation of such vital interest to my State. Few bills have come before the Congress with more significance to Western States and their future development than this particular bill.

Nevada, with 85 out of every 100 acres under Federal control, has a direct interest in any program or law which deals with the administration of federally controlled lands and the residents in my State are as eager as I am to see improved methods adopted.

The Congress long ago adopted the Pittman Act which applies exclusively to Nevada and was intended to make possible the agricultural development of the State, along with the Homestead and the Desert Land Entry Acts. The Pittman Act has been particularly ineffective in achieving its objective in that only two applicants have ever been able to obtain title. However, scores of well-intentioned individuals have applied under the act and have spent their life-savings and in many cases, borrowed money, in an attempt to meet the requirements of the law and obtain patent.

The small tract program has served to move some land into private ownership for homesite development, but there, too, the problems have been abundant. Oftentimes the processing of small tract applications has been so long delayed that land values have skyrocketed, or other unforeseen encroachments have been made which completely thwart the efforts of the applicant.

The problems, of course, in a State like mine are not limited to those which arise when individuals seek to obtain land, but the communities themselves have been hamstrung in their efforts to expand. Many Nevada communities are wholly surrounded by public domain and can only grow by acquiring land which requires special congressional approval, resulting in delay or other interference with wise, long-range community planning. One of the serious difficulties which

is so forcibly evident is the development of sites with recreational potential for use by Nevada's exploding citizenry.

The present system of public land laws was devised at a time when the problems facing the West, and particularly those facing my State, were altogether different than at present. Unless the system can be modernized and laws improved, the orderly growth and development of the West will be seriously impaired. It does not seem advisable to attack the problem piecemeal, but rather the entire body of law needs to be reviewed in light of today's conditions and tomorrow's needs.

A Land Law Review Commission can bring the time and expertise to this task and can devise meaningful new legislation which will solve many serious problems.

I hope the committee will favorably report this bill.

Senator BIBLE. We will also include in the record at this point the prepared testimony of Senator Gale McGee.

(The prepared statement of Senator McGee follows:)

STATEMENT OF HON. GALE MCGEE, A U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, yesterday I prevailed upon the courtesy of your subcommittee to present a statement on two bills dealing with inequities in the administration of public lands. Today I again thank you for the opportunity to present my testimony on another proposal which should make unnecessary such activities as this subcommittee engaged in yesterday.

The idea put forward in H.R. 8070, to establish a Public Land Review Commission, is to me a logical and equitable means of conducting an investigation of as much scope and detail as will be necessary for the purpose of reviewing Federal land law legislation and suggesting means of making these laws conform to the demands of equity and efficiency in our modern age.

It is no secret that the complexity of laws governing the administration of our public lands is enough to confuse and frustrate the most patient of men. While it is unhealthy and poor government to enmesh our operations in miles of redtape, it is far more serious that the existing complexity of land laws allows for unfair and unjust actions and provides loopholes by which the unscrupulous can profit at the expense of the public interest.

A thorough study of this situation, by a competent Commission of interested persons assisted by a competent staff, is the logical means of providing an orderly examination of the problem and of suggesting suitable revisions to eliminate the inequities that now exist.

The bill provides that those who have a special interest in land laws shall have ample opportunity to present their views to the Commission and very carefully spells out a procedure for consultation with the Governor of each State, both very valuable provisions.

Mr. Chairman, this bill represents a thoughtful and thoroughgoing approach to a large-scale problem that must have a remedy. This patchwork of laws which, like Topsy, "just grow'd," must be replaced by a systematic code which can cope with the many new and complex problem of the space age.

Senator BIBLE. Senator Simpson, did you have a statement you wanted to make?

Senator SIMPSON. I do, but I will just file it. Rather than infringe on your time, just let me file it with the committee.

Senator BIBLE. Just as you wish. If you would like to make a statement, in connection with filing your statement, please do so.

STATEMENT OF HON. MILWARD L. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. I want to add my support of the bill, which establishes a very much needed Public Land Review Commission. I will not read my statement into the record, because I think we will hear it better stated this morning. I merely ask permission that this be filed with the committee report.

Senator BIBLE. Without objection, the statement of the Senator from Wyoming will be incorporated in full at this point in the record.

(The statement referred to follows:)

STATEMENT OF HON. MILWARD L. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, I add my support to this bill which establishes a Public Land Law Review Commission. The need for a recodification, revision, and rewriting of our public land laws is long overdue. The piecemeal legislation that controls the disposition and use of our forest, mineral, and grazing lands is contradictory, confusing, and highly restrictive. Congress needs to review this legislative jungle so that more realistic and adequate laws can be enacted which will meet the current and future needs of the American people and provide for the growth and development of our country.

I am sorry that Congress did not revise these laws many years ago. We can not avoid the ultimate responsibility but maybe by the establishment of this Commission public pressure and congressional interest will be such that the needed legislative action will be taken.

With a proper staff and a full study I am convinced that this Commission composed of 6 Senators from the Senate Interior and Insular Affairs Committee, 6 members of the House of Representatives Interior and Insular Affairs Committee, 6 non-Government members appointed by the President and 1, the chairman, elected by the 18, will do an excellent job.

It will be important to have the full cooperation of the several Federal agencies which now have control and jurisdiction over our public lands. I think that the bill provides for that needed participation.

I am pleased that H.R. 8070 calls for the establishing of an Advisory Council which includes the Federal liaison officers as well as 25 additional members appointed by the Commission. This Advisory Commission will represent the various major citizens' groups interested in problems relating to the retention, management, and disposition of the public lands.

Ordinarily I am opposed to the creation of study groups and commissions which are so unwieldy and expensive but in this instance there is a crying need for a complete revision of our public land laws and it seems that the only way we will get such a revision is by the creation of this Public Land Law Review Commission.

In general, I am pleased with this bill as are the various State agencies and interested groups in Wyoming. I am hopeful that the Commission will act with haste so that our public land laws can be rewritten to meet the needs of today.

Senator BIBLE. I would likewise include in the record at this point a statement from the chairman of the House Interior Committee, Congressman Aspinall, who hoped to be here personally today but was unable to do so.

(The prepared statement referred to follows:)

STATEMENT OF HON. WAYNE N. ASPINALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO AND CHAIRMAN OF THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. Chairman, I appreciate very much the courtesy extended to me by you and the chairman of the full Committee on Interior and Insular Affairs, the Honorable Henry M. Jackson, in inviting me to present my views in connection with your consideration of H.R. 8070, a bill that I have sponsored for the establishment of a Public Land Law Review Commission.

The need for a Public Land Law Review Commission is derived from numerous complex situations. The result, however, is rather simple: interpretations of the mining law are stirring apprehension and fear among the mining industry and its friends; the uncertain nature of their use concerns the grazers in the face of competing demands for the public lands; communities hemmed in by public lands seek means of accomplishing necessary expansion; an expanding population and growing economy look to the public lands as sites for residential, commercial, and industrial construction; and our citizens, who are each year attaining increased leisure time, look to the public lands for additional recreation areas.

This committee knows the background of each of these facets to which I have referred. I will not take your time to expand on them. Suffice to say, for our purposes here, the consideration of any one of these items without consideration of the others is both unrealistic and unfair.

It is, therefore, seen that we have a need for a comprehensive review of the laws and regulations governing the use, management, and disposal of the public lands. My recommendation, as set forth in H.R. 8070, is to establish a high-level group, charged with no other responsibilities, to study these various aspects.

The details of H.R. 8070 and the reason for the specific approach of the bill are spelled out in the report of the House Committee on Interior and Insular Affairs recommending favorable action by the House of Representatives. Although I know that copies of the report have been made available to the committee, I am attaching additional copies for your ready reference and will not take your time to develop the material contained in House Report No. 1008 of the 88th Congress.

Because some of the matters that have been referred to cannot await the completion and implementation of the Commission report, the House Committee on Interior and Insular Affairs also recommended, and the House of Representatives has passed, bills designed to give the Secretary of the Interior tools to develop adequate management, use and disposal of public lands between now and the time that the Commission report is acted on by the Congress. I am pleased to note that this subcommittee has also taken these other bills under consideration; the bills I refer to are H.R. 5159 and H.R. 5498, which would respectively set up procedures for classification and disposal of public lands.

In view of the mounting conditions approaching crisis that have occurred in connection with the public lands, I leave with you my thought that prompt enactment of this legislation is urgently needed. I trust that this subcommittee, the full committee, and the Senate will act favorably during this session of Congress for the establishment of a Public Land Law Review Commission, and, at the same time, delegate temporary emergency authority to the Secretary of the Interior for the interim management and disposal of public lands.

Senator BIBLE. I understand that my colleague, Congressman Baring of Nevada, my counterpart on the House side, has asked permission to file a statement in the record. Without objection, that permission will be granted.

(The prepared statement referred to follows:)

STATEMENT OF HON. WALTER S. BARING, CHAIRMAN, PUBLIC LAND SUBCOMMITTEE, U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, I am very pleased to have the honor to join with Chairman Aspinall of the House Interior Committee in commenting on H.R. 8070, providing for the establishment of a Public Land Law Review Commission.

The Subcommittee on Public Lands in the House of Representatives, of which I have the honor of being chairman, not only held extensive hearings during this Congress on this specific legislation but also has held extensive hearings on related public land matters that underscore the need for a thoroughgoing comprehensive review of the public land laws.

We are at the crossroads in determination of public land policy. We have a choice: Congress can abdicate completely or we can take action to provide for necessary revision of the public land laws.

Our conclusion, which we recommend for your favorable consideration today, is that Congress take affirmative action in this field and that we lay the foundation for proper revision by creating a congressionally controlled commission with broad public representation which can review the existing situation, study the needs of the future, and make recommendations to the Congress for the enactment of legislation necessary to carry out these recommendations.

I shall not duplicate what Chairman Aspinall has so clearly outlined insofar as the need for revision of the public land laws; however, I want the record to show that I associate myself with his remarks for which reason I, too, sponsored a companion (H.R. 8071) to the bill. But I would like to take just a few moments to discuss the committee's consideration and action on this legislation.

First and foremost I think that it should be made perfectly clear that in the hearings held by the Subcommittee on Public Lands nobody appeared to say that the public land laws should not be revised. Representatives of the executive departments, representatives of industry groups, representatives of con-

servation organizations, and representatives of the users of the public domain al endorsed in principle establishment of an independent body to study the revision of the public land laws.

The chief points of interest that developed in the testimony related to the proposed composition of the Commission and its power to compel the production of records through the use of the subpena power.

A large majority of those appearing before the committee recommended that there should be no representatives of the executive branch of the Government on the Commission. While some thought that the Commission should be limited to Members of the House and Senate, and one organization recommended that no members be included from either the legislative or executive branches, the majority supported a Commission made up of Members of the House and the Senate plus persons to be appointed by the President from non-Government public life.

We have agreed on the wisdom of these recommendations and the bill H.R. 8070 provides for a 19-member, bipartisan commission composed of 6 members of the House Committee on Interior and Insular Affairs, 3 majority and 3 minority, to be appointed by the Speaker, 6 members of the Senate Committee on Interior and Insular Affairs, again evenly divided, 3 majority and 3 minority, to be appointed by the President of the Senate, 6 members to be appointed by the President of the United States and the Chairman of the Commission who would be elected by the majority vote of the 18 first appointed. We have provided for the Chairman of the Commission to be a full-time job because we think that it will take the full time of any person who is going to give it the proper attention.

While all other members of the Commission will serve without pay and receive only a per diem and travel expenses when actually serving, the Commission will be authorized to set the salary of the Chairman, thereby assuring the opportunity of obtaining the best person for the task.

We have, of course, provided ample authority for the Commission to hire professional and clerical staff personnel. And, while we have included a limitation on the overall appropriations to be made for the Commission's study, we believe the $4 million that would be authorized would be ample for the purpose.

With regard to the other focal point of discussion by witnesses appearing before the committee, we have curtailed the authority that would be granted to issue subpenas to compel the attendance and testimony of witnesses and the production of records. We have, however, given the Commission itself authority to issue such subpenas provided that it would not require the presence of the parties subpenaed at a hearing to be held outside a State wherein the witness is found, or resides or transacts business. We have provided further that if the witness submits material on a confidential basis, the Commission shall not make the material public. We have further provided that if the Commission obtains material from any agency of Government and the material had previously been submitted on a confidential basis, and the confidentiality of those materials is protected by statute, the materials so produced shall be held confidential by the Commission. We submit that these are fair and equitable solutions to sensitive problems.

Let me call to your attention a few other salient points in this legislation. First of all, the bill and its declaration of policy establishes as a guideline for the Commission that it is to be the policy of Congress that the public lands of the United States shall be either retained and managed as Federal property or, in the alternative, disposed of, all in a manner to provide the maximum benefit for the general public. And, as stated in the House committee report which I filed on H.R. 8070, the committee has taken no position as to these alternatives which are exclusively within the scope of recommendations to be made by the Commission.

We have assured that the Commission will receive necessary assistance, guidance, and advice by providing for, first, departmental liaison officers to be appointed to represent each Federal department or agency which has any interest in or responsibility with respect to the use of the public lands; second, an advisory council composed of the Federal agency liaison officer together with 25 additional members to be appointed by the Commission from among the various major citizen groups interested in the problems relating to the public lands, and third, representatives from each of the States to be chosen by the Governor to work with the Commission.

In addition to limiting the funds that may be appropriated for use by the Commission that I indicated a moment ago, we have also put a time limit on the

bill for the conclusion of the Commission's work. We have specified that it must submit its report to the President and the Congress not later than December 31, 1967, and go out of business 6 months thereafter. During the 3-year period the study is being made, there would be direct and continuous liaison between your Committees on Interior and Insular Affairs and the Commission by virtue of the 12 members of the committees (House and Senate, 6 each) that would be serving on the Commission, thereby enabling us, if necessary, to act quickly in the event legislation affecting the public lands is required before the final report is submitted.

I sincerely urge the adoption of H.R. 8070 as passed by the House of Representatives for the review that we propose here to be made of public land laws is long overdue.

Thank you.

Senator BIBLE. Now, Secretary Udall, the Secretary of the Interior.

STATEMENT OF HON. STEWART L. UDALL, SECRETARY OF THE INTERIOR, ACCOMPANIED BY JOHN CARVER, ASSISTANT SECRETARY OF THE INTERIOR

Secretary UDALL. Mr. Chairman, it is always a pleasure to appear before this committee, particularly when legislation such as this is before it.

I have Assistant Secretary Carver with me, who of course has the main supervisory responsibility in the Department for the public lands field. The passage of these three bills—the multiple-use bill, the public sale bill, and the Land Law Review Commission bill—has been a bit of a crusade on his part in the last year.

We think all of these are very vital pieces of legislation and can lead to, one might say, order out of what has been at least partial chaos in this field.

I should like, Mr. Chairman, to file my statement, have it appear in the record, then summarize what I have set forth therein.

Senator BIBLE. Without objection, that will be the order. You may summarize the highlights in your own way.

(The statement referred to follows:)

STATEMENT OF HON. STEWART L. UDALL, SECRETARY OF THE INTERIOR

Mr. Chairman and members of the committee, the committee has before it the report of this and other departments favoring the enactment of a bill to create a Public Land Law Review Commission. I think all of us, committee members, departmental spokesmen, and other witnesses, are acutely aware of the significant step presaged by this bill. Hopefully, we are discussing an approach to the long-range prosperity of the Nation through wise use of one of its most valuable public assets.

The public land laws of the United States, as section 2 of H.R. 8070 points out, have developed over a long period of time; that they are not fully correlated is an understatement; their administration is committed to many agencies of the Federal Government. A review is necessary.

Revision and modernization of the public land laws has been a matter of major attention and concern to the Department of the Interior during the entire period of my incumbency as its Secretary. I, as well as Assistant Secretary Carver, have set this forth repeatedly as one of our goals when we have come before this committee and its counterpart in the other body.

We and the committees, as well as individual Members of the Congress and private groups, have made various attempts at achieving that goal. Some of these have been comprehensive or omnibus; others have been limited and specific. Some have been enacted; more have not. It is clear that we are dealing with a highly complex phenomena and that the kind of comprehensive revision which is needed will come only after concentrated study in great depth. H.R. 8070 is designed to provide that study and we endorse it as a step which experience has proved to be necessary to our objective.

A power proposed to be granted to the Commission is not only to study the statutes, but the regulations under the statutes, and the "policies and practices of the Federal agencies charged with administrative jurisdiction" over the lands.

The organism which would be exposed for scrutiny is a complex one indeed. Certainly there is contemplated something far more significant than a technical review, and skills broader than those of the codifier or the technician will be brought to the task.

Decisions and judgments, choices among values and virtues divergent, but widely supported, will have to be made. Vision or prescience about our country's future will be needed.

Clearly, such a scrutiny will reach into the vitals of our Department, among others. We can expect to be examined on every detail of our administration of the public lands and to account for the extent to which administration has outstripped legislation.

But the exercise is by no means entirely governmental. Under laws already on the books significant fractions of the private sector of the national economy are supported by operations on "public lands." Consider, for example, how much of the petroleum industry is on the public lands, or the Outer Continental Shelf (which was added at our specific suggestion); or the softwood lumber harvested from the public domain, national forests or Oregon and California lands; or the livestock industry dependent on Federal forage.

The hardrock mining industry is almost exclusively founded on the public land laws. Nonmetallics, and leasable minerals, and many mineral values denominated common varieties, are open to exploitation without acquisition of surface title.

Fish, birds, and animals, and the natural environment in which they can still be taken or observed, these also are dependent upon land still in Federal ownership. And around them has already been built an important and growing industry.

Political subdivisions, whose expansion room is in Federal land, either for governmental occupancy, industrial or recreational purposes, and State and quasi-governmental or multigovernmental agencies—port commissions or metropolitan authorities, for example—have requirements which will be considered and evaluated.

Even agencies seemingly remote from the land management responsibilities given to Interior, Army, and Agriculture may find themselves justifying their entitlement to call upon public lands for their program needs, particularly as that call may inhibit the application of statutes providing for commercial uses of the land.

These are illustrations of the fact that we have passed completely the era in which many of our public land laws were enacted. The occupation of the lower 48 States is complete; the lands which still remain in Federal ownership are not "vacant." Almost every acre is in some kind of use. The task of stewardship is to accommodate authorized uses, to inhibit unauthorized uses, and to administer the various statutes under which they still may pass out of Federal ownership. These functions are denominated, sometimes loosely, as "management." Observers have even said we have entered an era of "intensive management."

For the reason that a substantial fraction of this "management" responsibility is in our Department of the Interior, it seems important to start with a general statement of our attitude. Our formal report is before you showing that we support the bill, but that isn't quite the same. Are we grudging in our support, or generous? Will we cooperate willingly or sparingly? Real success of the Commission will require the highest degree of cooperation.

I am confident that we have avoided the bureaucratic natural reaction of opposition. Although the Commission approach could be taken as criticism of the Department, the premise being that if we'd done our jobs right it wouldn't be necessary, the recognition of joint executive and legislative responsibility for a general reexamination precludes such a narrow view.

A year and a half ago, in an exchange of correspondence with the chairman of the House Interior Committee, President Kennedy wrote:

"We are fully mindful of and sincerely respect the constitutional prerogative of the Congress to make rules for the management and disposal of the public lands."

This reference of course is to powers of the Congress prescribed in article IV, section 3, clause 2, of the Constitution of the United States.

The spirit of other parts of President Kennedy's letter of January 17, 1963, and its recognition of the dilemmas facing the administrators of the public domain, set the tone for constructive cooperation. Nothing has changed our conviction in that respect.

We can agree at the outset that there will be a responsibility on each side to have ideas—a philosophy or rationale for past, current, or future stewardship decisions.

Section 1 of the bill, which declares the policy of the United States to be that its public lands shall be "(a) retained and managed or (b) disposed of * * *", goes to the heart of the matter. The late President's letter to Chairman Aspinall acknowledged that there has been, over time, a leaning toward management:

"My predecessors have been acutely aware of the dilemmas facing the Secretaries of Agriculture and Interior as principal administrators of the original public domain. Whenever they have been faced with a reasonable alternative of continued public ownership and management, or disposition, they have generally elected the former. That course has seemed to them, as to my predecessors and now to me, most consistent with the public interest and the trend of congressional policy, given the expanding pressure of population, the generally rising values, and other considerations of similar import. It has, in your phrase, been 'in accordance with the time-honored conservation principle of effecting the maximum good for the maximum number.' Many of the great issues in public land policy have come about as the result of action by progressive-minded Presidents who withdrew land from the effect of the disposition statutes in major segments. On occasion these choices may have seemed to outdistance express statutory policy, but the policies which have governed the choices have been under constant congressional scrutiny."

But that there has been no doctrinaire indisposition toward disposal is demonstrated, among other factors, by the bills, too numerous to mention, to facilitate disposition. Some are on the books, like the Recreation and Public Purposes Act; others are not. But the Commission can go into a full consideration with assured cooperation from the executive; in the final implementation the legislative process will be involved.

At this point I should like to note the close relationship that exists between this bill and two other House-approved measures which you also have under consideration. H.R. 8070 looks toward long-range policies and solutions. Meanwhile, we have present problems in making the existing public land law pattern serve the best interests of the Nation and the communities which depend upon the public lands for present economic well-being and future development. H.R. 5159 and H.R. 5498 are designed as interim measures to fill that void.

You have heard testimony on the purpose and effect of those measures. I mention them only to emphasize the Department's strong endorsement of their enactment so that we can manage the public land resources adequately while the review called for in H.R. 8070 is being conducted.

It may be helpful, in the early stages of consideration of the Commission approach, to examine previous legislative and executive forays into the jungle of public land laws and policy. The area under discussion here has itself been the subject of commission study on at least three major occasions over the past 85 years. It may give our discussion historical perspective to comment on those studies and their significance to the present situation.

During his tenure as Secretary of the Interior, Carl Schurz focused the white light of public disclosure on the flagrant, even criminal, abuses against the public domain and the laws governing it. Major Powell's exploration and description of the arid regions had also created doubts as to the adequacy of traditional settlement laws to this new environment. In 1879, Congress created the Geological Survey, and in the same act established a Public Land Commission with a broad charter to develop a comprehensive codification of pertinent laws, propose a system of land classification, and recommend reforms in the disposal of the public domain.

The Commission had no congressional representation. It did its job well and in 1880 (less than a year after its creation) submitted a voluminous and highly professional report which was fully responsive to the statutory mandate. Among other things, it urged repeal of the preemption laws and the controversial Timber and Stone Act of 1878.

There followed a decade of intense debate on these issues, but little action on the Commission's proposals for change in the laws. To say that its work was ineffectual is to go too far, however. Some of its reforms were accomplished

by Executive action under the incoming Cleveland administration. Then, in 1891, the Revision Act repealed the timber culture and preemption and cash sale laws, amended the Homestead and Desert Land Acts, and empowered the President to set aside forest reserves. Strangely enough, this 1891 legislative effort is remembered more for laying the cornerstone of the national forest system than for the controversial public land law reforms it accomplished after more than a decade of deep-seated controversy.

With the passage of another 12 years, Theodore Roosevelt was in the White House. As a key element of the conservation programs for which he achieved lasting fame, and at the urging of its chief architect, Gifford Pinchot, Roosevelt created a Public Lands Commission to investigate "the conditions, operations, and effect of the present land laws." This was a purely Executive instrumentality, although it did receive legislative sanction in the form of a specific appropriation to support its work. Again, it is impossible to pinpoint any single, comprehensive law adopted to carry out its extensive recommendations. But its report certainly polarized interest and provided a central, authoritative theme for the Roosevelt-Pinchot program, particularly that portion which related to management of forest lands. One clear and lasting result of this Commission effort, and one that was undoubtedly not accidental since Pinchot wrote the report, was the statutory transfer in 1905 of all forest reserve lands to the Department of Agriculture's Bureau of Forestry.

Between the Roosevelt era and the Hoover regime there were no comprehensive studies or reports on this subject even though that period saw much new and important legislation enacted, such as the Mineral Leasing Act of 1920, the National Parks Act of 1916, and the Weeks Act of 1911. But by 1930, questions of public land policy were again in the forefront. The Hoover-Wilbur solution to range wars and similar disputes was to cede the bulk of the unreserved public domain to the States. In 1929, President Hoover created and selected the members of a new Commission on the Public Domain to recommend a course of action to accomplish this transfer and to study other related questions of public land policy. While Congress was consulted on Commission membership and provided both an authorization for appropriation and an appropriation for the work, its genesis, again, was executive, not legislative, and the legislature had no representation. With Theodore Roosevelt's Secretary of the Interior, James Garfield, as its Chairman, the Commission recommended overwhelmingly that the cession policy be enacted into law and that the States be given increased authority over other aspects of Federal land management.

Of all the reports and recommendations made by several public land commissions, this one has the distinction of having been completely rejected, in fact ignored, by the Congress. But it did serve a purpose, and a useful one, by dramatizing the continuing problems of the western public lands and placing before the Congress and the public a possible avenue of escape. When this course was rejected, the way was clear for the establishment of a clear policy of positive management of the public lands so long as they remained in Federal ownership. In this indirect way, the 1930 study paved the way for the Taylor Grazing Act and made it a necessity if economic chaos were to be avoided.

The study commission approach to revision of public land law and policy is, therefore, not a new one. Past experience might be cited as evidence that it is not a promising device for securing comprehensive solutions. Yet, in every instance, significant advancements have been made toward protection of the public interest in our land heritage. Moreover, each of the past commissions labored in the vortex of controversy over critical issues of the day. In 1879 it was the scandalous abuse of the land laws for private enrichment; in 1903, the Roosevelt crusade for conservation and reaction to it colored the whole picture; and in 1929–30, the combination of unpoliced controversy over land occupancy and a States rights philosophy tended to distort objectivity. Many of the old problems remain with us still demanding solution. Competing demands for land or its use continue to provide the fuel for controversy. Yet it seems to me that the prospects for constructive and progressive work are much more favorable now than on past occasions, or than they will be in another decade when population pressures have multiplied the elements of competition.

I do not see this commission as a crusade against evil. Moreover, regardless of its original intent, the Taylor Grazing Act has already modified many of the old conflicts. The immediate task is one of modernization, not radical revision. We need to resolve already existing conflicts, not create new ones. In this framework, the emphasis must be studied analysis. I consider the present climate conducive to success in that endeavor.

Finally, I think the subject matter for commission study is particularly suited to this method. It seems to me that the Commission approach has failed in those areas where the task assigned was abnormally abstract or complex or novel. To be candid about it, we have too often tossed the hot potatoes to study commissions, charging them with developing precise solutions or comprehensive programs for problems which are beyond the scope of our time or capabilities. I think that is not the case here. The Commission will be composed of persons who have been dealing with the public land laws over a period of years. Many of the problem areas, the conflicts and overlaps, the anachronisms and the abuses, have already been identified. What is needed is concentrated and systematic cataloging of the whole area, detailed analysis and evaluation, and a consensus of experienced judgments as to the course of future policy to meet the needs of an expanding economy in our maturing society. Thus the task has reasonably precise perimeters and is wholly possible of accomplishment within the time period contemplated by the bills.

In the course of its deliberations on the bill, the House inserted a number of amendments. For the most part, these are technical or procedural, having to do with the powers of the Public Land Law Review Commission and clarification of terms. One such amendment has a substantive impact, however, in that it deletes from Commission membership any representation from the executive branch of the Government. In fact, membership is prohibited for any person who has been an officer or employee of the United States within 1 year prior to appointment.

We do no take direct issue with this amendment which had wide support among those who testified in House hearings. Clearly, the subject matter to be considered by the Commission is uniquely within the prerogative of Congress. And Congress should be accorded the widest latitude in designating the membership of a body which is to recommend legislative policy in its area of constitutional responsibility.

I would merely point out that, increasingly over the last century, public land administration has become a joint responsibility of the Congress and the Executive. Of necessity, rather broad powers to implement statutes through regulatory details has been assigned to the heads of executive agencies, either directly or through the President. In this process, a considerable body of experience and expertise has been compiled which should be made available to the Commission in the most expeditious manner. Direct membership had seemed to us the most appropriate and certain way to assure that the full competence of the executive branch is focused upon the problems under consideration.

If the Congress determines that executive branch membership is unnecessary for this purpose or undesirable for any reason, we shall of course accept that decision. I merely suggest that you may consider it advantageous to provide for limited executive branch participation, possibly through ex officio designation of the Secretaries of Agriculture and Interior, as heads of the agencies most deeply involved in public land management.

The problems and issues which will cry out for Commission scrutiny are numerous and varied. We have attempted to identify and catalog a dozen or so examples of the kinds of guidance we would expect the Commission to develop. These are attached as an appendix to my statement; rather than read them here, I request that they be printed in the hearing record.

Thank you, Mr. Chairman. I, and members of the Department staff who are present, will be happy to provide any additional information that is available or to answer questions to the limit of our ability.

Appendix

Probable Areas of Investigation and Recommendation To Be Considered by Public Land Law Review Commission

The following facets of public land administration warrant review of the statutory base and policy. While we present the list as illustrative, not definitive, we believe it comprehensively identifies major aspects needing study and recommendation.

1. Criteria for determining disposition of public lands for:
   - (*a*) agriculture use;
   - (*b*) industrial commercial and business use;
   - (*c*) residential use;
   - (*d*) public purposes;
   - (*e*) mineral resources including retained mineral interests.

2. Criteria for determining retention of public lands.
3. Directive for management of lands to be retained including authorities for the protection and use, the sale or lease of renewable and nonrenewable resources, and land exchanges or acquisitions.
4. Directive on rights-of-way and easements including railroad rights-of-way.
5. Manner and standards for transferring land management responsibilities from one Federal agency to another.

Secretary UDALL. To summarize my statement:

The committee has before it the report of this and other Departments favoring the enactment of a bill to create a Public Land Law Review Commission. I think all of us, committee members, departmental spokesmen, and other witnesses, are acutely aware of the significant step presaged by this bill. Hopefully, we are discussing an approach to the long-range prosperity of the Nation through wise use of one of its most valuable public assets.

The public land laws of the United States, as section 2 of H.R. 8070 points out, have developed over a long period of time, that they are not fully correlated is an understatement; their administration is committed to many agencies of the Federal Government. A review is necessary.

I would like to say that the members of this committee know the frequency with which we have to wrestle with public lands questions in all of the States that have public lands. I know all of us are constantly impressed with this fact—and this is understandable, because our public land laws, one might say, almost accreted, rather than being conceived at any particular time by any particular group of people. They were laws enacted to meet specific problems at given times, with the result that you not only have a patchwork of laws, you not only have overlaps, you have in some areas even laws which have conflicting philosophies.

What we are talking about and what we envisioned as the task of a Public Land Law Commission, is not merely a simplification, a codification of laws, but an overall approach to the public policy questions of law, and an attempt to enunciate guidelines and recommendations for the country that will make our public land laws comprehensible and make them much more workable, as well as eliminating a lot of the inconsistencies and overlaps that are present there.

We and the committees, as well as individual Members of the Congress and private groups, have made various attempts at achieving that goal. Some of these have been comprehensive or omnibus; others have been limited and specific. Some have been enacted; more have not. It is clear that we are dealing with a highly complex phenomena and that the kind of comprehensive revision which is needed will come only after concentrated study in great depth. H.R. 8070 is designed to provide that study, and we endorse it as a step which experience has proved to be necessary to our objective.

A power proposed to be granted to the Commission is not only to study the statutes, but the regulations under the statutes, and the "policies and practices of the Federal agencies charged with administrative jurisdiction" over the lands.

The organism which would be exposed for scrutiny is a complex one, indeed. Certainly there is contemplated something far more significant than a technical review, and skills broader than those of the codifier or the technician will be brought to the task.

Decisions and judgments, choices among values and virtues divergent, but widely supported, will have to be made. Vision or prescience about our country's future will be needed.

Clearly, such a scrutiny will reach into the vitals of our Department, among others. We can expect to be examined on every detail of our administration of the public lands and to account for the extent to which administration has outstripped legislation.

But the exercise is by no means entirely governmental. Under laws already on the books, significant fractions of the private sector of the national economy are supported by operations on public lands. Consider, for example, how much of the petroleum industry is on the public lands or the Outer Continental Shelf (which was added at our specific suggestion); or the softwood lumber harvested from the public domain, national forests, or Oregon and California lands; or the livestock industry dependent on Federal forage.

In other words, this is a very broad subject, as we carry the point out in our statement. There have really only been three attempts at what one might call an overall review. One of the first ones was in the period just after the Civil War, when Carl Schurz, one of the first crusading Secretaries of the Interior, undertook an executive-style review, designed to identify what were then some of the most serious abuses and to do something about it.

I think probably the most effective review we had was one under Teddy Roosevelt's administration that was conducted and carried out largely concerning, at that time, forest lands, and many action programs resulted after that.

For the most recent study, however, one has to go back more than 30 years to the Hoover administration, when there was a broad-gage study that was made of the serious aspects of public land policies. But apparently, in this instance, the study was not sufficiently close to congressional thinking. I don't think they had the concept at that time, as this committee and its sister committee in the House has developed it with the outdoor recreational study, of a study which would include congressional Members and congressional opinion, as well as public and executive opinion, so that you can come in with some consensus that might lead to action. As a result, the last really broad study that was made was put on the shelf, nothing was done, and we simply proceeded on down the road for another 30 years.

So it is our feeling that this legislation fills a very great need that a real broad-gage study is in order, and that a commission with broad powers and well staffed, that represents the various interests and has as its concern the broad public policy questions, is most vital.

Now, Mr. Chairman, going to page 11 of my statement:

In the course of its deliberations on the bill, the House inserted a number of amendments. For the most part, these are technical or procedural, having to do with the powers of the Public Land Law Review Commission and clarification of terms. One such amendment has a substantive impact, however, in that it deletes from Commission membership any representation from the executive branch of the Government.

I think, incidentally, if I may say so, that this was probably done with the thought that on the basis of the work of your ORRRC Commission, that was a better pattern to follow than the one that the administration proposed in our amendment on this bill.

In fact, membership is prohibited for any person who has been an officer or employee of the United States within 1 year prior to appointment.

We do not take direct issue with this amendment which had wide support among those who testified in House hearings. Clearly, the subject matter to be considered by the Commission is uniquely within the prerogative of Congress. And Congress should be accorded the widest latitude in designating the membership of a body which is to recommend legislative policy in its area of constitutional responsibility.

In fact, I surmise that the Hoover study failed because you did not have an input, you did not have congressional participation or congressional input. It was all executive.

I would merely point out that, increasingly over the last century, public land administration has become a joint responsibility of the Congress and the executive. Of necessity, rather broad powers to implement statutes through regulatory details have been assigned to the heads of executive agencies, either directly or through the President. In this process, a considerable body of experience and expertise has been compiled which should be made available to the Commission in the most expeditious manner. Direct membership had seemed to us the most appropriate and certain way to assure that the full competence of the executive branch is focused upon the problems under consideration.

If the Congress determines that executive branch membership is unnecessary for this purpose or undesirable for any reason, we shall, of course, accept that decision. I merely suggest that you may consider it advantageous to provide for limited executive branch participation, possibly through ex officio designation of the Secretaries of Agriculture and the Interior, as heads of the agencies most deeply involved in public land management.

The truth of the matter is that so many of those problems, so many of the overlaps which have developed, of the administrative inconsistencies, of the policy problems that our people have to wrestle with day in and day out, should be known to the Commission. Certainly, I am well aware of the fact that, however the Commission is composed, it will want to lean heavily on staff people, at least, who have an inside into the executive side of the problem.

There is one other matter that is not in my statement that I should just like to touch upon.

Senator BIBLE. On that statement, Mr. Secretary, does not section 5 partly take care of that? It says:

> The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of the public lands to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this act.

Secretary UDALL. This is, I think, a provision that the House committee envisioned would provide the type of bridge between the Commission and the Executive we are talking about. The thing that we are suggesting is, if the committee wanted to go one step further, you could have one type of ex officio actual membership on the Commission, rather than merely a liaison membership.

Senator BIBLE. Well, I work with most of the liaison members, and I would certainly say that they are pretty fair spokesmen for the Secretaries they serve. I think they give you an adequate base for executive expressions of opinion, it would occur to me, on that point.

It seems to me that section 5 pretty well takes care of the point you are making.

Secretary UDALL. If that is the position that the committee takes, I can assure you——

Senator BIBLE. Our committee has not even discussed it. The committee has no position on it. This is the first hearing we have had on the bill, and we have not discussed it yet.

Secretary UDALL. If that is what the committee decides upon, I can assure we would give you the very best people we have. We would undertake to make a maximum contribution to the understanding of the Commission.

There is one other matter which is merely a personal reaction of my own, which I would like to throw before the committee for consideration. Again, I think it would follow the precedent of the outdoor recreation study, which is envisioned here as a 4-year study.

It would certainly seem to me that if possible, the committee might consider whether this work could be accomplished in 3 years rather than 4. I would like to think, myself, in terms of the problems of a new administration, whatever that administration is. I think, if possible, this study ought to be placed before the Congress in time that, during the next administration, whatever legislative solutions are proposed could be fully considered.

Fortunately, in the case of the outdoor recreation study, the report came in in early 1962, and the land and water conservation fund bill, implementing legislative proposals, could be developed and could be presented, and this bill come to a culmination probably in this Congress.

I simply raise the point because, if the study comes in in 1967, is not complete until that time, I wonder whether we will have sufficient opportunity for the committee itself, which will then have to take up the recommendations of the proposals in terms of specific pieces of legislation. I daresay, on the basis of our view of it, that this is going to be a very major undertaking, and something that I would hate to see a congressional committee come to grips with, let us say, late in the second session or early in the second session, even, because it is going to be a major problem.

I merely raise this as a question as to whether the Commission could do its job in 3 years, or will it take 4 years.

Senator BIBLE. Well, does this not really amount to a 3-year study? This a point that has concerned me about this bill. I do not know why it would take 4 years to complete the study. I do not know whether there is any magic in that number, but actually, as this is written, it seems to me that this really is a 3-year study bill. It still has to have committee action, it still has to go to the Senate. This is mid-1964. It still has to go to the President to be signed into law. You would only have 3 years, plus, to meet the deadline set in the act of December 31, 1967.

I think there is great merit in what you say. I think you know from your experience on the Hill that if we do not get these recommendations until early 1968, the chances of passing implementing legis-

lation, whatever it might be, in one short session in 1968 are going to be pretty remote. I think there is much merit in what you say, and I think we should go into this rather carefully.

What you are saying is that you would feel that this study could be done in about a 2-year period. It seems to me that that is what you are really saying.

Secretary UDALL. Or 2½, something on that order. It would seem to me that if we begin early in 1968, knowing what the procedure is that we do go through—for example, on the conservation fund bill, this took months. If we begin at that time drafting legislation—because after all, this Commission is not going to come with a series of bills. It will not recommend legislation, I assume. It will recommend legislative proposals in a general way, but not bills. This will be the task of the usual process of preparing legislation, clearing it through Budget, and so on, on the Executive side, to carry out the recommendations of the Commission for specific legislation.

If we begin early in 1968, it would seem to me that that session would be too late, it would be fortunate if bills were prepared and could be given adequate consideration before the Congress expired. This is what concerns me.

Senator BIBLE. Put what you suggest in place of the deadline date of December 31, 1967? Would you say December 31, 1966?

Secretary UDALL. I think that, or maybe moving it up 6 months might give us a better chance to give that Congress a chance not only to fully consider it——

Senator BIBLE. I think there is merit in what you say, and that is why I wanted to develop this with you.

Secretary UDALL. I just felt I should raise this before the committee because it bothered me, Mr. Chairman.

Senator BIBLE. I understand.

Now, did you have anything else to add?

Secretary UDALL. No. That concludes the statement I would like to make this morning, except that I think this is something that is long overdue. I think it can be a very challenging thing. I hope some of the members of this committee end up on the Commission. I hope that we can get a group of people who are very broad gaged and have the national view at heart, to look at the overall problem. I think maybe then we can bring order out of the chaos in this field by such a study. We are very hopeful about that.

Senator BIBLE. I would very much appreciate it, from either you or Assistant Secretary Carver, or both of you, as to the size of the Commission. This is something that has caused me considerable concern. This is a 19-member Commission, and I do not know how you particularly arrive at this figure. It has six Members of the U.S. Senate, six Members of the House of Representatives, six representatives appointed at large from the U.S. Senate. That makes 18 members. Then, the 18 select a Chairman, which makes it 19.

Why could you not just as easily have a 13-member Commission, with 4 from the Senate, 4 from the House, 4 members at large selected by the President of the United States, and then the 12 together select a 13th member—unless people are superstitious about 13? That might be a good number for something as complex, complicated, vexatious, and troublesome as this, rather than the number 19. Is there any

magic in the number 19 as versus the number 13? It seems to me that would be a terribly big Commission.

Secretary UDALL. Senator, I find myself agreeing with you on this point. I do not know how——

Senator BIBLE. I have no fixed opinion. I am just trying to explore the matter.

Secretary UDALL. I do not know how this figure was arrived at. But the ORRRC Commission was 12 members, and we all know that the larger a group gets, the more unwieldy it becomes. It would just seem to me that a 13-member Commission could probably function more readily than a 19 member.

This is something about which the judgment of the committee will be final. But just speaking for myself, it would seem to me that the smaller number would be better. Certainly, I think everyone would agree that the Outdoor Recreation Commission proved to be, in terms of its size and the way it worked, an effective instrument.

Senator BIBLE. It occurs to me that it might be a little more effective, and you would keep the really same broad base, because instead of three majority members and three minority members in the Senate and the same number from the House, you would take two from each. This would provide just as broad a basis and still keep it nonpartisan, as it certainly should be.

I just thought I could get an expression from you. It will certainly depend upon the final opinion of the committee, of course.

I would like to have you develop one further point so that there will be no misunderstanding about it: That is, just exactly what land laws will this Commission go into. This would be contained in the definition of public lands. I am wondering if that could not be developed either by you or by Assistant Secretary Carver.

Secretary UDALL. I would like Secretary Carver to go into that for a moment.

Senator BIBLE. I wonder if you would not tell us just exactly what the scope of the review will be.

Mr. CARVER. Mr. Chairman, the scope of the review will be just as broad as the Congress and the Executive have made it over the history of the Republic.

Senator BIBLE. I wonder if you would not read the definition of "public lands."

Mr. CARVER. The definition of "public lands" in section 10 would include the public domain, reservations other than Indian reservations created from the public domain——

Senator BIBLE. Now, what does that mean? What does (b) mean?

Mr. CARVER. Well, (b) would refer to the reservations for military purposes, or reservations for power sites, or reservations for other governmental purposes—any kind of withdrawal of the public lands for governmental use.

Senator BIBLE. This includes all of the military withdrawals, then; is this correct?

Mr. CARVER. Well, Senator——

Senator BIBLE. Even if they are permanent?

Mr. CARVER. The Commission, of course, itself woud have no legislative authority.

Senator BIBLE. I understand.

Mr. CARVER. But in this whole picture, they have to deal with the policies and practices governing all of the lands in these categories; yes, sir.

Senator BIBLE. Well, let me just ask the question and bring it down to my home State of Nevada. We have two very large military land withdrawals, one of which was a support area for the Strategic Air Command during World War II, a large acreage near Tonopah Airbase. I think at the time of its withdrawal it embraced some 3 million acres of public land, which is a terrific area. It was used for bombers during World War II. Since then, it has been put to other uses. Part of it has been turned over to the AEC.

Now, is it your thought that this Commission would go into this particular land withdrawal?

Mr. CARVER. It certainly should, Senator, for the reason——

Senator BIBLE. With what in mind? The propriety of the withdrawal, whether it should be continued, or what?

Mr. CARVER. Not whether it should be continued, because of course they would not have any jurisdiction over the military aspect of it. But let us say the impact of the uses within and without, the compatible uses with, let us say, grazing, for instance. You certainly cannot deal with the responsibility for grazing with the artificial line, where there are public lands on each side of the line. I certainly think that the Commission ought to deal with the policies governing the uses of those lands, the availability for mineral exploration, the availability for grazing, the availability for other public purposes, as well as the disposition for private purposes.

Senator BIBLE. Well, in effect, then, they would examine the present military withdrawals that are using the Tonopah Airbase, as an example, to see whether the reservations contained therein were compatible with other uses?

Mr. CARVER. I think that would be correct. However, I do not think they would have any jurisdiction on the major aspects of it.

Senator BIBLE. If they get into it, they are certainly going to have to say something about it, whether the withdrawal should be changed or should not be changed, or whether certain reservations are working and certain ones are not working. They are going to have to do something if they get into it.

Mr. CARVER. And they should get into it, because it does not make any sense to deal with the uses of public lands without dealing with the lands as they are bing used, regardless of what the Federal jurisdiction may be that exists.

Secretary UDALL. Senator, if I may put in my three cents' worth, I think the time has come for us to regard the military lands as public lands. I think they are part of the public lands picture. It happens that they are being used for military purposes at the present time. In most instances, particularly in the West, these were public lands which were reserved at particular times for military purposes.

Now, what happens when these military purposes change or cease, and so on? How do these lands fit into the national land policy?

I think this is a very good example of a gap where we have not thought it through. The Congress did tackle 6 or 7 years ago this problem of military having too wide a scope to reach out and grab land, and something was done about that.

Senator BIBLE. You are referring to the 5,000 acres of withdrawal, where they are required to come to Congress to get an approval?

Secretary UDALL. Yes.

But I think you have identified a problem that is essentially a public lands problem. Military lands are public lands. They are not public lands in the sense that they are open for the customary multiple uses that you have. Nevertheless, they came out of the public estate, they are now in public management and are serving a definite public purpose, and what happens to them ultimately certainly should be within the purview of a Commission of this kind.

Senator SIMPSON. Mr. Chairman?

Senator BIBLE. The Senator from Wyoming.

Senator SIMPSON. Mr. Chairman, it seems to me that section 4(a) pretty well covers what we are saying here.

Senator BIBLE. Is that section 4(a)?

Senator SIMPSON. Yes.

It pretty well defines what is expected of the members of that Commission.

Senator BIBLE. I think it does, in connection with section 10, as to what is embraced in public lands.

Senator SIMPSON. Yes.

Senator BIBLE. Now, Secretary Carver?

Mr. CARVER. Section 10(c) is the lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws. This, I suppose, is aimed primarily at prospective withdrawal orders which have the effect of segregating land from mining entry; and going back, as Senator Simpson says, to section 4(a), certainly if the Commission's scope is to be broad enough to be meaningful, it must cover those kinds of executive or administrative actions which have the effect of suspending an application with any of the public land laws.

Senator BIBLE. This Commission, then, would go into the mining laws of the United States?

Mr. CARVER. Well, I suppose they might go into the mining laws. Certainly, it would.

Senator BIBLE. But I think the words, "including mining laws"—I want to be very clear on this, because many mining people are asking whether this Commission would go into a review of the manner, for example, of locating even a placer claim or a lode claim. I understand that under 4(a), in connection with section 10, they would examine whether or not the method of locating a placer claim or a lode claim is still the proper manner in which to acquire property under public domain.

Mr. CARVER. That is correct. However, turning our attention to section 10, that merely defines the lands subject to scrutiny. Of course, "the public domain" would include most of those; that is, public domain lands are the ones which are—what section 10(c) says is that the Commission will not be cut off by reason of some order which has either temporarily or permanently withdrawn the lands from mining entry.

Senator BIBLE. Well, it is clear, then that the Commission can go into the question of locating mining claims, whether the laws now on the books are adequate to govern the location of the mining claims as well as taking that claim to patent; is that true?

Mr. CARVER. That is true. That would be under 4(a): "study existing statutes and regulations governing the retention, management, and disposition of the public lands," and the mining law is a disposition law.

Senator BIBLE. Very well. Now, how about (d)?

Mr. CARVER. Section 10(d) says—

outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws.

Now, this covers this very troublesome situation which we have throughout our land laws, where we are left with the administrative or legal responsibility for interests less than the fee; that is, mineral interests and that sort of thing. Certainly, the scope of the Commission or the definition of the subject matter of the Commission should include these retained interests, even though we do not have the fee.

Senator BIBLE. This is specifically aimed at that?

Mr. CARVER. Yes.

Senator BIBLE. The retention of a mineral interest in the United States is an outstanding patent, for example?

Mr. CARVER. Or the retention of a right-of-way interest, for example, where you have disposed of land to the State. There is one example that comes to my mind, keeping the administrative jurisdiction for retention for an FAA or a road site, or something.

Senator SIMPSON. Mr. Chairman?

Senator BIBLE. Senator Simpson.

Senator SIMPSON. I think Mr. Carver has held out a very interesting thing. I want Mr. Carver to tell us what they mean in (d) when they say, "conveyed in fee or otherwise." What would the Government retain in a conveyance in fee?

Mr. CARVER. Well, this is a very good question, Senator. I am not sure that if we conveyed in fee we retained anything. I would rather we did not. But I think the language has built up both in the statute and in usage a little bit loosely in that connection.

Senator SIMPSON. Yes; it seems to me to be.

Senator BIBLE. Are there any further questions, Senator?

Senator SIMPSON. No; I just wanted to inject that at this time. Do you mind, Mr. Chairman?

Senator BIBLE. Not at all. Interrupt at any time. I am just delighted to have any interruptions.

The next is the national forest.

Mr. CARVER. On national forests, this is in one sense a redundancy, because that would be included under (b), as to our western national forests. This represents a House amendment which I am sure the Department of Agriculture will comment on at greater length. But the effect of putting it in specifically in this form is to give the Commission the right to go into national forests, including those which are created from acquired lands, because of intermingling, a question which the House report referred to.

Senator BIBLE. This was an addition by the House of Representatives?

Mr. CARVER. Yes.

Senator BIBLE. Now, how about (f)?

Mr. CARVER. Well (f) is the one which the Secretary mentioned in his statement—

> the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf.

In one sense this is a redundancy in terms of a retained interest of the United States. But this is a specific amendment to include the Outer Continental Shelf lands which the Secretary mentioned.

Senator BIBLE. Would you care to comment upon the authorized amount to carry out the terms and conditions of this bill? The sum of $4 million. How is this justified?

Secretary UDALL. Senator, again, I think the House committee—I believe this is the figure out of the outdoor recreation study. Of course, that was a very broad-gage study. A lot of it was farmed out to universities and other groups who made individual studies that were then submitted and reviewed by the Commission itself. I do not think we have any way of expressing too hard an opinion on an amount. But I would certainly think that this Commission ought to be extremely well staffed. I think it ought to have people who are well trained, so they can tackle problems. I can see that if an aggressive study is made and if ample people are connected with it, and if you wanted to farm out some studies to universities and that type of thing, the $4 million might be about right. I would not want to recommend to the committee that it be less than this. This is the judgment of the House, and I would think it is probably about right.

Actually, if it turns out that you don't need the money, this is only an authorization, and you could ask for less on the appropriations as you went along.

Senator BIBLE. The Senator from Alaska?

Senator GRUENING. I have no questions.

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. Mr. Chairman, these gentlemen have made a very fine presentation here.

I refer now to the declarations policy of the act, and I now read it:

> It is hereby declared to be the policy of Congress that the public lands of the United States shall be (*a*) retained and managed or (*b*) disposed of, all in a manner to provide the maximum benefit for the general public.

Apparently, there is a feeling among those who drafted the bill and yourselves that there are some lands that could be retained and managed, and others that should properly be disposed of in the public interest. Am I correct in understanding that?

Secretary UDALL. I think this is cretainly a very basic assumption, Senator. This is one of the reasons why we encouraged as part, really, of the same program, the enactment of this public sale bill. I think it is a manner of sorting things out and deciding which should be sold and which should be retained.

Senator JORDAN. And I have been interested in the colloquy over section 10, the definition of "public lands." Am I correct in assuming that no public lands, no lands in which the United States has any interest whatsoever are excluded from this study; no exclusions whatever are made as far as you know?

Mr. CARVER. Oh, yes; I think there would be. This section 10 defines the interests of the United States which are subject to this exami-

nation, and it limits them specifically. There are an awful lot of interests of public lands that the GSA administers, that would not be included.

Secretary UDALL. The national parks, I think, Indian reservation, wildlife refuges.

Senator JORDAN. Yes; so there would be substantial exclusions under your definitions, there are substantial exclusions, including the national parks, the land administered for public buildings, and so on. What other exclusions can you recall?

Senator BIBLE. I understood you to say wildlife refuges. Are wildlife refuges excluded from the study?

Secretary UDALL. I think that this is perhaps a point we ought to clarify. It seems to me it is certainly a point. I was thinking of those areas that have been reserved for specific purposes and very specific management programs. But I suppose that, the national forests being included, it would be the intention to include wildlife refuges. Maybe your staff ought to look into that point.

Senator JORDAN. That is my point, Mr. Chairman; I think we need a clear-cut line of demarcation as between the definitions of "public lands" in section 10 and the exclusions, some of which you have enumerated here.

Senator BIBLE. How are wildlife refuges created?

Secretary UDALL. There are two types generally, Senator. Most of them have been created by executive action, beginning with Teddy Roosevelt's time and subsequently, like monuments. But there is a whole other group that we have created under the Migratory Bird Conservation Commission which are acquired, we are in the process of doing that right now, and have been doing that for the last 30 years.

These are primarily waterfowl, migratory waterfowl.

Senator BIBLE. If you are going to look at all the military withdrawals and include whether or not they are in the best public interest, why would you not look at the wildlife refuge withdrawals to see if they are in the best public interest? I don't see why you would separate these two.

Secretary UDALL. I would think now, sitting here and thinking it through, that probably it should be included along with the national forests, it should be explicitly included in this study. I think there is an argument, however, since the scope of the study envisioned here has a certain focus, for not including national park lands. This really was the subject of the outdoor recreation study, which focused on that and in that area.

Mr. CARVER. If I could interject, Mr. Chairman, in our report on the bill to the House, we said that the scope of the study, as provided by section 4(a)—and I am quoting it—

> deserves further comment. Under those provisions, the Commission would have a mandate to study (1) the administration of military areas, (2) wildlife refuges and fish hatcheries, (3) national parks, (4) power projects, (5) Coast Guard stations, (6) national forests, and (7) many other areas withdrawn from the public domain.

I think it is important for us to keep our eye on the ball here; and that is, we are not concerned with a national park or national forest policy. We are concerned with the areas which are open under existing laws for further entry.

For example, in the national forests those lands are open, by the terms of the Congress and the Executive action setting them up, open for mineral entry. This creates a problem, so we are not concerned with how the forests are run or how the parks are run, but we are concerned with the application of statutes which impinge upon how they are run.

That is exactly the point we are trying to make with the military areas, too. As I tried to indicate, they are up against each other. You have to consider, then, the uses of these lands, rather than the policies which the Congress has enunciated in how they should be managed for, let us say, a national park or national forest purpose.

I think when you are concerning yourself with public land laws which enable people to go on those lands—as, for example, the Grand Teton, as to which the Congress provided in Senator Simpson's State that grazing should be permitted. This is worked out entirely compatibly. But there is an example, you see, or a precedent which they might want to consider in dealing with general legislation.

Senator JORDAN. Mr. Secretary, would you know of any properties presently managed by the GSA, the use of which might be obsolete or unneeded or uncalled for at this time, that could properly come under the review of this Commission?

Mr. CARVER. It may be that there are. I do not know of any. But what I would like to emphasize is that wherever GSA has lands which, under the application of the public land laws, would be administered, let us say, for their mineral values by Bureau of Land Management, that particular part of it ought to be under the study. We frequently find ourselves in that position.

For example, take the case where GSA has lands which once had a public domain status. We have some very troublesome situations, as the Senator knows, in our own State of Idaho——

Senator JORDAN. Yes.

Mr. CARVER. Where the title to the mineral estate has become very much clouded by the passage of the lands from public domain to military to GSA and back to public domain, or into public domain, to BLM-administered status, or Indian Bureau-administered status.

Now, that is the kind of thing the Commission ought to get into. They are vastly complex, these situations. I do not think the Commission ought to be limited, but I don't think the committee ought to think that the Commission is going to look into the Antiquities Act or to all the National Forest Reservation Acts, or the Weeks law, or any of the other basic policies which have stood for so long. And the same thing might be said about some of the mineral entry laws.

Senator JORDAN. I have no other questions at the moment.

Senator BIBLE. The Senator from Wyoming.

Senator SIMPSON. Mr. Chairman, I want to ask the Secretary whether, in the light of your statement on page 4, you are wholeheartedly in favor of this bill and willing to cooperate fully. I take it from the statement you made that you have come to that conclusion.

Secretary UDALL. Senator, we have considerable enthusiasm about this bill, from the top on down, largely because we have so many knotty problems in terms of administering these laws, in terms of trying to decide ourselves what Congress has intended by its policy, that we feel a study of this kind is long overdue and can be very use-

ful. So we have a very positive attitude toward it, and I assure you we will not only be cooperative but we will be supercooperative.

Senator SIMPSON. I am glad to hear that. I think that is so important in the implementation of this bill.

Now, a word of warning. I think in the light of what Mr. Carver just said that we should be very careful not to preclude the examination into two types of land, we will say one superimposed over another, perhaps the bird and wildlife refuges over public lands in which oil and gas would be mined. So I would urge the Secretary to be very careful about any exclusion of things until we make a thorough investigation and come up with those things which we think should be handled under this investigation and the rule.

Secretary UDALL. We will, Senator. And may I express my opinion this way. I think that the Congress in the bill it passes ought to give the Commission a rather broad charter. I think the Commission itself, then, after the initial discussion, is going to decide where it wants to pursue this in depth, and is going to have to draw some lines. Because, to use one example, if you don't watch out, you are right back remaking the outdoor recreation study. And this, of course, is not the purpose of the Commission.

Senator SIMPSON. I agree with you wholeheartedly, and I think that to date the Congress has shamefully disregarded its own responsibility, and that has tended to all the piecemeal bits of legislation that we have had constantly coming before us. It seems to me that this study is long overdue, and I am hoping that if we do go into it we will go in wholeheartedly, with intense cooperation and with the loan of some of the best minds of your Department and the other departments involved.

Senator BIBLE. Do you have any further questions of the Secretary?

The Senator from Alaska?

Senator GRUENING. Mr. Secretary, I am glad to hear of your enthusiasm for this legislation. I think it is highly essential. I know it is in Alaska, where there has been a periodic condition.

I would like to clarify the colloquy that took place recently. Are you in favor of including the wildlife refuges in the study?

Secretary UDALL. Yes; I think they should be included.

Senator GRUENING. I particularly ask that of you because I think that is highly essential.

Now, in Alaska it is a matter of considerable importance. We have a total of 19 million acres in refuges and ranges. Some of them are highly desirable, and some of them may be obsolete. As the wildlife change their habits, the wildlife refuges created 35 or 45 years ago are no longer serving the purposes that were considered essential at that time. I think that is one of the problems that should be included in the study.

Secretary UDALL. Well, you know the problem we have had in recent months, working with you and our own people on the Kenai Moose Range in Alaska. That is one example I think of. You have a lot of the elements or a lot of the problems that the committee will want to be looking at right there; there is no doubt about it.

Senator GRUENING. Thank you very much.

Senator BIBLE. Are there any further questions of the Secretary?

Thank you very much, Mr. Secretary. I realize how busy your schedule is, so that you must leave at this time. I hope, however, that you will have Secretary Carver remain.

Secretary UDALL. Yes.

Senator BIBLE. That will be fine.

Our next witness will be the senior Senator from Oregon, Senator Morse. We are always delighted to see you here, sir.

STATEMENT OF HON. WAYNE MORSE, A U.S. SENATOR FROM THE STATE OF OREGON

Senator MORSE. Mr. Chairman and members of the committee, I appreciate the opportunity to testify before you this morning. I am making this statement in support of H.R. 5159, a multiple-use bill for public lands; H.R. 5498, a bill to permit the sale of public land for industrial and urban purposes; and, with certain reservations, H.R. 8070, a bill to create a Public Land Law Review Commission.

Oregon's economy vitally depends upon the use and management of approximately 13 million acres of public lands managed by the Bureau of Land Management. This acreage is located primarily in eastern Oregon and includes, for the most part, grasslands with a smaller amount of forest. These lands are vital for watershed purposes and for the support of livestock and wildlife. They are also growing in popularity for all forms of outdoor recreation. Rockhounds range across them looking for fossils and beautiful stones; the Izaak Walton League and other fishermen treasure the fine streams, such as the Deschutes River, which flow through them; thousands of hunters know the Steens Mountains and the Ochoco Forest for the excellent sport they provide; and all Oregonians prize and enjoy their scenic beauty.

All of this very important public domain land is in grave need of modernized legislative direction and policy guidance. If properly managed and wisely used, it could supply a growing State and an expanding Nation with resource wealth.

I will make a brief comment on H.R. 5159, the multiple-use bill.

In the 87th Congress I cosponsored with Senator Moss the original version of the multiple-use bill for public lands, S. 2516, which is now before this committee as H.R. 5159.

Our Oregon cattle industry is vitally dependent upon the wise use and management of the public range. If properly developed, the forage production from these lands can be doubled. The watersheds on this public range supply the lifeblood needed to sustain our farms, towns, and factories, and must be protected. Campers, fishermen, and hunters, not only from Oregon, but from across the country, should have access to these lands in order to enjoy the many rewards of outdoor recreation. We greatly need a multiple-use management act to insure that the several benefits of these lands will be developed and expanded.

For a number of years now I have worked with many members of this committee to provide adequate investment in the public lands. I would like to pay particular tribute to the chairman of this subcommittee, Mr. Bible, and the ranking member, Mr. Anderson, in this regard. We have often stood together in successful efforts to achieve wise land investments.

I digress from my written text to call the attention of this committee to the great service performed by the committee in cooperation with Secretary Udall and the Bureau of Land Management, in connection with the so-called Vale project.

I think the Vale project set a pattern for public land development and conservation that ought to be followed more extensively. I think every dollar that the committee has authorized to be spent on the Vale project will return many times that dollar in the long run, not only to the Treasurer of the United States, but to increase national wealth.

You know my views. I always call my convictions biases, and I am proud of them. I do not know very many people that have views; most of them are biases, but I am biased in support of this tenet which is an obligation that we owe to future generations of American boys and girls.

We as politicians and officeholders simply have an obligation, call it moral if you want to, to see to it that we leave these natural resources in a better condition than that in which we found them. We are not doing that in many places. We started to do it in the Vale project. It is a great range conservation and development program, and I am proud of it. I am proud to have been associated with the chairman of this committee at the very beginning of the project. We had a little trouble at first, you will remember, in the Department of the Interior, until Secretary Udall learned the facts and took hold. From there we progressed to at least the authorization and the appropriation of some money—not enough—to carry it out.

If I said nothing else here this morning but to call to your attention the need of putting your staff to work on an expanded Vale project program, throughout the public lands domain of the Federal Government, my testimony would be worth putting into this record. I am vey proud of that project. I only want to see it expanded at an accelerated rate.

It is called the Vale project because it was pinpointed on Vale, Oreg. Some of my colleagues in the Senate thought the Senator from Oregon was trying to get something special for Oregon. The committee knows that I have some feeling about the treatment that I have received in regard to the expenditure of Federal dollars in my State. But that is another issue.

The Vale project covered every State that is represented at the table in front of me except Alaska, and I am a strong supporter of the development of the public domain of Alaska, too. But what the Vale project does is seek to help conserve and develop the grazing lands of the West, so vital to the economy of our area of the country, and the economy of the Nation as well.

But there is no question that our capital in these public lands—the soil—is deteriorating more rapidly than we are replenishing it. This soil capital is vital to the economic future of America. We must invest in these lands to insure our Nation's wealth. The expenditure of public moneys to maintain the capital plant of our land resources is always wise. We have only to look around the world to see that the countries now in utter poverty are those that have wasted their land resources.

As I have said so many times before, civilization does not climb on a falling water table, and civilization does not climb on an eroded soil.

We have a duty to see to it that we stop a trend in this country, in many parts of the country, where the water table is falling and where the soil is being washed into the rivers and, through them, into the sea. This is a waste of the great natural wealth that we as officeholders in our time just cannot justify.

Many of these public lands in Oregon and other States have shallow soils. Such lands should remain under public management for many, many years to come. It is the responsibility of the Federal Government to provide wise land stewardships for the citizens of future generations. Sound legislative guidelines for future management will promote adequate investment in these resources.

The guidelines set forth in this multiple-use bill are very similar to those in the O. & C. Act of 1937 and in the 1960 National Forest Multiple-Use Act. H.R. 5159, in my judgment, provides long overdue guidelines. There is urgent need for its passage.

Now, what about H.R. 5498, public sale? Many towns in Oregon will be expanding their commercial and residential areas into land that is now in the public domain. The towns of Prineville, Redmond, Bend, and Burns in central Oregon; the Columbia River towns of Boardman and Hermiston; and the towns Baker and Vale in eastern Oregon and Grants Pass and Medford in the southeast part of the State; all of these towns will probably require some of the public domain lands for their future growth. This bill will promote wise expansion and provide for cooperative planning with local governments.

I would like the committee to know that Judge Rea, who has served as chairman of the Public Lands Committee of the Oregon Association of Counties and is a member of the National Bureau of Land Management Advisory Committee, will testify on these bills. He is one of the Nation's foremost experts on the needs and uses of the public lands, and I know the committee can obtain expert and detailed knowledge from him on the benefits that will result from this legislation. I would evaluate his testimony as coming from one of the most expert witnesses in this whole field of public land legislation. He is a long-time member of the county court of Baker, Oreg., and has been working with this problem in Baker County for many years.

Now a word about H.R. 8070, Public Land Law Review Commission. Mr. Chairman, and members of the committee, I support a review of the public land laws which is the objective of H.R. 8070. When Oregon wanted to develop an industrial complex at Boardman, it was necessary not only to get special legislation through the Armed Services Committee, but also for the State of Oregon to engage in long negotiations with the Bureau of Land Management. Moreover, all of us from the Western States are in continual receipt of letters from people who have homestead problems or other problems with the public land laws.

In regard to this act I would like first to say that I do not have a preference for the type of commission the bill proposes, and I have no competent testimony that supports the conclusion that a study will take 4 years and cost $4 million. Knowing the members of this committee, I am confident you will address yourselves to this question in order to find an expeditious approach. I ask only that the facts be found and, once we get the facts we follow them.

The Western Pine Association wrote me about this bill last September 19 and urged that it be amended to remove the executive members from the proposed commission. This the House did. I file with you their September 16 letter to Congressman Aspinall and their letter of September 19 to me, and my replies to the same.

Senator BIBLE. Without objection, the letters will be made a part of the record.

Senator MORSE. And I would like to have them appear, I think, at the close of my testimony, so that it will not break into the continuity.

They say the executive role is too large, although it was only one-third the membership of the whole Commission. They also say—and I quote them "in plain words, we fear certain Federal departments would be able to use this proposal to further their traditional objectives of increased power over more land."

This committee should discover just which departments engender this fear. For my own part, I cannot understand how 4 executive agency members could dominate any commission composed of 12 members of the Senate and House Interior and Insular Affairs Committees.

I am absolutely unaware that the Bureau of Land Management has been or plans to engage in the acquisition of land. Its record would show us rather that the fact has been one of net disposal. In my judgment, Assistant Secretary of the Interior John Carver and BLM Director Charles Stoddard would be valuable members of any public land commission. The work of this Commission would be aided, not hindered, by the participation of these two excellent public servants.

If organizations fear the participation of certain executive departments, they have, I believe, an obligation to specify which departments they are, and if they are able to make a prima facie case, they may be sure that the senior Senator from Oregon will do everything he can to bring an end to any such activities on the part of any executive departments.

As a second comment on this measure, I would like to say that the manner in which the Chairman is to be appointed needs review. It is, in my judgment, clearly the constitutional responsibility of the President to appoint the chairman of any important advisory commission, such as this one. As a member of the Commission on Intergovernmental Relations, I can attest to the wisdom of having the President appoint the Chairman.

My third suggestion is that the Commission's activities should be directed primarily toward the laws and public lands under the administration of the Bureau of Land Management, and in particular toward those laws which are connected with the sale, disposal, exchange, depletion, and use of the resources on those lands. Other laws dealing with our national forests, our national parks, our game refuges, and military bases are in a different category with respect to the urgency of congressional review.

I believe their review should come under the normal committee procedure of amendment and legislative oversight review as experience and events make necessary, or should follow as a supplemental study if the Congress wishes to authorize it.

With regard to the laws affecting the use of our public lands administered by the Bureau of Land Management, however, there

is such an overlay and conflict between existing statutes that a serious review is greatly needed.

Finally, I would urge that any review of the public land laws delve into the economic use of our public lands, as well as their conservation condition and requirements. The 400 million acres of public lands have been too long neglected. They have suffered from inadequate management, protection, and investment without the benefit of any long range planning with respect to how they might best serve local and national needs.

These are valuable lands, made more valuable by the growth of our Nation, and their future use deserves wise planning.

I close by assuring you, this committee, that my pledge continues as long as I sit in the Senate, to be of any assistance to you that I can in helping carry out the trusteeship that I referred to that we owe to our country in respect to conserving and developing our public lands.

Senator BIBLE. I very much appreciate that statement, Senator Morse. It is a very, very full and unequivocal and positive statement of support, and I appreciate your interest in that.

I would only like to state that the Vale project was an area that was well worth fighting for, though I think much more needs to be done in this general area of land management and land conservation. I was proud to join your leadership in that particular fight, and we made some headway, although I am sure there is more to be made.

Senator MORSE. I invite you to come out to Oregon and tell them that out there.

Senator BIBLE. I will be delighted to do it, just as soon as I can get away. I really mean that, because I have spoken very highly, as the Senator knows, about his work in the Vale project at earlier and opportune times.

At this point, the letters earlier referred to by you will be made a part of the record.

(The letters referred to follow:)

WESTERN PINE ASSOCIATION,
Portland, Oreg., September 19, 1963.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: Enclosed is a copy of Association President John Richards' letter to Congressman Aspinall that our board of directors asked me to send you. It concerns the proposed study of public land laws by a special Commission as set up in H.R. 8070.

Although we support enactment of H.R. 8070, we believe that amendments are desirable to make the proposed Commission truly a congressional factfinding Commission retaining in the Congress the power to make all necessary rules and regulations respecting the property of the United States.

Also, for your information, we are enclosing an editorial from the Portland Oregonian on the subject of the Worrell report on U.S. Forest Service timber appraisal policies and procedures. You no doubt are fully informed on the Worrell Committee study, made at the behest of Secretary Freeman and with the Forest Service appointing the three committee members. Decisions on findings and recommendations have yet to be made and are anxiously awaited in the hundreds of western communities where timber supplies from the national forests are the main source of jobs and economic support. Your interest and help in following through on the Worrell report and the industry's "four points to survival" program now before the Department are deeply appreciated.

Sincerely yours,

W. E. GRIFFEE, *Secretary-Manager.*

(Enclosures)

WESTERN PINE ASSOCIATION,
Portland, Oreg., September 16, 1963.

Hon. WAYNE N. ASPINALL,
Chairman, House Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR MR. ASPINALL: We of the western pine forest industry wish to convey to you our views on H.R. 8070, and while so doing, express our admiration for the sound leadership you and your committee are providing in public land use policy matters.

We congratulate you and your committee for the study and planning that have obviously gone into the bill for a Public Land Law Review Commission. We think it can be a great step forward in the Nation's administration of these lands.

Our association represents some 300 sawmills in the 12-State western pine region. These mills form the economic backbone for hundreds of western communities. Because they are located in the public land States, they are heavily dependent on Government timber as their industrial raw material. Thus, while we are represented by the National Lumber Manufacturers Association which will be writing you in this matter, we feel it would be especially helpful to you to have a direct expression from us since our stake in this matter is so great.

In view of our extraordinary dependence on Government lands and the impact of Federal landownership and management on our State and local economies, we wish to offer suggestions for certain modifications in H.R. 8070 which we believe will be in the public interest and in harmony with your committee's intended objectives.

Firstly, the role given the executive branch in this study is so large as to weight the project with a potential for strong Government agency and bureau influences. In plain words, we fear certain Federal departments would be able to use this proposal to further their traditional objectives of increased power over more land. Therefore, we suggest that the executive branch's participation should be primarily advisory and for the purpose of supplying data. Congress has the responsibility for policy formulation.

Secondly, it appears that State problems and interests in public lands have been given inadequate consideration.

Thirdly, the project is a most difficult one requiring highly technical experts in the field of land law. There does not seem to be adequate provision for getting such professional participation from outside Government.

Our conviction is that the bill should set up safeguards against undue agency encroachment on the study, and that from start to finish the Congress should keep control of this undertaking.

Sincerely yours,

JOHN S. RICHARDS, *President.*

[From the Sunday Oregonian, Sept. 15, 1963]

TIMBER OBJECTIVES

When the Western Pine Association met in Portland last week, highlight of the program was a review of progress made in the past year in the lumber industry's campaign for reforms in the Government's timber sales policies and procedures. This was natural, for it was just a year ago that Secretary of Agriculture Orville L. Freeman addressed this same organization here on the same subject. Mr. Freeman's speech was conciliatory. He defended the Forest Service and praised the dedication and initiative of its people. But he recognized the problems of the industry and promised serious consideration of demands for changes in procedures.

Probably the most important development in the controversy in the year just elapsed is the so-called Worrell report. It was made by an independent committee of three, headed by Albert C. Worrell, professor of forest economics at Yale University. Other members of the group, chosen by the Forest Service at the direction of Mr. Freeman, were A. N. Lockwood, of Newton, N.J., past president of the American Institute of Real Estate Appraisers, and M. J. Lauridsen, of Portland, valuation engineer for the Internal Revenue Service.

Like Secretary Freeman, the committee had kind words for the Forest Service and its staff. They have done a "remarkable overall job of administering timber sales during the postwar years when the volume sold from the national

forests has been increasing at such a rapid rate," the group reported. "It would be amazing if procedures developed under the earlier limited sales program had not proved inadequate and if mistakes had not been made in trying to adjust them to changed conditions."

But mainly the report upheld the industry's contentions that appraisal policies and procedures of the Forest Service are vague, unpredictable, inequitable, and detrimental to the stability of the industry.

To begin with, the committee said, none of the written policy statements of the Forest Service has spelled out the mutual interdependence of the national forests and the industry that uses the wood from those forests. Statements always read as though the Forest Service could manage the national forest independently of the wood-using industry, whereas the Forest Service is completely dependent on industry as the medium through which it must channel timber from the national forests.

"The Forest Service thus has a very large stake in the maintenance of a healthy and progressive timbers industry," the Worrell group asserted. "It cannot rationally act as though it were independent of that industry. Furthermore, the national forests are a major segment of the wood supply for the United States. In the long run our country may have to depend on them for as much as 25 percent of the wood we use. The Forest Service cannot logically act as if it were a small timberland owner whose annual sales are of no significance in the overall wood economy. It would indeed be disastrous for the Forest Service to assume a take-it-or-leave-it attitude in its timber sale program."

Fortunately, the committee said, the personnel of the Forest Service is fully aware of this and the Forest Service does not usually act as if it were independent of the timber industry. But the fact that there is no clearly stated policy about mutual interdependence shows up in uncertainties about objectives of timber appraisal and in a lack of compatibility among certain parts of the present appraisal process.

Detailed suggestions for changes in procedures were made. "Market value" is too vague to be useful in the kind of market in which national forest timber is sold, the committee said. An acceptable, minimum price would be a more reasonable appraisal goal. Teams of specialists should be assigned permanently to appraisals to avoid many of the errors which now result from the inexperience of low-rung forestry graduates who often perform that work.

In regard to construction of permanent access roads, the source of much controversy between timber purchasers and the Forest Service, the committee recommended that the costs of these be segregated from the rest of the appraisal. The public should bear the costs of such roads.

To the layman, the Worrell report appears to be an objective, comprehensive look at a problem that must be solved, particularly in the West, if the best use is to be made by a healthy private industry of a resource largely publicly owned. It should prove to be a sound basis for friendly negotiation.

U.S. SENATE, *October 2, 1963.*

Mr. W. E. GRIFFEE,
Secretary-Manager, Western Pine Association,
Portland, Oreg.

DEAR MR. GRIFFEE: I appreciate very much receiving a copy of Mr. Richards' letter to Congressman Aspinall expressing the views of the Western Pine Association on H.R. 8070, a bill to create a public land commission. There is no companion bill in the Senate and as far as I know, no member on the Interior Committee contemplates introducing one. However, hearings are going forward in the House and in the normal course of legislative events, this bill would come before the Senate Committee on Interior and Insular Affairs.

I have not yet had a chance to study the full text of H.R. 8070, in detail with Senator Bible, who chairs the Public Lands Subcommittee. When the bill is before the Senate, I would look forward to receiving your comments in the light of action the House may take on your recommendations.

It was also thoughtful of you to send me the Oregonian editorial on the Worrell committee study of Forest Service timber appraisal procedures.

For your information, I enclose a copy of a statement made in the Senate on September 25. As you will note, I discussed several aspects of forest policies at that time.

In my judgment, the President and Secretary Freeman have shown a constructive interest in gearing forest policy to emerging needs. I am confident that Secretary Freeman will follow through on his promise to carefully review the Worrell report and to insure adoption of those recommendations which are in the public interest.

Should the Western Pine Association have specific suggestions on the recommendations made in the Worrell report, I would be very glad to transmit them to Secretary Freeman so that they may receive his personal consideration.

Sincerely yours,

WAYNE MORSE.

Senator BIBLE. There is one point I did want to ask you about. I see you refer to four executive agency members, and the bill as it was amended by the House provides that six persons are to be appointed by the President of the United States. Then it goes on to say—

from among persons who at the time appointment is to be made hereunder or not, and within a period of one year immediately preceding that time, have not been officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed, under this paragraph, any person who is returned, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and forty days during any period of three hundred and sixty-five consecutive days.

It seems to me that——

Senator MORSE. I may be wrong, but my recollection is that the bill provided for four, and this is an amendment adopted in the House. I think undoubtedly it is an improvement.

Senator BIBLE. It seemed to me it is, and it does make it six.

The thought has occurred to me that that is perhaps more than might be necessary. If the Commission were composed of 19 members, I wondered if this is necessary or whether it might be equally effective or, if anything, more effective if it were a 13-member Commission.

This is a matter of judgment for the committee, I think.

Senator MORSE. Yes, I think that is a detail. Whatever you work out with regard to that detail is satisfactory to me. As I said, I am not a competent witness in regard to those details, because I have not had the benefit of the hearings or of the consideration being given them. But I think the thing that is important at this session is that we approve or disapprove of the principle of having such a Commission, and I think such a Commission would be a very desirable thing.

Senator BIBLE. I appreciate that, Senator.

The Senator from Alaska?

Senator GRUENING. I have no questions.

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. I just want to commend the senior Senator from Oregon for the very excellent statement and say to him that I share his objectives and his dedication to preserve these natural land resources and pass them on to succeeding generations better than we found them. I share his concern and his dedication to this cause.

Senator MORSE. Thank you very much, Senator.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. Mr. Chairman, I, too, have a high regard for the distinguished senior Senator from Oregon, and I think he has raised some points here that we certainly must consider before the commit-

tee: One, the understanding of the review, and the cost involved; another, the matter with respect to the appointment of the Chairman.

I am inclined to agree with the Senator from Oregon with respect to that. There is one thing I would like to ask the Senator from Oregon. We tried to get some answer from the Secretary and Mr. Carver, and did get a very fine answer. But at the bottom of page 4 of your statement, Senator Morse, you say:

> My third suggestion is that the Commission's activities should be directed primarily toward the laws and public lands under the administration of the Bureau of Land Management, and in particular toward those laws which are connected with the sale, disposal, exchange, repletion, and use of the resources on those lands. Other laws dealing with our national forest, our national parks, our game refuges, and military bases are in a different category with respect to the urgency of congressional review.

With respect to the overlap of jurisdiction on, say, public lands where oil and gas is being mined and then superimposed upon that, a game refuge, would the Senator be agreeable to a review of the situation as to the conflicts there, by this Commission?

Senator MORSE. I will make it very clear. I want no doctrine of estoppel laid down that would deny this Commission authority to review the use of public domain that comes under agencies of government dealing with like problems that I think the Commission would be set up to deal with.

Let me be more specific. For the most part, as I study the bill, and the needs, this Commission is going to deal with the problem of soil conservation. It is going to deal with the problem of erosion. It is going to deal with the problem of grazing development. It is going to deal with the problems of the water level. I do not think there is any need for the Commission to deal with the problems of forestry, except in the sense that there may be an overlapping. I do not, however, want any wall built up so that we say to the Commission, "You cannot go beyond this wall," in regard to the problems and the solutions that we are seeking to find in these areas of our soil development, public domain developments.

I think, by and large, whether it is in the Bureau of Land Management or in the Forest Service, we have a pretty good review procedure now on forestry problems through this committee, the Appropriations Committee, and the Agricultural Committee.

Senator BIBLE. Are there any further questions of the Senator from Oregon?

Thank you very much, Senator Morse.

The next witness, or the next statement will be that of Senator Gruening. I believe, Senator Gruening, you have a statement you would like to have made a part of the record now.

STATEMENT OF HON. ERNEST GRUENING, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRUENING. Mr. Chairman, in view of the number of witnesses, I think it would be desirable if I inserted the statement in the record as if read and called attention to the fact that I am also offering at the conclusion of this statement four proposed amendments, three of them to H.R. 5498 and one to H.R. 8070. When we get to executive session, I have no doubt that we will consider these. But in

view of the great number of witnesses and the lateness of the hour, I think it might serve the purposes of the committee better if I presented the statement and had it inserted in the record.

Senator BIBLE. Very fine. That will be the order.

Without objection, it will be made a part of the record at this point.

(The statement referred to follows:)

STATEMENT OF HON. ERNEST GRUENING, A U.S. SENATOR FROM THE STATE OF ALASKA

Mr. Chairman, thank you for giving me this opportunity to present views on the bills now before your subcommittee. H.R. 5498, H.R. 5159, H.R. 8070, all bills proposed to improve management of the public domain, give hope that we may finally look ahead to more efficient, productive administration of the public lands by the Department of Interior.

In Alaska, where the Federal Government is the chief landlord of the State, the administration of the public domain is of exceptional importance—greater there than in any other State. I have, during the course of my service in the Senate, and before during my service as Governor, made repeated references to the enormous landholdings of the Federal Government in Alaska. They have approached totality. However, apparently even my previous information as to Federal ownership of 99 percent of the land in Alaska was based on conservative estimates. This may sound facetious, but it is true that the "Inventory Report on Real Property Owned by the United States Throughout the World," compiled by the General Services Administration as of June 30, 1963, states that federally owned land in Alaska amounts to 100.004 percent of the acreage of the State. It seems, according to this source, the Federal Government controls more land than Alaska has, to the extent of 15,403.9 acres. Seriously, the GSA says the unusual statistic occurs because Alaska is largely unsurveyed; therefore owning agencies rely largely on estimates of acreage held. This understandably results in errors in reporting.

The latest statistical report of the Bureau of Land Management, giving reports on public land distribution as of June 30, 1962, estimates federally owned land in Alaska in a quantity amounting to more than 99 percent of the acreage of the State. Of the 365,481,060 acres covered by the State of Alaska, Federal holdings are distributed among major Federal agencies in the following amounts:

Bureau of Land Management: 312,251,022.8 acres, far more than half of total BLM managed lands throughout the United States, which amount to approximately 465 million acres.

Forest Service: 20,741,973 acres.

Fish and Wildlife Service: 19,012,065.9 acres.

National Park Service: 6,910,513 acres.

These figures mean that Alaska has now the largest forest area of any State. It has two-fifths of the rest of the national park area. It has almost double the wildlife ranges and refuges of the other 49 States.

Under our Statehood Act, Alaska is entitled to select for its own, from the vacant, unreserved public domain, approximately 103 million acres of land. In the 5 years since statehood came, the selection process has proved exceedingly slow and cumbersome. Of 15,424,986 acres the State had selected, as of June 1964, patent has been issued on only 1,218,501.63 acres.

While precise figures as to landholdings of the Federal Government may be difficult to calculate, there is no question Federal control of our land has been, throughout history, an inhibiting factor in developing the resources of the territory and, now, the State.

The Interior Department, while clinging to possession of its fiefdom in Alaska, has never made a sincere attempt to develop the land or use its productively. The elementary necessity for surveying the land was ignored and the failure of the Department to take this first step to improve its property is a major reason for the slow progress now being made toward transfer to the State of Alaska of the land to which it is entitled. As a demonstration of the delay in the survey program for Alaska, it was once calculated, during the hearings on Statehood for Alaska, that if the Bureau of Land Management refused to increase the speed at which Alaska land was being surveyed it would take a period of 17,000 years to survey the entire State (then a territory).

Further, the acquisitive policy of withdrawal from the public domain of vast quantities of land needed by the people of Alaska has also unduly delayed development of our State. Over 2 million acres for moose in the Kenai Moose Range and 9 billion set aside as an arctic wildlife range are gross examples of the policies of the Department of Interior. Hearings on this mammoth withdrawal were held in the Senate. They were chaired by my able colleague, Senator E. L. "Bob" Bartlett. The committee reported adversely. Nevertheless, in the closing days of his administration, Secretary Seaton made this withdrawal. In the case of the moose range, this part of Alaska is especially suitable for development for human use. This huge area was withdrawn without a hearing by the late Secretary of the Interior, Harold L. Ickes. Secretary Udall recently admitted to me that he thought the Kenai National Moose Range was unnecessary, but no corresponding action has followed.

It is difficult for residents of other parts of the United States to imagine a situation, as in Alaska, where it is virtually impossible simply to buy a piece of land from the largest landholder—the Federal Government. In the early days of Alaska, after the territory was purchased from Russia, there was no provision at all for establishing title to land. Indeed, there was a positive prohibition against application of land laws effective elsewhere in the United States to Alaska. It was not until the extension of the homestead laws to the territory in 1898 that there began to be some semblance of private ownership, but in amount it was almost negligible, and faulty administration made it so.

Although the homestead laws were finally extended to Alaska and although a crazy quilt of special legislation for conveyance of land in Alaska has been enacted over the years, I believe it is accurate to say that none of the collection of curious acts of Congress expected to operate under unique conditions has ever been effective to facilitate orderly development of Alaska's land area. The requirements for compliance written into all the Federal land laws, including those enacted for Alaska, alone, have instead of accelerating land ownership and development, virtually stifled it. The very necessity of dealing with a cumbersome bureaucracy, administered by far away officials and overburdened with awkward, complicated procedures demanded by the terms of the laws, has discouraged all but the most persistent citizens from even attempting to acquire land of their own.

With statehood and the opportunity to write our own laws, the Alaska legislators and land management technicians have developed what seems proving to be an excellent system of public land administration. Simplified procedures and legislative policies designed for Alaska by Alaskans are making it possible for our people to buy land and make it productive, as should always have been the case.

While transfer of land to the State of Alaska for disposition under its own laws is bringing improvement in conditions in my State, the very large amount of land still in the public domain demands that we move in the direction of the legislation under consideration here today if we are to have a satisfactory system of land management.

Of particular importance to Alaska is H.R. 5498, to provide authority for sale of public land. This bill, which would authorize the Secretary of the Interior to sell public land during the period in which the proposed Public Land Law Review Commission is performing its duties, would provide a procedure for transferring title to land which has been badly needed for a long time. It would simplify these transactions and give the Bureau of Land Management on especially useful tool for doing its job.

As it happens, the State of Alaska, together with its congressional delegation, has been working on drafts of legislation to meet the special needs of Alaska that take, in many respects, the same form as H.R. 5498. I have recently received a letter from Governor Egan commenting on drafts sent to him earlier for comment as to acceptability to the State and, also, on H.R. 5498.

The objective of H.R. 5498 is entirely in accord with recommendations of Alaskans for Federal legislation to facilitate land transfers. However, because of our special problems and the unique status of Alaska, as a very new State, I would like to suggest certain modifications.

First, as to the acreage limitation on quantities of land that may be sold under the bill, the State of Alaska has expressed a preference that the amount salable to individuals for private development be limited to the same amount allowable under State law—that is, 640 acres, rather than the 5,120 acres proposed for both public and private sales in H.R. 5498. While the State is willing to compete with the Bureau of Land Management for customers for public land, we feel

there should be some adjustment to reduce possibilities that the availability for purchase of land from the Federal Government under simplified procedures may conflict with plans of the State for selection of its share of land and with State plans for land use and development. Thus, I shall propose an amendment to H.R. 5498 that would limit sales to individuals to 640 acres, unless a substantial showing can be made that a larger quantity is necessary for economic development.

Related to the matter of acreage limitations, the provision in H.R. 5498 for allowing responsible Government agencies opportunity for zoning in advance of sales is, while useful, not altogether designed for Alaska's special position. I would suggest to the committee that consideration be given to a provision, by way of amendment, that would require the Secretary of Interior, prior to any sale, to make a finding that the classification of the land for the purpose for which it is to be sold will not adversely affect plans of the State in which it is located for management and disposition.

Another amendment I believe to be imperative is to strike the second sentence of section 4 which provides the Secretary of Interior with virtually unlimited authority to restrict free use and conveyance of property for indefinite periods of time—for a week, for a year, for a hundred years, according to the terms of the legislation. The issuance of patents with "such conditions, reservations, and reasonable restrictions as the Secretary of Interior considers necessary in the public interest including, but not limited to, such conditions as the Secretary may deem necessary to insure proper development of the lands after they have passed from Federal ownership" could tie up land in such a way as to make it virtually worthless. There is literally no limit in the language proposed to the extent to which the dead hand of bureaucracy could strangle productive use of property to which a private or public owner has obtained title.

Finally, as has been noted above, the State of Alaska is now engaged in selection of the public lands to which it is entitled under terms of the Statehood Act—a process which will continue for another 20 years. Although 20 years remain for selection of the acreage allotted under the Statehood Act, it is clear the slow pace at which the selection process is progressing will delay sizable transfers to the State for many years. The slow pace of land selection by the State is largely due to the lack of adequate surveys, a heritage of the neglect which Alaska suffered at the hands of the Federal Government, while Alaska was in territorial status. Meanwhile, it is entirely likely that many conflicts will arise between desires of the State to select land now in public ownership and plans of the Secretary of Interior for sale. Much of the land that would probably be classified by the Secretary for sale would also be desirable for the State to select. To eliminate conflicts and, at the same time, protect the interests of Alaska, I shall propose an amendment recommended by Governor Egan that would allow the State of Alaska to receive payment for 90 percent of the proceeds of public land sales conducted by the Interior Department, in return for which the State would surrender selection rights to an equivalent amount of land.

With the amendments recommended, H.R. 5498 should be a very useful piece of legislation and one that will permit greater progress in management of the public domain than any related legislation considered over recent years.

H.R. 8070, which would provide for establishement of a Public Land Law Review Commission to study existing laws and procedures relating to administration of public lands, is an exceedingly valuable contribution to progress in this field. As I have pointed out above, and on many occasions, there is little rhyme or reason to our existing public land legislation. The laws that govern disposition of our natural resources held in public ownership, representing untold value in monetary terms as well as public interest, are so antiquated and ill suited to present-day needs as to be a real obstacle to efficient, responsible administration. This must be changed. We must have public land laws that assure a program of wise resource management—and do not frustrate it. I hope H.R. 8070 will be approved swiftly by the Senate and allow the Public Land Law Review Commission to get on with its job.

As for the third bill before the committee today, H.R. 5159, to authorize classification of public lands for disposal or management under principles of multiple use, I doubt whether there is any real need for this legislation. With enactment of H.R. 5498, giving the Secretary of Interior authority to classify land for sale, it is my opinion there will be sufficient provision for secretarial authority to dispose of the public domain or, on the other hand, retain it and manage it in the interests of the public. Indeed, I think existing statutory

authority, even without enactment of the public sale provisions of H.R. 5498, would be sufficient to enable the Secretary to do, essentially, what he requests by asking for passage of H.R. 5159. Further, it is my prediction, based on ample experience with the modus operandi of the Department of Interior, that the inclination will be strong in the Department to make a decision to retain land in the public domain in many cases where the public interest would be best served by releasing it for private development. I fear H.R. 5159 would simply encourage the Department to hold on to its property even where this may not be the wisest course from the point of view of individuals or of the public. In any case, the bill seems unnecessarily vague in its wording, with many ambiguities that will cause more confusion rather than contribute clarification to an already unduly complicated problem.

I recommend approval of H.R. 5498 and H.R. 8070 and that the committee withhold its approval of H.R. 5159.

Thank you again for giving me this opportunity to testify. The amendments I propose to H.R. 5498 are attached to my statement. I would like to ask that they be included in the record of this hearing and that they be approved by the committee.

AMENDMENTS

Amendment No. 1 to H.R. 5498

On page 2, line 4, after the word "individuals" insert "in tracts not exceeding 640 acres."

On page 2, line 6, replace the period with a semicolon and add the following: "*Provided*, That when lands are classified for commercial or industrial use, the Secretary may authorize conveyance of tracts in excess of 640 acres to qualified individuals where there is sufficient showing by an applicant that additional land is necessary to economic development."

Amendment No. 2 to H.R. 5498

On page 2, line 7, after the numeral 2 insert "(a)".

At the conclusion of subsection 2(a) insert a new subsection, as follows:

"(b) The Secretary shall, prior to any sale, make a finding that the classification of the land to be sold will not adversely affect plans of the State in which it is located for management or disposition."

Amendment No. 3 to H.R. 5498

On page 4, following line 17, add a new section 7, as follows:

"SEC. 7. Ninety per centum of the proceeds from lands sold in the State of Alaska pursuant to this Act shall be transferred to the State of Alaska in consideration for which the State shall surrender its right to select an equal acreage of land pursuant to section 6(b) of the Alaska Statehood Act (72 Stat. 339)."

Amendment No. 4 to H.R. 8070

On page 10, line 16, after "National forests" insert "wildlife ranges and refuges".

Senator BIBLE. Our next witness will be the Honorable John A. Baker, the Assistant Secretary of Agriculture.

Would you come forward, Mr. Secretary, be seated, and identify those with you.

STATEMENT OF JOHN A. BAKER, ASSISTANT SECRETARY, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY HAMILTON PYLES, DEPUTY CHIEF; AND REYNOLDS FLORANCE, OF THE FOREST SERVICE

Mr. BAKER. I have with me Deputy Chief Hamilton Pyles and his associate, Mr. Reynolds Florance of the Forest Service.

I am indeed pleased to come again before your committee. This time it is in connection with your consideration of H.R. 8070, a bill for the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States, and for other purposes.

The need for a study of the public land laws is generally recognized by all. It was the subject of an exchange of correspondence between President Kennedy and Chairman Wayne N. Aspinall of the Committee on Interior and Insular Affairs of the House of Representatives in the latter part of 1962 and the early part of 1963. In his letter of January 17, 1963, to Congressman Aspinall, President Kennedy welcomed the invitation to enter into a joint effort to review and revise the public land laws.

Following that exchange of letters there were discussions by Chairman Aspinall and his committee staff and representatives of the Departments of the Interior and Agriculture. Subsequent to those discussions H.R. 8070 was introduced by Mr. Aspinall and he is to be commended for his efforts to bring about the needed study of the public land laws.

The Department of the Interior is primarily concerned with the administration of that body of laws commonly known as the public land laws. The Department of Agriculture, however, is responsible for the administration of one of the largest areas of public lands outside the Department of the Interior. These are the lands which comprise the national forest system of 154 national forests, 19 national grasslands, and other management units administered in connection with them. In all, they comprise about 186 million acres. Of these, about 160 million acres are withdrawn and reserved from the public domain. These 160 million acres are not subject to all of the public land laws, but in general they are subject to the mining laws and mineral leasing laws.

The present body of public land laws is comprised of a multiplicity of separate enactments covering a span of a century and a half. During this period the Nation has grown from a relatively small number of States to the present 50. Areas which at the outset were totally undeveloped and unsettled are now developed and settled.

The increase in population, the expansion in commerce and industry, the increases in productive capacity, improvements in our living standards, increased leisure time, the better means of transportation, and the upsurging demands for outdoor recreation opportunities have all brought about new pressures and changes in philosophy on the use and disposition of our public lands.

We in the Department of Agriculture fully support a review of the public land laws.

Lands reserved or withdrawn from the public domain are administered by many departments and agencies. They are administered for many different purposes.

We believe that if a meaningful review of the public land laws is to be made and if the objectives of such a review are to be attained, the scope of the study which is to be directed should be carefully considered. If the scope of the study is too broad we would be concerned that it would become so involved in details of management and in administrative policies and procedures that the basic purpose of the study would become clouded.

We believe that the study should encompass what are generally known as the public land laws, including the mining and mineral leasing laws. This would include the laws relating to the management and disposition of what are generally known as the public domain.

It would also include the laws and authorities under which public domain lands are reserved and withdrawn or otherwise segregated from the public domain.

In that connection, Mr. Chairman, I would like to associate myself with the statement that Secretary Carver made earlier in your hearing this morning in explanation of the scope of this study as specified in section 4(a) of the bill.

Thank you, Mr. Chairman.

Senator BIBLE. You raise the question that you do not want the scope of the study to be too broad, because you would be concerned that—

it would become so involved in details of management and in administrative policies and procedures that the basic purpose of the study would become clouded.

Then you indicate what you believe should be studied, including the public land laws, including the mining and mineral leasing laws, laws relating to the management and disposition of the public domain. You include also the laws under which public domain lands are reserved and withdrawn or otherwise segregated from the public domain—as I understand your statement of what should be included as far as lands within the jurisdiction of the Department of Agriculture are concerned.

In your opinion, does the bill as passed by the House adequately encompass that?

Mr. BAKER. It certainly encompasses it. It may be, unless the explanation that Secretary Carver made in his definition of terms—and as Secretary Udall presented in terms of how far the Commission might want to push itself into discretionary legislation, multiple-use legislation—that these other types of activities are operating under some such separate laws from public land laws.

Senator BIBLE. If I understand you correctly, it is your feeling that the Commission should not go into the multiple-use policies of the Department of Agriculture, insofar as its management of the national forests is concerned.

Mr. BAKER. Following comments of the kind that were made earlier to their conclusion, it is thought that the Commission should not get involved in actual management techniques or practices that are not involved in the acquisition and disposition of the management of the public lands.

Senator BIBLE. Well, it is your opinion, though, is it not, that this Commission should get into the problem of discovering mining claims within the confines of the national forests?

Mr. BAKER. Definitely yes.

Senator BIBLE. They should get into that and see whether that is in the best public interest or whether it is not in the best public interest?

Mr. BAKER. Yes, sir.

Senator BIBLE. What you are saying is that they should take a look at the national forests and the national forests lands only insofar as there might be conflicts in the land laws that are on the statute books at the present time. Is that a fair statement? I want you to define your terms very clearly.

Mr. BAKER. Yes, sir.

Senator BIBLE. Because it is this committee's responsibility in drafting legislation to be sure that this is spelled out so that we can give to

the Commission, as soon as this law is enacted and becomes effective, the proper guidelines where they are needed.

Mr. BAKER. Your statement is a correct statement of my position, Mr. Chairman.

Senator BIBLE. If, in examining this further, you have other suggestions to make to the committee for its consideration before we get into executive session, I would be very happy to have you do so, because your statement does sound the tocsin, so to speak, as to the scope of this legislation; we want to be sure that we are on the same wavelength and talking about the same thing, that we know exactly what your position is on it.

The Senator from Alaska?

Senator GRUENING. I have no questions.

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. Right along that line, Mr. Chairman, the statement of the witness piques my curiosity. I do not know that we would get into the scope of the study involving the details of management and administrative policies and procedures, but I do not like to think that this is a closed door, that this is holy ground that we could not explore if our inclination directed us to do so. Would you agree to that?

Mr. BAKER. We would not recommend the establishment of a boundary beyond which the Commission could not engage in hot pursuit of information that it needed. We would suggest, however, that the Commission should—I believe Secretary Udall's phrase was "keep its eye on the ball"—the central problem here, the public land laws themselves and how they could be improved, recodified and modernized, and that the Commission would keep that as its center of focus and follow its study in whatever direction that study indicated, but not to make its scope so broad that it could not keep the major emphasis on what we think should be the central focus.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. I want to pursue this a little further, because I am disturbed. If we are going into a great, comprehensive review of the public land laws, then we are going to do it because of the great body of laws that has been built up piecemeal. It seems to me we have got to have a review so comprehensive that there would be no question in your mind, when it is concluded, that the recommendations should or should not be followed whatever the recommendations of the committee are.

I hope you will not throw up any wall, as you just now spoke about. I hope you will not make any exclusions, even in some of the policies that have been announced, because I think maybe some of your policies could be changed, too, with benefit to the Nation and benefit to your Department. I would hope that we would not be so limited in this review by exclusions by any other agencies involved.

Do you agree with that statement?

Mr. BAKER. Yes, sir.

Senator BIBLE. Well, I am glad you do, because I think it is long overdue. This review, I think, is going to be of tremendous importance to the country and certainly our section of the country where I come from. I would want the utmost cooperation out of your Department. The Congress would have to have it. The duty has been upon us, and we have shirked it, in my book, the Congress has. So we need the utmost cooperation and utmost help from your Department, be-

cause you would be loaning us the top flight individuals to help in this study, and I trust that we would have that cooperation.

Mr. BAKER. You will have our full and complete cooperation, staff assistants and otherwise.

Senator BIBLE. One further question, Mr. Baker. One of the great problems that I am encountering in the State of Nevada, insofar as forest lands are concerned, is the policy of the Forest Service on allotments to sheepmen and cattlemen within the national forests.

Now in your opinion and in response to your question that has been asked by all of us, do you or do you not believe that the Commission should go into the policy of the Department of Agriculture in cutting back on the allotments, for example?

Mr. BAKER. Mr. Chairman, I draw a distinction between the policy and consideration of policy, overall policies, in that connection, and the details of management.

Senator BIBLE. Well, I wonder whether that is responsive. Do you or do you not believe that the question of the Department of Agriculture's policy on allotments for grazing areas within the national forests is or is not a proper subject of inquiry for this Commission?

Mr. BAKER. It is.

Senator BIBLE. It is?

Mr. BAKER. Yes, sir.

Senator BIBLE. Are there any further questions of the witness?

Senator SIMPSON. Mr. Chairman, I just do not want to leave this particular thing if there is any doubt about it. We have some usages and directives and laws that have become so encrusted with usage and age and so outmoded that there would be no objection on our part if the Commission were to do away with some of these laws, or codify or repeal them.

Mr. BAKER. No, sir. We look upon this as a central focus of examining all of the land laws and regulations set up under their direction.

Senator SIMPSON. Well, you satisfy me with your statement now. Because if we do not get cooperation, I think it is going to be a useless, futile procedure.

Mr. BAKER. May I repeat to you, you will have our full cooperation.

Senator BIBLE. Thank you very much, Mr. Secretary.

Does either of the gentlemen with you care to add to your statement?

It was nice to see you.

Our next witness will be Bernard L. Orell, chairman of the Forest Industries Council.

Mr. Orell.

STATEMENT OF BERNARD L. ORELL, CHAIRMAN OF THE FOREST INDUSTRIES COUNCIL

Mr. ORELL. Mr. Chairman and members of the subcommittee, in the interest of time, if I may, I will brief my comments.

Senator BIBLE. Your statement will be incorporated in full in the record, and you can highlight it in your own way.

Mr. ORELL. Fine.

(The prepared statement follows:)

PREPARED STATEMENT OF BERNARD L. ORELL, CHAIRMAN, FOREST INDUSTRIES COUNCIL

Mr. Chairman and members of the subcommittee, I am Bernard L. Orell, chairman of the Forest Industries Council, the forest policy coordinating organization of the lumber, pulpwood, and paper industries. The three national associations comprising the FIC are the American Paper & Pulp Association, composed of 12 member associations, representing the entire papermaking industry; the American Pulpwood Association, representing private landowners, processors, suppliers, and pulpwood producers throughout the Nation; and the National Lumber Manufacturers Association, comprised of 17 regional, species and products associations representing lumber producers throughout the country.

As an industry dependent on one of the country's most important natural resources we are directly affected by policies and laws that govern public forest lands. The Federal lands provide a substantial portion—nearly one-third—of the timber harvested by the forest products industries annually. The Forest Service and the Bureau of Land Management together last year supplied over 11 billion board feet of timber for which the Federal Government received about $150 million, plus more than $50 million in roads constructed by the purchasers.

These Federal lands are intermingled with private timber producing lands. Policies of Federal land management have a direct impact on private forest management, on the operation of the forest products industries, and on the communities dependent on these industries.

SUPPORT COMMISSION CONCEPT

The forest products industries support the concept of a Public Land Law Review Commission and urge enactment of the principles enunciated in H.R. 8070, as passed by the House.

COMMISSION MEMBERS

The Commission as now proposed would have equal representation of the Senate, the House, and non-Government people. This provides for a Commission which would have complete freedom from any existing administration policies, with provision, however, for representatives of the executive departments to serve in an advisory capacity as provided in sections 5 and 6(a) of the bill. The Commission can obtain needed information from the executive departments under section 8(b). We are in complete accord with these sections.

There are some who may feel that a study of the land laws and policies could be more effectively handled by assignment to a Senate-House committee with appropriate staff to carry on the details of the review. This is based on the feeling that commissions often make detailed studies and reports which are filed and forgotten, and admittedly this is sometimes the case.

There is, however, a tremendous interest in the review which this legislation proposes. We do not believe a carefully prepared report of the proposed Commission's findings and recommendations would be allowed to gather dust by the congressional members who served on it or by the agencies and resource industries, including groups interested in recreation, who are affected by the complicated rules and laws under which all users of public lands are attempting to operate today.

One of the important aspects of a commission as proposed, is the give and take between the members which develops a consensus of the Commission rather than staff-directed findings.

As some of you may know, it was my privilege to serve on the Outdoor Recreation Resources Review Commission. This was one of the most profitable experiences of my career. Over a 3½-year period we provided the opportunity for free give-and-take discussion of the approaches to recreation with Senators, Congressmen, and knowledgeable lay users of public lands.

The lay members of the group provided the broad support needed for confidence in the final recommendations and they also developed a continuity of contact, advice, and critical review to the staff which was absolutely essential.

The resulting report was a true consensus, not a compromise and for that reason it has provided effective guidelines for the future legislative programs involving outdoor recreation. The report has been used most effectively.

These factors seem to the Forest Industries Council to make a strong case for a similar approach to a review of the country's public land laws which all recognize to be terribly complicated.

PROBLEMS OF INTERMINGLED OWNERSHIP NEED SPECIAL STUDY

Much of the Nation's public, private, and State commercial timberland is in an intermingled ownership pattern—some is in a perfect checkerboard. This pattern is an outgrowth of land settlement and land disposal policies of a developing country which was land wealthy but monetarily poor and predominates in western forest regions. There is also an intermingled ownership pattern in eastern forests—especially in national forests areas which have gradually been acquired through purchase of individual scattered parcels.

Management problems are magnified and made more costly for both Government and private timber growers by intermingled landownership. They include access road negotiations and construction, fire protection, pest control, trespass, recreation, and other aspects of forest use and management. In many instances it means that management costs for a given volume of timber are doubled.

Recognizing these problems private forest owners exchange lands to block up forest ownerships into individual management units, permitting reduced operating costs and improvement management.

Federal agencies are authorized by several statutes to exchange lands with other public agencies as well as with private landowners. In areas of intermingled ownerships we believe it to be essential to exchange Government lands and private lands when this will improve continuous forest development and reduce management costs.

Timber growers generally hope that more emphasis can be given to implementation of these existing statutes by the Federal land agencies. Exchanges now take from 3 to 12 years between private landowners and the Federal Government. Similar exchanges between private timber growers are much more quickly consummated. The burdens imposed by the lengthy periods of negotiation—during which neither party can make use of or change the value of his lands—becomes onerous on a landowner dependent on timberlands for his livelihood and is also onerous to the Federal agency involved.

Federal agencies are constantly acquiring additional lands for various purposes through outright purchase. This reduces the local tax base and further aggravates Federal budgetary problems. If more use was made of existing exchange authority, the Federal Government could obtain some of the needed lands by exchange at lower cost and also help maintain a stable local tax base.

Often an agency which needs to acquire land in one area has no land under its administration to exchange, but another agency has intermingled or isolated parcels that are suitable. A prime difficulty is that the negotiation is thought to be among three parties—the landowner, Federal agency A and Federal agency B—when it actually is between two parties—the landowner and the Federal Government. There are tremendous potential public and private benefits that can result from intensive study of these problems by a competent and impartial commission.

In areas where an established industry is dependent on a particular Federal tract, or where an essential Federal program, park, or activity is involved, a land exchange might cause disruption of programs, loss of investments, and hardship to dependent communities. Naturally, such problems must be avoided. Land exchange requires very careful planning and skillful negotiations. This Commission can point the way.

These brief examples point up some of the exchange difficulties which the forest industry believes should be throughly explored by the proposed Commission. A workable, expeditious program of exchange of land between all ownerships would do much to eliminate all the controversies presently fed by the pattern now in existence.

FEDERAL LAND LAWS GENERALLY

The forest products industry is encouraged to note that this legislation applies to more than the public domain. Lands acquired by the Federal Government are an important segment of the Federal forest land ownership pattern and

Government policies of administration are inextricably intertwined with those of the public domain. In many forest areas, acquired Federal lands, public domain lands, and non-Federal lands are intermingled in the same management unit.

Conclusions regarding public domain lands will in many instances apply equally to Federal acquired lands.

From the forestry standpoint, any consideration of Federal land laws, in order to be complete and effective, should entail a study of all legislative acts relating to both public domain and acquired Federal forest lands. We thoroughly approve this provision as now stated.

CONFIDENTIAL INFORMATION

Our industry—as are several other natural resource industries—is fiercely competitive and I imagine all would agree that detailed information on land and timber transactions not of a public nature should be submitted as privileged. We believe the provision for confidentiality as stated in section 8(a) is excellent and certainly hope it will be maintained by your committee and the Senate.

SUMMARY

The members of the Forest Industries Council appreciate this opportunity to assist the subcommittee in its consideration of the bill. We strongly support the principles enunciated in H.R. 8070.

Mr. ORELL. These are the highlights of my statement.

I am chairman of the Forest Industries Council, the forest policy coordinating organization of the lumber, pulpwood, and paper industries.

As an industry dependent on one of the country's most important natural resources we are directly affected by policies and laws that govern public forest lands. The Federal lands provide a substantial portion—nearly one-third—of the timber harvested by the forest products industries annually. The Forest Service and the Bureau of Land Management together last year supplied over 11 billion board feet of timber for which the Federal Government received about $150 million, plus more than $50 million in roads constructed by the purchasers.

These Federal lands are intermingled with private timber-producing lands. Policies of Federal land management have a direct impact on private forest management, on the operation of the forest products industries, and on the communities dependent on these industries.

The forest products industries support the concept of a Public Land Law Review Commission and urge enactment of the principles enunciated in H.R. 8070, as passed by the House.

The Commission as now proposed would have equal representation of the Senate, the House, and non-Government people. This provides for a Commission which would have complete freedom from any existing administration policies, with provisions, however, for representatives of the executive departments to serve in an advisory capacity as provided in sections 5 and 6(a) of the bill. The Commission can obtain needed information from the executive departments under section 8(b). We are in complete accord with these sections.

There are some who may feel that a study of the land laws and policies could be more effectively handled by assignment to a Senate-House committee with appropriate staff to carry on the details of the review. This is based on the feeling that commissions often make detailed studies and reports which are filed and forgotten, and admittedly this is sometimes the case.

There is, however, a tremendous interest in the review which this legislation proposes. We do not believe a carefully prepared report of the proposed Commission's findings and recommendations would be allowed to gather dust by the congressional members who served on it or by the agencies and resource industries, including groups interested in recreation, who are affected by the complicated rules and laws under which all users of public lands are attempting to operate today.

One of the important aspects of a commission as proposed, is the give-and-take between the members which develops a consensus of the Commission rather than staff directed findings.

As some of you may know, it was my privilege to serve on the Outdoor Recreation Resources Review Commission. This was one of the most profitable experiences of my career. Over a 3½-year period we provided the opportunity for free give-and-take discussion of the approaches to creation with Senators, Congressmen and knowledgeable lay users of public lands.

The lay members of the group provided the broad support needed for confidence in the final recommendations and they also developed a continuity of contact, advice, and critical review to the staff which was absolutely essential.

The resulting report was a true consensus, not a compromise and for that reason it has provided effective guidelines for the future legislative programs involving outdoor recreation. The report has been used most effectively.

These factors seem to the Forest Industries Council to make a strong case for a similar approach to a review of the country's public land laws which all recognize to be terribly complicated.

Senator BIBLE. Do you have any feeling on the size of the Commission? You have heard the earlier testimony; you have heard some of my questions. I have no fixed opinion one way or the other on it. It would be just as effective, maybe more effective, than a 19-man commission. I do not know whether you have examined this one way or the other, but a 13-man commission would have the same relative balance between the Senate and the House. I do not know whether you have explored this or have any idea as to it. If you do, we would be very happy to have your views.

Mr. ORELL. Mr. Chairman, I did listen to the testimony and was interested in the questions you put. My membership on the Outdoor Recreation Resources Review Commissions makes me really hold no brief for a 19 versus a 13.

Incidentally, Secretary Udall referred to the Outdoor Recreation Commission as being a 12-man commission. It was in actuality a 15-man commission, 8 from the Congress and 7 appointed by the President.

My feeling would be that 15 would certainly be adequate, but that 19 would not be unwieldy or provide so many members that the discussions would not have the free give-and-take to which I have just alluded. Thirteen might cut down just a little bit on the number of interests you could provide for on the Commission.

My inclination would be to say that that might be just a little bit on the small side.

Senator BIBLE. Very fine, thank you.

Mr. ORELL. One of the areas to which I want to address myself particularly is the problems of intermingled ownerships which do need special study.

Much of the Nation's public, private, and State commercial timberland is in an intermingled ownership pattern—some is in a perfect checkerboard. This pattern is an outgrowth of land settlement and land disposal policies of a developing country which was land wealthy but monetarily poor and predominates in western forest regions. There is also an intermingled ownership pattern in eastern forests—especially in national forest areas which have gradually been acquired through purchase of individual scattered parcels.

Management problems are magnified and made more costly for both Government and private timber growers by intermingled landownership. They include access road negotiations and construction, fire protection, pest control, trespass, recreation, and other aspects of forest use and management. In many instances it means that management costs for a given volume of timber are doubled.

Recognizing these problems, private forest owners exchange lands to block up forest ownerships into individual management units, permitting reduced operating costs and improvement management.

Federal agencies are authorized by several statutes to exchange lands with other public agencies as well as with private landowners. In areas of intermingled ownerships we believe it to be essential to exchange Government lands and private lands when this will improve continuous forest development and reduce management costs.

Timber growers generally hope that more emphasis can be given to implementation of these existing statutes by the Federal land agencies. Exchanges now take from 3 to 12 years between private landowners and the Federal Government. Similar exchanges between private timber growers are much more quickly consummated.

Often an agency which needs to acquire land in one area has no land under its administration to exchange, but another agency has intermingled or isolated parcels that are suitable. A prime difficulty is that the negotiation is thought to be among three parties—the landowner, Federal agency A and Federal agency B—when it actually is between two parties—the landowner and the Federal Government. There are tremendous potential public and private benefits that can result from intensive study of these problems by a competent and impartial commission.

In areas where an established industry is dependent on a particular Federal tract, or where an essential Federal program is involved, loss of investments and hardship to dependent communities may result. Naturally, such problems must be avoided. Land exchange requires very careful planning and skillful negotiations. This Commission can point the way.

A workable, expeditious program of exchange of land between all ownerships would do much to eliminate all the controversies presently fed by the pattern now in existence.

The forest products industry is encouraged to note that this legislation applies to more than the public domain.

Conclusions regarding public domain lands will in many instances apply equally to Federal-acquired lands.

From the forestry standpoint, any consideration of Federal land laws, in order to be complete and effective, should entail a study of all

legislative acts relating to both public domain and acquired Federal forest lands. We thoroughly approve this provision as now stated.

Our industry—as are several other natural resources industries—is fiercely competitive and I imagine all would agree that detailed information on land and timber transactions not of a public nature should be submitted as privileged. We believe the provision for confidentiality as stated in section 8(a) is excellent and certainly hope it will be maintained by your committee and the Senate.

To summarize: The members of the Forest Industries Council appeciate this opportunity to assist the subcommittee in its consideration of the bill. We strongly support the principles enunciated in H.R. 8070.

Senator BIBLE. Thank you very much, Mr. Orell. I have no questions.

The Senator from Idaho?

Senator JORDAN. Mr. Chairman, I just want to say that it is always a pleasure to see Bernie Orell, who represents the Forest Industries Council. The testimony he gives is always well reasoned and to the point. I am particularly interested in the point he raised here about intermingled ownerships, because that has plagued us back through the years. State lands, private lands, Federal lands, agency A, Federal lands agency B—all checkerboarded or intermingled. It has presented a real problem. I think this is one of the main points that this legislation can move to improve, if not correct fully.

Thank you, Bernie.

Mr. ORELL. Thank you, Senator Jordan.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. No questions.

Senator BIBLE. Thank you very much, Mr. Orell.

Our next witness is John Meehan, manager of the department of natural resources, U.S. Chamber of Commerce.

Mr. Meehan.

STATEMENT OF JOHN MEEHAN, MANAGER, DEPARTMENT OF NATURAL RESOURCES, U.S. CHAMBER OF COMMERCE

Mr. MEEHAN. In the interest of time, I will brief my statement, but would appreciate it if you would include it in the record.

Senator BIBLE. Your statement will be incorporated in full in the record, and you may highlight it in your own way.

Mr. MEEHAN. Thank you very much.

(The statement referred to follows:)

PREPARED STATEMENT OF JOHN J. MEEHAN FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES

My name is John J. Meehan; I am manager of the natural resources department, Chamber of Commerce of the United States, and secretary of the chamber's natural resources committee.

The Chamber of Commerce of the United States supports H.R. 8070, to establish a Public Land Law Review Commission, but we suggest several amendments.

The public land laws, which have been enacted over a period of more than a century, are too complex and are inadequate to meet current and future needs. These laws should have a comprehensive review to determine necessary revisions.

The Commission approach, as envisioned by H.R. 8070, will provide a means to conduct this review so as to reflect adequately the views of all interested groups.

The national chamber agrees with the declaration of policy in section 1 which concerns evaluating and formulating revisions of Federal public land laws. Certain public lands should be retained by the Federal Government and managed for the maximum benefit of the general public. We agree, also, that it would be in the public interest for the Government to return other lands either to private or non-Federal Government ownership.

COMMISSION ON PUBLIC LAND LAW REVIEW

The Commission proposed in section 3 of H.R. 8070 would be composed of 19 members as follows: 3 majority and 3 minority members of the Senate Interior Committee, to be appointed by the President of the Senate; 3 majority and 3 minority members of the House Interior Committee, to be appointed by the Speaker of the House; 6 persons, to be appointed by the President of the United States, who are not officers or employees of the United States; and 1 person, elected by majority vote of the other 18, who would be chairman of the Commission.

Thus, except for the Chairman, the Commission would be made up of 12 specific Members of the Congress and 6 Presidential appointees. A key provision is that which states exactly what Members of Congress should serve on the Commission. However, there is no similar language as to who the public members should be, except to preclude Government employees from serving on the Commission.

If the public land laws are to be revised "to provide the maximum benefit for the general public," as stated in section 1, public members should include users of public lands. Similarly, State and local government representation is needed on the Commission. For example, urban and suburban development, particularly in the West, is causing problems of public lands management and disposal. Another problem is the divided authority over intermingled State and Federal lands.

The national chamber, therefore, recommends that section 3 be amended to provide for the appointment to the Commission by the President of at least three members from the general public who are representative users of the public lands; and at least three representatives of State and local governments to be appointed by the President from among nominees of the Governors of Western public land States.

DUTIES OF THE COMMISSION

The duties of the Commission are outlined in section 4:

(1) To study existing statutes and regulations governing the retention, management, and disposition of public lands;

(2) To review policies and practices of Federal agencies charged with administrative jurisdiction over such lands insofar as they relate to the retention, management and disposition of those lands;

(3) To compile data necessary to understand and determine the various demands on public lands which now exist and which are likely to exist within the foreseeable future; and

(4) To recommend such modifications in existing laws, regulations, policies and practices as will best serve to carry out the policy set forth in section 1.

We urge that the language of section 4 be amended to include a requirement that the Commission review the effect that retention, management, and disposition of public lands may have on the future economies of the various States.

Language should also be added to section 4 providing for a thorough study of land classification and a means whereby classification can be speeded up in order to aid in the process of either (1) disposing of lands better suited for private or non-Federal ownership, or (2) establishing better management of lands that are to remain under Federal ownership.

The Commission is to submit its final report to the President and the Congress not later than December 31, 1967, and shall cease to exist 6 months after submission of its report or on June 30, 1968, whichever is earlier.

If H.R. 8070 should be passed in this session of Congress, this would give the Commission until December 31, 1967—approximately 3½ years—to make its study and complete its report. This is not an unreasonable length of time to make a thorough study of such a complex and important problem and to devise appropriate recommendations.

DEPARTMENTAL LIAISON OFFICERS

Section 5 authorizes the Commission to request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the retention, management, or disposition of public lands to appoint a liaison officer to work with the Commission and its staff.

This would be a very desirable official link between the Commission and the executive agencies. Through such an officer the Commission would channel its requests to the agencies for information and data, as would the agencies in reporting to the Commission.

ADVISORY COUNCIL

Establishment of an Advisory Council, as provided by section 6, is also desirable. The Council would be made up of the liaison officers appointed under section 5 together with 25 additional members, appointed by the Commission, who would represent the major citizens' groups interested in problems relating to the retention, management, and disposition of public lands.

We also concur in the scheduling of meetings as outlined in the act, including the final meeting prior to approval of the Commission's report.

Subsection (b) of section 6 states: "The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission." The duties of the Advisory Council should be spelled out in more detail than in the language above. We recommend substitution of language along the following lines:

"The functions of the Advisory Council shall be to advise and counsel the Commission in the development of ways, means, and procedures whereby the maximum cooperation may be obtained from all agencies and groups whose assistance is needed in accomplishing the purposes of this act. The Advisory Council shall also recommend sound methods and criteria for evaluating existing statutes and regulations governing the retention, management, and disposition of the public lands, and such modifications of these laws, regulations, policies, and practices as will best meet the current and future needs of the Nation."

GOVERNOR'S REPRESENTATIVES

Section 7 states that the Commission Chairman shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the Advisory Council on matters pertaining to this act.

This close cooperation with State governments is very desirable because Federal landownership, particularly in the West where such a large portion of the land is in Federal ownership, has an important bearing on State economies. Federally owned land is exempt from State and local taxes, although provision is made in some cases for sharing with the States the proceeds from resources on Federal lands. Thus disposition of public lands to private ownership adds to the tax base.

To strengthen this provision, we suggest that instead of stating that "The Chairman of the Commission shall invite the Governor of each State to designate a representative * * *," the language of section 7 be amended to read: "The Commission shall invite the Governor of each State to designate a representative * * *." This would make it mandatory on the part of the Commission to issue a specific invitation to each State Governor to designate a representative.

POWERS OF THE COMMISSION

Section 8(a) authorizes the Commission or, on authorization of the Commission, any committee thereof, to hold hearings, administer oaths, and require by subpena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or its subcommittees or members may deem advisable. Subpenas may be issued only on the authority of the Commission and shall be served by any person designated by the Chairman of the Commission.

The national chamber cannot conceive of any necessity, in a study of this nature, to grant the power of subpena. The Commission to be established by this bill is not a grand jury nor is it a duly authorized court of law nor a committee of the Congress. However, the provisions of this section do provide limits on the use of subpena power.

APPROPRIATIONS

Section 9(a) would authorize appropriations up to $4 million to carry out the provisions of the act and would provide that "such moneys as may be appropriated shall be available to the Commission until expended."

The national chamber has no current information upon which to determine what constitutes a reasonable cost for the proposed Commission study. However, we recommend that the language of the bill be amended to delete the provision that appropriations be available until expended. Such a provision is not appropriate for an agency whose primary costs are not long term in nature. The appropriations should be on a 1-year basis so that Congress may retain the benefit of annual review of spending authorizations. The language proposed in the bill would weaken congressional control of the purse.

DEFINITION OF "PUBLIC LANDS"

Section 10 defines the term "public lands," as used in this act, to include "(*a*) the public domain in the United States; (*b*) reservations other than Indian reservations, created from the public domain; (*c*) lands permanently or temporarily withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws, including the mining laws; (*d*) outstanding interests of the United States in lands patented, conveyed in fee or otherwise, under the public land laws; (*e*) national forests; and (*f*) the surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources in lands defined by appropriate statute, treaty, or judicial determination as being under the control of the United States in the Outer Continental Shelf.

This definition would exclude lands in Federal ownership which have been acquired by purchase, donation, or exchange, from private or non-Federal public ownership. All of the lands in Federal ownership in the Thirteen Original States and in Texas, and a considerable part of the Federal lands in the other States have been so acquired, although some of them were originally part of the public domain.

Therefore, no study or investigation of public lands and methods for their management, retention, and disposal can be complete without also including "acquired" lands. Consequently, it is recommended that section 10 be amended to add to the definition of "public lands" for the purpose of this act all lands in Federal ownership which have been acquired by purchase, donation, or exchange from private or non-Federal public ownership.

In summary, the national chamber urges passage of H.R. 8070 with amendments as suggested above.

Mr. MEEHAN. To brief my statement:

My name is John J. Meehan. I am manager of the Natural Resources Department, Chamber of Commerce of the United States, and secretary of the chamber's natural resources committee.

The Chamber of Commerce of the United States supports H.R. 8070, to establish a Public Land Law Review Commission, but we suggest several amendments.

The public land laws, which have been enacted over a period of more than a century, are too complex and are inadequate to meet current and future needs. These laws should have a comprehensive review to determine necessary revisions. The commission approach, as envisioned by H.R. 8070, will provide a means to conduct this review so as to reflect adequately the views of all interested groups.

The national chamber agrees with the declaration of policy in section 1 which concerns evaluating and formulating revisions of Federal public land laws. Certain public lands should be retained by the Federal Government and managed for the maximum benefit of the general public. We agree also that it would be in the public interest for the Government to return other lands either to private or non-Federal Government ownership.

The Commission would be made up of 12 specific Members of the Congress and 6 Presidential appointees. A key provision is that which states exactly what Members of Congress should serve on the Commission. However, there is no similar language as to who the public members should be, except to preclude Government employees from serving on the Commission.

If the public land laws are to be revised "to provide the maximum benefit for the general public," as stated in section 1, public members should include users of public lands. Similarly, State and local government representation is needed on the Commission. For example, urban and suburban development, particularly in the West, is causing problems of public lands management and disposal. Another problem is the divided authority over intermingled State and Federal lands.

The national chamber, therefore, recommends that section 3 be amended to provide for the appointment to the Commission by the President of at least three members from the general public who are representative users of the public lands; and at least three representatives of State and local governments to be appointed by the President from among nominees of the Governors of western public land States.

We urge that the language of section 4 be amended to include a requirements that the Commission review the effect that retention, management, and disposition of public lands may have on the future economies of the various States.

Language should also be added to section 4 providing for a thorough study of land classification and a means whereby classification can be speeded up, in order to aid in the process of either (1) disposing of lands better suited for private or non-Federal ownership, or (2) establishing better management of lands that are to remain under Federal ownership.

Subsection (b) of section 6 states:

> The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

The duties of the Advisory Council should be spelled out in more detail than in the language above. We recommend substitution of language along the following lines:

> The functions of the Advisory Council shall be to advise and counsel the Commission in the development of ways, means and procedures whereby the maximum cooperation may be obtained from all agencies and groups whose assistance is needed in accomplishing the purposes of this Act. The Advisory Council shall also recommend sound methods and criteria for evaluating existing statutes and regulations governing the retention, management, and disposition of the public lands, and such modifications of these laws, regulations, policies and practices as will best meet the current and future needs of the Nation.

Section 7 states that the Commission Chairman shall invite the Govnor of each State to designate a representative to work closely with the Commission and its staff and with the Advisory Council on matters pertaining to this act.

This close cooperation with State governments is very desirable because Federal landownership, particularly in in the West, where such a large portion of the land is in Federal ownership, has an important bearing on State economies. Federally owned land is exempt from State and local taxes, although provision is made in some cases for sharing with the States the proceeds from resources on Federal lands.

Thus disposition of public lands to private ownership adds to the tax base.

To strengthen this provision of the bill, we suggest that instead of stating that—

> The Chairman of the Commission shall invite the Governor of each State to designate a representative—

the language of section 7 be amended to read:

> The Commission shall invite the Governor of each State to designate a representative * * *

This would make it mandatory on the part of the Commission to issue a specific invitation to each State Governor to designate a representative.

The national chamber cannot conceive of any necessity, in a study of this nature, to grant the power of subpena, as authorized under section 8(a). The Commission to be established by this bill is not a grand jury nor is it a duly authorized court of law nor a committee of the Congress. However, the provisions of this section do provide limits on the use of subpena power.

The national chamber has no current information upon which to determine what constitutes a reasonable cost for the proposed Commission study. However, we recommend that the language of the bill be amended to delete the provision that appropriations be available until expended. Such a provision is not appropriate for an agency whose primary costs are not long term in nature. The appropriations should be on a 1-year basis so that Congress may retain the benefit of annual review of spending authorizations. The language proposed in the bill would weaken congressional control of the purse.

This definition would exclude lands in Federal ownership which have been acquired by purchase, donation, or exchange, from private or non-Federal public ownership. All of the lands in Federal ownership in the Thirteen Original States and in Texas, and a considerable part of the Federal lands in the other States have been so acquired, although some of them were originally part of the public domain.

Therefore, no study or investigation of public lands and methods for their management, retention, and disposal can be complete without also including "acquired" lands. Consequently, it is recommended that section 10 be amended to add to the definition of "public lands" for the purpose of this act all lands in Federal ownership which have been acquired by purchase, donation, or exchange from private or non-Federal public ownership.

In summary, the national chamber urges passage of H.R. 8070 with amendments as suggested above.

Senator BIBLE. I wish you would develop that last point just a little more. It seems to me, as I view your testimony, that that would certainly broaden the scope of this study to a great extent, would it not, if we were to look to the acquisition of all Federal lands?

Mr. MEEHAN. We think there are some problems, Mr. Chairman, in terms of land-management activities, not only in the public domain lands, but also in acquired lands. We can see the similarity of management techniques could equally be handled by a commission of this sort.

Earlier, there was a discussion about what lands would be involved in the study of this Commission. There was some discussion about

whether military reservations would be involved, what further national forests would be involved. There are some acquired national forests would be involved. There are some acquired national forests that are encompassed in this study as I interpret it. But there are some lands, as I understand it, some wet lands and migratory game ranges, for instance, which are acquired lands, which we believe should be included in this study.

Senator BIBLE. Do you have other examples? You said the acquisition of wet lands, when they are acquired lands, that that should be looked into. Do you have other examples?

Mr. MEEHAN. Not offhand. I can supply them to the committee.

Senator BIBLE. I wish you would supply them for the record, because I am a little concerned as to the scope this might involve us in.

For example, would you look into the acquisition of the land to the east of this building which was acquired for the use of the Capitol and the House Office Buildings and the Senate Office Buildings?

These are acquired lands of the U.S. Government, and I would not suggest that you would want to go that far, but maybe you do.

Mr. MEEHAN. Well, perhaps.

Senator BIBLE. Maybe we would be acquiring too much land for the building of the Capitol Grounds. Now, would that be a part of this study?

Mr. MEEHAN. It might be. I have not anticipated this, however. Maybe I should have.

What we are thinking about, for example, is the acquisition of military reservations east of the Mississippi. Some of these are no longer needed. There is some discussion of how they should be managed. There are problems of what we do with them now, how they can be managed for the best interests of the public. Should they be disposed of? Should they remain in Federal ownership?

There are, in our judgment, sufficient examples of this to make this an area that should be looked into.

Senator BIBLE. Thank you.

(The information requested is as follows:)

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., July 2, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands, Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR BIBLE: At the end of Mr. John J. Meehan's testimony for the Chamber of Commerce of the United States on June 30, you asked that we supply, for the record, a description of those acquired federally owned lands that should be included in the study to be made by the proposed Land Law Review Commission.

As was stated in Mr. Meehan's testimony, the national chamber suggests that the Commission be authorized to review the laws, rules, and regulations pertaining to acquired public lands as well as those federally owned lands described in section 10 of H.R. 8070.

Many of the executive department rules and regulations apply to acquired lands as well as to public domain lands. An example of this is the rules and regulations on rights-of-way across Federal lands.

One reason for inclusion of acquired lands for study is the continued acquisition of land by the Federal Government. This practice imposes severe burdens on many communities through the removal of such property from local and State tax rolls.

The proposed Land Law Review Commission should have sufficient authorization to investigate changes in Federal laws or regulations which would (1) encourage leasing or otherwise contracting for use of land without requiring fee

simple title thereto; or (2) permit replacement of acquired private lands, through the exchange of similar and suitable federally owned lands, whether under the same or different Federal jurisdiction.

Those lands that have been acquired by the Federal Government outside of the public domain lands such as military reservations, game ranges, national forests in the Eastern United States, dam and reservoir sites, recreational areas, and other installations, except sites for Federal buildings, should be included in the description of public lands in section 10 of H.R. 8070.

We would appreciate your making this letter a part of the record of your hearings on this legislation.

Sincerely yours,

THERON J. RICE, *Legislative General Manager.*

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. No questions.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. I just want to compliment the witness on a good report. There are some recommendations there that intrigued me, certainly one good one, and I did not realize that the bill stated this, regarding the retention of the money. We should take a look at that.

Senator BIBLE. Thank you very much, Mr. Meehan.

Our next witness is John I. Taylor, of the American Farm Bureau Federation.

Mr. Taylor.

STATEMENT OF JOHN I. TAYLOR, ASSISTANT LEGISLATIVE DIRECTOR, AMERICAN FARM BUREAU FEDERATION

Mr. TAYLOR. Mr. Chairman, members of the committee, I will be brief, as I know your time is short.

We of the American Farm Bureau Federation are pleased to have this opportunity to appear and present our views in support of H.R. 8070, providing for the creation of a Public Land Law Review Commission.

This House-passed measure is designed to create the mechanism for the study of "existing laws and procedures relating to the administration of the public lands of the United States."

Such a study, we hope, would lead to recommendations to the Congress for the unification, recodification, and enactment of good, sound, workable laws and procedures for the handling by executive agencies of the public domain lands of the Nation.

For over a hundred years the laws covering the handling of public lands have been passed as needed at the time. At intervals, one after another has been enacted until now the many various and sundry laws on the statute books are for the most part obsolete, outmoded, unrelated, and uncoordinated. Furthermore, times have changed and the public land policies apropos in the eighteen hundreds and early nineteen hundreds are not sound policies today.

While these public land laws apply primarily to the 17 western public land States, Farm Bureau feels their study and review will be of considerable benefit to the whole country but of greater importance to the farmers, ranchers, and general public of the West.

H.R. 8070, as amended and passed by the House of Representatives, is a vastly improved measure over the version originally written. We believe the undertaking is of such importance that it should receive the favorable consideration of the subcommittee, the full committee, and be passed during this session. There are, no doubt, corrective

amendments which you will wish to make to improve it; but we hope you will proceed with speed.

Even though we could probably make minor suggestions for its improvements, we will refrain from doing so. We feel it has sufficient safeguards and the Commission should, with the help of the Advisory Committee, the agency liaison officers, and representatives of the Governors, be able to do a commendable job.

We recommend the Commission be established as provided for in H.R. 8070.

We would only remind you that the Constitution of the United States provides in article IV, section 3, clause 2:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States * * *.

Comments and references concerning the above clause are as follows:

> No appropriation of public lands may be made for any purpose except by authority of Congress (*U.S.* v. *Fitzgerald*, 15 Pet. 407, 521, 1841) (Utah P. & L. Co., 243 U.S. 389, 1917).
>
> The long-continued practice of withdrawing land from the public domain by Executive orders for the purpose of creating Indian reservations has raised an implied delegation of authority from Congress to take such action (*Sioux Tribe* v. *U.S.*, 316 U.S. 317, 1942).
>
> The comprehensive authority of Congress over public lands includes the power to prescribe the times, conditions, and mode of transfer thereof, and to designate the persons to whom the transfer shall be made (*Gibson* v. *Chouteau*, 13 Wall. 92, 99, 1872).

The handling of the public lands is the sole responsibility of the Congress. This means the legislative branch of Government. We trust the Congress will assume this responsibility and that this study—recommendations and the enactment of new laws which should logically follow—will clarify both the policies and the statutes with regard to the public lands.

We feel this step in the review and recodification of the policies and laws with regard to public lands is long overdue. We are pleased to endorse this effort to accomplish this purpose.

We appreciate the opportunity to present our view on this important matter.

We have not made any recommendations in this statement other than the recommendation of the passage of the bill. You have raised a number of questions this morning that I would like to comment upon, because we did in the House make certain recommendations.

As to the number of the Commission, this does seem a little unwieldy, and yet we did so recommend in the House report, both as to the makeup and as to the number.

Our suggestion as to the makeup of the Committee was adopted by the House and is now in this current bill.

At the time of the study, we felt, and so testified before the House, that it was too long and suggested that the time be reduced, as also we recommended that the amount of money appropriated therefor be cut in half.

We would suggest $2 million instead of $4 million.

There are also other bills, three other bills, two of which you are considering, which we will support, which are H.R. 5159, the multiple-use bill, and H.R. 5498, the sale of public lands. We did testify on this bill that out of this study we hope there would come some consideration

for the sale of other lands, not only for the extension of cities, but the recodification of lands that would be suitable for farming and ranching.

There is one other bill, which you are not considering, which might merit your consideration, H.R. 803, which would hold in abeyance the withdrawals of any further public lands until the report of the Commission was in. I recommend it for consideration.

With this, I thank you very kindly for this opportunity to present our views to the committee.

Senator BIBLE. Thank you very much, Mr. Taylor, for a very fine, effective, and helpful statement.

The Senator from Idaho?

Senator JORDAN. I just want to commend Mr. Taylor on a fine presentation. We always give respect to his statements, and I think it is timely to remind us that the handling of public lands is the sole responsibility of the Congress. So often we have shirked that responsibility in the Congress, and I think it is well to be reminded of it.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. I have no questions.

Senator BIBLE. Thank you very much, Mr. Taylor.

Our next witness is Mr. James G. Stearns, immediate past president of the western region district of the National Association of Counties.

Mr. Stearns.

Just be seated, Mr. Stearns, and your statement will be incorporated in full in the record.

Would you please introduce those with you at the witness table and proceed in your own manner.

STATEMENT OF JAMES G. STEARNS, VICE PRESIDENT, WESTERN REGIONAL DIVISION, NATIONAL ASSOCIATION OF COUNTIES; ACCOMPANIED BY JUDGE LLOYD REA, PAST PRESIDENT, ASSOCIATION OF OREGON COUNTIES; AND C. D. WARD, GENERAL COUNSEL, NATIONAL ASSOCIATION OF COUNTIES

Mr. STEARNS. I would like to summarize my statement.

Senator BIBLE. Your complete statement will be incorporated in the record at this point.

(The statement referred to follows:)

PREPARED STATEMENT OF JAMES G. STEARNS, REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES

Mr. Chairman and members of the subcommittee, my name is James G. Stearns. I am an elected county supervisor from Modoc County, Calif., and am the immediate past president of the National Association of Counties' Western Region District, which encompasses the 13 western public land States. During the present year, I serve as a member of NACO's national board of directors.

This statement is being submitted on behalf of the National Association of Counties, which is a nonprofit organization which represents the 3,043 county governments in the United States.

Since there are three bills before your subcommittee today, my specific comments will be directed toward each of them individually.

(*a*) *Establishment of a Public Land Law Review Commission* (*H. R. 8070*).—This bill, in its present form, is strongly supported by the county level of government as providing a workable framework wherein a comprehensive review of the policies applicable to the use, management, and disposition of public domain

lands can be undertaken and specific congressional policy guidelines be developed for the long-range management of this valuable national resource.

At our association's 1963 annual conference in Denver, Colo., the following policy statement was adopted:

"*Public lands review.*—The National Association of Counties recognizes that many of the public land laws and policies are now outdated and badly in need of being modernized. We recommend to the Congress that a comprehensive survey and review of the public land laws and policies be undertaken; that this survey be as broad in scope as possible to include all aspects of public land management and all of the federally owned lands; and that it provide for an active participation by representatives of the State, county, and municipal levels of government."

As the subcommittee is well aware, county governments are closely involved, both in the disposition and management of retained Federal lands, since counties are the level of government which is primarily responsible for the economic and land use planning of areas beyond the city limits.

It is estimated that the 11 western public land States will substantially increase in population from 28.1 million people in 1961, to 37 million persons by 1970.

This population growth is rapidly moving the suburban fringe areas, and their citizen demands for counties to provide municipal-type services, out into the "country" where vast acreages of Federal lands are being encountered.

The result of this rapid growth has been an increasing emphasis and attention throughout the West, toward integrating and coordinating the policy planning activities of the Federal, State, county, and municipal levels of government to avoid governmental conflicts.

Any long-range policy decisions regarding the eventual disposition or retention of Federal lands will therefore have a pronounced impact on these county governments.

A major area of concern to all local governments, which the proposed Commission will undoubtedly face, is the rationalization of the existing provisions for shared revenues and payments in lieu of taxes and their relationship to those public lands which may be held permanently in Federal ownership.

Our primary interest in the public lands is that they be effectively managed to insure their maximum productivity.

To this end, county governments are very much interested in exploring with the Commission these fundamental questions.

It is quite possible that this exploration will result in "exciting opportunities" for a partnership cooperation approach to public land management with the counties assuming a major responsibility for comprehensive planning, the construction or maintenance of access roads, a cooperative sharing of fire protection responsibilities, the development of public recreation sites—the possibilities are endless.

As the representative of the local "publics" which are physically located within the areas of great Federal land concentrations and a junior "partner" in the Federal structure of government, what the counties are strongly advocating is that the membership of the Public Land Law Review Commission, as outlined in section 3(iii) of H.R. 8070, include a representative of the county level of government.

In this way, all of the relevant "publics" involved in public land management can be assured a voice in the deliberations of this highly significant and important Commission.

(*b*) *Temporary authority for the sale of public lands* (*H.R. 5498*).—There is no satisfactory general authority on the statute books whereby public lands can be made available to provide for the economic expansion of western areas which need these lands in order to promote their orderly development.

In addition, there is no satisfactory general authority to provide for the sale of public lands that are necessary for the private development of residential, commercial, and industrial facilities, or to allow States and local governments to acquire large tracts of land for recreational purposes.

During our 1963 annual conference the National Association of Counties adopted the following policy statement:

"*Sale of public lands.*—The National Association of Counties endorses the basic principle that public lands which are required for the residential, commercial, or industrial development of a local community should be disposed of in cooperation with the plans and zoning requirements of the States, counties, and municipalities concerned. We recommend that when a State and/or its political sub-

division expresses a positive intent to purchase available public lands, they be given a preference and allowed not less than 2 years to raise the funds for purchasing these lands. We further recommend that before sales of public lands are accomplished, local governments involved be given a reasonable time within which to zone the area."

We support the provisions of H.R. 5498 and, in particular, endorse section 2 since it provides for an effective basis of cooperation between the Bureau of Land Management and the local governments concerned by coordinating such sales or dispositions with the plans and zoning requirements that have been developed by a local community for its future and long-range development.

There are two technical provisions regarding this bill that we request the committee to incorporate within its committee report on H.R. 5498, so that appropriate regulations can subsequently be promulgated by the Secretary of the Interior.

Incorporation of these two provisions within the administrative regulations will permit a greater degree of latitude by the participating State and local governments.

1. That the time of advance notification to the local governments having zoning jurisdiction be greater than 90 days. We suggest a minimum of 6 months and preferably 1 year.

This modification would not require an amendment to this bill, nor would it frustrate its objectives. Instead, it will provide a realistic time for the local units of government to zone such lands to conform to local planning and development.

Within rural communities the local governing board frequently meets only once a month and the 90-day limitation may preclude even diligent local governments from meeting their obligation to hold public hearings before the zoning can be accomplished.

2. That the administrative regulations provide a deferred payment plan for public agencies. Specifically, we request that when a State and/or a political subdivision expresses a positive intent to purchase surplus public lands, they be allowed not less than 2 years to raise the funds for purchasing these lands.

Under the Recreation and Public Purposes Act, local and State agencies can obtain public lands for recreational, school, and other public purposes.

It would be very helpful to the State and local governments if they could purchase and thereby acquire a clear title to certain public lands for other governmental purposes such as industrial parks and dump sites.

This 2-year period would provide the State or local government with an adequate time to raise the money for such purchases, since local governments normally do not have sufficient funds that are readily available for the consummation of a purchase arrangement of any magnitude. Without a provision of this nature, most local governments would be precluded from purchasing those public lands that may be required for the orderly development of their communities.

Since many local governments are prohibited by statute from participating in a public auction, this provision in the committee report would provide congressional guidance to the Secretary of the Interior to avoid this restriction.

(c) *Classification and interim management of the public lands under multiple-use principles (H.R. 5159).*—This important bill provides legislative guidance for the Secretary of the Interior to classify the public lands for either disposal or retention in accordance with certain specified criteria.

The concept embodied in this legislation was carefully considered during our association's 1963 annual conference and the following policy statement was adopted:

"*Multiple use.*—We believe that land having a value for multiple-use purposes, including timber and forage production, mineral development, watershed management, hunting, fishing, or general recreational value, should be so developed, and that there should be a careful review of any decisions to restrict the usage of public land."

The increasing pressures for a more effective utilization of the lands available in the West will require a more intensive use of these acres than has taken place in the past.

This significant proposal provides for multiple uses of the public lands. The concept does not require that the enumerated uses will be permitted or allowed on every single acre of public lands, but it does allow a program of noncompeting uses so as to provide for the maximum utilization of this valuable resource.

In addition, there is incorporated within this bill an important concept. It is the providing by Congress of broad statutory guidelines to guide the management and disposal of the Federal public domain.

We feel that even though these last two bills are temporary in duration, the Department of the Interior and the Bureau of Land Management should initiate action on these two bills immediately after they are enacted into law, since they offer a tremendous experience factor for the Public Land Law Review Commission's study.

In conclusion, we feel that for the public land States and counties, this orderly review of the public land laws and policies can develop into one of Congress finest and far-reaching achievements.

We strongly urge the Congress to pass all three bills during the current session of Congress.

Our association sincerely appreciates this opportunity to indicate to your subcommittee the strong interest of county government in the effective management of the Nation's public lands.

Thank you.

Mr. STEARNS. Mr. Chairman and members of the subcommittee, my name is James G. Stearns, from Modoc County, Calif. I have with me Judge Lloyd Rea, Baker County, Oreg., and Mr. C. D. Ward, general counsel of the National Association of Counties.

My statement here is rather comprehensive, Mr. Chairman, but I am going to be very brief; in the interest of time. I do not think I will even skip through it.

I would like to say to you, however, that at the 1963 convention of the National Association of Counties in Denver the whole public lands matter was given a very thorough airing, and the three pieces of legislation that you are considering here today, the Public Land Law Review Commission bill, the public sale bill, and the multiple-use bill, all three came out of that conference with policy statements through our organization that are substantially the same thing that these three bills encompass.

These are very needful pieces of legislation. Those of us who deal with these things on a day-to-day matter in the rural counties of the West find ourselves coming back to Washington more and more, attempting to resolve the problems and conflicts that these checker board jurisdictions and ownerships bring before us continually. The need for this is very great, and the National Association of Counties, made up of over 3,000 counties in the United States, is very much interested in some direction being given to us.

As Mr. Taylor just pointed out, this is the function of this Congress, to handle these public lands, and those of us who cannot resolve our problems on a local level find ourselves back here more and more as time goes by.

I think I will conclude my statement with that, because I know you are pressed for time. I would be happy to answer any questions.

Senator BIBLE. It is always good to see you, Mr. Stearns. As you know, I have visited the National Association of Counties on a number of occasions. I think it is a very fine organization and you have made a fine statement. You have unqualifiedly recommended and approved each of the three pieces of legislation that we are considering, in a package, as I understand it.

Mr. STEARNS. Yes, we do.

We ask in the statement for a little consideration, a little more time on zoning and on time to raise money on the purchase of some of these public lands in our juridiction. But that is explained in the state-

ment. We do need a little more time, because we budget once a year, and 6 months does not always give us the time to protect ourselves on the acquisition for public purchases as proposed under the public sale bill. We asked for that in here, and for a little more time on our zoning.

Senator BIBLE. Did you specify the amount of time?

Mr. STEARNS. Yes, we did.

Senator BIBLE. For how long?

Mr. STEARNS. We asked for 6 months on zoning and 2 years on the budgeting of money to acquire the property. But we all have planning commissions, and we have to advertise in the newspapers for public hearings 3 weeks in advance, and the 90 days is used up. Even on one that is noncontroversial, the time is used up. And if a controversy does arise and we would like to hold further hearings to see whether this is what we want to do, the time would run out before we could comply with our own parts of the law in many parts of the West.

Senator BIBLE. And you placed that in full in your statement?

Mr. STEARNS. That is spelled out in the statement.

Senator BIBLE. Thank you very much.

The Senator from Idaho?

Senator JORDAN. Mr. Chairman, I have a wholesome respect for Mr. Stearns and the organization he represents. These are the men that are right down dealing every day with the problems that we are working on and propose to do something about. I think that they are making their contribution to our efforts when they come out with the recommendations they have.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. No questions.

Senator BIBLE. Now, Judge Rea, we would be delighted to hear from you.

STATEMENT OF JUDGE LLOYD REA, PAST PRESIDENT, ASSOCIATION OF OREGON COUNTIES

Mr. REA. Thank you, Senator.

Mr. Chairman and members of the committee; with your permission, I will not read this word for word, but I would like to——

Senator BIBLE. It will be incorporated in full in the record.

Mr. REA. Thank you very much.

(The statement referred to follows:)

PREPARED STATEMENT OF LLOYD REA, COUNTY JUDGE, BAKER COUNTY, OREG.

Mr. Chairman and members of the committee, my name is Lloyd Rea. I am county judge of Baker County, Oreg., a past president of the Association of Oregon Counties, and currently chairman of the association's public lands committee. I am here today speaking on behalf of the association. I am also a member of the Board of Directors of the National Association of Counties, and a member of the National Advisory Boards Council, representing county government.

The following sections of the official public lands policy statement of the Association of Oregon Counties, adopted in 1960, are pertinent to H.R. 8070, H.R. 5159, and H.R. 5498:

"The association strongly supports the concept of multiple-use, sustained yield management of Federal lands, as set forth for the national forests in Public Law 86–517, adopted June 12, 1960.

"Counties should share responsibility with the Federal agencies for the management of the public lands. This involves frequent consultation, cooperation, and joint action between county officials and Federal officials.

"Existing programs for blocking and exchanging Federal lands should be accelerated, to the end that lands best suited for private ownership and management, including much of the 'land utilization' area acquired by the Federal Government under the Bankhead-Jones Act, be restored to private hands, and more manageable units of Federal lands be created.

"The classification of public lands according to its highest and best use by the Bureau of Land Management and the Forest Service should proceed on the basis of cooperation and consultation with affected county governments."

The Association of Oregon Counties has taken action specifically favoring H.R. 8070, and the other two bills are consistent with our general policies.

Our counties recognize that the Federal Government is solely responsible for final decisions—administrative and legislative—affecting the lands within the scope of H.R. 8070. However, the interest of county government in these decisions is so great that we believe counties should be represented directly on the Public Land Law Review Commission. The nature of that interest is indicated in the balance of my testimony.

The county government interest in Federal land management may be divided into three phases: (1) The county's general interest in economic development; (2) specific county interests related to county planning and zoning, county roads and other public works and services, and county revenues; and (3) the county's representational role in rural communities.

Counties are officially concerned with the health of community economies, just as State governments are active in the promotion of State economic development. In the areas of high public lands concentration, such as Oregon and the other Western States, this means that counties are concerned with Federal decisions as to the classification, utilization, investment, and disposal or retention of public lands. Many communities in these States are almost wholly dependent for their livelihood on public land resources such as timber, forage, minerals, water, and recreation facilities.

In other words, Mr. Chairman, county officials are coming to recognize that their interest in public lands management transcends what has been its traditional focus, the attainment of reasonable payments in lieu of taxes on behalf of tax-exempt Federal lands. This continues to be a matter of very great county concern, but it is not the only aspect of Federal land ownership with which counties are concerned. The counties' general interest in economic development requires that county officials participate to the fullest extent possible in all phases of Federal land management.

In addition to this general interest, certain specific county programs and services can be carried on only with close Federal-county cooperation. County planning and zoning, for example, would be wholly unrealistic in my county and in many western counties if it failed to take into consideration the resources and activities on the Federal lands. Conversely, changes in Federal land programs vitally affect private land use, and it would be disastrous to county planning if such changes were made without due regard to local planning.

In this regard, we are very glad to note that section 2 of H.R. 5498 requires the Secretary of the Interior to give an opportunity to local government officials to zone lands prior to their disposal. The 90-day period allowed under the bill, however, is an extremely short period of time in which to conduct the necessary studies and reach the necessary conclusions, even in counties that already have comprehensive plans upon which to base their zoning. We recommend that a longer period of time, say 6 months, be provided.

The construction and maintenance of county roads, parks, utilities, and buildings, and the provision of such services as law enforcement, public health, and public assistance relate directly to what happens on the Federal lands. Access to and through Federal lands is heavily dependent on county roads. The extent to which Federal lands are developed and used for recreation affects the quantity and nature of park and recreation facilities the counties must provide. County services to people—including law enforcement, health, and welfare services—are extremely sensitive in the public lands States to Federal land resource utilization.

Federal land laws providing various kinds of payments to counties in lieu of property taxes have a great impact on the ability of public lands counties to provide public services. Any attempt which might be made by the Public Land Law Review Commission to develop an overall policy on this subject should cer-

tainly proceed on the basis of close cooperation and consultation with county officials.

It is obvious from what has been said that there is a valid "local" public interest to be considered in Federal land decisions, along with the "national" public interest. The politically responsible group in each local community that best represents that "local" public interest is the county governing body.

The thoroughgoing review of public land policies and programs which will be the mission of the Public Land Law Review Commission should be made from the standpoints of both relevant "publics" national and local. We respectfully suggest that the county interest in Federal lands is to be distinguished from the interests of the special groups mentioned in section 6 of H.R. 8070. County governments, we believe, should be represented directly on the Commission itself rather than on the advisory council alone.

We appreciate very much the opportunity of appearing before your committee, and wish to affirm our strong support for these three bills.

Thank you.

Mr. REA. I would like just to give you the highlights of my statement.

I am here representing the Association of Oregon Counties, and I am presently chairman of the public lands committee of that association. I also serve on the national board of directors of the National Association of Counties and on the National Advisory Board Council, the Bureau of Land Management.

The Association of Oregon Counties in 1960 made a positive statement that, in effect, endorses the principles involved in the bills that we are here today testifying for: H.R. 8070, H.R. 5159, and H.R. 5498. In addition to that, the Association of Oregon Counties has gone on record specifically favoring H.R. 8070.

Our counties recognize that the Federal Government is solely responsible for final decisions, administrative and legislative, affecting the lands within the scope of H.R. 8070. However, the interest of county government in these decisions is so great that we believe the counties should be represented directly on the Public Land Law Review Commission.

The nature of that interest is indicated in the balance of my testimony.

The county government interest in Federal land management may be divided into three phases:

(1) The county's general interest in economic developments.

I might say here that my county is one of three northeastern Oregon counties that have just completed an economic survey by experts to determine what we could do to help our area. In there we find how important and how closely we are tied to the public lands with regard to water, timber, and minerals.

To continue:

(2) Specific county interests related to county planning and zoning, county roads and other public works and services, and county revenues; and

(3) The county's representational role in rural communities.

Counties are officially concerned with the health of community economics, just as State governments are active in the promotion of State economic development. In the areas of high public lands concentration, such as Oregon and the other Western States, this means that counties are concerned with Federal decisions as to the classifications, utilization, investment, and disposal or retention of public lands. Many communities in these States are almost wholly dependent for

their livelihood on public land resources such as timber, forage, minerals, water, and recreation facilities.

In other words, Mr. Chairman, county officials are coming to recognize that their interest in public lands management transcends what has been its traditional focus, the attainment of reasonable payments in lieu of taxes on behalf of tax-exempt Federal lands. This continues to be a matter of very great county concern, but it is not the only aspect of Federal landownership with which counties are concerned. The counties' general interest in economic development requires that county officials participate to the fullest extent possible in all phases of Federal land management.

In addition to this general interest, certain specific county programs and services can be carried on only with close Federal-county cooperation. County planning and zoning, for example, would be wholly unrealistic in my county and in many western counties if it failed to take into consideration the resources and activities on the Federal lands. Conversely, changes in Federal land programs vitally affect private land use, and it would be disastrous to county planning if such changes were made without due regard to local planning.

In this regard, we are very glad to note that section 2 of H.R. 5498 requires the Secretary of the Interior to give an opportunity to local government officials to zone lands prior to their disposal. The 90-day period allowed under the bill, however, is an extremely short period of time in which to conduct the necessary studies and reach the necessary conclusions, even in counties that already have comprehensive plans upon which to base their zoning. We recomend that a longer period of time, say, 6 months, be provided.

The construction and maintenance of county roads, parks, utilities, and buildings, and the provision of such services as law enforcement, public health, and public assistance relate directly to what happens on the Federal lands. Access to and through Federal lands is heavily dependent on country roads. The extent to which Federal lands are developed and used for recreation affects the quantity and nature of park and recreation facilities the counties must provide. County services to people—including law enforcement, health, and welfare services—are extremely sensitive in the public lands States to Federal land resource utilization.

Federal land laws providing various kinds of payments to counties in lieu of property taxes have a great impact on the ability of public lands counties to provide public services. Any attempt which might be made by the Public Land Law Review Commission to develop an overall policy on this subject should certainly proceed on the basis of close cooperation and consultation with county officials.

It is obvious from what has been said that there is a valid "local" public interest to be considered in Federal land decisions, along with the "national" public interest. The politically responsible group in each local community that best represents that "local" public interest is the county governing body.

The thoroughgoing review of public land policies and programs which will be the mission of the Public Land Law Review Commission should be made from the standpoints of both relevant "publics" national and local. We respectfully suggest that the county interest in Federal lands is to be distinguished from the interests of the special groups mentioned in section 6 of H.R. 8070. County governments, we

believe, should be represented directly on the Commission itself rather than on the advisory council alone.

Mr. Chairman, we appreciate very much the opportunity of appearing before your committee, and wish to affirm our strong support for these three bills.

Thank you.

Senator BIBLE. We are glad to hear your views, Judge Rea. I know how considerable your reputation is in this field of working with this association of counties, and different ones in the area of public lands, and I certainly am very happy to have your views and have them recorded as a part of this record.

Mr. REA. Thank you.

Senator BIBLE. Did you have anything further to add?

Mr. WARD. No, Senator.

Senator BIBLE. The Senator from Idaho?

Senator JORDAN. I think you have made an interesting suggestion here, that someone from the county be represented on the Commission. I think this is a point the committee should well consider.

Senator BIBLE. The Senator from Wyoming?

Senator SIMPSON. I have no questions.

Senator BIBLE. Very fine, gentlemen. Thank you very much for your presentation.

We next have a representative of Potlatch Forests, Inc. I am not sure which of the two gentlemen are here. I note a Joseph MacLaren and a James P. Rogers. Mr. Rogers?

Mr. ROGERS. Mr. Chairman, and Senators——

Senator BIBLE. We are very happy to have you here, sir.

STATEMENT OF JAMES P. ROGERS, PORTLAND, OREG., ATTORNEY, ACCOMPANIED BY JOSEPH R. MacLAREN, ASSISTANT TO THE PRESIDENT OF POTLATCH FORESTS, INC., LEWISTON, IDAHO

Mr. ROGERS. Since the time of the committee is so limited, I would simply like to have both statements introduced in the record, the statements of Mr. MacLaren and myself.

Senator BIBLE. Mr. MacLaren's statement will be incorporated in full in the record, and likewise your statement will be incorporated also.

(The statements referred to follow:)

PREPARED STATEMENT OF JAMES P. ROGERS, PORTLAND, OREG., ATTORNEY

Mr. Chairman and Senators of the Public Lands Subcommittee, my name is James P. Rogers, my office address is 1410 Yeon Building, Portland, Oreg. I am a lawyer, a partner in the law firm of Rockwood, Davies, Biggs, Strayer & Stoel, at the address I have given above.

I could be said, perhaps, somewhat of a specialist in the law relating to public lands. No one wants, I suppose, to say that he is an "expert" on the subject of public land laws or much else, but I know enough of the subject to know how much I still don't know. I have, however, enough knowledge and experience that I can say there is hardly anything in these laws today which benefits anyone but the specialist in the field, few though they are outside the lawyers in the Departments of Interior, Agriculture, and—perhaps—Justice. Among the private practitioners, by which I mean the lawyers representing only private clients, there are not many who are, from my observation, even basically equipped to deal with the welter of public land laws and regulations on their library shelves, and advise their clients on them.

It is not, in my judgment, wisdom on the part of government, be it Federal, State, or local, to so arrange the laws that only specialists can survive. In our view the law should be simplified wherever possible so the general practitioner or the small law firm whose members have not the time to become specialists, can understand the statutes and regulations, have them easily to hand, and advise clients on them.

This is particularly true of the laws and regulations dealing with public lands. There is no excuse whatever why the Congress should not simplify and codify the laws relating to them, sweeping away the deadwood in them, consolidating them, and making uniform the Federal public land policies now so contradictory and even conflicting. We are satisfied that, in the public land laws mess, as in complexities and uncertainties in other fields, lie the seeds of concentration of power in a few hands. What small millowner, logger, farmer, user of public lands for grazing, water user, or miner, can afford the internal organization, to say nothing of counsel, who can steer him with even reasonable safety through this mess? After taxes, it isn't worth the effort, really. So he sells out. And the larger companies get bigger, the larger law firms get bigger, and the executive departments of the Federal Government get bigger. This is one way to do the job of administering the public business, but we don't believe it is the right way.

This would be a too-long introduction to my support of H.R. 8070 as passed by the House, but for perhaps one thing. That thing is that what we are talking about is the public lands of the United States, and how they may best be administered, simply and with the least fuss, for the benefit of their owners, the whole people of this Nation. The Homestead Act and the first huge railway land grant—to the Northern Pacific—both 100 years ago, were for the primary benefit of the settlers—the little man—who developed our great Western country. With some vicissitudes the laws relating to the public lands are still for the benefit of the "little man," if we can still rightly discern the purpose of the Congress in the welter and hodgepodge of statutes and regulations of these intervening years since 1864.

In these hundred years, of course, the philosophy of the Nation has passed from almost free disposal of its public lands to their almost complete locking up into Federal ownership and administration; that is, from distributive to custodial. But in either scope of the pendulum's swing the benefit was and still is intended to be to the little man. He was the settler in the 1870–1900 period; he is the small grazer, millowner, water user, miner, and recreationalist of today. And he was and is not well served by complex, outmoded, and conflicting laws and regulations he cannot understand and operate under except as he is a part of a large association served by publicists and specialists of all kinds—including lawyers—whose interest in him is as a part of a mass. We decry "regimentation" and give "freedom" a lot of lipservice these days, but our actions don't match our words. Here is an almost perfect place for the Congress to start.

I would like, now, to discuss with the subcommittee one item only of the public land laws as an illustration of how archaic these are in these days, in terms of their administration and modern public policy, as well as uncertain in what the courts would do with the statute involved.

You are all well aware, I know, that in areas west of the 98th meridian but particularly west of the Rockies the public and private lands, particularly timberlands, are frequently found in a checkerboard ownership pattern where the owner of one cannot reach his lands except by crossing the lands of the other. The most startling pattern of this type of checkerboard ownership pattern is in western Oregon, in lower elevations in the so-called O. & C. area, "O. & C." being a shorthand way of referring to the "revested and reconveyed Oregon and California Railroad and Coos Bay wagon road grant lands." But as timber demand has grown since World War II and its aftermath we have become conscious that this ownership pattern is repeated many times in areas where the national forests abound, in higher elevations in the States of Oregon, Washington, Idaho, Montana, and to some extent in California and Utah, Arizona, and New Mexico.

This situation was designed to cause trouble, of course, once the Federal forests passed from the custodial to the merchandising, and now including the recreational, stage. So in 1950—April 7, to be exact—the Secretary of the Interior promulgated regulations designed to provide reciprocal rights of the Federal and private timber owners in the O. & C. area each to reach its own lands by acquisition or development of a joint road system which was capable of serving both ownerships in the watershed or drainage. Originally these regulations were found in 43 C.F.R. 115.154–179, now are found in 43 C.F.R. 2234.2–3.

After an opinion of the Attorney General dated February 1, 1962, regulations were promulgated by the Secretary of Agriculture relating to national forest lands which in practical effect, if not language, equated those relating to the O. & C. lands. These are dated June 10, 1963, and are to be found in 36 C.F.R. 212.7 et seq.

But in these latter regulations there is one great difference. The Bureau of Land Management does not require that the private landowner convey by easement deed or other instrument of equally permanent status in law a complete ownership of the right-of-way in the United States. But the Forest Service does. If you want to enter into a reciprocal right-of-way agreement with the Forest Service in cases where one road system may serve both ownerships, you must convey a permanent easement to the United States for Forest Service administration.

What, then, do you get in return?

If you look at the Attorney General's opinion I have already mentioned, you will note he says the Secretary of the Interior is empowered, under the act of March 3, 1899, to give you a permanent easement, across non-Weeks law lands, of course.

Remember that we are dealing with the Forest Service for the mutual advantage to both of one road system in a drainage where two would be disadvantageous to say the least. But the Forest Service must obtain for you the quid pro quo for your permanent easement by running across the street to the Bureau of Land Management for a "decision," which is what Interior calls it. And of course Interior is not bound to follow, in its regulations, the needs of any department but its own on the terms of these "decisions."

So, you deal with the Forest Service for the joint development of a road system. But when the Forest Service is to give back the equivalent of what you have given, it cannot do so. It must go to the BLM, hat in hand, to get it. This is silly enough.

But what prevents the Secretary of the Interior from promulgating regulations tomorrow preventing the issuance of such "decisions" except on terms completely inconsistent with your Forest Service agreement? Nothing. This is indeed an uncertain world in which we live these days, but this is an uncertainty in the administration of the public lands which few directors or stockholders of users of the public lands—even for access—would relish if they knew of them. Foreign investment may not be too secure sometimes, but it is not any worse than this.

But, assuming the Department of the Interior will always remain willing to go along with the Department of Agriculture in this field—an unlikely assumption for the long haul, at best—does the cooperator indeed get in return what he gave? It is our opinion he does not.

In his opinion of February 1, 1962, the Attorney General said that under the act of March 3, 1899 (16 U.S.C. 525), the Secretary of the Interior has the power to issue permanent rights-of-way across national forest lands which were withdrawn from the public domain. Thus, said he, the cooperator who gives permanent easements across his private lands will receive across the Federal lands rights of the same dignity.

However, neither the language of the statute nor its history supports any such conclusion. The statute itself reads:

"In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any national forest when in his judgment the public interests will not be injuriously affected thereby."

Obviously this statute on its face does not do what the Attorney General's opinion says it does. Nor does its legislative history do anything except confirm the fact that it was not intended to do so.

This statute, as in many other cases having to do with the national forests, came into being as a virtual emergency measure and as a rider on a deficiency appropriation bill. The emergency was created by an opinion of the Solicitor of the Department of the Interior that the act of March 3, 1875, having to do with rights-of-way across public lands (primarily for railway purposes), did not authorize the applicant railroad to cross lands which had been withdrawn from the public domain and placed in forest enclaves. At the time of this opinion two railroads were building transcontinental lines across Montana and had come to the boundaries of a national forest but were prevented from entering it by reason of that opinion. Some 3,000 men were idled; the race to expand additional railroads to the Pacific Ocean was stopped cold.

The Senators can imagine the uproar which ensued, particularly from Senators of the Western States. Accordingly, the language I have quoted above was added to the appropriation bill then pending on the Senate floor, and after some debate over its germaneness was put in the bill, passed, survived conference, and become law on March 3, 1899.

The statute was, then, simply an extension of the 1875 act, or perhaps a clarification of it. But Senators familiar with that act, as are the members of this subcommittee, know that the 1875 act gives to its beneficiary no right whatever in the public land he uses, but confers only a right of passage over it, which is lost immediately that right of passage ceases to be exercised. That act was, as the subcommittee knows, so construed in *Great Northern Railway* v. *United States*, 315 U.S. 262.

Therefore, despite the assurances of the Attorney General and, because of that, the Solicitors of the Departments of Agriculture and Interior, it seems clear that the best the cooperator under a reciprocal right-of-way agreement with the Forest Service receives for his permanent easement is a right of passage over the public lands on which the cooperating roads are built. A remedy for this whole administratively uncomfortable, silly, and legally untenable situation is vitally necessary and would certainly receive the attention of a Commission such as H.R. 8070 would create.

I mention this as one illustration, and one only, of the difficulty inherent in dealings with the Federal Government having to do with the public lands. This illustration could probably be multiplied dozens of times.

There is no guarantee, of course, that if H.R. 8070 is enacted, in its present form or one similar to it, matters like these will all get the Commission's attention, or that all of its recommendations will survive the scrutiny of the Congress when they are presented to it. However, H.R. 8070 deals with a problem so important to the Nation and so long overdue for remedy that we who live in the West, particularly, all recognize the need for its speedy solution.

A colleague of mine, Mr. MacLaren, is scheduled as a witness before this subcommittee and will discuss the adequacy of the machinery H.R. 8070, as now written, would set up. So I will say only that the bill sets up adequate machinery to accomplish the tremendous task which is its object. With the greatest admiration, from experience, for the dedication and ability of the staff members of the Senate and House Interior and Insular Affairs Committees, I still think this is not a staff job as experience has proved, and that it would be unfair to those staffs to be responsible for its successful completion.

I would like to urge that H.R. 8070, as it passed the House so overwhelmingly, be recommended by the full committee to the Senate for adoption during this session of Congress. Such action is badly needed.

I thank the subcommittee for permission to appear before it in its consideration of the bill.

STATEMENT OF JOSEPH R. MACLAREN, ASSISTANT TO THE PRESIDENT, POTLATCH FORESTS, INC.

Mr. Chairman, and other Senators of the Public Lands Subcommittee, my name is Joseph R. MacLaren, I am assistant to the president of Potlatch Forests, Inc. My permanent address will, at the end of this year, be 4 Linden Drive, Hudson Falls, N.Y., which was my home before I moved to Lewiston, Idaho, which is the headquarters of Potlatch Forests, Inc., or "PFI" as it is more familiarly known. PFI, by the way, has extensive lumber, plywood, pulp and paper, and tissue operations in central Idaho and has somewhat extensive manufacturing operations in Minnesota and Arkansas. It is also a substantial owner of timberlands, particularly in Idaho.

As a substantial timberland owner, particularly in Idaho, as I have said, PFI is exceedingly involved in the administration of the public lands, particularly by the Forest Service. As the Senators know, we in the West have vast areas in which public lands of one sort or another are intermingled with private lands in a veritable checkerboard ownership pattern. I believe our special counsel, Mr. Rogers, has already appeared before you and made note of this fact. PFI is a company which has timberlands well intermingled in this pattern with timberlands managed by the Forest Service. I therefore appear on behalf of that company in support of the House-passed version of H.R. 8070 and express our most earnest hope that this or a substantially similar bill can be enacted during this session of Congress. I think it exceedingly important that this long

and difficult task to which the Public Land Law Review Commission is to give its attention should be commenced at the earliest possible time. The bill's 3-year limitation seems all too short for so difficult a job.

I am sure the Senators all know that as early as President Cleveland's fourth annual message to the Congress he requested the Congress to enact new land legislation through repeal or revision of old laws that were either outdated or poorly written. Intermittently ever since, a thoroughgoing revision of those laws has been suggested, but never until now have we had such an encouraging situation before us. All it needs is the action of the Senate to place what we believe a very good and necessary bill on the President's desk.

Mr. Rogers has commented on one exceedingly troublesome problem we at PFI and others like us, whose lands are so intermingled with the Forest Service, are constantly facing. That is the anachorism of being commanded to deal, by Federal recommendation, with the Forest Service for reciprocal share-cost road agreements in drainages where one road can be made to serve both forest ownerships, but being forced to receive our reciprocal easements, if easements they are, from the Bureau of Land Management in a completely different department and subject, perhaps, to completely different regulations. We are exceedingly fearful that actually we get nothing from the Bureau of Land Management equal to that which we give to the Forest Service. This is only one example of the trials and tribulations that those of us in the natural resource industry must go through when we come face to face with the profusion of statutes and regulations, many out of date and many inconsistent, one with the other, with which we must deal.

I think no one can disagree with the proposition that the public land laws of the United States need a thorough overhauling. They need it not from a policy standpoint but simply from the technical one of repeal of obsolete statutes, rewriting of those which are unclear, consolidation of the many statutes dealing with the same subject, and codification of the results.

I have heard, however, that perhaps a few of the Senators have some question in their minds as to the wisdom of a 19-man commission such as Congressman Aspinall's bill provides. This doubt or question may have two aspects. One, the Commission might be so large as to be unwieldy, the other that perhaps a Commission of this type is unnecessary at all; this work might be entrusted to members of the staffs of the House and Senate Interior and Insular Affairs Committees.

Addressing myself to the second point first, that is, that this job might be adequately done by designated staff members of the House and Senate Interior and Insular Affairs Committees:

It is my recollection that this solution has been attempted at least once that I can remember, and, I am reasonably sure, more times than that. Our special counsel had in his files, at one time, a committee print of a complete revision of the public land laws. As could be expected, however, that project died aborning and, with all due respect to the very able members of the staffs of both committees, the same could be expected to happen again. This task will not be accomplished, in my judgment, without considerable outside assistance, including hearings at which experts attend as witnesses. However able he may be, no one person or small group of persons can know the answers to the very many problems which will come up in the revision H.R. 8070 contemplates. Inevitably, though the job is primarily a technical one, matters of policy will come up and must be decided, and the people who live with the public land laws every day can be of the greatest assistance to the Congress in the revision we all agree is so long overdue. I simply do not believe that, with all my confidence in the competence of the House and Senate staffs of these two great committees, the job can be done by them alone.

With respect to the size of the Commission, it seems to me only adequate to do the job, certainy not too large. I would assume that, as in other instances like this, the Commission would be divided into task forces in given fields of public land law revision. As Senators on the Public Lands Subcommittee you all are well aware of the magnitude of this task, which grows every year and has had many years in which to grow—100 of them, in fact. I envisage 19 people on the Commission with both learning and experience with the laws relating to the public lands and the regulations under which they are administered. These will be assisted by the Advisory Council from each of the industries affected, all of whom should also be experts in these laws and their administration. It seems to me that this Commission will not be in the least unwieldly,

and my only doubt, if I had one, would be whether it is not too small rather than too large.

Lastly, I have heard some discussion of objection, on the part of executive department personnel, to entrusting the Commission with a review of the regulations promulgated for public land law administration. I will comment only that it seems to me impossible to separate a review of the laws themselves from a review of the regulations by which they are adminstered. I cannot believe that the Senate would take such objection very seriously.

In conclusion I would like to urge again, on my own behalf as well as Potlatch Forests, Inc., my company, that this subcommittee recommend to the Interior and Insular Affairs Committee of the Senate, and that committee recommend to the Senate, the adoption of H.R. 8070 in the form in which the House adopted it, and that in that version the bill be sent to the President, whose signature, I am confident, will be forthcoming.

I thank you.

Mr. ROGERS. I will only say in comment, Mr. Chairman, and Senators, as a lawyer from Portland, Oreg., who works with these public land laws on the ground floor level, so to speak, I personally, as well as Potlatch Forests, Inc., am very hopeful that the Senate can enact H.R. 8070 in its present form in this session of the Congress. I would say only that we who deal with the intermingling of land situation, particularly, can see about a hundred different examples of studies that this Commission can and I am sure will make.

One of them, for example, has to do with access problems. As the Senators probably know, the Forest Service and the Bureau of Land Management both virtually compel cooperative cost-sharing logging agreements. But under the existing statutes, when you make an agreement with the Forest Service, for example, for the joint development of a logging road system, you must give the United States a permanent easement for that road system. But you are dealing with the Forest Service, and yet the Forest Service, under those agreements has to go over to the Bureau of Land Management across the street to get the quid pro quo for what you give. In my opinion, that quid pro puo just does not exist, because of the defect in the statute.

This is just one of the examples of why we think it is so important that this legislation be adopted.

Senator BIBLE. Thank you very much, Mr. Rogers.

Mr. ROGERS. Thank you.

Senator BIBLE. I am delighted to have your views, and of course your statement has been incorporated in the record in full and will be given very careful consideration.

Mr. ROGERS. Thank you, Senator.

Senator BIBLE. You wholeheartedly endorse H.R. 8070 and urge that it be passed without delay?

Mr. ROGERS. We do; and I should like to add, Senator, that both Mr. MacLaren and I would completely endorse Mr. Orell's statement, particularly on the composition of the Commission or, rather, its size.

We think 15 would be absolutely minimal, and 19 would not be too many.

Senator BIBLE. Thank you.

The Senator from Idaho?

Senator JORDAN. Mr. MacLaren and Mr. Rogers both represent, Mr. Chairman, a fine corporate citizen whose extensive holdings in my State contribute much to the economy of my State, and I am glad to have this testimony.

Mr. ROGERS. Thank you, Senator.

Senator BIBLE. Thank you very much, Mr. Rogers.

At this point in the record, we will incorporate in the record a statement from Thomas L. Kimball, executive director of the National Wildlife Federation, in support of the legislation.

Also we will include in the record at this time the following prepared statements:

Statement of Angus McDonald, associate director, Legislative Services Division, National Farmers Union.

Statement of Dr. Spencer M. Smith, Jr., secretary, Citizens Committee on Natural Resources, who appeared before our committee yesterday.

Statement by the Western Oil & Gas Association and the American Petroleum Institute, supporting the legislation.

Statement of William I. Powell, Independent Petroleum Association.

A telegram from the Rocky Mountain Oil & Gas Association reaffirming their position as set forth before the House committee.

Statement of W. Howard Gray, chairman, Public Lands Committee, American Mining Congress, supporting this legislation.

Statement of the Colorado State Chamber of Commerce, also in support of the legislation.

Statement of J. W. Penfold, conservation director, Izaak Walton League of America.

Statement of Bruce Renwick, vice president and senior counsel of the Southern California Edison Co.

A letter from the Idaho Mining Association of Boise supporting this legislation.

And also a letter from the National Wool Growers Association of Salt Lake City, Utah, endorsing this legislation.

(The documents referred to follow:)

STATEMENT OF THOMAS L. KIMBALL FOR THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Thomas L. Kimball, executive director of the National Wildlife Federation, which has headquarters here in Washington, D.C.

As a private organization, the federation seeks to attain conservation goals through educational means. The federation is composed of independent affiliates in all 50 States. Individual members of these organizations and other supporters of the National Wildlife Federation number an estimated 2 million persons.

On September 9, 1963, testimony was given before the House Subcommittee on Public Lands supporting the desirability of a study of existing laws and procedures on public lands in the United States. At that time, certain improvements in procedure and the organization of the study were presented. A number of the recommended suggestions were favorably considered as set forth in House Report 1008. Chairman Aspinall and the House committee are to be commended for the tremendous amount of work on natural resource law which has been done during this session of Congress.

Mr. Chairman, the Senate committee is fully aware that public lands belong to all the people of the United States although most of this land is located in the Western States. It would appear, therefore, the broad public interest would be better served if congressional representation on the Commission were broadened beyond the limits of the Interior Committees in order that the more populous areas of the East could be more adequately represented.

Should the Congress favor such a suggestion, we are confident the President of the Senate and the Speaker of the House will appoint capable and interested Members of the Congress to review and recommend such changes in our present hodgepodge of land laws that are in the best interests of our citizens both East and West.

We would also like to reiterate our suggestion that this study be restricted to 2 years. The reason for this recommendation is obvious; it would provide the

opportunity for implementing legislation to be considered before a new administration, not wishing to be bound by studies originating in a previous administration, assumes control.

In closing, Mr. Chairman, I would like to point out that the National Wildlife Federation has confidence that a nonpartisan, representative commission can clarify and refine our public land laws to meet the long-range needs of the people.

The committee should carefully consider the establishment of specific qualifications for the citizen members of the Commission. Extreme care should be taken that commercial user interest groups do not in concert dominate the investigation process and dictate conclusions and policy recommendations made to the Congress. The era of the exploitation of our natural resources at the expense of public benefits is passed in America.

The National Wildlife Federation further assumes that this study will revolve around the needed changes in public land laws, policies, and procedures and will not change the status of lands already designated as national forests, parks, and wildlife refuges. Should the objectives of this Commission be to review or change the status of these previously designated Federal areas, strong objections would be raised by most national conservation groups.

We sincerely thank the committee for providing this opportunity to make these observations.

STATEMENT OF ANGUS MCDONALD, ASSOCIATE DIRECTOR, LEGISLATIVE SERVICES DIVISION, NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, we are appearing here in support of H.R. 8070, 5159, and 5498 which would if enacted pave the way for the orderly development and administration of our public lands and at the same time provide needed space for the burgeoning population of the West. The tremendous increase in the population of our Western States is well known. According to our information existing laws make it difficult and even impossible to assign needed lands for the expansion of cities and towns.

We are certainly in accord with this purpose of the legislation. We believe also that laws relating to the administration of parks, reserve lands, and public lands administered by the States is necessary. According to officials of the Department of Interior classification is greatly needed as well as temporary authority which would enable the Federal Government to sell lands to States and their political subdivisions.

We note with approval that the purposes of this legislation include providing for domestic livestock grazing, fish and wildlife habitat and utilization, industrial development, mineral production, occupancy, outdoor recreation, timber production, watershed protection, wilderness preservation, and the "preservation of public values that would be lost if the land passed from Federal ownership."

Attention is called to preservation of public values that would be lost if land passed from Federal ownership. As this committee knows there are many greedy and predatory groups in the West who have long looked with a covetous eye upon our great western resources. Many of these groups are represented by individuals residing in eastern financial centers who would exploit our western lands to the detriment of the West and of the Nation. It will be recalled that Theodore Roosevelt attempted to check and prevent ruthless exploitaion by reserving, during he first decade of the 20th century, hundreds of millions of acres of public lands. Among other purposes of Roosevelt was to distribute widely and equitably western resources so that a few vested interests would not control.

The result of this purpose of Theodore Roosevelt was the Reclamation Act of 1902 which provides for equitable distribution of water impounded behind Federal dams to be used for the purposes of irrigation. Although many attacks have been made on this law which we in the Farmers Union term the "Family-Farm Act" in regard to irrigation, none have been successful.

Likewise, many attacks have been made on land laws which reserve western lands for public purposes. Those who seek to take over western resources for private exploitation have introduced bills in every Congress which would destroy the right of the Federal Government to administer its property and turn it back to the States. Such legislation which has been introduced under the camouflage of States rights does not deceive us in Farmers Union. We

believe that behind every States rights bill pertaining to western lands is the unseen hand of some great corporation or wealthy group of individuals.

We hope, therefore, that the result of the study authorized in H.R. 8070 will not result in some clever scheme to deprive the people of the Nation of their western resources. No doubt there are many deficiencies and inadequacies in existing laws. However, past experience makes us suspicious of proposals to restudy and reframe land laws. Specifically the Reclamation Association reputed to be supported by power companies, railroads, and banks has recommended public land legislation repeatedly over a period of years, which would turn over western resources to private exploitation.

STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES

Mr. Chairman, I am Dr. Spence M. Smith, Jr., the secretary of the Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C. Our organization consists of some of the outstanding professional people in the field of natural resources and conservation.

We have been concerned regarding the country's management, use, preservation, and the planning for all of these factors in the future, since the time of our inception.

The measure before the committee, H.R. 8070, authorizes the establishment of a Public Land Law Review Commission to study existing laws and procedures relating to the administration of the public lands of the United States. As the measure was reported from the House it would establish a Commission of 19 members with 3 majority and 3 minority members of both the Senate and House Committees on Interior and Insular Affairs, which would be appointed by the President of the Senate and the Speaker of the House respectively. In addition to which six persons would be appointed by the President from interested members of the public at large. The comprised 18 members would designate a chairman.

We know the difficulty of establishing a commission sufficiently reduced in size to be efficient and yet large enough to be representative. It might be desired, however, if some thought could be given to reducing the total number of the Commission, even if such a grass rule of thumb is employed by reducing the various categories proportionately.

The Commission is also augmented in its work by an advisory council provided for in section 6. Such an advisory council would represent the various major citizen's groups and total 25 members.

The discussion of the concept of a commission has been before the Congress in one form or another for a number of years. Previous commissions perhaps with similar but not identical roles have been engaged in such studies such as the Hoover and Kastenbaum Commissions of some years ago. Also in 1955 Senator Magnuson and Senator Jackson introduced legislation similar to the one now before the committee. There appears to be a general agreement therefore that some kind of analysis, review, and guidelines to administrative agencies by the Congress are necessary. It is also generally agreed that laws under which we now operate may very well need revision in order to be brought into line with current needs and foreseeable future ones. At this point the agreement seems to end. Whether there should be a joint committee of the Congress to perform the functions authorized and suggested by the measure before us or whether a special commission should be established is one point of disagreement. Some support a joint committee of the Congress to engage in this study with an advisory board which would serve in such capacity to the joint committee. There is also the further opinion that this measure is quite properly in the province of the respective committees and subcommittees of the Senate and House and that no new administrative body or a study commission is needed to carry out the necessary review and make the necessary recommendations.

We desire to reemphasize, however, that the difficult task of providing the modus operandi most desirable to implement the idea that such a review take place is one that poses considerable difficulty to many conservation organizations. Certainly, our own organization is a case in point. This does not dim our ardor as to the need for such a study to be undertaken, however.

We would offer no serious objection to the establishment of a Public Land Law Review Commission, though we should like to reemphasize the fact that we

feel the Commission is too large. We are more concerned, however, with the substance of the review authority itself. For example, section 10 of the proposed legislation defines "public lands" to be inclusive of public domain of the United States, the reservations other than Indian reservations created from the public domain, the lands permanently or temporarily withdrawn; reserved, or withheld from private appropriation, and disposal under the public land laws, including the mining laws, outstanding interests of the United States in lands patented conveyed in fee or otherwise under the public land laws; national forests and surface and subsurface resources of all such lands, including the disposition or restriction on disposition of the mineral resources; and lands defined by appropriate statute.

Such a review would appear to us to be more extensive than the problems facing us now require. For example, the national forests created out of the public domain now comprise a body of law and its practices and regulations are well established. In short, the problems that do appear have a procedure for adjudication and as time requires new legislation or amendments to the old are promulgated and acted upon. It would seem rather difficult to understand the need to review the various decisions wherein the national forest system, to the extent that it was, was created from the public domain. The national parks system, which is inclusive of the parks proper, monuments, memorials, and similar areas that comprise this system are established under law as is the National Parks Service and the appropriate legislation was provided for their administration for a number of years. Again, the question should be asked what purposes would be achieved by reviewing in detail the acts of some years ago, by which the national parks system came into being. The same consideration seems apparent when one considers the national wildlife refuge system which again is identified and administered under specific statute with a considerable experience.

It would appear that the major problem in need of definition and direction involves the lands now administered by the Bureau of Land Management. This certainly is an area that needs guidelines, policy determination as to the many uses some compatible and some competing, and a new consideration as to whether disposition of this land should be accelerated, restrained, and/or what criteria should be established in order that the administrative agencies can carry out the necessary policies determined by Congress.

One is aware that to deal with the case of lands now administered by the Bureau of Land Management a historical concern should not be denied any reviewing authority attempting to investigate or to document any of their recommendations. We feel, however, that this is something different from the implications of the present legislation. It is one thing to review definitely changes in the public domain, practically from the first instance, rather than to review particular decisions as they would be helpful in solving any current and future problems. It would be hoped the language of section 10 could be tightened considerably and perhaps explain more fully the precise nature of the type of inquiry the legislation has in mind. It does not appear reasonable that the Commission would be required to weigh carefully some 4,000 to 5,000 laws which have been enacted relating to the public domain in general.

We would be reasonably content if the review authority would concentrate its efforts upon the posture of the public lands now under the jurisdiction of the Bureau of Land Management, certainly with the authority to utilize historical patterns that may be necessary to guide their recommendations and investigations but without an obligation to detail the many transactions of the past.

STATEMENT BY THE WESTERN OIL & GAS ASSOCIATION AND THE AMERICAN PETROLEUM INSTITUTE

The purpose of this statement is to express support of the Western Oil & Gas Association, whose members represent approximately 90 percent of the petroleum production, refining, and marketing operations in the six Western States, and of the American Petroleum Institute, the industry's nationwide trade association, for H.R. 8070, as amended, a bill to establish a Public Land Law Review Commission, and H.R. 5159, as amended, a bill directing the Secretary of the Interior to administer certain public lands under principles of multiple use.

The purposes, objectives, and policy declarations of these two bills are such that we anticipate that much public good can be derived from them.

H.R. 8070, as amended, can result in a thorough and objective study and reevaluation of the myriad of laws, regulations, and policies relating to use of the public lands. As one of the principal users of the public domain, our industry recognizes there is an urgent need for a better public understanding of the tremendous resource values which exist in these lands and of their importance to the Nation's economic well-being and security. Properly conducted, the study which the proposed Commission would undertake under H.R. 8070 would, we believe, contribute greatly to this end.

The petroleum industry, over the years, has cooperated fully and willingly with both the Congress and the executive branch in matters pertaining to our operations. The National Petroleum Council, as you are all well aware, illustrates this fact by its continuing work with and for the Department of the Interior. As have so many other commissions, study groups, and congressional committees, the Public Land Law Review Commission will find the petroleum industry always ready and willing to be helpful. Within our industry there are hundreds—probably thousands—of working experts in some of the areas which would come under the scurtiny of the Commission. Their advice, counsel, and labor would be available to the Commission for the asking.

The petroleum industry's principal interests in the field to be studied lie in the Mineral Leasing Act of 1920 and in the Outer Continental Shelf Lands Act. We believe these laws have operated over the years in the best public interest and probably will continue to do so without major revision. However, we recognize that any good law may be subject to improvement. We have every confidence that this Commission will bear in mind, for example, that the Mineral Leasing Act is currently helping to add about $100 million a year to the National Treasury in the form of royalties, rentals, and bonuses from oil and gas operations on public lands.

Many of us in the petroleum industry have noted with satisfaction the oft-stated views of Chairman Aspinall of the House Interior and Insular Affairs Committee with regard to the need for a meaningful multiple-use policy for the public lands. We would hope that the Commission would have that as one of its goals.

We are pleased to note that under H.R. 8070 as it was passed by the House of Representatives a majority of the membership of the proposed Commission would be from the Congress. We welcome the House committee amendment which, in line with President Kennedy's recognition (in his letter to Chairman Aspinall in January 1963) that the Congress has the responsibility for policy-making in this field, eliminates the provision giving th executive branch of the Government representation on the Commission. It seems to us that one of the Commission's prime functions will be to develop recommendations which may lead to legislation—a congressional responsibility. It will also examine rules, regulations, and administrative practices of some of the departments of Government. Representatives of these departments, if they were members of the Commission, would be in the choice position of being advocates with votes—advocates, that is, of their departments' practices and procedures and defenders of their own causes and points of view. It seems to us, therefore, that the objectivity of the Commission's reports would be better insured if the role of the executive branch is limited to that of consultants and advisers, either through the advisory council or independently.

We also welcome the House committee's revision of section 8(a) of H.R. 8070 relating to subpena powers of the Commission. The amended language wisely limits the issuance of subpenas to those authorized by a vote of the Commission and while we question the need for any subpena powers in a study of this kind we applaud this restriction and other safeguards provided by the revised language.

In summary, we find ourselves in agreement with the House committee's finding, as stated in House Report 1008, that "existing public land laws do not provide the means whereby the needs of our present-day economy and population can be met" because "the Bureau of Land Management operates with no central guidelines from the policymaking authority, the U.S. Congress."

While H.R. 8070 could lead to the development of long-range policies for the use, management, and disposal of the public lands, it is essential during the interim—i.e., while the proposed Commission is doing its work—that tools be provided for the use of the Secretary of the Interior and the Director of the Bureau of Land Management. In this regard, we are satisfied that the classification and management procedures set forth in H.R. 5159 would be superimposed on existing public land laws pending any modifications or revisions

which might result from recommendations of the Public Land Law Review Commission and that in the meantime the public land laws, including the mining and mineral leasing laws, would remain applicable to the public lands in the same manner as they have been to date.

When legislation similar to H.R. 5159 was proposed in previous years, we suggested to its sponsor that section 5(b) be revised so that the stated definition of multiple use would include the "management of various surface and subsurface resources." We note with approval that the present bill, as forwarded to you by the House, includes this provision.

The officers of both the Western Oil & Gas Association and the American Petroleum Institute appreciate the opportunity to present our views to your honorable subcommittee.

STATEMENT OF WILLIAM I. POWELL, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

Mr. Chairman, my name is William I. Powell, and I am attorney for the Independent Petroleum Association of America (IPAA).

The Independent Petroleum Association of America is a national trade association of some 6,000 independent oil and gas producers, including land and royalty owners with membership in every petroleum producing area in the United States. Several hundred of our members operate on the public domain and particularly in the Rocky Mountain section of our country.

The public domain and how it is administered is, of course, of vital importance to the citizenry of the United States and particularly the petroleum-producing industry.

While we believe that the present laws and regulations covering oil and gas operations on the public domain have in the main functioned well, we do recognize that some improvements may be in order. For that reason, we welcome the study and review of these laws and regulations as contemplated in the pending bill.

To show the importance to the oil and gas industry of having sound and workable public lands policies, I would like to point out that in the past decade 1953–62, almost $7 billion of oil and gas has been produced from the public domain and is now averaging over $1 billion per year. During this period, the U.S. petroleum-producing industry has paid to the Federal Government $928 million in the form of royalties alone. If the payments during this same period in the form of lease bonuses and rentals were added, the figure would be well over $2.3 billion.

In view of the obvious importance to the oil producing industry of sound public land laws, it is recommended that when and if this proposal becomes law, that the oil producing industry be represented on the Public Land Law Review Commission.

CASPER, WYO., *June 26, 1964.*

Hon. ALAN BIBLE,
U.S. Senate, Senate Office Building,
Washington, D.C.:

Thank you for telegram relative to hearing on H.R. 8070 to establish Public Land Law Review Commission. The Rocky Mountain Oil & Gas Association reaffirms its position as set forth in testimony of V. P. Cline before Subcommittee on Public Lands of Committee of Interior and Insular Affairs of the House given on October 3, 1963, and appearing at page 147 of the printed hearings on the bill.

ROBERT B. LAUGHLIN,
Executive Vice President,
Rocky Mountain Oil & Gas Association.

STATEMENT OF W. HOWARD GRAY, CHAIRMAN, PUBLIC LANDS COMMITTEE, AMERICAN MINING CONGRESS

Mr. Chairman and gentlemen of the committee, my name is W. Howard Gray; I am an attorney at law residing in the city of Reno, State of Nevada.

I am now and have for some years past been chairman of the Public Lands Committee of the American Mining Congress which represents a large segment of the mining industry in the United States.

I wish on behalf of the American Mining Congress and myself to thank the chairman and the committee for the privilege of commenting upon H.R. 8070, as passed by the House.

The American Mining Congress recognizes as a fact that the laws relating to the use of the public lands, the laws relating to the right of entry by citizens, and the laws by which title can be obtained from the Federal Government through the process of patenting, are an accumulation of legislative enactments spread over an extended period of time. Many of these laws were passed at particular times of stress when Congress felt that it was advantageous and beneficial to our Nation to make lands more easily available to private ownership. On the other hand, many of the laws and the regulations flowing therefrom have been enacted for the purpose of restricting the use of the public lands in the name of a national emergency, or to provide areas and territories which the Government felt were necessary for the purpose of carrying on experiments leading to the strengthening of our national defense.

Among the laws that were passed by previous Congresses is the law of 1872, commonly referred to as the "general mining law." This law stemmed from the rules originally accepted and adopted by groups of miners who were exploring and carrying on mining operations in California, Nevada, Montana, Colorado, and elsewhere in the West. These rules were born from practicality. They were designed to solve the problems that faced the miners as a result of competitive efforts to discover, develop, and remove the metals of the earth. They were not written by scholars or students of jurisprudence, but by a group of practical men who realized that only by rule and law could each have an equal opportunity to explore for and to benefit from discovery of valuable minerals.

These customs or rules of miners in the several mining districts were, in fact, made part of the Federal laws so far as they were applicable and not inconsistent with the laws of the United States (30 U.S.C.A., sec. 22).

The law of 1872 is particularly clear and has been well defined by judicial interpretation. The fundamental basic principle of the general mining law is that the citizen may enter upon the public domain, search for, discover if he can, and develop and mine, the minerals discovered by him. Its cornerstone is individual endeavor, endeavor limited only by the industry of the individual. The spirit of that act is private enterprise in its most forthright form.

It is the hope of the American Mining Congress and the members of the mining industry that the basic principles and tenets of our mining law of 1872 be retained and that the act be touched only for the purpose of facilitating and encouraging private enterprise.

Provision by law should be made for the protection of those who, with the aid of modern prospecting methods, are seeking for the deep lying ore bodies not visible to the eye. Suggestions have been made that exploratory claims should be provided for to achieve such an objective.

The study of the public land laws proposed by H.R. 8070 is a monumental task.

So varied are the extent and coverage of the multiplicity of public land laws enacted over the years and the many rules and regulations issued by the various agencies which administer these laws that we believe that the bipartisan commission provided for in H.R. 8070, together with the advisory council made up of the many interested users of the public lands, would be in a position to effectively conduct this broad study.

We are particularly gratified that the House committee and the House adopted suggestions which we had made calling for inclusion within the study of the various regulations governing public lands and policies and practices of Federal agencies in this field. We are also pleased that the measure clarified the provisions relating to and limited the use of the subpena powers granted to the Commission, protected the confidentiality of certain material furnished to the Commission, and precluded Government employees from serving on the Commission. With respect to the latter, it is believed that if executive agencies were to be represented on the Commission, this bill would extend to the individuals of the executive department powers which they do not now possess and which would trench upon the constitutional rights of the legislative bodies. We also doubt that it is wisdom for representatives of the executive branch of the Government to be members of the Commission if the rules and regulations and the administration of such agencies are under investigation and study.

As we have heretofore stated, we believe that the vast field of agency regulations pertaining to the use of the public domain needs a complete, thorough, and intensified study. Simplification of regulations issued by the agencies and coordination of those regulations by each of the agencies with the other should be a goal of the proposed study.

We further believe that by Federal law, regulations should provide for a full and complete hearing before any agency can limit, determine, or rescind any right or privilege given either by law or regulation, and that adequate machinery be set up by an independent agency to determine upon an appeal, the right or wrong of a decision by an agency. Adequate machinery should be created for the purpose of carrying the decisions into court, not only for the purpose of determining the questions of law that might arise, but also the questions of the proper interpretation of regulations and the question as to whether or not there was in fact in the record substantial evidence to support the findings and decision of the executive agencies.

We believe that adoption of H.R. 8070 and the creation of a Public Land Law Review Commission will result in a comprehensive study of the land laws and regulations and bring about recommendations that should prove helpful to Congress in the future in arriving at meaningful Federal policies for public land administration and disposal.

Thank you for the opportunity to present this statement.

COLORADO STATE CHAMBER OF COMMERCE,
Denver, Colo.

To: The board of directors.
Subject: Public land conference.

GENTLEMEN: On April 4, 1964, at the Denver-Hilton, the natural resources council of the Colorado State Chamber of Commerce, cooperating with Gov. John A. Love and the Colorado Division of Natural Resources, sponsored a public land conference. Representatives from all of the public land user industries from the entire Western States attended the conference. Despite the inclement weather which forestalled many who planned to attend, the registration exceeded 200 and included top management representatives of industries in 15 States.

The immediate purpose of the conference was the promotion of H.R. 8070, now before the U.S. Senate, which would establish a Public Land Law Review Commission to make a comprehensive review of the some 5,000 policies and regulations applicable to the use, management, and disposition of the public lands of the United States. The bill is authored by Colorado Congressman Wayne N. Aspinall, who was the principal speaker at the public lands conference. Assistant Secretary of the Interior John A. Carver, Jr., also spoke to the delegates pledging the cooperation of the Department in the proposed public land law review.

Due largely to the untiring efforts of the conference chairman, V. P. Cline, of the California Oil Co., and the assistance of the members of the natural resources council and the State chamber staff, the conference enjoyed a spectacular success culminating in a resolution calling for its annual continuation and an immediate recall of the delegates upon passage of the legislation under discussion in order that names may be submitted to the President for his consideration in appointment of the said Commission. Resolutions adopted and a list of those on the program are attached.

May I call to your attention the leadership the Colorado State Chamber of Commerce has taken in the convening of delegates to this first western conference on a subject which lends itself to cooperation and unity from diverse, competitive elements. The conference proved, in a significant way, that membership in trade and professional associations, while valuable to the specific industry, cannot serve the coordinating, useful purpose developed by this oopportunity for delegates to express their philosophies and exchange opinions.

I am sure that directors who attended—Harold Ballard, Walter Speckman, Robert Wherry, Garrett Craig, and J. A. Murray—will have added comments, as may your executive vice president.

Respectfully submitted.

RICHARD S. KITCHEN,
Chairman, Natural Resources Council.

RESOLUTIONS OF THE PUBLIC LANDS CONFERENCE

The public lands conference, meeting in Denver, Colo., April 4, 1964, being concerned with the use and management of public lands, and having convened to consider H.R. 8070 of the 88th Congress, which would establish a Public Land Law Review Commission for the purpose of making a comprehensive review of the policies applicable to the use, management, and disposition of the public lands of the United States, has adopted the following resolutions:

I

Resolved, That the conferees assembled do support and urge the enactment of H.R. 8070 in the present session of Congress. This support arises because the use of public lands of the United States vitally concerns the survival and economic well-being of the people of the United States. We desire to assure the Members of the Congress that they have our enthusiastic support for their continuing efforts to forward the progress of this bill.

II

Resolved, That the public lands conference express appreciation to the Governor of Colorado, the Colorado Division of Natural Resources, the Natural Resources Council of the Colorado State Chamber of Commerce and the officers and officials thereof for the work done in the calling of this conference providing the opportunity to all interested parties for expression of views and exchange of opinions.

III

Resolved, That it is the consensus of the public lands conference that the conference be continued, to meet on an annual basis and in other States, and upon the passage of H.R. 8070 to meet immediately for discussion of submission of names for consideration in the appointment of individuals to the Public Land Law Review Commission and Advisory Council.

IV

Resolved, That a copy of these resolutions shall be transmitted to the President of the United States, to each of the Governors, and to each of the Members of Congress.

STATEMENT OF J. W. PENFOLD, CONSERVATION DIRECTOR, THE IZAAK WALTON LEAGUE OF AMERICA

Mr. Chairman, I am J. W. Penfold, conservation director of the Izaak Walton League of America. The league is a national organization of citizens concerned with the conservation, wise use, and management of the Nation's natural resources. Over the years the league has had a continuing interest in the Federal public land estate and in the policies, laws, and regulations under which it is administered. Over the years we have recognized, as have others, that the public land laws in many instances are inadequate, uncoordinated, often obsolete, little understood by the public, and far too complex to permit effective and efficient management for the total public benefit. Consequently, we welcome a study, as proposed in H.R. 8070, which could point the way toward simplification and recodification.

However, we doubt that a study with this limited objective would require the complex commission structure suggested in the bill. Also, we doubt that the sponsors of the bill had such a limited objective. Rather, it seems clear, that they wanted a study in depth that would scrutinize and reappraise basic public land policy in light of the dynamic era we are living in and the accelerating changes occurring throughout the whole American complex. It is such a "study in depth" that we welcome, because we believe the long-term welfare of the public requires it.

Let us quickly add that at the same time a lot of people are "scared" of it.

Section 10 defines "public lands" as meaning the public domain presently administered by the Bureau of Land Management, all lands withdrawn or reserved from the public domain including national forests, national parks and monuments, wildlife refuges—in fact, all Federal lands except acquired lands

and Indian reservations—and section 1 states that it is the policy of Congress to retain or to dispose of the public lands.

It is not surprising that thoughtful people might ask: Is the Study Commission going back in history to reargue the case for creating the national forest system? Will it reargue the case for the 1916 act and the national park system? Is it the function of the Commission to reappraise Yellowstone, Yosemite, or Rocky Mountain National Parks and recommend their sale, if there is a good market for them? What about wildlife refuges—some of them undoubtedly would bring in more immediate cash to the Treasury, where they subdivided for private hunting and fishing camps.

Again, it is not surprising that thoughtful people might ask whether the Commission, after making a judgment, for example, that Yellowstone not be disposed of, might recommend that Yellowstone be redesignated for national forest purposes and be managed accordingly. Or, would the Commission delve into the management policies of the national park system and, in effect, recommend a different set of purposes? In other words, they query, Is the Commission directed to seek one uniform management pattern to be applied to all Federal lands? Use of the phrase "maximum benefit for the general public" in section 1 does not define sufficiently the elements, standards, and criteria to be utilized in such judgments to satisfy this kind of question.

The substantive portions of H.R. 8070 which are sections 1, 2, 4(a), and 10 might be construed to exclude the mining laws as they relate to location, entry, and development. When a claim goes to patent, of course, that piece of public land is disposed of quite finally. We point out that the mining laws in total are exempt from the national forest policy statement of Public Law 517 of the 86th Congress, the Multiple-Use and Sustained-Yield Act of 1960. Also, we believe it anomalous that the most enlightened management plan for a national forest area, taking into account all the users of surface resources, can still be knocked into a cocked hat if there are minerals present and someone wishes to file on them.

If the mining laws are excluded from the study it would be a grave omission. On the other hand, if they are included, does section 2 mean that the Commission will reevaluate the national parks and recommend their opening to the application of the 90-year-old mining laws?

Mr. Chairman, in years past there have been efforts on the part of some grazing interests to seek outright ownership of the public lands they are privileged to graze, or to seek a clear-cut vested right, tantamount to ownership, in their grazing privilege. Is the Commission being set up to reargue these old issues, it is asked?

I realize that the foregoing may appear negative. However, it seemed an obligation to pass on the type of questions that have come to us from league people and others.

It is understandable, too. The public generally has pride in its public lands. They love the national parks and the national forests. For many the distinction is not clear, and many a person making his first trip to a national forest is shocked to discover that trees in it are chopped down. They would be fighting mad, if they had the idea that the purpose of this bill is to pave the way for widespread disposal of their national treasures.

The bill is simple and I believe it should be. But by that very token the legislative history and the language of the bill become very important. The wording of the section 1 policy statement illustrates. It states that the public lands shall be retained or disposed of. It speaks almost casually of disposing of the public lands, maybe all of them? The following phrase: "To provide the maximum benefit for the general public," in context with the foregoing language may not appear to mean very much. I believe many fears would be allayed were the statement recast to read something like:

"It is hereby declared to be the policy of the Congress that the public lands of the United States shall be retained and managed to provide maximum long-range benefits to the general public, and portions thereof shall be disposed of only under criteria determined by Congress to be in the long-range public interest".

I believe such language would be applauded by most citizens. It would give the Commission a firm guideline against which to really test existing laws and the myriad of ideas and proposals coming before it for consideration and evaluation. It would require the Commission to build a strong case for disposal policy recommendations it reaches. This is what Congress wants from the Commission—recommendations that are sound and will stand up before the public.

Mr. Chairman, I would like to comment on the proposed constituting of the Commission and will be specific hoping thereby to be helpful to the committee.

The Commission as proposed in the bill would be composed of 19 members, with a majority being Members of the House and Senate. The outdoor Recreation Resources Review Commission had only 15 members but was, nonetheless, somewhat unwieldy. For most efficient operation we might suggest a seven-man commission—the very minimum which would permit a representative from each side of the aisle, House and Senate, and preserve a majority of four Members of Congress to 3 others. However, sheer efficiency of operation is not the prime objective of the Commission. While everyone would wish a maximum degree of efficiency, there are other considerations, of even greater importance in my estimation, which must be considered. Because of those considerations, which I'll discuss later, we would recommend a Commission of 15—4 from the House, 4 from the Senate, and 7 others.

The bill proposes that the President appoint six citizens and that they, together with the 12 congressional members, elect a 19th person to serve as Chairman. I would urge that the bill call for the President to appoint seven citizens to the Commission one of whom he shall designate as the Commission Chairman.

The Commission members appointed by the President should not be appointed to represent or be representatives of particular interests or user groups, industries, or other segments of the public. They should be chosen because of their demonstrated ability and judgment to serve all the broad interests of the country, and because of their background of interest and experience in public land matters.

This is not to say, by any means, that such an appointee might not be a livestock operator, or a mining engineer, or a water lawyer, or a timber company executive, or a wildlife or conservation expert. The test would be whether or not he is the caliber of man who can bring his broad knowledge to the Commission, and help relate and correlate all the knowledge that is available into a proper total context from which sound judgments and recommendations can be drawn.

The election of a paid Chairman by the other Commission members would result in securing not a Chairman in any real sense, but a staff director. The Chairman should be appointed and designated by the President, and should have the attributes that would enable him to chair such a high-quality Commission, as well as to measure up in all other respects.

Mr. Chairman, the public lands are owned by all the people. Every one of the 190 million of us has a big stake in the public lands, and we know future generations will have an even greater stake because these lands will have to be shared by ever-increasing numbers of people. It will not be enough that the Commission makes its study and publishes its recommendations, however fine they may be. The public must be of a mind to understand the problems and their complexities, to evaluate properly the Commission findings, and be willing to fairly consider Commission recommendations. If they have not had the kind of confidence in the Commission necessary to make them open minded to Commission findings and recommendations, it is doubtful that very much progress will result. We think it important that the Commission be wholly representative of the people, by the elected representatives from Congress who serve on it and by others appointed by the President directly from the public without strings to special segments of it.

Mr. Chairman we support section 5 providing for liaison officers from the interested and concerned Federal departments and independent agencies. They proved invaluable in the Outdoor Recreation Resources Review Commission study and facilitated most effectively and efficiently such essentials as H.R. 8070 authorizes and directs in sections 4 and 8(B).

We support section 6 providing for the Advisory Council of 25 members additional to the Federal liaison officers. Again, because the public lands are owned by all the people, not just by the residents of the States in which the bulk of the lands are located, we would suggest the addition of this phrase following the words "be representative of" (sec. 6a): "the various major geographical areas and."

We believe the Advisory Council, in addition to the knowledge and experience its members bring to the Commission, can serve another and highly important, two-way function: to facilitate directly and indirectly broad public interest and participation in the work of the Commission, and to provide an effective means for developing channels for communication between the Commission and the public. In a sense then, the Advisory Council is a place to start in securing broad

public participation rather than a limitation on what the Commission may do in this regard.

We note that section 6 spells out rather specifically who shall be named to the Advisory Council—16 of the 25, I believe—also that wildlife is not named. Certainly wildlife is a major public land resource and frequently looms large in management considerations. If interest groups are to be named specifically, wildlife should be one of them.

I can assure this committee that it would give the Commission more flexibility so as to achieve an Advisory Council fully representative of the whole range of interests and uses, and save a lot of headaches and some illwill, if the words "Organizations representative of" (sec. 6a) were omitted. Also, an individual on the Advisory Board will serve most constructively if he sees himself as representative of a broad point of view or interest rather than of the more limited policy position of an organization to which he is responsible.

With respect to section 9(a), the authorization for appropriations, I have no comment except that the amount appears reasonable. Whatever amount is decided upon, I would urge that it be firm, and that the initial appropriation be made promptly, so that the Commission initially can plan its work well and get underway without waste of time.

Further, on section 10: If the study is to be as broad as the definition indicates, then there is no good reason to exclude any acquired Federal public lands which are managed primarily for their resource values.

We are sure it is not the intent of the sponsors of this bill, and we hope that its enactment would not be seized by anyone, to delay full consideration on its own merits of any other legislation coming before Congress. In this connection, ORRRC, at its first meeting, determined as a matter of operating policy that it would not comment on legislative proposals before Congress, whether requested by a Member of Congress or by the administration. I am happy to say that both branches saw the wisdom of this and cooperated splendidly.

The work of the proposed Public Land Law Review Commission is still broader, and will impinge in some way on almost every piece of the voluminous legislation coming before this committee. Without such a firm policy, the Commission will be spending most of its time commenting on individual bills, rather than carrying out its far more important function to make its study in depth of the public land laws. Naturally, the congressional members of the Commission, in considering legislation before them, will have the advantage of the materials coming to the Commission and individually can, and will properly, make use of it.

In conclusion, Mr. Chairman, we support the principles of the bill. We recognize the need for the study it proposes. We support the constitutional requirement and the operational necessity that there be a clear-cut division between the responsibility and authority of Congress to establish policies and laws and the responsibility and authority of the executive branch to administer them. We endorse heartily the principle that the public lands be managed in terms of the total public benefit. We do not oppose the disposal of public lands when that is in the best public interest any more than we oppose the acquisition of lands by the Federal Government when that is in the total public interest.

If H.R. 8070 is enacted and the Commission established, the Izaak Walton League will cooperate with it to the best of its ability. Meanwhile, we should be happy to cooperate in any appropriate way to perfect it to assure that it will effectively meet an important public need.

We appreciate the privilege of expressing our views.

STATEMENT OF BRUCE RENWICK, VICE PRESIDENT AND SENIOR COUNSEL, SOUTHERN CALIFORNIA EDISON CO.

My name is Bruce Renwick. I am vice president and senior counsel of Southern California Edison Co., 601 West Fifth Street, Los Angeles, Calif.

In order to consolidate the testimony of the 16 investor-owned electric companies in the 11 western mainland States, and thus avoid the duplication of testimony if each company were to appear personally, and to conserve the time of your committee, I am speaking on behalf of the following companies: Arizona Public Service Co., Idaho Power Co., Montana Power Co., Nevada Power Co., Pacific Gas & Electric Co., Pacific Power & Light Co., Portland General Electric Co., Public Service Co. of Colorado, Public Service Co. of New Mexico,

Puget Sound Power & Light Co., San Diego Gas & Electric Co., Sierra Pacific Power Co., Southern California Edison Co., Tucson Gas & Electric Co., Utah Power & Light Co., and Washington Water Power Co.

These combined companies have approximately an $8 billion investment in electric facilities, have a current construction budget of approximately $650 million and serve territories having an estimated population of approximately 22 million.

These companies appeared on October 4, 1963, at the hearings on H.R. 8070 before the Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs and announced their support of the bill.

We again state that we are in complete support of the objectives of H.R. 8070 and recommend the enactment of this bill as passed by the House on March 10, 1964. It is our sincere hope it will provide an impartial, objective, comprehensive review and analysis of existing public land laws and the rules and regulations issued thereunder which will help the Congress to establish proper legislative guidelines and to develop a sound public policy for the management, use, and disposition of the public lands.

The public lands of the United States should be put to their highest and best use; and developed, utilized, and conserved so as to provide the maximum long-range benefit and meet the present and future needs of the people of our Nation. To the extent existing laws, procedure, or regulations preclude or impede such use of our public lands and to making vacant lands generally available for use, they hinder or retard not only regional, but also national economic growth.

The electric utility industry will be vitally affected by the changes in the public land laws which are ultimately adopted. As you know, public lands in the 11 Western States comprise approximately 48 percent of their total land area, ranging from 29 percent in the State of Montana to 86 percent in the State of Nevada. The figures are higher if we include federally controlled lands, such as Indian lands. The non-Federal electric utility systems in our 11 Western States have tens of thousands of miles of electric distribution and transmission lines located upon these public lands. Due to the continued increase in population in the Western States, additional thousands of miles of lines are currently required and will be continuously required to supply the electric demands of the area and must unavoidably occupy public lands to a substantial degree. But material and serious difficulties have arisen affecting present and future plans for such lines. This is found in the recently promulgated regulations by the Departments of Interior and Agriculture with respect to rights-of-way for transmission lines across public lands.

If I may use Southern California Edison Co., with whom I am associated, as my example, the population in our service area increased almost 80 percent in the decade from 1950 to 1960—from 2,700,000 to almost 4,900,000. An average of something more than 625 people per day are added to our service area. We estimate Edison alone will add an additional 20,000 circuit miles of transmission and distribution lines to its system from 1963 to 1968. Our electric plant, including transmission lines, most of which touch public lands, is growing at a rate even greater than the population growth because there is continuously increasing consumption of electricity per capita.

Though these growth figures of Edison are somewhat larger than some areas in some of the other Western States, the difference is only a matter of degree. The problem confronts all of the electric utilities.

The significance of growth to the utilities and its attendant demands may be very simply stated. Unlike other industries, the electric utility cannot inventory kilowatt-hours. Consequently, it is necessary to plan, design, and engineer utility system expansions and additions, 3, 5, and 10 years in advance of actual needs, depending on the type of character of plant under consideration. When construction of a plant is undertaken, we must thoughtfully and prudently build into almost every facility reserve capacity to meet future growth when and where it is projected.

The operator of an electric system must have two primary objectives: First, reliability of service; and, second, the lowest cost or best economies of service.

If the electric utilities are to continue to be a major contributor to the growth of our economy and fulfill their utility obligations to be ready and able to supply reliable electric service at the lowest possible cost, we must build new powerplants, transmission lines, and we must use the public lands. It is our hope that Congress will establish legislative guidelines and a public policy covering the management, use, and disposition of the public lands that will permit

the electric industry to use the public lands under such terms and conditions as will enable our industry to continue to meet the ever-increasing electric energy requirements and provide reliable electric service at the lowest possible cost and thereby continue to be one of the major contributors to, and participants in, the growth and expansion of our national economy.

IDAHO MINING ASSOCIATION,
Boise, Idaho, June 25, 1964.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands,
Senate Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR: We have been advised by the Boise office of the Bureau of Land Management that your subcommittee on public lands has scheduled hearings on June 29 and 30 and during the week of July 6 on the Public Land Law Review Commission bill (H.R. 8070, as amended) and related legislation.

The Idaho Mining Association is on record before the House counterpart of your subcommittee as strongly endorsing and supporting these legislative proposals. We believe that the amendments incorporated in H.R. 8070 in the House have substantially improved and strengthened the original bill and that the review of public land law and public land administration which it authorizes is the best avenue available for resolving the conflicts and eliminating the handicaps which now confront the mining industry in the exercise of its historic rights of entry and tenure on public domin lands.

Since we shall not be able to have a personal representative in attendance to testify at the hearing sessions, we take this means of reiterating our endorsement and support of this legislation, and we respectfully request that this letter be incorporated in the hearing record.

Sincerely,

A. J. TESKE, *Secretary.*

NATIONAL WOOL GROWERS ASSOCIATION,
Salt Lake City, Utah, June 25, 1964.

Re H.R. 8070, to establish a Public Land Law Review Commission.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Public Lands,
Senate Interior Committee,
Washington, D.C.

DEAR SENATOR BIBLE: In lieu of personal appearance before your subcommittee to present testimony on H.R. 8070, we respectfully request that this letter, which represents the official views of the National Wool Growers Association, be made part of the hearing record.

The National Wool Growers Association is composed of 20 sheep producer organizations covering an area of 25 States where approximately three-fourths of the Nation's sheep, lambs, and wool are produced.

We fully endorse H.R. 8070, as amended and passed by the House. We feel that a complete analysis of all public land laws is long overdue and furthermore, that a fair and comprehensive appraisal will give direction to future administration procedure and disposition of the Federal lands, so vitally needed for expansion and development of the country.

Sincerely,

JOSEPH M. DONLIN,
Chairman, Federal Lands Committee.

Senator BIBLE. Without objection, the hearing will stand in adjourment.

(Whereupon, at 12:15 p.m., the committee was adjourned, subject to call of the Chair.)

(Under authority previously granted the following communications were ordered printed:)

STATEMENT OF MAX C. GARDNER, DIRECTOR, UTAH STATE LAND BOARD, FOR AND ON BEHALF OF THE UTAH STATE LAND BOARD

Mr. Chairman, I greatly appreciate the opportunity of filing this statement in support of H.R. 8070 for and on behalf of the Utah State Land Board. In the view of the Utah State Land Board, H.R. 8070 is the most significant public land law legislation in recent years. A careful, exhaustive study of the existing public land laws is long overdue. A careful and objective study to determine whether the existing laws are being administered in accordance with the intentions of Congress is most timely. It is our understanding that H.R. 8070 would contemplate both. The Utah State Land Board unequivocally supports and urges the passage of H.R. 8070.

STATE OF COLORADO,
DEPARTMENT OF GAME, FISH, AND PARKS,
Denver, July 2, 1964.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: It is my understanding that the Senate Committee on Interior and Insular Affairs will be considering H.R. 5159, which provides for multiple use by the Bureau of Land Management.

We in the Colorado Game, Fish, and Parks Department have some reservations in regard to this bill, and we would hope that your committee would be extremely careful not to endanger the State's position in this matter. For some time now, the Bureau of Land Management has been holding up and disapproving our applications for acquisition of public lands under the Recreation Site Act. We are certain that this is because the Bureau of Land Management is attempting to withhold these lands from transfer to us in order that they can get into the recreation field, which we are now serving as a State agency. We are having difficulty in acquiring lands for game and fish purposes, even though the Recreation Site Act very specificially authorizes such acquisition.

I would like to suggest that your committee solicit further testimony from all of the Western States before passing on this bill.

With my very best personal regards,

Sincerely,

HARRY R. WOODWARD, *Director.*

ST. GEORGE, UTAH, *June 30, 1964.*

Hon. ALAN BIBLE,
Chairman, Public Land Subcommittee, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR BIBLE: The Bureau of Land Management State Advisory Board for Arizona met in Kingman on June 24. As you know, the BLM advisory boards consist of elected representatives of the cattlemen and sheepmen using the public lands and additional members who are appointed by the Bureau of Land Management.

In Arizona the board consists of six cattlemen, two sheepmen, and one representative each for mining, county government, business, education, and research, outdoor recreation, wildlife, city government, and soil and water conservation. At our meeting the advisory board unanimously passed three resolutions, copies of which are attached. These resolutions endorse H.R. 5159, the multiple use bill, H.R. 5498, the public sale bill, and H.R. 8070, a bill to establish a Public Land Law Review Commission. Inasmuch as you are chairman of the Public Land Subcommittee of the Senate, which will soon be holding hearings on this proposed legislation, I thought you might be interested in these resolutions.

Copies have also been sent to the Arizona congressional delegation and to other interested persons an dorganizations.

Sincerely yours,

LEE J. ESPLIN,
Chairman, Arizona State Advisory Board, Bureau of Land Management.

[Attachment]

RESOLUTION NO. 1 OF THE ARIZONA STATE ADVISORY BOARD

H.R. 8070

Whereas the exhorbitant number of outdated public land laws have created confusion in the management and administration of the public lands; and

Whereas the public land laws of the United States have developed over a long period of years through a series of acts of Congress which are not fully correlated with each other and because many of these laws are inadequate to meet the current and future needs of the American people: Therefore be it

Resolved, That H.R. 8070 is endorsed in its entirety so as to creat a commission to analyze and study the existing statutes and regulations governing the retention, management, and administration of the public lands and to recommend to what extent the revision of these laws is necessary and desirable.

LEE J. ESPLIN, *Chairman.*

RESOLUTION NO. 2 OF THE ARIZONA STATE ADVISORY BOARD

H.R. 5159

Whereas existing land laws are vague concerning the administration of the Federal lands under the jurisdiction of the Bureau of Land Management; and

Whereas it is desirable for certain lands to remain in Federal ownership; and

Whereas it is desirable that compatible uses of these lands are not only beneficial but necessary and increasing social and economic values of public lands demand a decisive congressional mandate that they should be managed for multiple uses where practicable: Therefore be it

Resolved, That H.R. 5159 be endorsed in its entirety so as to direct the Secretary of the Interior to manage the public lands on a multiple use basis, pending a review of all of the public land legislation. Such multiple uses would include domestic livestock grazing, fish and wildlife development, industrial development, mineral production, occupancy, outdoor recreation, timber production, watershed protection and the preservation of the public values that would be lost if the lands passed from Federal ownership.

LEE J. ESPLIN, *Chairman.*

RESOLUTION NO. 3 OF THE ARIZONA STATE ADVISORY BOARD

H.R. 5498

Whereas acquisition of Federal lands for commercial and industrial uses is confined to such small acreages by existing laws that these laws are practically useless; and

Whereas residential or community development is hampered by unrealistic laws that limit acreage for this purpose; and

Whereas increasing demand for lands in Federal land States is pyramiding; and

Whereas it is desirable that adequate acreages be available for orderly development: Now, therefore, be it

Resolved, That H.R. 5498 is endorsed in its entirety so as to provide temporary authority for the sale of public lands as required for the orderly growth and development of communities and of lands chiefly valuable for residential, commercial, industrial, or other public use development.

LEE J. ESPLIN, *Chairman.*

STATEMENT OF NATIONAL ASSOCIATION OF MANUFACTURERS

This statement is respectfully submitted by the National Association of Manufacturers, a voluntary association of industrial and business firms, large and small, located in every State.

The NAM endorses H.R. 8070, a bill to establish a Public Land Law Review Commission, and applauds this distinguished subcommittee for its sympathetic consideration of this bill which was passed by the House of Representatives by a sizable majority vote.

The Homestead Act of 1862; the mining law of 1872; the various laws since 1872 establishing national parks; the Mineral Leasing Act of 1920; and other historic acts of Congress have all contributed to establishing this Nation's policies toward the vast land areas owned by the Federal Government. However, it is apparent that, in this modern space-missile-electronic-nuclear energy age, a thoroughgoing review of our public land laws would be highly meritorious.

The central fact is that the real estate owned by the Federal Government constitutes about one-third of the entire area of the United States and almost two-thirds of the entire area of the 11 Western States and Alaska.

In our view, there are at least two major justifications for a review of the laws applying to such a huge resource:

First, the need to insure that as much as possible of these lands be devoted to needed economic uses on an income-producing, taxpaying basis which will provide jobs and help support all levels of Government. This would be a major contribution to the economic growth of this Nation.

Second, the need to insure that minerals and metals, particularly those required for modern manufacturing of high-strength, high-resistance products and materials, will be available in abundance. This includes the encouragement of modern prospecting techniques and instruments. Such a policy would not only contribute to our general economic and national defense strength but also to the amelioration of our balance-of-payments problem.

Timber represents another great asset found on our federally owned lands. A Public Land Law Review Commission could render a great service by making recommendations for the modernization, correlation, clarification, and improvement of statutes and administrative procedures relating to the orderly economic development of all these natural resources, including the harvesting of recurring crops of trees on forested areas.

Therefore, we strongly endorse H.R. 8070 and respectfully urge the distinguished Public Lands Subcommittee of the Senate Interior and Insular Affairs Committee to recommend its approval.

○