A NATIONAL SYMBOL FOR GERMAN-AMERICANS

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. MINGE. Mr. Speaker, this summer I was honored to be part of a glorious event for German-Americans, the Hermann Monument Centennial in New Ulm, MN. The 100-year dedication drew thousands of Americans with German ancestry to a parade and several festivals at the site of the Hermann Monument, a statue of a celebrated German hero.

The Hermann Monument stands at a crest of a hill overlooking the city of New Ulm. To the thousands of residents in the heavily German-American New Ulm area, the monument symbolizes the importance of German ancestry. To German-Americans scattered across the country, the Hermann Monument represents unity of the German people.

The formation of a united Germany began in 9 A.D. when Arminius, or Hermann, defeated three Roman Legions who had invaded the area known today as Germany. His victory laid the foundation for German identity. Hermann went on to symbolize German unity and the hard work and perseverance it took to attain that goal.

Centuries later in America, Hermann signified the struggle of the German immigrant coming to America. To Germans who came to this new country, Hermann stood for pride in having made it to America, and in having established opportunity for the future. Hermann was recast as a German-American symbol, representing the essence of the German-American experience.

German-Americans are an integral part of the culture and history of our Nation. There are more than 57.9 million individuals of German heritage residing in the United States, representing nearly 25 percent of the population. German-Americans surpass all other ancestries as the largest ethnic group in the United States.

Currently, we do not have a national symbol of the German heritage. The Hermann Monument celebrates the unity of German-Americans throughout our Nation. Consecrating a monument to this great leader, and manifesting it as a national symbol for German ancestry, emphasizes the importance of recognizing the contributions German-Americans have made to our country. This monument, visited by thousands of Americans of German ancestry, and revered by German history scholars, should be a national symbol for the contributions of German-Americans.

It is with the goal of recognizing the German-American experience that I have introduced a concurrent resolution that designates the Hermann Monument as a National German-American Monument and a symbol of pride for Americans of German heritage. The bill will recognize the Hermann Monument as a sight of special historical significance.

Scattered across the country in small towns as well as large cities, German-Americans are separated by regions of the country, but deeply united in ancestry. It is our duty to recognize the importance of the history and culture of German-Americans who have helped to mold our great Nation. This monument, representing unity of a great people and celebrating the experience of a unique culture, is but a small token of the contributions made by German-Americans to our great Nation.

SUPPORT STANDARDS OF EXCELLENCE IN EDUCATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. ETHERIDGE. Mr. Speaker, I rise today to announce the introduction of my resolution in support of voluntary educational standards of excellence. I urge my colleagues to join the 23 original cosponsors and myself in support of this important measure.

This simple, straightforward resolution is a commonsense approach to improving education in this country. The American people strongly support educational standards of excellence so parents, teachers, students, and taxpayers will have the advantage of quality public schools. This Congress must go on record in support of high education standards.

As the former two-term, elected superintendent of North Carolina's Department of Public Instruction, I know firsthand that aiming high and providing our teachers and students the tools they need to get the job done is the proven way to improve academic achievement. America needs educational standards of excellence, and the House must pass this important resolution.

Mr. Speaker, my resolution is strongly supported by the Council of Chief State School Officers, the American Legion, and other groups dedicated to providing a quality education to each and every child in this Nation. Our country's commitment to public education has been the great equalizer in this society. We must pass this resolution to strengthen and improve our public schools.

I have worked with the administration in developing this resolution, and it can be supported by both Republican and Democratic Members of this House.

Mr. Speaker, nothing is more important than our children. I urge my colleagues to join me in support of this important resolution to encourage education standards of excellence for every school in America.

FORAGE IMPROVEMENT ACT OF 1997

SPEECH OF

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands.

Mrs. CHENOWETH. Mr. Chairman, I rise in support of H.R. 2493, as amended by the manager's amendment and its second degree amendment. As originally written, I had grave concern over H.R. 2493's impact to the private property use and preference rights that spring from the Taylor Grazing Act. But after extensive discussions with Agriculture Chairman BOB SMITH and Ranking Member STENHOLM, my concerns have been addressed and I am pleased to support the measure. I wish to thank Chairman SMITH for his stalwart leadership. It is not easy to bring so many divergent views together and reach agreement. No one worked harder than he, and I appreciate him.

Mr. Chairman, the second degree amendment to the manager's amendment that I worked out with Chairman SMITH was quite simple. It merely deleted the definitions of ''allotment'' and ''base property,'' and deleted a paragraph about lease transfers. It was my concern that these definitions threatened the rights found in the Taylor Grazing Act, and that the lease transfer language could allow the Secretary concerned to separate the Taylor's preference right from the base property. I wanted to ensure that when an individual sells or leases his or her ranch, that the grazing preference for the allotments go with it. The amendment merely leaves the current law in place, and I am unaware of anyone having concerns with the current definitions. However, I do realize that the current lease transfer regulations on Forest Service land cause problems. But I was concerned that we were agreeing to bad language. I would rather pass no law than bad law.

To understand my position, one must understand the history of how the Western United States was settled and the history of the development of the use right inherent in the grazing preference.

The arid grazing lands of the Western States were settled by hardy persons who endured severe hardships in developing ranching operations where there was water to support those operations. You must understand, much of this country gets less than 10 inches of rain fall per year. There is less forage, and it therefore takes a whole lot more land to raise cattle. These individuals established base properties, but had to depend upon the massive Federal lands for forage to support a viable livestock herd. They developed use rights, such as rights of way across the Federal lands, which were recognized by Congress in 1866 when it passed R.S. 2477.

Major John Wesley Powell, Chief of the U.S. Geological Survey issued a report entitled 'Report on the Arid Lands of the United States,'' which led to the passage of the act for the Relief of Settlers on the Public Lands, May 14, 1880. That act recognized the act of settlement itself as initiating and maintaining the settler's property rights. The report pointed out that nearly all the land in the West was primarily suited to livestock grazing and had been settled on as ranches. After passage of that act, settlement itself was sufficient to put other settlers on notice that the land had already been appropriated to private forage use.

The rights of the settlers to use of these Western grazing lands were confirmed and ratified by a series of congressional actions such as the act of August 30, 1890 as amended by the act of March 3, 1891, the act of January 13, 1897, the act of June 4, 1897, the act of June 11, 1906, the acts of March 4 and September 30, 1913, the Stock-Raising Homestead Act of 1916, which authorized homesteading of those lands designated as ''chiefly valuable for grazing and raising forage crops,'' and several other acts leading up to passage of the Taylor Grazing Act in 1934. Each of the

confirming and ratifying acts provided that all preexisting rights be protected.

As we all know, when Congress passes a validating or confirmatory statute, the legal title passes as completely as if a patent were issued, and the power left to the United States is the power to survey and define the boundaries of the tracts validated, as determined by the U.S. Supreme Court in *U.S.* v. *State Inv. Co.,* 264 U.S. 206 (1924).

When the Taylor Grazing Act was enacted, the Congress emphasized protection of the prior existing rights, and called for establishment of the grazing preferences. Following passage of the act, the Department of Interior surveyed existing allotments throughout the West and issued adjudications establishing the grazing preference right attached to that adjudicated allotment.

Secretary of Interior Babbitt issued his regulations of grazing in the so-called Rangeland Reform, and one of those regulations replaced the term ''grazing preference'' used by the Congress in the Taylor Grazing Act with the term ''permitted use,'' and made that grazing use dependent upon the discretion of the Secretary. In *PLC* versus *Babbitt,* United States district judge Brimmer enjoined the Secretary from replacing the ''grazing preference'' with a discretionary permitted use. In his decision, Judge Brimmer traced the development of a grazing preference right:

Congress enacted the Taylor Grazing Act in 1934. Pursuant to the Act, the Secretary identified public lands ''chiefly valuable for grazing and raising forage crops and placed these lands in grazing districts. Thus, the Department of Interior engaged in a lengthy adjudication process to determine who was eligible for a grazing preference. This process began in the 1930's and took nearly 20 years to complete. The Department issued adjudication decisions awarding grazing preferences to qualified applicants. The term ''grazing preference'' thus came to represent an adjudicated right to place livestock on public lands.

Judge Brimmer continued: ''The grazing preference attached to the base property and followed the base property if it was transferred.''

Mr. Chairman, the bill without the second degree amendment could have allowed the Secretary concerned to separate that adjudicated right from the base property. No longer would the adjudicated right to place cattle on an ''allotment'' be ''appurtenant'' to a base property. This bill would have downgraded that legal connection to ''associate with.'' Additionally, the lease transfer section of this bill would have left the transfer of the adjudicated right to the sole discretion of the Secretary, with absolutely no qualifications. This is wrong. The Taylor Grazing Act already has adequate qualification requirements, and this bill will supersede Taylor.

Judge Brimmer's decision is critical to the ranchers who are dependent upon forage rights on Federal lands. It acknowledges grazing preference as a ''use right.''. It is a decision which specifically states that the Secretary has ''an affirmative duty to protect'' the ''grazing preference.'' We must not extinguish that right, and with the amendments, it does not.

The lawyer who argued *PLC* versus *Babbitt* to the Tenth Circuit Court of Appeals is very concerned about the way the manager's amendment was written. I quote from an October 29, 1997 letter from Connie Brooks:

The term appurtenant was originally described in the first rules under the Taylor Grazing Act. The appurtenance issue is very significant with respect to transferability of the grazing preference. Once a preference or grazing use was ''appurtenant'' or ''attached'' to a base property, it meant that the transfer of the base property included the transfer of the grazing preference or grazing use. Based on this fundamental premise, ranches to this day can be mortgaged, inherited, and bought and sold with the assurance that the grazing rights on Federal land will also be transferred.

Again, the second degree erased the bill's entire attempt to define the base property and allotment, and I thank Chairman SMITH for agreeing to this.

Regarding the lease transfer language, Connie Brooks, again, the lawyer who argued BRIMMER, wrote:

''This may well spill over into the long-standing interpretation of the Taylor Grazing Act, which requires the Secretary to recognize any transfer of the base property and grazing preference. The Forest Service will require the waiver of the permit back to the agency and re-issuance to a purchaser. The concern is that if there is an issue of discretion then we will see the BLM seeking to cancel a grazing preference and permit rather than transfer it. The cancellation and issuance of a new permit will trigger a host of environmental and permitting issues, which would make ranches difficult to sell as cattle ranches and increase the likelihood that they will be developed as subdivisions, reduce the value of the ranch and collateral.

Mr. Chairman, this is a quote from the woman who argued the Brimmer decision. This is a property rights, 5th amendment issue. We cannot allow these ranches that have been passed down from generation to generation to have their adjudicated preferences separated from them. The ranches will become useless, and families will be destroyed.

The second degree amendment addressed my concerns. Again, I thank the Chairman and all those who worked so very hard on this bill.

I urge adoption of the bill.

TRIBUTE TO KEITH FORBES

HON. DONNA M. CHRISTIAN-GREEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise to pay tribute to Mr. Keith Forbes, a fellow Virgin Islander, close family friend and one of the pillars of my childhood, who passed away last week. Mr. Forbes dedicated his life to the service of God, his family, and his community, making the Virgin Islands a better place due to his efforts.

Keith Forbes was born on October 28, 1920 on the island of St. Croix. He served the St. John's Anglican Church Community in Christiansted for over 60 years in many capacities. As a young boy, he served as an acolyte, licensed lay reader, and later conducted outreach services at the correctional facilities and outlying areas of St. Croix. He also served on the Vestry where his duties included the position of junior and senior warden and vestry member emeritus.

In 1944 Mr. Forbes began what would eventually span more than five decades of active Masonic involvement. He was installed as a Freemason in the Sovereign Grand Lodge of Puerto Rico and served as the past district deputy grandmaster and past district deputy grand instructor of that lodge. He became a founding member of the Caribbean Light Lodge No. 101, as well as a charter member of Master Masons Lodge of Anguilla, W. I. Mr. Forbes also held the positions of high priest of Zetland Chapter No. 359 St. Thomas; Supreme grand Royal Chapter of Royal Arch Masons of England; member Chapter Rose Croix, HRDM No. 48 Jamaica, W. I.; Supreme Council 33 Degrees Masons of England of Wales; Past High Priest of Caanan Chapter No. 1, and past commander Knight's Templar.

From 1952 to 1979, he began his association with the Federal judicial system, starting as a clerical assistant and retiring as the deputy clerk-in-charge, for the St. Croix Division of the U.S. District Court.

Throughout the late sixties to the early eighties, he owned and operated ''The Peppermint Parlor'', a popular local restaurant, which served as a friendly family gathering place for the community.

In 1988 he was named president of the board for Brodhurst Printery, Inc., parent company of the St. Croix Avis, the local newspaper for that island district, maintaining that position until his untimely death.

He was a founding member of the Gentlemen of Jones, a charitable community organization that provides services to the people of St. Croix, especially renowned for their Christmas charity work in the city of Frederiksted.

On behalf of the people of the Virgin islands of the United States, I salute Keith Lancelot Forbes for his dedicated service to God, his family, and community.