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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy Lord God, who has commanded Your people to have no other gods before You, we pray for the honesty to face any idols in our hearts that compete with You as absolute sovereign of our lives. We confess that sometimes we can slip into the idolization of the approval of people, the accolades our work can produce, the success that can become addictive, the human power that can become a seduction of the secondary.

As we begin this new day, we want to clear out the throne room of our hearts and evict all those things that clamor for the first place in our lives. We belong first, foremost, and always to You, and are here to glorify You by serving our Nation.

With our priorities clear, we pray in the words of William Cowper:

The dearest idol I have known
Whatever that idol be
Help me to tear it from Thy throne
And worship only Thee.
Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator STEVENS of Alaska, is recognized.

SCHEDULE

Mr. STEVENS. Mr. President, on behalf of the majority leader, this morning the Senate will resume consideration of S. 672, the supplemental appropriations bill. Under the order, there will be 30 minutes of debate, equally divided between myself and Senator BYRD, with the cloture vote occurring

on S. 672 following that debate. All Senators should anticipate that the vote will occur at approximately 10 a.m. this morning.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The PRESIDING OFFICER. The Senate will resume consideration of S. 672, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid/Baucus amendment No. 171, to substitute provisions waiving formal consultation requirements and "takings" liability under the Endangered Species Act for operating and repairing flood control projects damaged by flooding.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I now ask unanimous consent that it be in order to file second-degree amendments until 10 a.m. this morning.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. STEVENS. Following that vote, additional amendments are expected to the supplemental appropriations bill. Rollcall votes will occur throughout today's session. It is the majority leader's intention to complete action on the bill as soon as possible, so Members who intend to offer amendments should be prepared to do so as soon as possible during today's session.

Mr. President, there are 109 amendments filed to this bill. I plead with the Senate to vote cloture on this bill so we will have a means of managing this bill. It is a disaster relief bill.

I now yield 5 minutes of the time allocated to me to Senator HAGEL for the purpose of making a statement as in morning business, and ask that the

statement appear at the appropriate place in the RECORD after the cloture vote.

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

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

(The remarks of Mr. HAGEL pertaining to the introduction of S. 709 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 140

(Purpose: To modify eligibility for emergency rail assistance funds in the bill)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BYRD, proposes an amendment numbered 140.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 28, line 8, strike the words "in the Northern Plains states" and insert "in September 1996, and".

Mr. STEVENS. Mr. President, this modifies the eligibility for emergency rail assistance funds under the bill. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 140) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, later this morning, the Senate is going to

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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vote, as I said, as near to 10 o'clock as possible. I regret that this step is necessary. I didn't think it would be necessary to have cloture. Senator BYRD and I have spent 2 days trying to resolve difficulties on the bill regarding amendments. As I said, 109 first-degree amendments are pending with regard to this bill. We simply cannot wait to move on the legislation. It does have millions of dollars for assistance to victims of the disasters. Those disasters, Mr. President, occurred in 33 States.

The bill provides \$1.8 billion to the Department of Defense for overseas contingency operations. This is for money that has already been spent on activities in Bosnia and Southwest Asia, and it replaces the funds that are critical to operating and maintenance accounts and personnel accounts to assure regular training and quality-of-life programs for the Department of Defense personnel through the remainder of 1997.

Let me make that clear. The money has been spent, but it was spent from very critical accounts under the power of the Presidency. We need to reprogram moneys into those accounts in massive amounts to assure that in the last quarter of this year, there is regular training and maintenance of our readiness.

Now, last night, we commenced a bipartisan review of all the amendments presented by 2:30. We hope we can work out or accept many of those. I urge any Member who is serious about the appropriations and has an amendment to this bill that is germane, to come to the floor so we can clear as many of the amendments as possible. It is my intention, after consulting with Senator BYRD, to take a very strict view to amendments in a post-cloture environment. I think that is what the Senate will want to do—consider germane amendments and move forward to this bill. Nongermane legislative amendments will be subject to a ruling by the Chair, and that will be taken up after cloture. But as I said, this is an emergency, although the funds—like the Department of Defense funds, money is being spent on the disaster now from other accounts available to the executive branch, so we must replace that money and make further money available.

We have placed the money to keep the Government going, where the money has been borrowed for a short period of time, under the procedures available for disasters. We must make these moneys available. This is a 500-year flood, Mr. President. This is one of the most severe disasters we have had since the Johnstown flood. If we are successful here, I think we can proceed very quickly.

The distinguished chairman of the Budget Committee has concluded the budget agreement. He will manage the budget presentation following the action on this bill. That is my understanding. We hope that we will be able

to get that budget agreement through the Senate and then be able to proceed on the 1998 appropriations bills. So I ask Members to defer nonemergency matters until we bring up those bills.

Now that we have a budget agreement, we are certain we will be moving regular appropriations bills very quickly. Many of the amendments presented here to this bill are amendments that would be germane to the regular appropriations bills for the various agencies. But they are not germane to this bill. So I hope that there is a strict ruling by the Chair on the germaneness of these amendments that have been filed.

Now, we have worked several days to try and bring about compromises in several areas, such as the amendment pertaining to the continuing resolution concept that is in the bill, the census and endangered species. I hope that we can effect a compromise on each of those issues. If not, let's have the vote. We waited all afternoon yesterday to take up these issues. As the Chair knows, we were finally forced to recess last night so that we could get the control factor that will come from the cloture process.

As I said, I didn't think it would be necessary. As a matter of fact, I told the floor staff I didn't think we should even file that cloture motion. They thought we should, and I am glad we did. They were right and I was wrong.

Senator BYRD and I are going to work out the shortest time agreement possible on any amendments today. We expect to have many votes. I believe that we will begin to call up amendments from the eligible list as soon as the Chair rules on the amendments under cloture. As a matter of fact, we are available to take up amendments before 10 o'clock if anybody wants to come over and try to work one out before that time.

I have taken the bulk of my time, Mr. President. Let me, again, thank Senator BYRD for his cooperation. We have moved numerous amendments in a bipartisan fashion already. Later today, Senators CONRAD and DORGAN have asked us to meet with the mayor of Grand Forks, and we will do that. We are going to see some television footage. I saw some, as a matter of fact, on the news, but we intend to promise the mayor that we are going to finish this bill and get it to the President as soon as possible.

I am happy to yield the remainder of the time to Senator BYRD, if he wishes time at this time.

Mr. BYRD. Mr. President, I thank my colleague. I do not need more than a minute or so.

I shall vote for cloture, and I urge my colleagues on this side of the aisle to vote for cloture. We have been on the bill now 3 days. It is an emergency bill. The people who have been stricken by floods throughout the several States are in need of help. We should not delay matters here very long.

I also hope that many of the 110 amendments that have been filed will

go away without being called up. There are others against which points of order would lie, and I intend to join with my friend and colleague, Mr. STEVENS, in making points of order against amendments that are not germane as he sees fit to do so. He is the manager of the bill, and I want to cooperate with him as much as possible.

So I hope that we can get on with the bill today and make good progress and, hopefully, complete action on it earlier than the close of business tomorrow. Mr. President, I yield the floor.

Mr. President, I yield the remainder of my time to Mr. STEVENS.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Thank you.

Mr. President, I want to raise the issue of a provision that is in the bill concerning section 2477 of the Revised Statutes—43 United States Code 932.

Some groups have been alleging in the press that the provision in the supplemental bill before us regarding rights-of-way under section 2477 of the Revised Statutes is going to result in roads across our national parks and wilderness. That is simply not true. These false allegations are being made in order to scare our constituents and to convince Members to oppose our provision.

Rights-of-way under Revised Statute 2477 were granted by statute from 1866 to 1976, when the provision was repealed. At the time of the repeal, all existing rights-of-way were specifically protected.

Rights-of-way under R.S. 2477 are granted across Federal lands not reserved for public uses.

When Congress sets aside land for a park or wilderness, that land is reserved for that purpose. Once the park or wilderness is created, no new right-of-way can be created under Revised Statute 2477.

This means that only rights-of-way that were created prior to the reservation of the land for a park or wilderness are valid under R.S. 2477.

To create a right-of-way under R.S. 2477, there must either have been public use of a right-of-way or an affirmative act of a State indicating that it accepted the grant and intends to use it for a public highway.

Most of this Nation's most famous parks were created during the 110 years that Revised Statute 2477 was available. Yellowstone was created in 1872.

Yosemite, Kings Canyon, and Sequoia were created in 1890. The Grand Canyon was set aside in 1908.

Denali, then known as Mount McKinley, was created in Alaska in 1917. Katmai in Alaska was established in 1918, and Glacier Bay National Park was created in 1925.

Zion National Park in Utah was created in 1919, with Bryce Canyon following in 1923, and the Arches National Park in 1929.

Throughout the 50 or more years of each of these parks' existence, a Revised Statute 2477 right-of-way could

have been asserted, even before the provision was repealed. Yet, these parks have not been paved by public highways.

Congress began creating wilderness areas in 1964—12 years before Revised Statute 2477 was repealed. Section 5 of the Wilderness Act specifically preserves existing private rights.

It has been 20 years since Revised Statute 2477 was repealed and over 30 years since the creation of many major wilderness areas. During the 30 years of the policy of wilderness the same practice that the provision in the supplemental seeks to continue was in effect.

Yet, during those 30 years, we have not seen any of our wilderness areas covered with roads under Revised Statute 2477.

In Alaska, where 60 percent of the wilderness areas exist, we have already dealt with the issue. The Alaska National Interest Lands Conservation Act has numerous provisions that specifically deal with access to wilderness areas. Nothing in this provision changes the law regarding rights-of-way in Alaska.

On the contrary, the provision seeks to keep the pre-existing policy and specifically denies the Secretary of the Interior the right to unilaterally change the policy contrary to what Congress has said many times and what the courts have said many times. As a matter of fact, Congress has spoken three times in the past 2 years on this and stated that the Secretary cannot change the existing law and policy by regulation or by edict.

The people who claim this provision will lead to roads across wilderness areas and parks already created by Congress are just plain wrong.

What is at issue here are areas that are not yet wilderness or that have been recently added by Executive action to our parks and monuments.

Mr. President, every time Congress has addressed that subject, it has protected valid existing rights, even in the creation of national parks and wildlife refuges.

Wilderness areas by definition don't have any roads. The environmental groups and the Department of the Interior are seeking to cut off valid rights-of-way in certain areas of the West so that those areas may be proclaimed wilderness.

I hope that the Senate understands this. If the Secretary of the Interior and these groups are allowed to prevail, then areas that do have existing valid rights-of-way, which should by law be given some consideration and may be ineligible to become wilderness areas, could be created as additional wilderness and national park areas by Executive order or secretarial edict.

If they can keep the R.S. 2477 right-of-way from being recognized under State law, as they have been created for the past 130 years, then those areas would be roadless and eligible for wilderness designation by Congress.

That is the issue here. There are valid, existing rights-of-way across

some of these areas. They have been used for decades by the public in the West. Those areas are not capable of being established as wilderness areas. But that is not for us to decide here.

All this provision does is maintain the status quo. If there are valid existing rights under R.S. 2477, they had to be created more than 20 years ago, before 1976.

The provision simply prevents the Secretary of the Interior from prejudging the issue in the ongoing review of which remaining Federal areas should be wilderness. This only preserves rights-of-way that already exist. It does not create new rights or new roads.

I hope that the Senate will seriously consider the issue that is coming before us today regarding Revised Statute 2477. Our intent is merely to keep the policy that has existed in the past and which has been protected by every act of Congress that I know of. The valid existing rights were protected. Those rights have been defined as far as rights-of-way under State law for 130 years.

This Secretary of the Interior now wants to have them decided under Federal law that his regulations would establish. That is contrary to the policy of Congress. It is contrary to the decisions of the courts of the United States, and it should not be done by secretarial edict.

As I said, we have acted in the National Highway System Designation Act of 1995, in the 1996 Interior appropriations bill and in the 1997 Interior appropriations bill to prevent those regulations from being issued. Now the Secretary wishes to announce a policy. That policy is that in the future the validity of the rights will be determined by Federal law. That is contrary to a whole series of court decisions and contrary to the acts of Congress that specifically recognize valid existing rights under State law.

Mr. President, I hope that this is going to be a short day. But I want to tell the Senate that it is our intention, as Senator BYRD has announced, to enforce the cloture motion. I call again on the Senate to vote for cloture. Give the managers of this bill the control that comes from the cloture process, and we will assure this bill passes to provide money to those in the disaster areas. The bill affects disasters in 33 States, Mr. President. We will give this bill to the conference and to the President as quickly as possible.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 208

Mr. STEVENS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 208.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

None of the funds made available in the Foreign Operations, Export Financing, and Related Programs, 1997, (as contained in Public Law 104-208) may be made available for assistance to Uruguay unless the Secretary of State certifies to the Committees on Appropriations that all cases involving seizure of U.S. business assets have been resolved.

Mr. STEVENS. Mr. President, this is an amendment that we hope will bring about an awareness of Government officials of Uruguay of a very sad situation with regard to the fishing assets from Washington State and Alaska that were entered into in a joint venture with a seafood company in Uruguay.

What happened was that the assets of the Americans were seized after they were in Uruguay territory, and the joint venture that was supposed to be forthcoming was dissolved by actions of the Uruguay citizens.

I offer this amendment sort of in frustration, trying to see if we can work out with the Uruguay Embassy here and officials in the State Department at Montevideo a resolution of this problem.

I hope that it has the salutary effect of calling the attention of the Uruguay Government to a very unsatisfactory development with regard to our business relationships.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 208) was agreed to.

Mr. STEVENS. Mr. President, this is the time for filing of second-degree amendments, I remind Senators. It is also the time set for the vote on cloture motion.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will read.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 672, the supplemental appropriations bill.

Trent Lott, Ted Stevens, Mike DeWine, Bob Bennett, Tim Hutchinson, Richard G. Lugar, Pete Domenici, Pat Roberts, Connie Mack, Frank H. Murkowski,