LEGISLATIVE HISTORY

Public Law 87-851
S. 3451

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INDEX AND SUMMARY OF S. 3451

Mar. 15, 1962	Rep. Johnson, Calif., introduced H. R. 10773 which was referred to the House Interior and Insular Affairs Committee. Print of bill.
June 20, 1962	Sen. Church introduced and discussed S. 3451 which was referred to the Senate Interior and Insular Affairs Committee. Print of bill and remarks of Sen. Church.
Aug. 2, 1962	Rep. Johnson, Calif., introduced H. R. 12761 which was referred to the House Interior and Insular Affairs Committee. Print of bill.
Aug. 13, 1962	House committee reported H. R. 12761 without amendment. H. Report No. 2184. Print of report.
Aug. 23, 1962	Senate subcommittee approved S. 3451 with amendments.
Aug. 28, 1962	Senate committee voted to report (but did not actually report) S. 3451.
Aug. 30, 1962	Senate committee reported S. 3451 with amendments. S. Report No. 1984. Print of bill and report.
Sept. 6, 1962	Senate passed S. 3451 as reported.
Sept. 17, 1962	House passed S. 3451 with amendment (in lieu of H. R. 12761). H. R. 12761 indefinitely postponed due to passage of S. 3451.
Sept. 20, 1962	Senate conferees were appointed on S. 3451.
Sept. 21, 1962	House conferees were appointed.
Oct. 8, 1962	House received conference report on S. 3451. H. Report No. 2545. Print of report.
Oct. 10, 1962	House began consideration of conference report.
Oct. 11, 1962	Both Houses agreed to the conference report on S. 3451.
Oct. 23, 1962	Approved: Public Law 87-851.

DIGEST OF PUBLIC LAW 87-851

RELIEF FOR OCCUPANTS OF UNPATENTED MINING CLAIMS. Authorizes the Secretary of the Interior to convey an interest up to and including fee simple to the residential occupant-owner of an unpatented mining claim, all or any part thereof up to five acres, providing the claim constitutes for the occupant-owner a principal place of residence which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962. Requires the consent of the head of another Department in certain cases where the lands involved have been withdrawn in aid of the particular Federal Department. Provides that in cases where a Federal Department does not consent to such conveyance the Secretary of the Interior may sell to the applicant an interest in another tract of land, up to five acres, from the unappropriated and unreserved lands of the U.S. or from certain Taylor Grazing Act lands. Provides that conveyance would not relieve the occupant of the land of any liability to the U.S. existing at the time of conveyance for unauthorized use of the conveyed lands. Reserves to the U.S. all minerals for the term of the estate conveyed. Provides that rights and privileges under this act are not assignable but could pass through devise or descent.

RESIDENTIAL USE OF MINING CLAIMS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 3451

A BILL TO PROVIDE RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS UPON WHICH VALUABLE IMPROVEMENTS HAVE BEEN PLACED, AND FOR OTHER PURPOSES

AUGUST 16, 1962

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

U.S. GOVERNMENT PRINTING OFFICE
88635 WASHINGTON : 1962

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STATEMENTS

RESIDENTIAL USE OF MINING CLAIMS

THURSDAY, AUGUST 16, 1962

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 11 a.m., in room 3110, New Senate Office Building, Senator Ernest Gruening presiding.

Present: Senators Gruening (presiding), Metcalf, Long of Hawaii, and Senator Church of the full committee.

Senator METCALF (presiding). S. 3451 is the bill under discussion. I will place in the hearing at this point the bill and the reports of the Secretary of the Interior, the Secretary of Agriculture, and the Comptroller General of the United States.

(The documents referred to follow:)

[S. 3451, 87th Cong., 2d sess.]

A BILL To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary, after due process, to be invalid, an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim ss believed to be invalid, relinquishes to the United States all right in and to iuch claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated after due process. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have beon withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price to be paid to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. Except where a mining claim has been or may be located at a time when the land included therein is withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less

than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 15, 1962.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: This responds to your committee's request for reports on S. 3451, S. 3458, and S. 3564, the latter two of which are identical to each other, bills to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We recommend that S. 3451 be enacted, subject to consideration of our suggestions and comments below.

S. 3451 would authorize the Secretary of the Interior to convey to any occupant of an unpatented mining claim which is determined by the Secretary after due process to be invalid an area within the claim of not more than (1) 5 acres or (2) the acreage actually occupied by him, whichever is less. The Secretary may make a similar conveyance to any occupant of an unpatented mining claim who, after notice from an appropriate officer of the United States that the claim is believed to be invalid, relinquishes to the United States all rights he may have under the mining laws to such claim or who within 2 years prior to the enactment of the bill relinquished such rights to the United States or had his unpatented mining claim invalidated after due process. Any conveyance could only be made to a seasonal or year-round residential occupant owner as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed. The application for conveyance would be required to be filed within 5 years from the date of enactment of the bill. The term "qualified officer of the United States" means the Secretary or an employee of the Department of the Interior designated by him. However, the Secretary of the Interior could delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

Lands withdrawn for Federal, State, or local governmental units will be disposed of only with the consent of the head thereof and subject to such terms or conditions as that unit deems necessary. If the land embraced in the mining claim is not available for disposition, the Secretary of the Interior, after concluding a satisfactory arrangement for termination of occupancy and settlement of any liabilities for unauthorized use, would grant an applicant a preference right to purchase some other tract of land 5 acres or less in area from those tracts made available for sale under this act by the Secretary of the Interior from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, as amended (43 U.S.C. 315f). The right to purchase such lands would have to be exercised within 2 years from the date of the grant of the preference right.

Any conveyance under the bill would be made at no less than 50 percent of the fair market value (exclusive of any improvements placed on the land by the applicant or his predecessors in interest) as of the date of enactment of the bill less any equities possessed by the claimant and his predecessors in interest.

The execution of the conveyance of land occupied as a residential site within a mining claim would not relieve any occupant of the land conveyed of any liability, existing on the date of the conveyance, to the United States for unauthorized use of the conveyed land or interest in the land except to the extent the Secretary of the Interior deems equitable in the circumstances. Relief would be limited to those persons who have filed applications for conveyances under the bill within 5 years from its effective date. Except where a mining claim has been or may be located at a time when the land is withdrawn or otherwise not subject to mining location or where a mining claim was located after July 23, 1955, no trespass charges could be sought or collected by the United States based upon occupancy of the mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the

Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. This provision we construe to be applicable only to those situations where the persons involved are qualified applicants under the bill; it is not intended as a general remission of the right of the United States to collect for unauthorized use on mining claims wherever it has occurred. An appropriate amendment to clarify this matter is set forth below.

Section 7 of S. 3451 provides that any conveyance under the bill shall reserve to the United States all minerals and the right of the United States, its lessees permittees, and licensees to enter upon the land and prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing transporting, and removing such minerals on or from other land. The leasable materials and mineral materials so reserved would be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal. Subject to valid existing rights, upon issuance of a patent or instruments of conveyance under the act, the locatable minerals reserved to the United States would be withdrawn from all forms of appropriation under the mining laws. This action specifically provides that nothing in it is to be construed to preclude a grantee holding any land conveyed under the act from granting to any person or group the right to prospect for or explore for any class of minerals for which mining location may be made under the U.S. mining laws on mutually agreeable terms, but no mining location can be made on the land as long as the withdrawal directed by the bill remains in effect.

A fee owner of the surface of any land conveyed under the act may at any time make application to purchase and the Secretary of the Interior shall sell to such owner the locatable mineral estate within the boundaries of the land. Before such sale is consummated, the surface owner would be required to pay to the Secretary of the Interior the sum of the fair market value of the interest sold and the cost of appraisal, but in no event less than the sum of $50 per sale and cost of appraisal of the locatable mineral interest. The Secretary would then be authorized to issue such instruments of conveyance as he deems appropriate.

Section 8 of S. 3451 provides tht rights and privileges under the act shall not be assignable, but may pass through devise or descent.

S. 3458 and S. 3564 differ from S. 3451 in that the former make no provision for reservation of any mineral estate to the United States and in dealing with the "alternative tracts" provide that the land selected must be situated within an area within a radius of 50 miles from the land on which the mining claim is situated. S. 3458 and S. 3564 also contemplate that the preference right to obtain an alternative tract will be governed by the rule that priority in selection of the tracts by those eligible would be determined by the priority in filing applications therefor. We believe that any legislation on this subject should provide minimally for a reservation of those leaseable minreals for which the lands are deemed valuable or prospectively valuable.

The 50-mile limitation would preclude broad exercise of "alternative tract" selections and would serve no public interest factor. In many situations there might not be any public lands within that radius suitable for designation as alternative sites by the Secretary of the Interior. For these reasons, we prefer the enactment of S. 3451.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law which is a muniment of his title is complied with. Thus, although many miners obtained patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not prosecuted their claims to patent. In some cases, claims did not contain quite enough valuable mineral to constitute a discovery within the purview of the mining laws and justify proceeding to patent.

There is, however, no requirement in law that a mining locator proceed to patent. In *Wilbur* v. *U.S. ex rel. Kruchnic* (280 U.S. 306 (1930)) the Supreme Court of the United States stated as follows:

"When the location of a mining claim is perfected under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. The claim is property in the fullest sense of that term; and may be sold, transferred, mortgaged, and inherited without infringing any right or title of the United States. The right of the owner is taxable by the State, and is 'real property,' subject to the lien of a judgment recovered against the owner in

a State or Territorial court. The owner is not required to purchase the claim or secure patent from the United States; but so long as he complies with the provisions of the mining laws, his possessory right, for all practical purposes of ownership, is as good as though secured by patent." (Cf. the act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601, et seq.).)

However, even though a mining locator may have made a discovery of a valuable mineral on his mining claim, after the land is mined out, his claim is subject to invalidation. In *United States* v. *Alonzo A. Adams, et al.*, A–27364 (July 1, 1957) the Department held that an application for a mineral patent will be rejected and the mining claim declared null and void where, although the claim may formerly have been valuable for minerals, it is not shown as a present fact that the claim is valuable for minerals. Thus some mining claims which were valid in their inception may no longer be valid because of the virtually complete mining out the valuable ore.

Often, the mining locator established his home upon his claim, and worked his claim from his home. These homes have become, in many instances, permanent residences for the prospector's heirs. Frequently, mining claims embracing residential improvements were conveyed as any other real estate might be conveyed.

Over the years, many claims, once valuable for their mineral content, have been mined out. Other claims, because of the present high cost of operations and the low values, are not presently susceptible to immediate mining and may not now be valuable for their mineral deposits. Yet many of the families of the original locators maintain homes within the limits of the mining claims, while others have sold for value the homes established by their forebears.

A present mineral examination might fail to disclose on many of these claims a valid discovery of a valuable mineral deposit, and thus subject the mining claim to cancellation by a determination of invalidity. Upon such a determination of invalidity, the holders of improvements on the claims would face great hardships in the loss, not only of the monetary value of the improvement, but also of their homes. Some of the families have lived on the mining claims for many years, and have paid taxes for the improvements on the lands. Because of the widespread use of mining claims for homesites and the general practice of transferring them by quitclaim deeds, many people honestly, although mistakenly, have assumed that the mining laws were and are an appropriate means of acquiring possession and ownership of mining claims for general residential purposes unrelated to mining. Hence numerous transactions of this nature have occurred in various portions of the public domain and mining claim occupancy problems have been multiplying for many years. This Department for several years has endeavored to alleviate the situation within the framework of existing law. The program for adjusting occupancy rights under existing law, we now recognize, has not proved to be entirely adequate. Many persons occupying lands in established residential communities have been unable to obtain the needed relief.

The Department cannot properly permit unauthorized use of Federal property. Although our Bureau of Land Management has endeavored to resolve the mining claim residence problem, through the Small Tract Act, as amended (43 U.S.C. 682a et seq.), and other laws, we have not been successful in attaining a total resolution of the problem. Many of the present situations involve year-round occupancy by "senior citizens" and others of limited means. Some of these individuals have purchased from other private parties what they believed to be fee title paying sums on the order of the then fair market value. Many of these individuals do not have the financial resources to pay the full measure of unauthorized use charges and again the full fair market value of the land they occupy. Avoidance of unnecessarily harsh treatment makes desirable additional legislation.

Your committee in Senate Report 1223, 86th Congress, 2d session, pertaining to H.R. 3676, culminating in the act of April 22, 1960 (74 Stat. 80), stated that unauthorized use of public lands interferes with orderly management or disposition and must be promptly and vigorously controlled. Your committee further stated that failure to eliminate unauthorized uses or to transform them into an authorized status leads to the spread of unauthorized use, deprives the Treasury of current revenues, and breeds disrespect for the property rights of the Government. We believe that enactment of S. 3451, as proposed to be amended by this report, would greatly facilitate the termination of unauthorized use.

It is our intention to retain in public ownership those lands needed for public or recreational values. Nor do we intend that the bill should lend itself to disposition of land valuable for minerals locatable under the U.S. mining laws. A proposed amendment below crystallizes this concept.

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Our National Park Service endeavors to acquire privately owned lands within national parks. It is not our intent, therefore, to grant under the bill fee simple estates to lands within such parks. However, in order to resolve the mining claim residence problem in national parks, we would in appropriate instances grant life or lesser interests in the occupied lands if authority therefor is granted. The final result would be to remove from national park holdings any residence on mining claims which are invalidated or relinquished. A proposed amendment to effectuate this concept is set forth below.

Certain time limitations contained in the bill seriously impair its effectiveness to remedy the unauthorized occupancy situation. To limit the applicability of the bill to persons who will in the future, or have within the past 2 years from the date of the enactment of the bill, relinquished or had invalidated their unpatented mining claims, deprives the advantages of the bill to persons who through no fault of their own relinquished their claims or had them invalidated at an earlier date. We understand that there are situations where persons have remained on claims, after their relinquishment or invalidation, for many years. The bill should take these situations into consideration, otherwise its utility as remedial legislation would be diminished. Similarly, we believe that the right to select an alternative tract should exist for a period of 5 years from its grant. We are suggesting appropriate amendments below.

Section 7 of S. 3451, setting forth the provisions relating to mineral reservations, appears to be similar to H.R. 10566, an act to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz. H.R. 10566 is directed to a situation where the Federal Government has disposed of the surface but has retained certain mineral interests. The situation involved in S. 3451 and related bills is substantially different in that these bills relate to lands where the United States now owns the surface and subsurface estate in toto.

Section 7 of S. 3451 provides for reservation to the United States of (1) the locatable minerals, (2) leasable minerals, and (3) mineral materials. We believe that the locatable mineral estate should not be reserved to the United States but rather should be conveyed under the bill. If, in fact, the land is valuable for locatable minerals then the mineral locator presumably has a valuable mining claim and relief under the bill would be unnecessary. If, on the other hand, the lands do not contain significant values of locatable minerals then the bill may be applicable and no useful purpose would appear to be served by retention of the locatable mineral estate.

The procedure set forth in section 7 of S. 3451 envisages the issuance of two instruments of conveyance for one piece of land, one for the surface and the other for the locatable mineral estate. This, we believe, would add unnecessarily to the cost of administering the bill. We are unaware of any cogent considerations which would require this procedure.

We believe that it would be appropriate to reserve to the United States in all conveyances the oil and gas and those leasable minerals for which the land is deemed to be valuable or prospectively valuable. Oil and gas have been described as "fugitive" minerals, the occurrence of which is not always readily ascertainable. Moreover, oil and gas have constituted the source of some 95 percent of all income derived from operations under the Mineral Leasing Act, as amended (30 U.S.C. 181 et seq). We, therefore, believe that the automatic reservation of oil and gas to the United States is warranted by considerations of public interest. Appropriate language to carry out this concept is set forth below.

To effectuate our recommendations and to make certain technical changes we suggest that the bill be amended as set forth below:

(1) Amend line 5, page 1 to read as follows: "the Secretary, after due process, to be invalid, any interest in an area, not known to be valuable for minerals locatable under the United States mining laws,".

(2) On line 3, page 2 delete the words "within two years".

(3) On lines 15 and 21, page 3 delete the word "preference".

(4) On line 22, page 3 substitute "five" for "two".

(5) Amend lines 21 and 22, page 4 to read as follows: "this Act. With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was with-".

(6) Insert on line 25, page 4 after the word "collected" the following: "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act".

(7) Substitute for section 7 (line 8, page 5 to and including line 2, page 7) the following:

"SEC. 7. There shall be reserved to the United States, in any conveyance under this Act (1) oil and gas, (2) such other minerals for which the land is deemed valuable or prospectively valuable by the Secretary of the Interior and which as of the time of issuance of patent are subject to disposition under the Mineral Leasing Act, 30 U.S.C. 181 *et seq.*, as amended and supplemented, and (3) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands. The deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal."

We believe that enactment of S. 3451, if amended as suggested in this report, would enable us to resolve substantially the longstanding problem of residency on mining claims which do not meet the requirement of law. Concededly the bill will not always offer a solution entirely satisfactory to the persons affected, but it will afford us a measure of flexibility to enable us to grant substantial relief.

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.,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 15, 1962.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of July 12, 1962, for a report on S. 3451, a bill to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We have no objection to the enactment of the bill if it is amended as hereinafter recommended.

S. 3451 relates to unpatented mining claims upon which valuable improvements have been placed and which under certain conditions have been or may be relinquished or which within 2 years prior to the act have been or may hereafter be determined to be invalid. The bill would authorize the Secretary of the Interior to convey to the seasonal or year-round residential occupant-owner of such a claim all or any part thereof up to 5 acres upon payment to the Government of a price to be fixed by the Secretary of the Interior which shall be not more than the fair market value (exclusive of improvements) but not less than 50 percent thereof.

The bill would provide that where the lands involved have been withdrawn in aid of a Federal Department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary could make such conveyance only with the consent of the head of that governmental unit and subject to that unit's specified terms and conditions.

S. 3451 would provide that where the Secretary of the Interior determines that the conveyance of such an unpatented mining claim to an occupant-owner is not in the public interest or where the agency having jurisdiction over the lands does not consent to such conveyance, the claimant would be granted a preference right to purchase another tract of 5 acres or less of land made available for sale under this act by the Secretary of the Interior from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act.

The bill would further provide that the execution of a conveyance would not relieve the occupant of the land conveyed of any liability to the United States existing at the time of conveyance for unauthorized use of the conveyed lands except to the extent the Secretary of the Interior deems equitable. Relief under

this section would be limited to cases where applications for conveyances were made within 5 years of the bill's enactment. No trespass charges would be sought or collected by the United States based upon occupancy of a claim for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim except under certain conditions.

S. 3451 would require that there be reserved to the United States all minerals with rights for prospecting, development, storage, transportation, and disposal. Leasable minerals could be leased by the United States but locatable minerals would be withdrawn from disposition. The surface owner would be permitted to purchase the locatable mineral interest.

Rights and privileges under the bill would not be assignable, but could pass through devise or descent.

This Department is in agreement with the general intent of the bill—to provide relief for persons who have occupied and have placed valuable improvements on unpatented mining claims which are subsequently determined to be invalid. The use and occupancy of unpatented mining claims in the national forests and elsewhere is a problem of which we are very much aware. Such use and occupancy often has an adverse effect on the administration of the national forests by this Department. We have been working toward a solution to these cases of unauthorized occupancy on the national forests for some time. Progress has been made in resolving these issues without reliance on harsh decisions.

Legislation to assist in solving this problem needs to fill two principal objectives: (1) settle problems of administration of these lands to insure that the lands will serve in the highest public interest, and (2) provide equitable relief to the occupant-owners of invalid mining claims.

Conveyance of land to a claimant must be consistent with the general land management policies and purposes of the Federal Government. Recognition needs to be given to the general undesirability of conveying areas that have been withdrawn for particular purposes or have been withdrawn in aid of a function of a Federal department or agency, State or local governmental unit.

An example of such withdrawn areas are the national forests which were set apart from the public domain. These lands are reserved from appropriation and entry, except under the mining laws. Determination has already been made that these lands generally best serve the public interest as presently classified and managed under principles of multiple use to produce a sustained yield of services and products. It would be inconsistent with these established principles and purposes to provide for general conveyance of all or parts of invalid mining claims within these lands to the occupants of such claims for their personal use.

Conveyance of lands withdrawn for specific purposes, such as the national forests, could best be done on the basis of land use policy, rather than on an individual case basis. Designation by the head of the Federal agency of areas where conveyance would not be detrimental to the purpose of the withdrawal would provide a much more consistent means of handling conveyance applications.

Typical situations within the national forests which would probably call for such designations might include areas where concentrations of mining claim occupants constitute community centers; areas which historically had been important in mining activity, where it was reasonable at the time of location for a claimant to expect a fair economic return from his mining operations and consequently it was reasonable for him to build a permanent home; areas where a significant number of claims in a relatively small gross area predate the establishment of the national forests. Designations would not be made in locations where holdings occur in a scattered pattern or in isolated situations.

We recognize, however, that there might still exist isolated instances where authorized action under the bill would not provide equity to persons who without full knowledge of the invalidity of a claim and in good faith, without any intent or design to violate the mining laws, have invested considerable amounts in improvements. Under existing regulations for the management and administration of the national forests, it is possible to validate such occupancy for a reasonable period of time.

For the foregoing reasons we recommend that section 3 be amended to read as follows:

"SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, the Secretary of the Interior may make conveyances under section 1 of this Act only in those portions of the withdrawn unit which the head of the Federal agency concerned has designated as an area where dispositions under this Act will not be detrimental

to the purpose for which the withdrawal was made, and under such terms and conditions as the head of that agency may deem necessary.

"Where the lands have been withdrawn in aid of a function of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under Section 1 of this Act only with the consent of the head of that governmental unit and under such terms and conditions as the head of that unit may deem necessary."

A conforming amendment should also be made in section 4 as follows:

Page 3, line 9, after the word "the" insert the words "designation or".

Page 3, line 10, delete the words "is not" and insert in lieu thereof the words "has not been made or".

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, *Secretary.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, August 6, 1962.

B-148623.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated July 12, 1962, acknowledged July 13, you requested our report on S. 3451, 87th Congress. The stated primary purpose of this bill is to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed.

Section 1 would authorize the Secretary of the Interior to convey up to 5 acres of unpatented mining claims to the occupants of such claims after determination by the Secretary that such claims are invalid or after all rights in and to such claims have been relinquished to the United States.

Section 2 defines a qualified applicant as one who, as of January 10, 1962, is a seasonal or year-round residential occupant-owner of land now or formerly in an unpatented mining claim upon which valuable improvements have been placed. On claims that we reviewed on national forest lands reserved from the public domain, the estimated values of residence structures varied from about $300 to approximately $14,000. Accordingly, we believe that it would be desirable to establish some criteria for the Secretary to apply in his determinations of what constitutes valuable improvements. Such criteria should achieve reasonably uniform interpretation and would avoid unnecessary disputes as to who are qualified applicants under this section.

With further regard to section 2, there is some doubt as to whether the term "qualified applicant" would include persons who reside on land now or formerly in an unpatented mining claim but who have no vested interest in the land upon which they reside. For example, in our review of unpatented mining claims located in the national forests we found that of approximately 27 families which made up the population of the town of Atlanta, Idaho, only 1 of those families would be considered as an occupant-owner because it was the only family that had an ownership interest in the claim upon which it resided.

Section 3 provides that where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 only with the consent of that governmental unit and under such terms and conditions as that unit may deem necessary. As previously pointed out, some of the residential structures on unpatented mining claims have been estimated as valued up to $14,000. Under section 3, assuming that such structures are located on forest lands under the jurisdiction of the Department of Agriculture, it is difficult to see—as a practical matter—how the Secretary of of Agriculture could prescribe terms and conditions which would result in anything but an outright conveyance of such lands to the occupant-owner. Such conveyances, as will be discussed later on, could have disruptive effects on forestry programs.

The language of section 5 leaves us in doubt as to the factors to be considered by the Secretary of the Interior in determining the purchase price to be paid to the Government by a claimant. This section states that the Secretary shall determine the fair market value of the lands involved, exclusive of any improve-

So the purpose of this bill is to try to give some relief to these people.

Mr. Chairman, I am not certain that the bill as presently drafted does this. For one thing, I am concerned about the attitude that has been taken by the Forest Service and Bureau of Land Management. For example, the testimony of the Forest Service before the House committee suggests to me that the Forest Service may simply exempt itself from the provisions of this bill and I think we must look into that.

I think also we must look into provisions with respect to the kind of conveyance the Government is to give and the kind of consideration that the Government is to take back.

I am not at all certain, Mr. Chairman, that this bill necessarily need require the Government to convey 5 acres or a patent-in-fee to solve this problem. Quite probably a life estate to some of these people would be sufficient and the land would then revert to the Government where it is in the national forests. But hardship is being caused to a great many people who have lived all their lives in the mountains of your State and mine, and this bill is meant to address itself to that hardship and provide equity for these people who now find the rules were changed, after they had long resided in their homesites, in their cabins in the mountains of our Western States.

With that statement, I would appreciate it if I might sit with you so I might address questions to subsequent witnesses.

Senator METCALF. The Chair was going to ask you if you would participate in the rest of the hearing when we have witnesses from the Forest Service and Bureau of Land Management.

The next witness will be Mr. Edward P. Cliff, Chief of the Forest Service.

STATEMENT OF EDWARD P. CLIFF, CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY REYNOLDS FLORANCE OF THE FOREST SERVICE

Mr. CLIFF. Thank you, Mr. Chairman and members of the committee.

I appreciate the opportunity to appear before your committee in connection with S. 3451, a bill to provide relief to residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Assistant Secretary Baker is unable to be here today and has submitted for the record a brief statement setting forth in general the Department's position.

Senator METCALF. Without objection, Assistant Secretary Baker's statement will be incorporated in the record at this point.

(The statement referred to is as follows:)

STATEMENT OF JOHN A. BAKER, ASSISTANT SECRETARY OF AGRICULTURE

Mr. Chairman and members of the committee, S. 3451 is a bill to provide relief for residential occupants of unpatented mining claims. The bill would authorize the Secretary of the Interior to convey up to 5 acres to applicants who on January 10, 1962, were residential occupants of invalid mining claims upon which valuable improvements had been placed. The applicants would be required to pay not more than the fair market value of the land conveyed but not less than 50 percent thereof.

The Department of Agriculture is in general accord with the basic purpose of this bill which will provide equity for people in deserving instances.

Within the national forests administered by the Department of Agriculture there are areas where concentrations of mining claim occupancies constitute community centers. Some were historically important in mining activity where it was reasonable at the time of the initial occupancy for locations to be made in good faith. In the mother lode country of California and in other areas lands are being occupied for residential purposes which once were valuable for locatable minerals but which now have been worked out. These unpatented mining locations would be declared invalid today but some have served as the homesites of the occupants for many years, even into the second and third generations. To evict these persons would create undue hardships and serve no economic or humanitarian purposes. In other instances, lands upon which locations under the mining laws were made in good faith are now serving as residential places while the location may be determined to be actually invalid.

Legislation which would authorize conveyances for the present fair market value of the land in such instances would enable the Department to solve many of the occupancy problems in the national forests.

At the same time the Department believes that solution of these problems should be attained under sound management principles and in such a way that conveyances would not be made of lands which should be retained in public ownership and managed under principles of multiple use along with the surrounding national forest land. Our report recommends amendments which would aid the Department in accomplishing this.

In addition to the residential occupancies on unpatented mining claims which were initiated in good faith, there are occupancies within the national forests based on attempted mining locations supported by little or no effort to make actual discoveries. These have not been made for mining purposes. Rather, the the principal aim of the locator was to obtain rights of possession to valuable national forest lands for summer homes, hunting camps, and other purposes unrelated to mining. National forest lands should not be conveyed in such instances.

If the bill is amended to provide the safeguard needed to protect the public interest, its enactment would enable the Federal Government to afford equitable relief to those that are justly deserving.

Mr. CLIFF. The Department in its report has expressed no objection to the enactment of the bill if it is amended as recommended in the report.

S. 3451 relates to unpatented mining claims upon which valuable improvements have been placed and which under certain conditions have been or may be relinquished or which within certain periods have been or may be determined to be invalid.

The bill would authorize the Secretary of the Interior to convey to qualified applicants not to exceed 5 acres of such claims upon the payment of not more than, nor less than one-half of, the fair market value exclusive of improvements. A qualified applicant would be one who was a seasonal or year-round residential occupant-owner as of January 10, 1962.

There is now in the House of Representatives a similar bill, H.R. 12761. One of the differences between that bill and S. 3451 is that the applicant would have to pay the full fair market value of the land involved exclusive of improvements.

An application for conveyance under S. 3451 would have to be made within 5 years after enactment.

The Department of Agriculture is primarily concerned with those invalid or relinquished unpatented mining claims within the national forests with respect to which applications for conveyances could be made under the bill. Under the terms of the bill, conveyances could be made by the Secretary of the Interior of lands withdrawn in aid of a function of a Federal department or agency other than the Depart-

ment of the Interior, or of State, county, and local agencies only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary. Thus, national forest lands applied for under the bill could be conveyed by the Secretary of the Interior only with the consent of the Secretary of Agriculture.

Where the consent of the head of the agency for which lands are withdrawn is not given, the bill would provide that the applicant would be granted a preference right to purchase 5 acres or less of other lands made available for sale under the act by the Secretary of the Interior from unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act.

The use and occupancy of unpatented mining claims in the national forests is a problem we are very much aware of. Such use and occupancy often has an adverse effect on the administration of the national forests by the Forest Service. We have been working toward a solution to these cases for some time and progress has been made in resolving many of these issues.

Within the national forests there are some areas where concentrations of mining claim occupancies constitute community centers. In these and in some other areas it was reasonable at the time of the initial occupancy for mining locations to be made in good faith. In some instances at the time of location the area was thought to be or was actually valuable for locatable minerals but has subsequently turned out not to be valuable or has been worked out. They would be declared invalid today. Some of them have been occupied as homesites for a long time. Families have been raised on them. In some instances there were concentrations of such claims before the national forest was established. Legislation which would authorize conveyances for the present fair market value of the land in such instances would enable the Department to solve many of the cases which, technically at least, are occupancy trespasses today in the national forests.

We believe, however, that decisions on conveyance applications could best be made on the basis of broad land use classification and policy rather than by a method which would have all of the applications for conveyances of lands in unpatented mining claims resolved on an individual case basis.

National forest lands are valuable public assets in units which have been established and are administered for their multiple values. Inholdings within the national forests often give rise to management problems. Conveyances of national forest land occupied by the owner of an unpatented but invalid mining claim generally would not be consistent with the overall land management policies and purposes of the Federal Government. These lands have been withdrawn for particular purposes and determination has already been made that generally these lands best serve the public interest as presently classified and managed under principles of multiple use and sustained yield.

In the Department's report we recommended that section 3 be amended in such a way as to limit conveyances of lands within the national forests to designated areas.

Under this amendment, applications could be considered under a system based on sound policy principles which would provide equitable relief for persons in deserving instances and at the same time provide safeguards to protect the public interest. Lands should not be conveyed to occupants of invalid mining claims when such conveyances would be detrimental to the purpose for which the withdrawal is made.

Within the national forests there are many cases of occupancies based on purported mining locations supported by little or no effort to make actual mineral discoveries. It is evident that these are not based on legitimate efforts to develop the mineral resources for which the mining laws were enacted. Instead, the primary purpose is to obtain the use and occupancy of ofttimes valuable sites for summer homes, hunting camps, and other purposes unrelated to mining. These national forest lands should not be conveyed to the occupants under such circumstances. Such occupancies are a big problem for us and we are endeavoring to solve them as rapidly as we can.

That concludes my formal statement, Mr. Chairman.

Senator METCALF. Thank you, Mr. Cliff.

Senator Church?

Senator CHURCH. Mr. Cliff, I am in wholehearted agreement with the final paragraph of your statement, where you say that there are, and we both know that there are, numerous unpatented mining claims that are not legitimate and ought not to be recognized.

With respect to those, I think that conveyances ought not to be required. I would want this bill to provide for the full participation of the Secretary of Agriculture and also give the necessary discretion to the Forest Service to make this kind of determination. What concerns me, however, is that under the bill as it is presently constituted, and as you point out on page 2 of your testimony, if the unpatented mining claim is located on any Federal land which has been withdrawn for any special purpose, and if that land is under the jurisdiction of some department other than the Department of the Interior, then no conveyance can be made except with the consent of the department of Government having jurisdiction over the land.

Now, I had thought that that language had meant, when the original drafting of the bill was done, that in a national forest, for example, if land had been withdrawn as a potential powersite for the Bureau of Reclamation, then no conveyance could be made of an unpatented mining claim within that area without the consent of the Department of the Interior and the Bureau of Reclamation, as the case may be. It would obviously be inconsistent with the purpose of the withdrawal to permit a conveyance in that area that might interfere with the later development of a water project.

But from the testimony of the Forest Service, I take it that you construe this language to mean that all the national forests are considered withdrawn and fall within this provision of the bill?

Mr. CLIFF. Yes; that is the way we have interpreted it.

Senator CHURCH. So that any national forest is withdrawn land and therefore no conveyance on it can be made without the consent of the Secretary of Agriculture.

Mr. CLIFF. That is the way we interpreted it.

Senator CHURCH. I think that is the way you have. Your testimony makes that clear.

Then you go on to testify that in your view, we should take a further step and not only require the consent of the Secretary of

Agriculture to the conveyance, but also provide that conveyances can be made only within certain areas within the national forest and not elsewhere.

Now, I think that this could go very far toward totally eliminating the effectiveness of the bill. What we are trying to solve is a human problem, a very real and harsh one for many people who have lived for years in these little homesites and who now find that the Government is taking action to force them off.

In some cases, that action may be justified. In other cases, where valid claims had once been established, where the mineral has now been exhausted or where economic conditions now make it uneconomic to mine the claim or for other similar reason the claim is no longer operational, so to speak, forcing off the person who has long lived on it. This creates a very harsh and arbitrary result, particularly when they are old and impecunious and have no other place to go.

The purpose of this bill is to get at that kind of case and you don't get at that kind of case by taking one sector of the national forest and saying in this sector of the forest the bill can apply, or we will permit it to apply at Atlanta, Idaho, for example, because there is a cluster of claims with homes all together there, but elsewhere in the national forests we will not apply the bill. Elsewhere in the national forests you will also find scores of people in precisely this situation.

Now, if we are going to have a bill, we ought to draw it to reach these people. I should think that if we were to draft it in such a way that the Secretary could give, say, a life estate so these older people could be permitted to live out their lives without being forced out of their cabins or homes, and convey that estate within a reasonable limit of their ability to pay, we could solve the problem and administer it with some compassion for the problem that faces these people and reach the thing we are trying to correct.

But as the bill now stands and as you now interpret it, I am very doubtful that we will get the problem solved.

I would like to have your own response to that.

Mr. Cliff. Well, we recognize the type of case that you describe and which you are anxious to get a solution for. We are anxious to get a solution for it and we are very sympathetic to this type of situation. It is these people that we would like to see treated equitably and fairly. It is the ones who have come in without visible intent to pursue a mining operation, but to get land under mining laws for other purposes that we would like to have discretion to say "No" to.

Senator Church. May I say just at this point, I concur in that, and the bill is meant to be, Mr. Chairman, discretionary. It says at the very first sentence of the bill that the Secretary of the Interior may convey to any occupant. The purpose of that language was to convey the necessary discretion and not to make it mandatory so that it would be applicable in cases where it is not justified.

Mr. Cliff. One of the reasons we are recommending that we designate areas is that we think it would simplify administration. There are areas right now which are occupied by some of these invalid claims where the recreation pressure is on us now, where the need for public use is on us right now.

I can visualize the drainage at the canyon bottom, where this situation prevails, where by making a decision that in this area we

will not approve or concur in alienation, it would simplify administration greatly.

In other cases, such as the Atlanta case you mentioned, we could designate that area and similar areas as one where we would approve and give the Secretary of the Interior the affirmative sign to go ahead and make the sales.

Now, within some of the larger units, there may be and are some of these hardship cases, these deserving cases and I think that they could be designated. It would be our intent to designate them, but we would want to be sure that we are dealing with the favorable cases.

I think we see eye to eye on this.

Now, as to life estate proposal, I think it has considerable merit—I am sure it has. There are areas where occupancy of claims at the present time is not in conflict with public use but which may be in the foreseeable future and where it would be equitable and would do no violence to the public interest to allow these people to stay, paying a reasonable rental for the use of the land.

I think that would be all right.

We have authority now and are using it to grant special-use permits to occupants where there is justification to do so, to enable them to remain on their claims. That authority, though, is limited to 30 years.

It might not meet the full needs of what you are striving to accomplish.

Senator CHURCH. I think it does not, for this reason: It is always within the right of the Forest Service to grant a special use permit and the Forest Service quite properly is under direction to make the cost of that use permit commensurate with whatever the market value might be so that the Government is receiving a fair return. I think that the special-use permit does not solve the problem of many of these people, because they find themselves, having once had a claim that for one reason or another has been declared invalid, and having spent considerable money to build a homesite and to make improvements there, they find themselves many times in a difficult financial position. As you know many of these mountain people live off the land to a large extent. They pick the mountain berries and hunt the deer for their food, and they find themselves in a position where the annual charge that a special-use permit places upon them, in many cases, simply beyond their ability to pay. So I would think that in those circumstances where the shoe fits, we ought to have a provision in the law, and this is meant to be the purpose of this bill, to convey to them, let us say, a life estate for a reasonable and equitable consideration, taking into consideration all of the factors in this particular case. They may then have for the remainder of their life at least the continued use and occupancy of their homesite. Following the death, then it could be terminated. If it is man and wife, it could be done in joint tenancy with survivor's rights in the survivor, and then upon the death of the survivor, it all reverts to the Government. This is a compassionate way to solve a problem that the present law and regulations do not adequately cover. That is what I had hoped we could make this bill do.

Mr. CLIFF. I think that your suggestion has a great deal of merit and would apply to many cases that we have on the national forests.

Senator CHURCH. It is for this reason, Mr. Chairman, that I have some amendments to offer.

I think we are really trying to get at the same thing in the same way and therefore we ought to be able to adapt this bill in such form as to accomplish it—that the public interest be protected.

Mr. CLIFF. I hope you can devise it in such a way as to treat the kind of cases you are describing and not open the door to give more favorable treatment to people who are deliberately taking advantage of the mining laws and do not deserve consideration.

Senator CHURCH. I agree wholeheartedly and would want to frame the language of the bill in such a way as to give full discretion there to the Secretary, so that a decision could be made on the facts of each case.

I would like to have the Forest Service furnish a statement outlining the annual charges for regular special use residential permits, and some data which may be readily available on the number of special-use permits issued in various types of cases in Idaho and California.

Mr. CLIFF. This will be done.

(The material referred to follows:)

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., August 20, 1962.

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

DEAR MR. CHAIRMAN: In accordance with a request made to us at the time of the hearings by the subcommittee on S. 3451, we submit the following information with reference to annual charges for special-use residential or summer home permits within the national forests.

The minimum annual fee for such permits is $25 per lot. The average fee is estimated to be $35. The fees for a few especially desirable locations run up to $95 per year. The usual high would run from $50 to $60 per year.

Sincerely yours,

EDWARD P. CLIFF, *Chief.*

SPECIAL USES ISSUED FOR RESIDENCES ON MINING CLAIMS

The following tabulation shows the number of special uses issued for residences on mining claims during the past 10 years:

Unit	Number of special uses issued			
	Claims not relinquished	Claims relinquished	Null and void decision	Total
Idaho:				
Bitterroot	2	1	0	3
Clearwater	2	0	0	2
Coeur d'Alene	4	0	0	4
Kaniksu	3	0	1	4
Nezperce	10	7	1	18
Region 1 total	21	8	2	31
Payette	1	0	0	1
Salmon	6	1	0	7
Sawtooth	2	0	0	2
Region 4 total	9	1	0	10
Idaho total	30	9	2	41
California	13	12	0	25
Total	43	21	2	66

Senator CHURCH. I have no further questions.

Senator METCALF. My attention has been called to questions raised by the Comptroller General. He specifically raised the question as to the community of Atlanta, Idaho, which you mentioned, Senator Church, where he says there is some doubt as to whether the term "qualified applicant" would include persons who reside on land now or formerly in an unpatented mining claim, but who have no vested interest in the land upon which they reside.

I think that perhaps we can take care of some of these in amendments you propose.

Senator CHURCH. I think so, Mr. Chairman, and I will have other amendments to propose in line with the exchange I have had here with Mr. Cliff. In that respect, I shall be happy to furnish copies of these amendments for your office.

Mr. CLIFF. Thank you.

Senator METCALF. This is a very perplexing question. Let me give you an example that I know about in Montana, where during the time that they were building Hungry Horse Dam, there was very little land that was privately owned. Most of it was Forest Service land. In order, for instance, to get a restaurant, which was prohibited by the Forest Service, people would illegally file on a mining claim. I know of several of those establishments that were there during the Hungry Horse period and are now abandoned. But the people who are living in them now bought them, as Senator Church has suggested, for a consideration in accordance with the usual and normal transaction that we have out West, did not go to an attorney, did not get an abstract, took a quitclaim deed, and in good faith have lived there ever since. Now we recognize that the land was acquired, the mining claim was staked for an illegal purpose, and yet the people who are not connected with the original illegality and who thought, because of the customs of the community, that they had something—and it is about all the money they have and about all the property they have—are trying, as Senator Church says, to live out their lives.

It seems to me that we have to do something that gives a good deal of discretion to the Secretary, and yet the Forest Service has to carry this discretion, exercise it with a good deal more sympathy for the human values that have been talked about than have been shown in the present administration of the law that I agreed on, helped sponsor, and pass to correct the abuses that brought about the illegal locations of mining claims for summer homes and for communities and things that created a situation that had to be curbed.

I just cannot see any way to apply it to a section or to apply it to original trespass or original illegal location, or any of these things, except to go into individual cases and try to exercise a good deal of sympathy.

Now, I understand that in all these governmental departments, pretty soon it becomes a matter of right for people to file for such a claim even if you begin to exercise discretion.

I know the difficulties of administration, but cannot we work out some way to give considerable discretion to the Forest Service and rely on you to exercise that discretion with sympathy and humanity?

Mr. CLIFF. Yes. And I want to assure you we are sympathetic to many of these cases, where there are real equities and where there is a history such as you describe.

As a matter of practice, when we detect that people are getting themselves in a jam of the kind you describe, we try to advise them of the requirements of the mining laws. We find that in some cases they will assure themselves of the requirements and guide themselves accordingly. In other cases, they will go right ahead and disregard the advice. They go ahead and stake claims without meeting the requirements and then they are faced with a problem of enforcement. There are many, many of these cases that have come up in recent years. I think we have more of these that have come up in the last 10 years than any other period. The ones that have a historical background are clear.

Senator CHURCH. What we really are seeking to do here is to place in the hands of the appropriate agencies all of the tools that are needed to handle these cases equitably and we think that there is a gap in the present law. There will be situations where equitable treatment calls for a conveyance, let us say, of a life estate, for a very nominal consideration because the equities call for it. Under present law, there is no way that this can be done, oftentimes. That is the purpose that this bill is meant to serve. I think that we need the legislation, Mr. Chairman; we need it badly. But we want to draft it in such a way as to implement the objective and not open the door for further abuse. This is meant to correct hardship, undue hardship that none of us, I think, ever intended to impose on anyone, but which the law in its present form sometimes does impose.

I should think that that being the common objective, we ought to be able to find suitable language and amend this bill in suitable fashion to get the job done.

Mr. CLIFF. We are in complete agreement with the objectives you describe. We have a big problem here and it is a heart-rending problem in many cases, and we are anxious to handle it in a way that is humane and reasonable. This legislation would help us solve many, many cases that are running into difficulty.

Senator CHURCH. Fine.

Senator METCALF. Thank you very much, Mr. Cliff.

The next witness is Mr. Harold Hochmuth, Associate Director of the Bureau of Land Management.

STATEMENT OF HAROLD HOCHMUTH, ASSOCIATE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY FREDERICK FISHMAN, ATTORNEY-ADVISER, OFFICE OF THE SOLICITOR

Mr. HOCHMUTH. Mr. Chairman, I also have with me Mr. Fred Fishman, an attorney in the Office of the Solicitor of the Department, who is extremely familiar with the legal detail of the bills.

Senator METCALF. We are glad to have you with us again before the committee and look forward to the testimony.

Mr. HOCHMUTH. Mr. Chairman, there has been submitted to the committee staff this morning the Department report on the bill and there has also been submitted remarks by Assistant Secretary Carver.

He is extremely sorry he cannot be here today. He is now in Denver.

Senator METCALF. Without objection, Mr. Carver's statement will be incorporated in the record at this point.

(The statement referred to is as follows:)

STATEMENT OF ASSISTANT SECRETARY JOHN A. CARVER, JR.

Mr. Chairman, members of the committee, S. 3451 deals with a rather aggravated situation arising out of the application of the mining law of 1872 and the local laws and regulations which that act contemplates. We are concerned with the residential use and occupancy of mining claims for nonmining purposes, where the claims have been relinquished or invalidated as mining claims, or where they appear to be subject to invalidation. The basis for invalidation is usually that there has not been a discovery of a valuable mineral or that all the valuable ore has been mined out. Some of this residential use is of long standing.

It is well-settled law that, in order to constitute a valid discovery, there must be found within the limits of the claim a valuable deposit of minerals sufficient in quantity and quality to warrant a prudent man in the further expenditure of labor and means with the reasonable expectation of success in developing a valuable mine (*Chrisman* v. *Miller*, 197 U.S. 313 (1905)).

Although the greatest number of problem cases is in the mother lode country of northern California, Colorado, Idaho, Oregon, Washington, and South Dakota contribute on the order of an estimated 100 to 200 cases each. The problem exists on both the public lands administered by the Department of the Interior and within the national forests.

In considering the desirability of legislation of this type, we have attempted to see the problem, not just as an administrative headache for a landlord, but also from the affected citizens' point of view. In the mountain West, as the members of this committee well know, there is a strong tradition supporting the right of a private citizen to go upon the public lands, to stake a mining claim, and thereafter to have and retain a property interest immune to interference from all the world.

Lindley on Mines, third edition, section 218, emphatically declares the Federal rule that the right of possession of a mining claim, i.e., the locator's right of pedis possessio, comes only from a valid location. However, it is pointed out that the State courts often have espoused a more liberal rule of law in controversies arising between adverse private parties where a miner will be protected to the full extent of his located ground where he is prospecting and complies with the requirements concerning assessment work. Although no rights are initiated against the Government until there has been a location and a valid discovery, nevertheless, during the course of years the miner's asserted right of possession was honored and belief established in the minds of many that the location of a claim and the performance of assessment work grants the exclusive right of possession to the locator who may do within the limits of his claim as he pleases.

The right of the Government to challenge has been recognized, but the Government traditionally has been patient with mining locators, and locators and their successors in interest have felt secure in their ownership and right to possession.

Unpatented mining claims are taxes. The courts and the laws, adapting themselves to the necessity of the case, and governed by rules of commonsense, reason, and necessity, have treated the possessory rights of the miner as real property. Actions for possession, similar to ejectment actions to quiet title, actions in trespass, and bills for partition are constantly maintained. Such interests are held to descend to heirs, to be subject to sale on execution, and to be assets in the hands of executors and administrators for the payment of debts. In some instances, patents probably would have issued at one time if applied for. After occupancy has subsisted on unpatented claims for a generation or more, the citizen tends to regard threatened action by his Government to oust him on the grounds that there has been no discovery of valuable minerals as unreasonably technical and arbitrary.

In addition, of course, hardship situations exist. Unpatented mining claims change hands in pretty much the same way as neighboring patented claims. Subsequent purchasers who have paid value for the land and improvements for subdivided portions of claims may have been on notice—but they may also have been senior citizens of limited means, unable or unwilling to hire lawyers, and financially and emotionally unable to resist Federal ouster proceedings. Particularly is this true if the citizen is given no reasonable assurance that his title can be regularlized on terms which appear reasonable to him.

Many persons, not sophisticated about land title matters, have paid large sums of money for their homes on mining claims, believing in good faith that they

were acquiring fee simple absolute to their homes and the lands on which they are situated.

The U.S. Government as a proprietor, of course, has a duty to prevent unauthorized use of public lands and to collect amounts owing to the Government by way of charges for unauthorized use. Local administrators, attempting to find alternatives or relief for the hardship cases, have faced a dilemma—if the premise of ouster is invalidity of the claim, they cannot assure the citizen who signs a relinquishment of the mining claim that the Government will not pursue remedies based on trespass liability. And trespass liability in some cases might exceed the present fair market value of both the land and improvements—for both of which the citizen may himself have paid full value. In the circumstances, such persons are understandably reluctant to attempt to achieve a resolution of the problem between themselves and their Government.

Senator Church has presented a bill which seems to us to be a reasonable legislative approach to solution of the problems presented. The bill in essence would authorize the Secretary to convey for a consideration the Government's interest in 5-acre or smaller portions of the mining claims, and in doing so to take cognizance of various alleviating factors such as the type and duration of the use and occupancy, the fact that a prior purchase was made for full value, and other equitable circumstances. Consideration to be paid could range from the fair market value as of the date of enactment down to 50 percent of such fair market value.

If this should be infeasible, owing, for example, to a countervailing public interest in retaining the land in Federal ownership, the occupant otherwise entitled to such equitable consideration would be afforded the opportunity to obtain a small tract elsewhere, from such tracts as are specifically set aside for that purpose.

Eliminated from consideration would be the most serious stumbling block to settlement under existing legal authorization—the collection of all charges for past use and occupancy. It is administratively infeasible to collect in any event. We will not waive willful violations. Waste or depletion, such as is involved in the removal of timber or other materials not related to mining purposes, cannot and will not be condoned.

We think it appropriate that the Congress recognize that the Government's interest in prudent management of public land be considered satisfied by the procedures which the bill, as proposed to be amended, provides. The Government gets at least 50 percent and up to full market value of the land as of the date of enactment. The land is put into unquestioned ownership, either public or private, removing administrative difficulties to the Government and simplifying title procedures in the States and counties. The often expressed mandate to end trespass on the public lands will be furthered. Lands which ought to be on the tax rolls will go on the tax rolls.

As I have indicated, of course, the countervailing interest in retained public ownership is provided for—for recreational purposes, for wildlife conservation, and for other public purposes. Where such is indicated, the Government makes a bona fide attempt to find other public land for claimants who are entitled to consideration under the standards provided in the bill.

The Department's report recommends an automatic reservation of oil and gas and a reservation of such other leasable minerals for which the land is deemed to be valuable or prospectively valuable. We believe that these provisions, while protecting the substantial economic interests of the Federal Government, would not unduly hamper surface use and financing. We firmly are of the view that unnecessary reservations of minerals tend to preclude or limit maximum utilization of the surface.

The Department is of the view that Senator Church's bill is a considerate and thoughtful approach to the solution of a complex and thorny problem. The procedures outlined in the bill evidence a thorough understanding of the public land laws and their administration.

Enactment of S. 3451, with the proposed amendments, would facilitate the resolution of a longstanding problem. Contest proceedings for all mining claims thought to be invalid would take many years and require manpower in excess of present availability of personnel. On the other hand, there is ample legislative precedent for recognition in land sales of peaceful and long tolerated possession, particularly where such possession commenced under law or color of law. The net result of such enactment would also permit the utilization of personnel, now engaged in dealing with the problem, in more productive labor.

We strongly urge the enactment of S. 3451, as proposed by this Department to be amended.

Mr. HOCHMUTH. I have also some brief remarks, Mr. Chairman, which in the service of time I will not read. They go to some of the amendments I believe the Department is particularly interested in bringing to the attention of the committee. The background information we might give has already been given very thoroughly by Senator Church and Mr. Cliff.

Senator METCALF. Your statement, then, will be incorporated in the record as if read and you will proceed informally to inform the committee of suggestions along the lines that have already been laid out.

Mr. HOCHMUTH. I think one of the things that concerns us greatly in the bill as now drafted is section 7, relating to the minerals.

The Department, in its report, calls the committee's attention to the anomaly that is created by section 7 as now drafted. I would like, with your permission, Mr. Chairman——

Senator CHURCH. Is that section 7 as approved by the House committee?

Mr. FISHMAN. By the House, yes, sir; 10566.

Senator CHURCH. But not as it appears in this bill?

Mr. FISHMAN. Yes; 10566, the act itself, is an exact replica of section 7 of this.

H.R. 10566 was passed by the House of Representatives. It pertains to the reservation of mineral interests in certain lands that were patented, the minerals being reserved to the United States in and around Tucson, Ariz. Section 7 of S. 3451 appears to be identical to H.R. 10566 as passed by the House of Representatives.

Senator METCALF. Thank you.

Mr. HOCHMUTH. Section 7 of Mr. Church's bill indicates certain requirements for the reservation of minerals to the United States. I believe the anomaly that is involved in that is that if these lands that we are talking about are nonmineral in character, because there can be no determination of validity, then there would seem to be no reason why the United States should reserve minerals which have no particular value. This is one of the things that particularly concerns us.

Now, as to the leasable minerals, that is another question. The Department recommends that the leasable minerals be retained, but that certain segments of the leasable minerals, particularly those other than oil and gas, that could be extracted under the prevailing law, but that oil and gas would be reserved.

Senator CHURCH. In other words, you think it would be a mite foolish to, on the one hand, declare the mining claim to be invalid for the lack of minerals and, on the other hand, retain for the United States the minerals?

Mr. HOCHMUTH. Yes, sir.

Senator CHURCH. Would you possibly get a situation, however, where the mining claim might be invalid by virtue, say, of being located illegally in an area that had been withdrawn for a powersite, where there might be minerals but where the location is illegal because the land was not eligible for entry?

Mr. HOCHMUTH. You could—of course, a mining claim could be invalid ab initio because of a powersite or other type of withdrawal.

Senator CHURCH. In which case it is not likely that a conveyance would be made anyway because of the nature of the withdrawal.

Mr. HOCHMUTH. That is right. But if otherwise there were valuable minerals there and other than that it could have been validated under the mining law and patent issue, then probably one would not want to go through this route to pass title to it. It ought to be passed to the provision of the mining law.

Mr. FISHMAN. It would be a necessity. If you postulate a situation where a mining claim is located on lands subject to mineral location at that time and the land contains valuable minerals locatable under the U.S. mining laws, then the locator presumably would have a valid mineral location and there would not be any necessity for relief such as under this bill, sir.

Senator CHURCH. I think that is right.

Therefore, your suggested amendment would merely reserve to the United States in cases where the bill was used—reserve to the United States the leasable mineral rates.

Mr. FISHMAN. To be more explicit, our amendment contemplates that in all cases, oil and gas would be reserved to the United States, and such other leasable minerals for which the land is deemed valuable or prospectively valuable by the Secretary of the Interior.

You may wonder why we have segregated oil and gas. Oil and gas represent high economic values far exceeding the values of other minerals. Our experience under the Mineral Leasing Act has demonstrated that 95 percent of the income derived from that act has resulted from operations pertaining to oil and gas.

There is another fact, too, that you gentlemen might wish to consider. That is this: That oil and gas by their very nature are fugitive minerals whose occurrence or nonoccurrence are in large measure a matter of speculation, even among expert geologists, whereas the other minerals—sodium phosphate, potash, and so forth—their occurrence or nonoccurrence are more readily ascertainable.

Mr. HOCHMUTH. There are one or two other comments, Mr. Chairman, and I will complete my statement.

S. 3451 has an allowable period of 5 years for application and H.R. 12761, which was passed out by the House committee, has a 3-year period. The Department recommends a 5-year period, because it is felt that this is just much too short to get into this, to notify people, to get them into it and get it going and examine the land and so forth. I think that is the principal reason why we feel a 5-year period is better. This, however, is a matter of policy that would have to be determined by the Congress.

Senator METCALF. It would not have to be completed within 5 years; just that application be filed?

Mr. HOCHMUTH. That is right.

One other comment I would make in listening to the previous testimony is that, as we read the bill, it is completely discretionary with the Secretary of the Interior and, in the case of lands in national forests is discretionary with the Secretary of Agriculture, as to what the Secretary of the Interior does and does not do with regard to the lands in these areas.

Senator CHURCH. Under the present act, do you feel that conveyance of the full estate is required, or would the conveyance of a lesser estate such as a life estate be permissible?

Mr. HOCHMUTH. Of course you can lease under the act, because there are various segments of the estate that you might handle. I

think it provides anything from a full estate to something less than that. We read that as a life estate or a lease or something less than that.

Senator CHURCH. But the consideration to be paid would appear in the bill to contemplate a conveyance at least of a higher order than a lease, because a lease normally calls for periodic rental payments and the consideration here takes the form that normally accompanies a transfer in fee or a transfer of some fee estate.

Mr. FISHMAN. This explains the language you are referring to, Senator. In section 5, when we use the term—when the term "fair market value of the land or interest" is used—it can also contemplate, in our judgment, fair rental value. In other words, we are using the term "fair market value" as a generic term.

Senator CHURCH. But you see, what I am trying to reach is this: That under present law it is always open, let us say in the national forests, for the Forest Service to grant a use permit and then to charge rent. Now, the whole purpose of having this bill is to reach those people who cannot afford to pay the rent and who, by reason of long occupancy, are entitled to special consideration. They may have given value in the first instance, or they may have at one time had a valid claim that has since become exhausted, or they may be the grantee in a long series of grants who have taken quite innocent of the fact that originally the claim was fraudulent or invalid. But whatever, due to the equities of the case, we are trying to reach those people who need to have their occupancy safeguarded for, say, the balance of their tenure, the balance of their lives, for a nominal amount of money and who cannot take a use permit and pay the Government so much money every 6 months, you see. That is the purpose of the bill.

We do not want to pass this bill if it is just going to be another way for the Government to lease this land, which is just another way of granting use permits. However, we do want to pass this bill if we can make a conveyance which, as I say, need not be a full estate in fee, might properly be a life estate to solve the problem, but which can be made permanently for the life of the tenant for a nominal amount of money where the equities are such as to call for it. I think the language ought to make it clearer than the present language does that this is what we have in mind.

Mr. HOCHMUTH. Senator, of course, I think one of the situations we find would vary this somewhat. We find that in certain places, whatever the fair market value less the equities—some of these lands are quite valuable—the value they might have to pay even for a life estate is something these people cannot raise, whereas they can raise an annual rental. This is one of the problems we are running into now, where we are trying to convert some of the mining claimants to the small tracts. They can pay us an annual rental, but they cannot pay us the several thousand dollars involved in fair market value of a life estate.

Mr. FISHMAN. This language would also permit, in computing fair rental value, in situations where conveyance of fee simple or life estate was not indicated perhaps because of an impending need of the lands for public purpose—this language would permit consideration of the equities in fixing the rental value to be charged these individuals, so even in that situation, Senator, it would allow flexibility, where the present law, of course, does not.

Senator CHURCH. My only suggestion is that we might make the bill clearer in this respect by simply stipulating that the conveyance can be up to and including the full fee, and there will be cases where there will be no objection to conveying the full fee, but that also it could be a lesser estate than a full fee, including, as you have pointed out, leases in cases where leases would be appropriate.

Mr. HOCHMUTH. I think we would certainly agree with that, Mr. Chairman, because we have situations now where there is perhaps no need for the Government to exercise its desire to occupy the land for 5 years. Particularly again I am thinking of California with the water developments going on.

But we know that in 5 years, because of need for recreational development, the United States will need that land. So if we have to give it a life estate or if we cannot give something less than that, then we would have difficulty in these situations. So I think it should be broad enough to allow discretion to determine the length of the time the occupant might be there or the estate that might be transferred.

I would like to make one other statement, Mr. Chairman. That is that I read in this the discretion for both Secretaries to determine whether that land is needed for programs of the United States, and under those circumstances we could consider the terms of the bill would not be applicable in the sense that the authority is there to require the evacuation of the site where it is needed for Federal programs.

Thank you.

Senator METCALF. Senator Church?

Senator CHURCH. No further questions.

Senator METCALF. I have nothing further, either.

Thank you very much for very helpful and thoughtful testimony.

(The complete prepared statement of Harold Hochmuth is as follows:)

STATEMENT BY ASSOCIATE DIRECTOR HAROLD R. HOCHMUTH, BUREAU OF LAND MANAGEMENT

Mr. Chairman, members of the committee, Assistant Secretary Carver's statement has pointed out the general situation and background involved in the use and occupancy of unpatented mining claims. Further, he has indicated the basic relief to be afforded. S. 3451 deals with but one aspect of this situation, namely, the seasonal or year-round residential occupant-owner of an unpatented mining claim who has placed valuable improvements thereon.

The Department recommends that S. 3451 be enacted, subject to consideration of the following:

1. Certain time limitations contained in the bill seriously impair its effectiveness to remedy the unauthorized occupancy situation. To limit the applicability of the bill to persons who will in the future, or have within the past 2 years from the date of the enactment of the bill, relinquished or had invalidated their unpatented mining claims, deprives the advantages of the bill to persons who through no fault of their own relinquished their claims or had them invalidated at an earlier date. There are situations where this exists, and the bill should take these situations into consideration; otherwise its utility as remedial legislation will be diminished. Similarly, we believe that the right to select an alternative tract should exist for a period of 5 years from its grant. Amendments (2) and (4) on page 8 of the Department's report would effectuate these recommendations as follows:

(2) On line 3, page 2, delete the words "within two years".

(4) On line 22, page 3, substitute "five" for "two".

2. Section 7 as written apparently envisages a situation where the Federal Government has disposed of the surface but has retained certain mineral interests. The situation involved in S. 3451 is substantially different in that these bills relate to lands where the United States now owns the surface and subsurface estate in toto.

Section 7 provides for reservation to the United States of (1) the locatable minerals, (2) leasable minerals, and (3) mineral materials. We believe that the locatable mineral estate should not be reserved to the United States, but rather should be conveyed under the bill. If, in fact, the land is valuable for locatable minerals, then the mineral locator presumably has a valuable mining claim, and relief under the bill would be unnecessary. If, on the other hand, the lands do not contain significant values of locatable minerals, then the bill may be applicable and no useful purpose would appear to be served by retention of the locatable mineral estate.

The procedure set forth in section 7 of S. 3451 envisages the issuance of two instruments of conveyance for one piece of land, one for the surface and the other for the locatable mineral estate. This, we believe, unnecessarily would add to the cost of administering the bill. We are unaware of any cogent considerations which would require this procedure.

We believe it would be appropriate to reserve to the United States in all conveyances the oil and gas and those leasable minerals for which the land is deemed to be valuable or prospectively valuable. Oil and gas have been described as "fugitive" minerals, the occurrence of which is not always readily ascertainable. We, therefore, believe that the automatic reservation of oil and gas to the United States is warranted by considerations of public interest. Appropriate language to carry out this concept is set forth under amendment (7) on pages 8 and 9 of the Department's report as follows:

Substitute for section 7, line 8, page 5 to and including line 2, page 7, the following:

"SEC. 7. There shall be reserved to the United States, in any conveyance under this Act (1) oil and gas, (2) such other minerals for which the land is deemed valuable or prospectively valuable by the Secretary of the Interior and which as of the time of issuance of patent are subject to disposition under the Mineral Leasing Act, 30 U.S.C. 181, *et seq.*, as amended and supplemented, and (3) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands. The deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at time of such disposal."

3. Other amendments are as follows:

(1) Amendment on page 8 of the Department's report as follows:

Amend line 5, page 1, to read as follows: "the Secretary, after due process, to be invalid, any interest in an area, not known to be valuable for minerals locatable under the United States mining laws,". This amendment makes it clear that any interest in the area may be conveyed and that areas upon which a discovery of valuable locatable minerals are found are not within the scope of the act.

Amendment (3) on page 8 of the Department's report as follows:

On lines 15 and 21, page 3, delete the word "preference". The word "preference" is not apropos for we are dealing only with sales under this act wherein an offer will be made to the qualified applicant.

Amendments (5) and (6) on page 8 of the Department's report as follows:

Amend lines 21 and 22, page 4, to read as follows: "this Act. With respect to any mining claim, embracing land applied for under this act by a qualified applicant, except where such mining claim was located at a time when the land included therein was with—".

Insert on line 25, page 4, after the word "collected" the following: "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act." These amendments make it clear that the special rule of damages is extended to only qualified applicants under this act under certain conditions.

Senator METCALF. The next witness is Mr. Tom Kimball.

STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR, NATIONAL WILDLIFE FEDERATION

Mr. KIMBALL. Mr. Chairman, may I submit for the record my prepared testimony and then speak on it?

Senator METCALF. Without objection, it will be accepted and admitted at this point in the record.

(The statement referred to is as follows:)

STATEMENT OF THOMAS L. KIMBALL, EXECUTIVE DIRECTOR, NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I represent the National Wildlife Federation, a private organization dedicated to the attainment of conservation goals through educational means. All States and the District of Columbia are represented among the 51 independent affiliates of the National Wildlife Federation. These affiliates are constituted of local groups and individuals who, together with other supporters of the National Wildlife Federation, number an estimated 2 million persons.

These comments are directed toward the principles involved with S. 3451, rather than its specific language. My observations are made from a personal background of having been born and reared in the West, where most of these unpatented mining claims are located, and with experience of having administered State wildlife agencies in Arizona and Colorado.

I am quite familiar with the way in which the West was settled and the manner in which mining claims were filed. I recognize that Federal agencies administering public lands have vexing tasks and many cases exist of individuals or groups or even villages being located illegally upon properties of the Federal Government. Therefore, it is with reluctance that I express opposition to the principles outlined in S. 3451.

Mr. Chairman, to say these persons are "unauthorized occupants" of national properties is a polite manner of saying they are squatters or trespassers. In effect, they are illegally using public properties. Unintentionally or willfully, honestly or dishonestly, these persons have appropriated public property to their own use through mining claims which no longer have any validity. The guise of a mining claim often has been used by individuals who sought a site for a cabin in a choice fishing or hunting location which should remain in public ownership, and had no real intent of ever seeking or developing a mining industry.

Personally, I see no reason to give congressional sanction to what amounts to unlawful acts or to grant these persons preference rights on buying the land or selecting alternate properties. It is true that most of these mining claims could have been patented in the past but were not. In my opinion, Congress should consider very carefully the broad public interest before rewarding the negligence of individuals who lacked the foresight or desire to obtain legal title to these lands by allowing them to pass into private ownership. Such sale of public lands will lead to a patchwork private and public ownership pattern which makes efficient and effective management of public property impossible.

I believe the Federal Government should continue eviction notices against unauthorized occupants of Federal lands, retaining as much land in Federal ownership as is possible under current laws.

Despite what disposition is made of this proposal, we believe it is essential and desirable for the Congress to recognize this squatter problem exists, and to direct Federal officers and administrators to eliminate illegal occupancy and use of our public lands, and to modernize the mining laws to prevent future occurrence of such problems.

I am sure no one wishes to prohibit the discovery and removal of valuable minerals from public lands, but the mining laws should not be used to obtain land owned by the people for almost every conceivable type of private use other than mining.

Finally, Mr. Chairman, if a favorable report is voted by the committee, we hope it can be made clear that this proposal has no bearing whatever as precedent for sanction of squatting along the lower Colorado River where illegal occupancy of public lands occurs in profusion without even the subterfuge of an unpatented mining claim.

If legislation of this nature is given favorable consideration, the illegal squatter will be the next group clamoring for congressional relief.

Thank you for the invitation to make these observations.

Mr. KIMBALL. We sympathize with the hardship cases of individuals who purchased on a quitclaim deed unpatented mining claims and thought they were getting something for long periods of time that they do not have legally.

I realize, Senator Church, that there are many hardship cases of this kind. However, I submit to the committee that it is pretty difficult to enact legislation which will adequately cover the myriad individual cases that you are trying to solve here. It is difficult to do by legislation or to make a judgment where a person's individual equity is involved versus the public interest. It would seem to me that it would almost be necessary for this to be done by the executive branch, by individuals who could actually go out and make an investigation of these individual cases and then use their judgment as to whether or not the public interest needs to be served by a certain action.

Now, while there are a number of these cases that need attention, in my opinion there are quite a number of others who have used this unpatented mining claim approach as a tool to usurp valuable lands that are needed for public recreation purposes. If not now, they will be needed in the future. If they are allowed to go to patent a number of these, it would create a crazy-quilt ownership pattern in some areas which would make it, I would think, almost impossible to administer from the standpoint of multiple-use purposes or other purposes that might be in the public interest.

So I think we are dealing here with an extremely complex problem and I would certainly hope that provisions are written in the bill to make sure that the executive branch can use discretionary judgment to protect the public interest here.

It does not make sense, to me, to have to go back in later years and spend tremendous amounts of money to buy back some of these areas that might be needed for public recreation purposes. This very bill that we talked about this morning, Tocks Island, is going to cost $60 million to purchase lands here in urban areas which are needed now for public recreation purposes. Out west it is a different proposition now, but 50 years from now, it might be the same thing.

Right now, in my opinion, we ought to be thinking about lands which are needed for public recreation purposes, and if they fall in the category, they certainly should be reserved for this purpose.

Senator CHURCH. It is for this reason, Mr. Kimball, that we are writing this bill in a permissive and discretionary way, to permit the Forest Service or the Bureau of Land Management, as the case might be, to have an appropriate tool to do equity in a given case, but without laying down any mandate upon any bureau that conveyances must be made in all cases.

Furthermore, we have talked about giving them discretion as to the kind of conveyance, whether it be a lease or life estate or full estate. So we do not mean to attempt to solve this problem by legislative mandate. We merely want to be sure that the Forest Service or Bureau of Land Management has the necessary tools to do justice in any given case and that we find the law today does not permit this in these particular cases the way it should.

Mr. KIMBALL. I sympathize with that approach to the problem, but I hesitate to see language inserted there which would tend to indicate that Congress would want these unpatented mining claims

to go into private ownership by transfer of the actual title to individuals, because in my opinion there are certain areas in the western part of the United States which this would not be in the public interest to do. These lands are more valuable for public recreation purposes and maybe for other public purposes, rather than to allow them to pass into private ownership. I would hate to see any language contained in this bill which would imply that the executive agencies responsible for the administration of this land would feel obligated to proceed on that basis.

There are over 1 million unpatented mining claims in the national forests, for example. There are 10,000 of these unpatented claims in northern California alone. A lot of these cabins and domiciles that are constructed thereon, the people live in San Francisco and this is a summer-type recreational type of development. Certainly those should be given a little different approach and consideration in the final judgment than these people who have actually purchased something and they are living there full time and they cannot afford, maybe, even to pay what the actual rent is worth. Now, in these instances, I think the executive agency needs some discretion and certainly we would have no objections to that.

Senator CHURCH. I think we are actually in more agreement than disagreement.

Mr. KIMBALL. Perhaps.

Senator CHURCH. I think that our previous testimony and questions brought out the very fact that you have been making. We do want to leave the departments free to make the proper determinations in any given case. So we have written this in discretionary terms.

I think the testimony in this hearing as a part of the legislative history on this bill will even further clarify that point.

Mr. KIMBALL. I would like to point out for the committee's consideration one other point. That is the fact that in the lower Colorado River area there are a considerable number of illegal occupants on public land. They do not even go through the formality there of getting onto an unpatented mining claim. Now, if you do anything for the unpatented mining claim owner, you had better be prepared to have these people come en masse to Congress again and say, "Now give me some consideration."

I submit for the committee's consideration that this lower Colorado River area is one of tremendous value as a public recreational area. This is one area where, at least in my opinion, we should not submit any type of tenure to these illegal occupants. In fact the executive agencies, in my opinion, ought to proceed immediately to start removing those illegal occupants from public land. They have not even gone through the formality of locating on unpatented mining claims there. They just moved in, built homes, motels, businesses, did the same thing, then sold them on a quitclaim deed. In my opinion, if somebody buys one of those businesses on a quitclaim deed, he ought to be run off.

Senator METCALF. They are not only sold on a quitclaim deed, but sold for substantial amounts of money. Mr. Hochmuth accompanied a subcommittee of the House Interior Committee down there. I was one of the members of the committee and we investigated that a few years ago, and a whole recreation area has been developed by those squatters.

Those are the abuses. That is not a mining claim, but it is an example of the type of abuse that we try to cure by passing a law that is now being enforced. Throughout this hearing, the word "equity" has been used and that is the way the whole law of equity grew up—that the law itself was not quite flexible enough to take care of what Senator Church has talked about, the human values.

I do not think any of us wants to preserve the thing that you are talking about on the lower Colorado, or to sanction the uses that were made in an example I used up in Martin City in the Hungry Horse. But now, because of custom and tradition out in the West, there are hundreds, yes thousands, of people that are involved on things they think they own and had no intent whatsoever of trespassing on the public land Whole townsites, Frank, are located and some of them are ghost towns, but 25, 30, 100 people reside in those communities.

Mr. KIMBALL. But you would agree that there are others where they have knowingly taken advantage of these things and gone in and developed these businesses and homesites, thinking they might get away with it.

Senator METCALF. I want the Forest Service and the Bureau of Land Management to get busier than they are already and get those people off the public domain, the people who have abused these privileges that a very generous Government has given them.

Mr. KIMBALL. These same individuals will also complain to Congress when they start exercising the authorities they have and make them comply with the law. You will receive a multitude of letters from them wanting the same consideration.

Senator METCALF. We have received those letters. You are welcome to see our files.

Mr. KIMBALL. The reason I brought it up is this is a very complex and widespread problem and it indicates to me, at least, the need for considerable discretion on the part of the executive agencies who are responsible for seeing that the public interest is served. If there is some way we can take care of these hardship cases and these people who maybe should be given some sort of life tenure, even if it is in the public interest to have that land remain in public ownership, this is desirable and I am hopeful the committee can work out something that will do that.

Senator METCALF. I think we are substantially in accord.

Thank you very much, Mr. Kimball.

That completes the list of witnesses for this bill.

Do you have anything further, Senator?

Senator CHURCH. No, thank you, I just wish to thank this witness and the other witnesses for their useful and constructive testimony.

Senator METCALF. Thank you very much, Senator Church, for your help.

(Whereupon, at 11:45 a.m., the subcommittee adjourned, subject to the call of the Chair.)

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H. R. 10773

A BILL

87TH CONGRESS
2D SESSION

H. R. 10773

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1962

Mr. JOHNSON of California introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized, under such regulations as he may deem necessary, to convey to a qualified applicant as defined in section 2 of this Act, upon payment of the amount determined under section 5 of this Act, any interest, in all or any portion of an occupied unpatented mining claim, not to exceed five acres, which the Secretary of the Interior has determined heretofore or hereafter determines to be invalid, after due process, or in an unpatented

mining claim which has been heretofore or is hereafter relinquished to the United States. Application for such conveyance must be filed with the Secretary of the Interior within two years from the date of this Act.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of an unpatented mining claim, in the State of California, upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary a preference right to purchase any other tract of land, five acres or less in

area, made available for public sale under this Act in California, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price to be paid to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances

pursuant to this Act within two years from the enactment of this Act. Except where a mining claim has been or may be located at a time when the land included therein is withdrawn from such location, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States.

SEC. 7. There shall be reserved to the United States, in any conveyance under this Act any or all of the named minerals for which the land is deemed valuable by the Secretary of the Interior: coal, native asphalt, solid and semisolid bitumen, or bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), oil, gas, oil shale, phosphate, sodium, potassium, together with the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever

reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands. The deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

87TH CONGRESS
2D SESSION

H. R. 10773

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

By Mr. JOHNSON of California

MARCH 15, 1962

Referred to the Committee on Interior and Insular Affairs

S. 3451

87TH CONGRESS
2D SESSION

S. 3451

IN THE SENATE OF THE UNITED STATES

JUNE 20, 1962

Mr. CHURCH introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary, after due process, to be invalid, an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be

invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated after due process. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the

Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value

of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price to be paid to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. Except where a mining claim has been or may be be located at a time when the land included therein is withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United

States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be with-

drawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Sec-

retary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

87TH CONGRESS
2D SESSION

S. 3451

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

By Mr. CHURCH

JUNE 20, 1962
Read twice and referred to the Committee on Interior and Insular Affairs

the State of Minnesota. As a result of this act of the Minnesota Legislature, there is a full-time paid deputy sheriff in Cass County who does nothing but supervise the administration of the law, inspection of boats and the enforcement thereof in the Leech Lake area. This is the first time that they ever had this needed service in the Leech Lake area, and everyone concerned was most pleased with it and it worked out quite satisfactorily. But the Coast Guard's own admission, the Minnesota law "incorporates all the requirements of the Federal boating laws."

Not only is there quite adequate inspection of boats in the Leech Lake area at the present time by way of the action of the State legislature, but also I find it difficult to believe that the Congress in enacting the statutes to which I have referred ever contemplated that they would be used to cover the Leech Lake area. The Coast Guard has determined that Leech Lake is part of the navigable waters of the United States. From a strictly technical point of view this might be the case, but I can tell my colleagues that as a practical matter Leech Lake can certainly not be considered navigable. The Coast Guard argues that Leech Lake in its original condition was part of the network of waters used in that area to transport goods in commerce. This, however, was before the construction of a Federal dam which was erected to control the water level of the lake. I can state without fear of successful contradiction that while Leech Lake in the dim distant past might have been part of a navigable chain of lakes, such is not the case today. Anyone who knows the Leech Lake area would laugh at any suggestion that it would be so considered.

Therefore, I believe that the Federal legislation in this regard was never intended to cover the Leech Lake area.

To put it plainly, this as an area where the Coast Guard does not need to use its personnel. I suggest, if the Coast Guard has extra personnel, they be used on the coast in operations where they are required.

In view of the fact that there is adequate boat regulation in the area now by way of the action of the State of Minnesota, I ask that this bill be promptly considered, reported, and enacted into law to correct a situation which has been a matter of great concern to the people of that area.

CONVEYANCE OF CERTAIN PUBLIC LANDS TO LINCOLN COUNTY, NEV.

Mr. BIBLE. Mr. President, on behalf of my colleague the junior Senator from Nevada [Mr. CANNON] and myself, I introduce, for appropriate reference, a bill to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the county of Lincoln, State of Nevada.

At the present time, the Federal Government owns about 87 percent of the 110,000 square miles that make up the land area of Nevada. Most of its communities are landlocked as a result of these tremendous Federal holdings. In addition, Lincoln County has been adversely affected by the closing of its lead-zinc mines. Local people have been unable to interest industry to move into the county because of the lack of land for such purposes. By making this land available to the community, it is hoped that those citizens who have been distressed through the closing of the mines will have an opportunity to rehabilitate themselves in some other type of industry. The bill provides that the 2,900 acres of land will be sold to the county after appraisal for its fair market value.

This legislation is vitally needed, and I trust it will receive prompt attention by the Congress.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 3448) to direct the Secretary of the Interior to convey certain public lands in the State of Nevada to the county of Lincoln, State of Nevada, introduced by Mr. BIBLE (for himself and Mr. CANNON), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

ADJUSTMENTS IN FOREIGN SERVICE ANNUITIES

Mr. SPARKMAN. Mr. President, by request, I introduce, for appropriate reference, a bill to provide for adjustments in the annuities under the Foreign Service retirement and disability system.

The proposed legislation has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right of course, to support or oppose this bill as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill may be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State, Mr. Dutton, dated March 3, 1962, and an explanation of the bill prepared by the Department of State.

The VICE PRESIDENT. The bill will be received and appropriately referred; and without objection, the bill, letter, and explanation will be printed in the RECORD.

The bill (S. 3450) to provide for adjustments in the annuities under the Foreign Service retirement and disability system, introduced by Mr. SPARKMAN, by request, was received, read twice by its title, referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and Houe of Representatives of the United States of America in Congress assembled, That the first section of the Act of July 12, 1960 (74 Stat. 371), is amended by adding at the end thereof the following new subsection:

"(e) The benefits provided in subsection (a) of this section are hereby extended to not to exceed ten (10) participants who retire and become entitled to receive an annuity from the Foreign Service Retirement and Disability Fund subsequent to June 30, 1962, and prior to June 30, 1963, whenever the Secretary of State determines it to be in the public interest to extend said benefits to any such participant."

The letter and explanation presented by Mr. SPARKMAN are as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 3, 1962.

The VICE PRESIDENT,
U.S. Senate.

DEAR MR. VICE PRESIDENT: There is enclosed draft legislation that will authorize an extension from June 30, 1962, to June 30, 1963, of one of the provisions of Public Law 86-612 for a 10-percent increase in Foreign Service annuities.

A number of participants in the Foreign Service retirement and disability system who are eligible for voluntary retirement, subject to the Secretary's approval, have been able to take advantage of this substantial annuity increase by planning retirement prior to June 30, 1962.

There are in the Service, however, a few high ranking career officers eligible for voluntary retirement and the benefit of this annuity increase whose services are needed beyond June 30, 1962.

The Secretary is reluctant to disapprove their applications for retirement in view of the financial hardship this would impose upon them by denying them the benefits of Public Law 86-612.

This proposed legislation will enable the Secretary to extend for periods up to 12 months the benefits of Public Law 86-612 to the few officers who must be kept on duty beyond its expiration date. This extension of benefits will apply to not more than 10 officers of the Foreign Service.

Favorable action on this proposal will greatly assist the Secretary in the administration of the Foreign Service.

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

Sincerely yours,
FREDERICK G. DUTTON,
Assistant Secretary
(For the Secretary of State).

(Enclosures: tab A, draft bill; tab B, explanation of bill; tab C, cost estimate.)

DEPARTMENT OF STATE EXPLANATION OF BILL

The proposed bill provides authority for the Secretary of State to extend the benefits provided in subsection (a) of section 1 of Public Law 86-612, approved July 12, 1960, to June 30, 1963, to not to exceed 10 officers of the Foreign Service, when he determines it to be in the public interest to do so. Public Law 86-612 provides that the annuity of any participant in the Foreign Service retirement and disability system entitled to receive an annuity on or before June 30, 1962, shall be increased by 10 percent.

Section 636 of the Foreign Service Act of 1946, as amended, provides that any participant in the Foreign Service retirement and disability system who is at least 50 years of age and has rendered 20 years of service may, on his own application with the consent of the Secretary of State, be retired from the Service and receive an immediate annuity. A number of participants in the Foreign Service retirement and disability system have taken advantage of this benefit which provides them with a substantial increase in annuity if their annuity begins before June 30, 1962. The voluntary retirement of these participants is dependent upon the approval of the Secretary. In most instances such approval is granted. There are, however, in the Service a few high ranking career officers who nearing mandatory retirement age, have elected to apply for voluntary retirement because of the benefits accruing to them under the

provisions of Public Law 86-612 whose services are needed beyond June 30, 1962. The Secretary is reluctant to disapprove their applications for voluntary retirement in view of the financial hardship this would impose upon them by denying them the annuity benefits of Public Law 86-612. On the other hand, their continued service in the key positions to which they are assigned (most of them are serving as Chiefs of Mission or are assigned to other high level positions) is in the public interest. This proposed amendment would enable the Secretary to extend, in his discretion, for additional periods up to 12 months the benefits of Public Law 86-612 to not to exceed 10 officers.

DEPARTMENT OF STATE ESTIMATE OF COST

The estimated cost of this proposed legislation, spread over a period of years, is: $360,000.

This cost estimate is based on the assumption that the provision of the bill will be applicable to 10 officers whose average annuity increase will be $1,800 per year and that their life expectancy is 20 years ($10 \times \$1,800 \times 20$ years $= \$360,000$). This will be financed from the Foreign Service retirement and disability system and will not require an appropriation.

RELIEF FOR RESIDENTIAL OCCUPANTS OF CERTAIN UNPATENTED MINING CLAIMS

Mr. CHURCH. Mr. President, I introduce, for appropriate reference, a bill to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes. I wish to state briefly the circumstances which, in my judgment, indicate a need for the passage of this bill, and explain how it would work to relieve situations where strong and persuasive equities cannot now be recognized under existing law.

In the mountain West, there is a long tradition supporting the right of a private citizen to go upon the public lands, to stake a mining claim, and thereafter to have and retain a possessory interest immune to interference from anyone. The power of the Government to challenge the validity of a mining claim has been recognized, but the Government traditionally has interferred little, and locators and their successors in interest have felt secure in their right to possession.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law, which is a muniment of his claim, is complied with. Thus, although some miners obtain patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not undertaken the expensive and protracted procedures necessary to obtain a patent.

Often in the past, the mining locator established his home upon his claim and worked his claim from his home. These homes have become, in many instances, permanent residences for the prospector's heirs. By long-established custom, mining claims embracing residential improvements have been sold for the value of the improvements, the seller giving a quitclaim deed.

Thus there can be found, throughout the West, hundreds of unpatented mining claims, valuable chiefly for the fact that they have been used, sometimes for generations, as actual homesites, on a year-round or seasonable basis, by families which have inherited them from the original locators, or paid value for the improvements, in reliance upon the customs prevailing in the area that effective title could be obtained by gift, inheritance, or quitclaim deed.

But, for one of a variety of reasons, many of the claims may not, in fact, be patentable at the present time. In some cases, the mineral veins which justified the original location have been worked out. In others, mineral deposits which would have sustained a patent application some years ago will no longer suffice, because rising costs and artificially fixed prices for the minerals have rendered actual mining operations uneconomic. In still other cases, due to the absence of surveys, or to inaccuracies in them, such claims have been located upon land which was, in fact, withdrawn from mineral entry, or has since been withdrawn, so that patent applications will not lie.

In all such cases the claims are subject to invalidation at the initiative of the Government. The situation was further aggravated by the passage of Public Law 167 of the 84th Congress. This statute, enacted in 1955—more than 2 years before the beginning of my service in the Senate—prohibits all uses not reasonably incident to prospecting, mining, or processing operations on unpatented claims located after July 23, 1955. Moreover, it authorizes procedures under which prior locators, or their successors in interest, may be required to prove the validity of their claims or be subject to the same prohibitions. This law has resulted in an intensified campaign to drive out people who are using their claims primarily for residential purposes. As to those who have purchased claims and given value in the expectation that they would be allowed to live on the claims, it means that the rules of the game have been changed while play was in progress, and the results, in many cases, have been grossly unfair.

Although the residential uses which I have described present an anomaly to the law, it is clear that there are, in many cases, substantial equities based on custom, need, and value given, in favor of the users. It is to the problem of resolving the anomaly, while recognizing the equities, that this bill I am introducing is directed.

It would authorize the Secretary of the Interior to convey the fee or any lesser interest in tracts of 5 acres or less to any person occupying a mining claim for residential purposes on January 10, 1962, provided the claim is declared invalid or relinquished. Any conveyance under the bill would be made at fair market value—exclusive of any improvements placed on the land by the applicant or his predecesors in interest—as of the date of enactment of the bill, less any equities possessed by the claimant and his predecessors in interest. In any case, however, the purchase price would not be less than 50 percent of the fair market value of the land. Applications would have to be filed within 5 years, and the right to apply would not be assignable.

In cases where the Secretary finds that the public interest would not be served by such a conveyance, or where the land is withdrawn for a purpose which does not admit of a waiver by the responsible head of the administering agency, the Secretary would have authority to grant, under appropriate regulations, a preference right to purchase another tract of land, 5 acres or less in size, upon payment of a fair price to the Government.

Mr. President, it is not the way of a just Government to disturb arrangements, sanctioned by time and custom, which can be regularized without injury to the public interest. This the bill seeks to do.

Senators will be interested to know that a similar measure, limited originally to apply only to his home State of California, was introduced in the House by Mr. JOHNSON, on March 15. With amendments suggested by the Interior Department and the Forest Service, the bill has been reported from the House Subcommittee on Public Lands to the full Interior Committee. Testimony favorable to its objectives was received from administration spokesmen. I am hopeful that both Houses of the Congress can move speedily to agreement on a measure which will permit humane and equitable solutions to the problems now faced by this large group of residents on the public lands.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, introduced by Mr. CHURCH, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary, after due process, to be invalid an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated after due process. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event the purchase price to be paid to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. Except where a mining claim has been or may be located at a time when the land included therein is withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States.

SEC 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

AMENDMENT OF PUBLIC WELFARE AMENDMENTS OF 1962

Mr. LONG of Louisiana. Mr. President, I am today submitting an amendment to the public welfare amendments of 1962, H.R. 10606, which I intend to call up at the appropriate time.

The social security amendments of 1954, which made old-age and survivors insurance coverage available to most employees under State or local retirement systems, continued the exclusion of policemen and firemen. Since 1954 the Social Security Act has been amended at various times to permit specified States to extend social security coverage to policemen and firemen who are under State or local retirement systems, until at present 17 States may provide such coverage. The amendment which I introduce would permit Louisiana to cover policemen on the same basis permitted in the 17 States now named in the law. This amendment would not apply to firemen in Louisiana; they would continue to be excluded under the Federal law.

Under the proposed amendment the State of Louisiana could modify its coverage agreement with the Secretary of the Department of Health, Education, and Welfare to extend social security coverage, under the established referendum procedure, to policemen employed by the State, or to other local political subdivisions—cities, parishes, and so forth—of the State. Under this referendum procedure, coverage may be extended to the retirement system group involved only if a majority of those eligible to vote indicate in a secret referendum that they desire coverage. Upon a favorable vote, all members of the group in positions covered by the State or local system could be covered under social security, including persons who are ineligible to become participating members of the retirement system. Where policemen are in a retirement system with other classes of employees, they may, at the option of the State, hold a separate referendum and be covered as a separate group.

I ask that the amendment be received and appropriately referred.

The VICE PRESIDENT. The amendment will be received, printed, and appropriately referred.

The amendment was ordered to lie on the table and to be printed.

COMMERCIAL COMMUNICATIONS SATELLITE SYSTEM—AMENDMENTS

Mr. MILLER submitted amendments, intended to be proposed by him, to the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes, which were ordered to lie on the table and to be printed.

HOSPITAL MODERNIZATION ACT OF 1962—ADDITIONAL COSPONSOR OF BILL

Under authority of the order of the Senate of June 13, 1962, the name of Mr. LONG of Hawaii was added as an additional cosponsor of the bill (S. 3407) to provide for Federal assistance on a combination grant and loan basis in order to improve patient care in public and other nonprofit hospitals and nursing homes through the modernization or replacement of those institutions which are structurally or functionally obsolete, and for other purposes, introduced by Mr. CLARK (for himself and other Senators) on June 13, 1962.

EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM—ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of June 13, 1962, the names of Senators CASE of New Jersey, HUMPHREY, METCALF, YOUNG of Ohio, MCGEE, DOUGLAS, CLARK, GRUENING, NEUBERGER, JAVITS, and WILLIAMS of New Jersey, were added as additional cosponsors of the bill (S. 3411) to extend the temporary extended unemployment compensation program, to increase the rate of the Federal unemployment tax for taxable year 1964, and for other purposes, introduced by Mr. MCCARTHY (for himself and Mr. HART) on June 13, 1962.

NOTICE OF RECEIPT OF NOMINATIONS BY COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that the Senate has received the nominations of Philip D. Sprouse, of Tennessee, to be Ambassador to the Kingdom of Cambodia; William H. Orrick, Jr., of California, to be Deputy Under Secretary of State; and the following-named Foreign Service officers for promotion from class 1 to the class of career minister:

Samuel D. Berger, of New York;
Edmund A. Gullion, of Kentucky;
Martin J. Hillenbrand, of Illinois;
John D. Jernegan, of California;
Thomas C. Mann, of Texas;
Robert McClintock, of California;
Frederick E. Nolting, Jr., of Virginia;
Joseph Palmer 2d, of California;
G. Frederick Reinhardt, of California;
William M. Rountree, of Maryland;
Roy Richard Rubottom, Jr., of Texas;
John W. Tuthill, of Illinois; and
William R. Tyler, of the District of Columbia.

In accordance with the committee rule, these pending nominations may not be considered prior to the expiration of 6 days of their receipt in the Senate.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 20, 1962, he presented to the President of the United States the following enrolled bills:

S. 2186. An act for the relief of Manuel Arranz Rodriquez;

S. 2340. An act for the relief of Shunichi Aikawa;

S. 2418. An act for the relief of Elaine Rozin Recannati;

S. 2486. An act for the relief of Kim Carey (Timothy Mark Alt.);

S. 2562. An act for the relief of Sally Ann Barnett;

S. 2565. An act for the relief of Michael Najeeb Metry;

S. 2895. An act to provide for the conveyance of certain lands of the Minnesota Chippewa Tribe of Indians to the Little Flower Mission of the Saint Cloud Diocese; and

S. 2990. An act for the relief of Caterina Scalzo (nee Loschiavo).

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. ENGLE:

Excerpts from address by James F. McCloud, president, Industrial Kaiser Argentina, before the Commonwealth Club of California, June 8, 1962.

By Mr. AIKEN:

Editorial entitled "Democracy in the U.N.," published in the Boston Herald on June 14, 1962.

By Mr. LONG of Louisiana:

History of Winnfield High School, Winnfield, La.

By Mr. WILEY:

Article entitled "Here Comes Worldwide Television," published in the Kiwanis magazine.

Article entitled "La Crosse Library Is Oldest Library in State; Library Came Before City," published in the La Crosse (Wis.) Tribune.

By Mr. MOSS:

Article entitled "Manmade Lake Will Cover Part of Utah Wilderness," written by Rosalie Goldman, and published in the Chicago Tribune of June 17, 1962, dealing with the projected Lake Powell, to be formed by the backed-up waters of the Colorado River when Glen Canyon Dam is completed next year.

By Mr. TALMADGE:

Article entitled "Worry Clinic," written by George W. Crane, M.D., Ph. D., and published in the Anderson, S.C., Independent of June 10, 1962, being a tribute to Senator JOHNSTON.

By Mr. METCALF:

Remarks of Mr. Harry A. Darbee, chairman of Beamoc Conservation Committee, relating to a petition protesting against the proposed destruction of the Beaverkill-Willemoc Streams, situated in Sullivan and Delaware Counties, N.Y.

THE ROSTOW PAPER ON AMERICAN STRATEGY

Mr. GOLDWATER. Mr. President, I am sorry that I was not in attendance Monday when our distinguished minority leader, Senator DIRKSEN, called attention to published reports concerning the so-called Rostow paper on American strategy. But I should like to add my voice now to his request for an examination by an appropriate committee of the Senate into the strange thesis that the Soviet Union is "mellowing," and that both the United States and Russia are losing power and authority in their respective worlds.

Mr. President, we have long heard unofficial reports about this new strategy paper being prepared by the chairman of the policy planning board of the State Department. As I understand, the document was prepared as a guide for future decisions by the President and the National Security Council. If this is the case, it undoubtedly must be regarded as an extremely important policy device, and worthy of the closest attention by the Senate of the United States. And, if it presages historic changes in American foreign policy, I believe we should be told about it at the earliest possible time.

From what we know of the Rostow paper, based on the unofficial, but seemingly authoritative, accounts appearing in the Chicago Tribune on June 17 and 18, it is based on a ridiculously false assumption that Russia is maturing in a fashion that would lend itself to honorable dealing with the United States. Apparently, Mr. President, through the medium of one paper, based largely on Mr. Rostow's hopes, rather than the hard realities of the situation, the State Department would have the President and the National Security Council adopt a new, hazardous, and patently futile course in the cold war.

As a policy device, the Rostow paper sounds to me like the most dangerous document in America.

The line of reasoning that shows through in these first accounts of the contents of the Rostow paper is not new. We had a preview of this kind of fuzzy-minded reasoning in a publication called "The Liberal Papers." The idea seems to be that changes have taken place in the capital of world communism since Mr. Khrushchev took over, and that we can make use of these changes through a calculated policy of appeasement and soft speaking. This dangerous concept rests on the assumption that now—all of a sudden—the Communists are interested in reducing world tensions, and may be willing to follow us in a series of unilateral acts designed to this end.

Mr. President, this is the worst kind of liberal wishful thinking; and it is so alien to the thinking of Congress and of the American people that apparently even Mr. Rostow concedes that it will require a high-powered selling campaign. I understand that the new strategy paper admits with great candor that the thinking of the American people will have to be adjusted to this bold, new approach. In this, we have another example of the administration's constant preoccupation with the idea that Congress and the American people do not know what is best for them or the country. It is part and parcel of the idea that the American people must be "brainwashed" into changing their views for their own good.

Well, Mr. President, I should like to say that the American people have always known what was best for them. They may not have the same level of "sophistication" that the New Frontier insists upon, but they do know that Russia is not mellowing. They do know that the Communists cannot be trusted. And they do know that appeasement in the present world crisis is of one piece with a policy of surrender.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, in connection with my remarks, two articles from U.S.A., an American bulletin of fact and opinion, published in 1956 and 1957. The articles are entitled "The Brothers Rostow" and "The Millikan-Rostow Report," and were written by Alice Widener.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

87TH CONGRESS
2D SESSION

H. R. 12761

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1962

Mr. JOHNSON of California introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relin-

quishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within three years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the

Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value

of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within three years from the enactment of this Act. Except where a mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2)

the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals and mineral materials on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made

thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

87TH CONGRESS
2D SESSION

H. R. 12761

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

By Mr. JOHNSON of California

AUGUST 2, 1962

Referred to the Committee on Interior and Insular Affairs

87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2184

PROVIDING RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS UPON WHICH VALUABLE IMPROVEMENTS HAVE BEEN PLACED

AUGUST 13, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ASPINALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 12761]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 12761) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BILLS CONSIDERED

H.R. 12761 was introduced to embody committee views after hearings had been held on and consideration given to H.R. 10773, introduced by Mr. Johnson of California.

PURPOSE

The primary objective of H.R. 12761 is to permit holders of unpatented mining claims who reside on the property to obtain, at fair market value, fee title to not more than 5 acres of land in the event that the mining claim itself is invalidated or the holder relinquishes his claim to a patent under the mining laws.

NEED

Under the act of May 10, 1872, as amended (17 Stat. 91; 30 U.S.C. 21 et seq.), commonly referred to as the U.S. mining laws, citizens of the United States and those who have declared their intention to become such are guaranteed the right to enter upon the public lands of the United States, except those withdrawn from entry, to explore for

and purchase valuable mineral deposits and to occupy lands in which such mineral deposits are found. There is no requirement, however, that an occupant or locator, as he is known, must proceed to the purchase of the lands in which the valuable mineral deposits are found.

Numerous people have entered upon the public lands, staked claims in accordance with the mining laws, and proceeded to extract minerals without ever filing an application for patent to the land. Others have established locations and perfected mining claims but have been unable, because of other provisions of law, to proceed to patent even though they might have desired to do so.

Once a mining claim is established, it was not—and is not—unusual for a claimant to take up residence on the land within the boundaries of the claim. The committee recognizes that there probably also have been some persons who, under the guise of staking a claim, were primarily interested in establishing a residence on public lands that were not available for occupancy or sale under the public land laws. However, the committee has no data on which to base a conclusion as to the number of those who might be in this latter category.

There is no doubt that many residential occupants on unpatented mining claims located such claims in good faith, in accordance with law, and had every expectation of acquiring fee title to the land in accordance with the mining laws. That they did not do so is caused by a variety of factors, including, in many cases, the negligence on the part of the occupant to act timely.

Mining claims constitute property, giving the holder the right of possession. In the public land States unpatented mining claims are bought and sold on the open market and generally pass by descent. It is accordingly pointed out, in this connection, that the holder or occupant of an unpatented mining claim need not be the original locator in order to be a bona fide occupant in good faith.

Some of the unpatented mining claims have been occupied for a great number of years by the same family, while others have only recently been located. In either event it may be impossible for the occupant to fulfill the objectives of the law at this time and obtain a patent to the land. The reason for this is that the law of discovery, which controls the determination of whether a patent will be issued, is related to both time and place; that is, there must be a valuable deposit, within the claim, on which a prudent man would be justified in expending additional funds to develop at the time of application for patent. The committee was informed that, for example, if there had been a valid discovery at one time but all the minerals had been extracted, the Department of the Interior has held that the holder of the claim could not now proceed to patent because the claim is no longer mineral in character, or valuable for its mineral content, and a reasonable man would no longer be warranted in the expenditure of time and money to develop the claim.

Because these occupants of unpatented mining claims cannot proceed under the mining laws, their occupancy of the public lands involved is improper. This committee has on other occasions advocated the principle that unauthorized uses of public lands must be eliminated as promptly as possible.

Both the Bureau of Land Management and U.S. Forest Service initiated programs designed to eliminate unauthorized uses caused by occupancy under invalid unpatented mining claims. In some instances

it may be possible for the department involved to convert the unauthorized use to a legal occupancy by lease or sale under existing legislation but, the committee is advised, in most instances there is no existing authority under which the present occupant can be assured a grant of the land involved, even if the land is put up for sale under some other existing statutory authority.

In the circumstances, H.R. 12761 is designed to provide the Secretary of the Interior with authority to convey at his discretion, at fair market value, not more than 5 acres of land to occupants of unpatented mining claims where the land involved is not required for a governmental purpose.

SECTION-BY-SECTION ANALYSIS

Section 1 gives to the Secretary of the Interior discretionary authority to convey to an occupant of an unpatented mining claim not more than either 5 acres of land or the acreage actually occupied, whichever is less. The section further limits conveyances to those occupants whose mining claims are determined by the Secretary to be invalid or where the occupant himself, after notice that the claim is believed to be invalid, relinquishes to the United States all right to the claim. In order to avoid hardship and discrimination, the section extends the same privilege to occupants whose unpatented mining claims were invalidated or relinquished within 2 years prior to the effective date of the act.

Section 1 further provides that a conveyance shall be made only to a qualified applicant, who is defined in section 2 as a seasonal or year-round residential occupant-owner as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements have been placed.

Section 3 protects the interest of the Government by prohibiting conveyances of any land withdrawn in aid of another department or agency unless the consent is first obtained from the head of the governmental unit involved. Authorized conveyances could be made only under terms and conditions deemed necessary by the agency having jurisdiction over the land.

Under section 4 the Secretary of the Interior, in those instances where the specific land occupied under the mining claim cannot be made available, shall give a preference right to the occupant for the purchase of another tract of public land. A sale of a substitute tract could only be made after an agreed termination of the occupancy of the unpatented mining claim and settlement of any liability for unauthorized use. The preference right would have to be exercised within 2 years.

Section 5 requires the Secretary of the Interior to determine fair market value of the interest to be conveyed, which becomes the price in accordance with the terms of section 1.

Section 6 primarily further protects the interest of the United States in the following respects:

(1) An occupant would not be relieved from liability for unauthorized use even if a conveyance of land is made under the act.

(2) If an unpatented claim was located on land withdrawn from entry, or if it was located after July 23, 1955 (the date of an act of Congress making it clear that mining claims were

not to be used for purposes unrelated to mining), the United States would specifically be authorized to impose trespass charges. However, in other instances, trespass charges could not be imposed for any period prior to either the final determination of the invalidity of the mining claim or its voluntary relinquishment, whichever occurs first. This latter relief would only be available to those who apply for conveyance within 3 years from the date of enactment which is also the limiting date under section 1 for the filing of applications.

Section 7 provides that all minerals shall be reserved to the United States in any conveyance under the act, with the right of the United States and its designees to enter upon the conveyed lands for the purpose of exploration for and development of "leasable minerals and mineral materials," which are the designations of minerals disposable by the Secretary of the Interior under controlled conditions that will assure no undue interference with the use of the surface for residential purposes. The section then provides that "locatable minerals" shall be withdrawn from all forms of application under the mining laws upon accomplishment of a conveyance, thereby protecting the surface owner from interference by prospectors or locators whose activities are not subject to control by the Secretary of the Interior under the mining laws.

While the premise of H.R. 12761 is that the lands to be conveyed thereunder are not mineral in character, the committee recognizes that: (1) They may merely not qualify for discovery under the mining laws at this time; and (2) there is always the possibility of finding deep-lying ore bodies or minerals that are now unknown. The committee has therefore adopted the principle forming the basis of its report on H.R. 10566, 87th Congress (H. Rept. 1589, 87th Cong., 2d sess.), and recognizes first the right of the surface owner to permit exploration for minerals while at the same time giving such surface owner a right to purchase locatable minerals at a minimum of $50 plus the cost of appraisal or the fair market value plus the cost of appraisal if that is greater. Subsection (d) of section 7 makes it clear, however, that no rights may be obtained under the mining laws by reason of explorations under agreement with the surface owner. By permitting the surface owner to obtain the purchase of the minerals at a later date, the national interest is protected further by assuring: (1) The availability of any minerals that might in fact be in the ground; and (2) that the United States receives full value therefor.

Finally, section 8 permits rights and privileges under the bill to pass through devise or descent but precludes them from being assigned to third parties.

COST

The fiscal impact of enactment of this measure cannot be accurately estimated at this time. However, it can be expected that, by providing for sales at fair market value, revenues will be increased and more than offset any increased cost of administration during the 3-year period that applications may be filed under the bill.

DEPARTMENTAL RECOMMENDATIONS

The Department of the Interior recommends enactment of legislation of this nature as indicated in the report of April 18, 1962, which was supplemented by a letter of May 1, 1962, both of which are set forth below together with the comments of the Secretary of Agriculture and the Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 18, 1962.

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 a report on H.R. 10773, a bill to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We recommend that the bill be enacted, if amended as suggested below.

H.R. 10773 would authorize the Secretary of the Interior to convey the fee or any lesser interest in tracts of 5 acres or less to any person occupying a mining claim in California for residential purposes on January 10, 1962, where the claim has been or is hereafter declared to be invalid or has been or is relinquished. We construe the term "interest" as used in the bill to include fee simple and life estates, leases, and permits. Applications for such conveyances must be filed within 2 years from enactment of the bill. To qualify as an applicant under the bill, a person must show also that valuable improvements had been placed on the land prior to January 10, 1962.

Lands withdrawn for a Federal, State, or local governmental unit could be disposed of only with the consent of the head thereof and subject to such terms and conditions as the unit deems necessary. If the land is not available for disposition, the Secretary of the Interior, after concluding satisfactory arrangements for termination of occupancy and settlement of any liability for unauthorized use, will grant an applicant a preference right to buy another tract, 5 acres or less, in California. Any such preference right must be exercised within 2 years from its grant.

Any conveyance under the bill would be made at fair market value (exclusive of any improvements placed on the land by the applicant or his predecessors in interest) as of the date of enactment of the bill, less any equities possessed by the claimant and his predecessors in interest. In any event, however, the purchase price would not be less than 50 percent of the fair market value of the land as of the date of enactment of the bill.

The execution of any conveyance under the bill would not relieve the occupant for any liability to the United States for unauthorized use of the land except to the extent that the Secretary deems equitable in the circumstances. Relief for such purposes may be afforded only to those individuals who have filed applications for conveyance within 2 years from the enactment of the bill. Except where a mining claim is located at a time when the land is withdrawn from mineral location, no trespass charges could be assessed for any period of time preceding the final administrative determination of invalidity of the mining

claim or the voluntary relinquishment thereof, whichever occurs earlier. Nothing in the bill is to be construed as creating any liability for trespass against the United States.

Any conveyance under the bill would be made subject to a reservation of such leasable minerals for which the land is deemed valuable. Rights under the bill would not be assignable, but could pass through devise or descent.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law which is a muniment of his title is complied with. Thus, although many miners obtained patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not prosecuted their claims to patent. In some cases, claims did not contain quite enough valuable mineral to constitute a discovery within the purview of the mining laws and justify proceeding to patent.

There is, however, no requirement in law that a mining locator proceed to patent. In *Wilbur* v. *U.S. ex rel. Krushnic* (280 U.S. 306 (1930)), the Supreme Court of the United States stated as follows:

"When the location of a mining claim is perfected under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. The claim is property in the fullest sense of that term; and may be sold, transferred, mortgaged, and inherited without infringing any right or title of the United States. The right of the owner is taxable by the State, and is 'real property,' subject to the lien of a judgment recovered against the owner in a State or territorial court. The owner is not required to purchase the claim or secure patent from the United States; but so long as he complies with the provisions of the mining laws, his possessory right, for all practical purposes of ownership, is as good as though secured by patent" (Cf. the act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601, et seq.)).

However, even though a mining locator may have made a discovery of a valuable mineral on his mining claim, after the land is mined out, his claim is subject to invalidation. In *United States* v. *Alonzo A. Adams, et al.*, A–27364 (July 1, 1957) the Department held that an application for a mineral patent will be rejected and the mining claim declared null and void where, although the claim may formerly have been valuable for minerals, it is not shown as a present fact that the claim is valuable for minerals. Thus some mining claims which were valid in their inception may no longer be valid because of the virtually complete mining out of the valuable ore.

Often, the mining locator established his home upon his claim, and worked his claim from his home. These homes have become, in many instances, permanent residents for the prospector's heirs. Frequently, mining claims embracing residential improvements were conveyed as any other real estate might be conveyed.

Over the years, many claims in the Mother Lode area in California and elsewhere, once valuable for their mineral content, have been mined out. Other claims, because of the present high cost of operations and the low values, are not presently susceptible to immediate mining and may not now be valuable for their mineral deposits. Yet many of the families of the original locators maintain homes within the limits of the mining claims, while others have sold for value the homes established by their forebears.

A present mineral examination might fail to disclose on many of these claims a valid discovery of a valuable mineral deposit, and thus subject the mining claim to cancellation by a determination of invalidity. Upon such a determination of invalidity, the holders of improvements on the claims would face great hardships in the loss, not only of the monetary value of the improvement, but also of their homes. Some of the families have lived on the mining claims for many years, and have paid taxes for the improvements on the lands. Because of the widespread use of mining claims for homesites and the general practice of transferring them by quitclaim deeds, many people honestly, although mistakenly, have assumed that the mining laws were and are an appropriate means of acquiring possession and ownership of mining claims for general residential purposes unrelated to mining. Hence numerous transactions of this nature have occurred in various portions of the public domain and mining claim occupancy problems have been multiplying for many years. This Department for several years has endeavored to alleviate the situation within the framework of existing law. The program for adjusting occupancy rights under existing law, we now recognize, has not proved to be entirely adequate. Many persons occupying lands in established residential communities have been unable to obtain the needed relief.

The Department cannot properly permit unauthorized use of Federal property. Although our Bureau of Land Management has endeavored to resolve the mining claim residence problem, through the Small Tract Act, as amended (43 U.S.C. 682a et seq.), and other laws, we have not been successful in attaining a total resolution of the problem. Many of the present situations in California involve year-round occupancy by "senior citizens" and others of limited means. Some of these individuals have purchased from other private parties what they believed to be fee title, paying sums on the order of the then fair market value. Many of these individuals do not have the financial resources to pay the full measure of unauthorized use charges and again the full fair market value of the land they occupy. Avoidance of unnecessarily harsh treatment makes desirable additional legislation. Suitable and equitable alternative solutions are often possible such as the granting of a life estate or some lesser interest in land. Some of these alternatives are not available under existing law.

Your committee in House Report No. 1257, 86th Congress, 2d session, pertaining to H.R. 3676, culminating in the act of April 22, 1960 (74 Stat. 80), stated that unauthorized use of public lands interferes with orderly management or disposition and must be promptly and vigorously controlled. Your committee further stated that failure to eliminate unauthorized uses or to transform them into an authorized status leads to the spread of unauthorized use, deprives the Treasury of current revenues, and breeds disrespect for the property rights of the Government. We believe that enactment of H.R. 10773, as proposed to be amended by this report, would greatly facilitate the termination of unauthorized use.

Mining claim occupancy problems, although particularly acute in the Mother Lode country of California, exist elsewhere on the public lands. For example, in the Rogue River country in Oregon, western Colorado, Arizona, and in South Dakota similar situations are known to exist. We therefore believe that the bill should not be limited to lands in California, but should embrace all the public lands.

It is our intention to retain in public ownership those lands needed for public or recreational values. Nor do we intend that the bill should lend itself to disposition of land valuable for minerals locatable under the U.S. mining laws. A proposed amendment below crystallizes this concept.

Our National Park Service endeavors to acquire privately owned lands within national parks. It is not our intent, therefore, to grant under the bill fee simple estates to lands within such parks. However, in order to resolve the mining claim residence problem in national parks we would in appropriate instances grant life or lesser interests in the occupied lands. The final result would be to remove from national park holdings any residence on mining claims which are invalidated or relinquished.

The Forest Service of the Department of Agriculture has informally suggested that section 3 of the bill be amended to read as follows:

"SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, the Secretary of the Interior may make conveyances under section 1 of this Act only in those portions of the withdrawal unit which the head of the Federal department or agency has designated as an area where dispositions under the Act will not be detrimental to the purpose for which the withdrawal was made, and under such terms and conditions as the head of that department or agency may deem necessary.

"Where the lands have been withdrawn in aid of a function of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary."

The Forest Service also has informally suggested that lines 20 and 21, page 2, be amended as follows:

"Public interest or the designation or consent required by section 3 of this Act has not been made or given, the applicant, after arrangements satisfac— * * *."

Although this Department believes that section 3 of the bill would adequately meet our needs, we would have no objection to the adoption of the amendments suggested by the Forest Service. We understand that the purpose of the amendments is to eliminate the burden of processing large numbers of applications for conveyances for isolated tracts and to confine applications for conveyance to those general areas administered by the Forest Service where there is wide-spread occupancy of lands within mining claims which have been or may be determined to be invalid.

We believe the bill should permit a period of 5 years for applications for conveyance to be filed with the Secretary of the Interior and that a similar period should be afforded to permit the exercise of the preference right to purchase other lands. It is contemplated that some lands will be classified for disposition primarily with a view to affording those persons who occupy lands needed for public or conservation purposes an opportunity to obtain another homesite.

We wish to point out that enactment of the bill will not terminate or suspend liability for any unauthorized use of mining claims. We intend to proceed to collect payment for unauthorized use for such periods of time as uses of the land are not sanctioned by law. This

is to say that until occupancy of invalid or relinquished mining claims is regularized, year-to-year occupancy will be charged for even though negotiations have been commenced under the bill looking to the acquisition of the land. We do not construe the bill as constituting a repeal of any law. Nor do we construe the bill as waiving, in whole or in part, any liability for waste—for example, removal of timber for sale or for use on other lands would continue to constitute a cause of action.

We believe that section 6 of the bill should expressly provide that use of a mining claim, located after July 23, 1955, for purposes unrelated to mining would be deemed unauthorized use, for which charges could be sought and collected by the United States. This is in consonance with section 4(a) of the act of July 23, 1955 (30 U.S.C. 612(a)). Appropriate language is suggested below.

To effectuate our suggestions and to make certain technical changes, we recommend the following amendments to H.R. 10773:

1. Insert after "acres" on line 8, page 1, the following: "and not valuable for minerals locatable under the United States mining laws".
2. Line 4, page 2, substitute "five" for "two".
3. Amend lines 7 and 8, page 2, to read: "January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had".
4. Line 22, page 2, insert after "Interior" the words "are made".
5. Line 24, page 2, insert after "Secretary" a comma and "under such rules and regulations as the Secretary may prescribe,".
6. Lines 1 and 2, page 3, insert "for this purpose" after "sale" and delete "in California".
7. Page 3, line 4, substitute "five" for "two".
8. Page 4, line 1, substitute "five" for "two".
9. Line 4, page 4, amend to read as follows: "drawn from or otherwise not subject to such location or where a mining claim was located after July 23, 1955".

We believe that enactment of H.R. 10773, if amended as suggested in this report, would enable us to resolve substantially the long-standing problem of residency on mining claims which do not meet the requirements of law. Concededly, the bill will not always offer a solution entirely satisfactory to the persons affected, but it will afford us a measure of flexibility to enable us to grant substantial relief.

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.,
Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1962.

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

DEAR MR. ASPINALL: This refers to our report of April 18, 1962, concerning H.R. 10773, a bill to provide relief for residential occupants

of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

In order to avoid possible technical ambiguities, we suggest amendment of the bill as follows:

(1) On line 8, page 1, insert after "acres" the following "and not known to be valuable for minerals locatable under the United States mining laws";

(2) Lines 1 and 2, page 3, be amended to read as follows: "area, from those tracts made available for sale under this Act, upon the payment of the amount determined under"; and

(3) Line 15, page 4, after "valuable" insert "or prospectively valuable".

The purpose of the first proposed amendment is to clarify that lands which are to be excluded from the operation of the bill by reason of their locatable mineral character must be such as meet the definition of known mineral lands, as set forth in *United States* v. *Southern Pacific Company et al.*, (250 U.S. 1, 13, 14 (1919)). The first proposed amendment is intended to make clear that the fact that land may be prospectively valuable for locatable minerals would not bar its disposition under section 1 of the bill.

The second proposed amendment is intended to show that a claimant may select a suitable homesite from those tracts made available as alternative homesites, where the land occupied by him is needed for public or conservation purposes.

The third proposed amendment conforms to the long-established procedure under the act of July 17, 1914, as amended (30 U.S.C., secs. 121–124), of reserving those leasable minerals for which the lands are deemed valuable or prospectively valuable, *Foster* v. *Hess* (on rehearing, 50 L.D. 276 (1924)).

Sincerely yours,

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 19, 1962.

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

DEAR MR. CHAIRMAN: This is in reply to your request of March 27, 1962, for a report on H.R. 10773, a bill to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We have no objection to the enactment of the bill if it is amended as hereinbefore recommended.

H.R. 10773 relates to unpatented mining claims in the State of California upon which valuable improvements have been placed and which have been or are later determined to be invalid by the Secretary of the Interior, or which have been or are later relinquished to the United States. The bill would authorize the Secretary of the Interior to convey to the seasonal or year-round residential occupant-owner of such a claim all or any part thereof up to 5 years upon payment to the Government of a price to be fixed by the Secretary of the

Interior which shall be not more than the fair market value (exclusive of improvements) but not less than 50 percent thereof.

The bill would provide that where the lands involved have been withdrawn in aid of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary could make such conveyance only with the consent of the head of that governmental unit and subject to that unit's specified terms and conditions.

H.R. 10773 would provide that where the Secretary of the Interior determines that the conveyance of all or any part of an unpatented mining claim to an occupant-owner is not in the public interest or where the agency having jurisdiction over the lands does not consent to such conveyance, the claimant would be granted a preference right to purchase at a fair price any other tract of land of 5 acres or less in California which is made available for public sale by the Secretary of the Interior. Preference rights would be valid for 2 years.

The bill would further provide that the execution of a conveyance would not relieve the occupant of the land conveyed of any liability to the United States existing at the time of conveyance, for unauthorized use of the conveyed lands. Relief from such liability would be limited to cases where applications for conveyances were made within 2 years of the bill's enactment. No trespass charges would be sought or collected by the United States based upon occupancy of a claim for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim.

H.R. 10773 would reserve to the United States oil, gas, shale, and certain named minerals in any conveyance. Such reservation would include the rights to prospecting, development, storage, transportation, and disposal.

Rights and privileges under the bill would not be assignable, but could pass through devise or descent.

This Department is in agreement with the general intent of the bill—to provide relief for persons who have occupied and have placed valuable improvements on unpatented mining claims which are subsequently determined to be invalid. The use and occupancy of unpatented mining claims in the national forests and elsewhere is a problem we are very much aware of, not only in California but also in other States. Such use and occupancy often has an adverse effect on the administration of the national forests by this Department. We have been working toward a solution to these cases of unauthorized occupancy on the national forests for some time. Progress has been made in resolving these issues without reliance on harsh decisions.

Legislation to assist in solving this problem needs to fill two principal objectives: (1) Settle problems of administration of these lands to insure that the lands will serve in the highest public interest, and (2) provide equitable relief to the occupant-owners of invalid mining claims.

Conveyance of land to a claimant must be consistent with the general land management policies and purposes of the Federal Government. Recognition needs to be given to the general undesirability of conveying areas that have been withdrawn for particular purposes or have been withdrawn in aid of a function of a Federal department or agency, State or local governmental unit.

An example of such withdrawn areas are the national forests which were set apart from the public domain. These lands are reserved from appropriation and entry, except under the mining laws. Determination has already been made that these lands generally best serve the public interest as presently classified and managed under principles of multiple use to produce a sustained yield of services and products. It would be inconsistent with these established principles and purposes to provide for general conveyance of all or parts of invalid mining claims within these lands to the occupants of such claims for their personal use.

Conveyance of lands withdrawn for specific purposes, such as the national forests, could best be done on the basis of land-use policy, rather than on an individual case basis. Designation by the head of the Federal agency of areas where conveyance would not be detrimantal to the purpose of the withdrawal would provide a much more consistent means of handling conveyance applications.

Typical situations within the national forests which would probably call for such designations might include areas where concentrations of mining claim occupants constitute community centers; areas which historically had been important in mining activity, where it was reasonable at the time of location for a claimant to expect a fair economic return from his mining operations and consequently it was reasonable for him to build a permanent home; areas where a significant number of claims in a relatively small gross area predate the establishment of the national forests. Designations would not be made in locations where holdings occur in a scattered pattern or in isolated situations.

We recognize, however, that there might still exist isolated instances where authorized action under the bill would not provide equity to persons who without full knowledge of the invalidity of a claim, yet in good faith without any intent or design to violate the mining laws, have invested considerable amounts in improvements. Under existing regulations for the management and administration of the national forests, it is possible to validate such occupancy for a reasonable period of time.

For the foregoing reasons we recommend that, on page 2, section 3 be amended to read as follows:

"SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, the Secretary of the Interior may make conveyances under section 1 of this Act only in those portions of the withdrawn unit which the head of the Federal agency concerned has designated as an area where dispositions under this Act will not be detrimental to the purpose for which the withdrawal was made, and under such terms and conditions as the head of that agency may deem necessary.

"Where the lands have been withdrawn in aid of a function of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act only with the consent of the head of that governmental unit and under such terms and conditions as the head of that unit may deem necessary."

A conforming amendment should also be made in section 4 as follows:

Page 2, line 20, after the word "the" insert the words "designation or".

Page 2, line 21, delete the words "is not" and insert in lieu thereof the words "has not been made or".

We understand that the Department of the Interior is recommending that the bill be amended to make it applicable to other States as well as California. With the amendments recommended above, we would have no objection to this.

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.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 23, 1962.

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

DEAR MR. CHAIRMAN: By letter dated April 6, 1962, acknowledged April 9, you requested our report on H.R. 10773, 87th Congress. This measure would provide relief for certain residential occupants in California of unpatented mining claims upon which valuable improvements have been made.

Section 1 of H.R. 10773 would authorize the Secretary of the Interior to convey to qualified applicants up to 5 acres of any interest in any portion of an occupied unpatented mining claim which the Secretary determines, or has determined, to be invalid or is an unpatented mining claim which has been heretofore or is hereafter relinquished to the United States.

Section 2 of the bill, in its definition of a qualified applicant, includes persons on unpatented mining claims in the State of California "upon which valuable improvments had been placed." On claims that we have reviewed on national forest lands reserved from the public domain in California, we have found that the estimated values of residence structures vary from about $300 to approximately $14,000. We feel that it would be desirable to establish some criteria for the Secretary to apply in his determinations of what constitutes valuable improvements. Such a criteria should achieve reasonably uniform interpretation and would avoid unnecessary disputes as to who are and who are not qualified applicants under this section.

Under section 4, in cases where the Secretary of the Interior determines that a disposition under section 1 is not in the public interest or when the consent required by section 3 is not given, the Secretary of the Interior may grant to an applicant a preference right to purchase up to 5 acres of any other tract of land "any other tract of land, five acres or less in area, made available for public sale under this Act in California." It is not clear what other tracts of land are made available for publis sale "under this Act" nor whether the quoted language is intended to apply only to those lands administered by the Secretary of the Interior or also to withdrawn lands under the administration of other agencies. The committee may wish to clarify this language.

The language of section 5 leaves us in doubt as to the factors to be considered by the Secretary of the Interior in determining the purchase price to be paid to the Government by a claimant. This section

states that the Secretary shall determine the fair market value of the lands involved, exclusive of any improvements placed thereon by the applicant or his predecessors in interest or interests in lands, as of the date of the act. Section 5 further states that in establishing the purchase price to be paid by the claimant to the Government for the land or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. We do not know what equities a claimant might have in an invalid mining claim other than any improvements placed thereon by him or his predecessors in interest which are excluded from the fair market value. In any event, we believe that this section should be clarified so as to set out more specifically all of the factors to be considered by the Secretary in determining the fair market value.

In addition to the foregoing comments on specific sections of H.R. 10773, we have some general comments which we believe may be of interest to the committee.

Conveyance of land such as those authorized by the bill would tend to increase private land ownership within the public domain. The desirability of such conveyance and the need to limit the legislation solely to the State of California is a policy matter solely for the determination of the Congress. However, our recently completed review of the administration by the Forest Service, Department of Agriculture, of mining claims on national forest lands reserved from the public domain disclosed a number of problem areas in the administration of the national forests which stemmed from either private land ownership within the forests or from possession of the type of unpatented mining claims, the ownership of which, under the provisions of the bill, could be conveyed to qualified applicants.

In one of the national forests, the sale of approximately 60 million board feet of timber has been delayed for nearly 5 years because the Forest Service has been unable to acquire the necessary road right-of-way across private land. According to Forest Service records, there was a large volume of overmature timber in the areas above the private land which needed to be harvested at the earliest opportunity. Extensive negotiations to secure a right-of-way across the private land had not been successful and because there was a possibility of a high damage award under condemnation proceedings, the Forest Service was considering the construction of a timber access road over an alternate route. We were advised by Forest Service officials that the alternate road will be less desirable than the proposed road because it will be of lower quality, will contain steeper grades, and will not provide access to all the timber in the area.

In another forest, sales of 12 million board feet of timber with an estimated value of $220,000 have been held up for a number of years because the Forest Service has been unable to obtain rights-of-way over a concentration of unpatented mining claims on which there are residential-type structures. The Forest Service mineral examiner concluded that a valid mineral discovery did not exist on these claims.

According to the Forest Service records, there are in excess of 1,100,000 unpatented mining claims in the national forests, of which an estimated 50,000 are in the California region of the Forest Service. California region officials estimated that there were at least 3,000 buildings of a residence nature located on unpatented mining claims of

which only about 30 could be considered as an authorized use for mining purposes. When lands are conveyed to private ownership they are no longer subject to Forest Service regulation. California region officials stated that each occupancy of lands that are not subject to Forest Service regulation additionally increases the danger of fires, creates cleanup, sanitation, and pollution problems, and otherwise adversely affects if not directly interferes with the work of forest management.

We have no further comments to make concerning H.R. 10773.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends enactment of H.R. 12761.

○

Union Calendar No. 913

87TH CONGRESS
2D SESSION

H. R. 12761

[Report No. 2184]

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1962

Mr. JOHNSON of California introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

AUGUST 13, 1962

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relin-

quishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within three years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the

Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value

of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within three years from the enactment of this Act. Except where a mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2)

the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals and mineral materials on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made

thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

Union Calendar No. 913

87TH CONGRESS
2D SESSION

H. R. 12761

[Report No. 2184]

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

By Mr. JOHNSON of California

AUGUST 2, 1962

Referred to the Committee on Interior and Insular Affairs

AUGUST 13, 1962

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For information only; should not be quoted or cited)

Issued August 24, 1962
For actions of August 23, 1962
87th-2d, No. 150

CONTENTS

HIGHLIGHTS: Sen. Humphrey commended farm bill as passed by Senate. Senate passed bill to transfer Sec. 32 funds to Commerce for lumber research. Senate committee reported bill to authorize joint watershed surveys by USDA and Army. Senate received State proposal for holding World Food Congress. Rep. Schwengel opposed passage of public works acceleration bill.

SENATE

1. FARM PROGRAM. Sen. Humphrey reviewed and commended the provisions of the farm bill as passed by the Senate, expressed regret that it did not contain a dairy provision, and stated that "We can improve upon it and we will improve upon it, but we have made a good start in adopting an effective program for American agriculture." pp. 16374-5

2. FORESTRY. Passed as reported S. 3517, to provide for the transfer from this Department to the Commerce Department Sec. 32 funds equal to 50 percent of the gross receipts from the duties collected on lumber, flooring, mouldings, and plywood for research and experimentation on lumber production and marketing. p. 16289

The Subcommittee on Public Lands of the Interior and Insular Affairs Committee approved for full committee consideration with amendment S. 3335, to authorize the transfer of land in Mont. from the Beaverhead National Forest to the Big Hole National Battlefield. p. D761

3. WATERSHEDS. The Public Works Committee reported without amendment H. R. 3801, to authorize the Secretary of the Army and the Secretary of Agriculture to make joint surveys and investigations of watershed areas for flood prevention or the conservation, development, utilization, and disposal of water (S. Rept. 1910). p. 16284

4. WETLANDS. Passed as reported H. R. 8520, to prohibit assistance under the agricultural conservation program for wetland drainage in N. Dak., S. Dak., and Minn. on any farm where the Secretary of the Interior finds that wildlife preservation would be harmed thereby and that nondrainage will contribute to wildlife conservation. pp. 16288-9

5. RESEARCH. Passed without amendment H. R. 6984, to provide that provision may be made in cost-type research and development contracts (including grants) with universities, colleges, and other educational institutions for payment of reimbursable indirect costs on the basis of predetermined fixed-percentage rates applied to the total, or an element thereof, of the reimbursable direct costs incurred. This bill will now be sent to the President. p. 16289

6. TAXATION. As reported (see Digest 145), H. R. 10650, the proposed Revenue Act of 1962, provides that cooperatives are to receive a deduction for patronage dividends paid to the patrons in cash or by allocations if the patron has the option to redeem the allocations in cash during a 90-day period after issuance, or consents to treating this income as constructively received and reinvested in the cooperative. The patron may give his consent individually in writing, the cooperative may by its bylaws require members to give this consent, or patrons may give their consent by endorsing a check representing at least 20 percent of the total patronage dividend. At least 20 percent of the patronage dividend must be paid in cash for any allocation to be deductible to the cooperative. Any of the amounts which are deductible to the cooperative must be included in the income of the patron for tax purposes when received if the amounts arise from business activity of the patron. (These provisions do not apply to REA cooperatives). Also, the bill includes a provision permitting farmers to deduct, in computing their Federal income tax, expenditures incurred by them in clearing land to make it suitable for farming, up to $5,000 or 25 percent of the taxable income from farming for the year, whichever is the lesser.

7. LANDS; MINERALS. The Commerce Committee reported with amendments S. 2138, to provide that a greater percentage of the income from lands administered by the Fish and Wildlife Service be returned to the counties in which such lands are situated (S. Rept. 1919). p. 16284

The Subcommittee on Public Lands of the Interior and Insular Affairs Committee approved for full committee consideration with amendments S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and S. 3160, to amend the act of March 8, 1922, so as to extend its provisions to the townsite laws applicable to Alaska. p. D761

8. HOLIDAYS. Passed without amendment S. J. Res. 217, to make Sept. 17 each year a legal holiday to be known as Constitution Day. p. 16292

9. DRUGS; MONOPOLIES. By a vote of 78 to 0, passed with amendments S. 1552, to amend and supplement the antitrust laws with respect to the manufacture and distribution of drugs. pp. 16302-30, 16333-60

16. WILDLIFE. The Commerce Committee voted to report (but did not actually report) with amendment H. J. Res. 489, to provide protection for the golden eagle. p. D778

17. RECLAMATION. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 575, authorizing the construction of the Baker Federal reclamation project, Ore. p. D778

18. EDUCATION. The Subcommittee on Education of the Labor and Public Welfare Committee voted to report to the full committee S. 2826, to improve the quality of elementary and secondary education, and S. 3477, providing for a Federal program to assist the States in further developing their general university extension education. p. D779

19. MINING. The Interior and Insular Affairs Committee voted to report with amendment (but did not actually report) S. 3451, providing relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. p. D778

Sen. Cooper urged inclusion in Interior's budget next year funds for research on strip-mining. pp. 16757-8

20. ELECTRIFICATION; FORESTRY. At the request of Sen. Hickey, S. 594, to authorize construction of the Crater-long Lakes division of the Snettisham project, Alaska, was referred to the Public Works Committee for consideration. pp. 16822, 16823-4

21. PERSONNEL. Sen. Cannon expressed concern over the "continuing shortage of scientists and engineers," and urged that a census be taken of persons trained in these fields. pp. 16810-3

ITEMS IN APPENDIX

22. RADIATION; MILK. Extension of remarks of Rep. Holifield discussing hearings which were held on "Radiation Standards, Including Fallout," and inserting letters on the evaluation of radiation protection guides. pp. A6431-3

23. WOOL. Extension of remarks of Rep. Martin stating that Sept. will be observed as American Wool Month and urging the administration to act promptly to control "massive imports which threaten to ruin the American wool industry." p. A6435

24. WILDERNESS AREAS. Extension of remarks of Rep. Lindsay inserting a letter to the Interior Dept. urging preservation of wilderness areas on barrier beaches. p. A6442

25. FOREIGN TRADE. Extension of remarks of Rep. Cederberg inserting three statements discussing "the detrimental effects of the Trade Expansion Act on the public revenue." pp. A6446-7, A6447-8, A6448-50

26. FARM PROGRAM. Extension of remarks of Rep. Smith, Ia., inserting an article, "Another Look at USDA," presenting a "look at some of the Department's positive accomplishments" at a time when "scandals like the Billie Sol Estes case...give the public the impression that the whole situation is just one big boondoggle." p. A6456

27. PRICES. Extension of remarks of Rep. Dingell inserting the American Bar Association's statement in opposition to the proposed quality stabilization bills. pp. A6474-6

BILLS INTRODUCED

28. RECLAMATION. H. R. 12998, by Rep. King, Utah, to amend the Small Reclamation Projects Act of 1956; to Interior and Insular Affairs Committee. Remarks of author pp. 16900-1

BILLS APPROVED BY THE PRESIDENT

29. RECLAMATION. S. 2179, to amend the Reclamation Project Act of 1939, to authorize the Secretary of the Interior to amend repayment contracts with irrigation districts to make additional provision for irrigation blocks. Approved August 28, 1962 (Public Law 87-613).

30. LIFE INSURANCE. H. R. 8564, to provide for the escheat of unclaimed payments under the Government life insurance program to the credit of the life insurance fund. Approved August 28, 1962 (Public Law 87-611).

PRINTED HEARINGS RECEIVED IN THIS OFFICE

31. CENSUS; INFORMATION. H. R. 10569 and other bills relating to confidential nature of information filed with Bureau of Census. H. Post Office and Civil Service Committee.

32. HIGHWAYS; FOREST ROADS. S. 3136 and H. R. 12315, authorizing appropriations for construction of certain Federal-Aid highways including forest roads. S. Public Works Committee.

33. FOREIGN TRADE. H. R. 11970, proposed Trade Expansion Act of 1962, parts 4 and 5 (Part 5-Index). S. Finance Committee.

34. PERSONNEL. H. R. 11677, proposed Equal Pay Act of 1962. S. Labor and Public Welfare Committee.

COMMITTEE PRINT RECEIVED IN THIS OFFICE

35. COMMON MARKET. "Agricultural Policies in the European Common Market Countries", H. Agriculture Committee.

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COMMITTEE HEARINGS AUG. 29:
Farm policy report of CED, H. Agriculture (National Grange to testify).
Estes investigation, S. Gov't Operations.
Wilderness preservation bill, H. Interior.
Free importation of baling wire, and certain wools, H. Ways and Means (Vining, FAS, to answer questions).
Increased exports to free nations bordering on Pacific Ocean, S. Commerce.

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Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For information only; should not be quoted or cited)

Issued August 31, 1962
For actions of August 30, 1962
87th-2d, No. 156

CONTENTS

HIGHLIGHTS: House appointed conferees on farm bill. House committee voted to report wilderness bill. House passed bill to provide additional research facilities for experiment stations. House committee voted to report bill to facilitate work of Forest Service. Sen. Kerr inserted Treasury report supporting foreign trade bill. Sen. Muskie urged support for his amendment to foreign trade bill re imports from low-wage countries. Sen. Pastore defended President's textile program against recent attack.

SENATE

1. TAXATION. Continued debate on H. R. 10650, the proposed Revenue Act of 1962 (pp. 17070-120, 17124-55). Agreed to the committee amendment to permit farmers to deduct, in computing their Federal income tax, expenditures incurred by them in clearing land to make it suitable for farming, up to $5,000 or 25 percent of the taxable income from farming for the year, whichever is the lesser (p. 17070

   Sens. Carlson, Proxmire, Miller, Douglas, Curtis, Javits, and Sparkman submitted amendments intended to be proposed to this bill. pp. 17058-62, 17163-4

2. FOREIGN TRADE. Sen. Kerr inserted a letter and memorandum from Treasury Secretary Dillon supporting the proposed Trade Expansion Act of 1962. pp. 17123-4

   Sen. Muskie inserted his testimony before the Senate Finance Committee in support of his proposed amendment to the foreign trade bill to give the President authority to enter into marketing agreements with foreign countries to protect domestic industry from imports from countries with sub-standard wages and working conditions. pp. 17162-3

3. TEXTILES. Sen. Pastore defended the President's textile program against recent attack that it was "to appease the strongly protectionist elements in the cotton textile industry," and inserted several tables to support his position. Sens. Muskie, Thurmond, and Hickey commended Sen. Pastore's statement. pp. 17155-9

4. MINING. The Interior and Insular Affairs Committee reported with amendments S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed (S. Rept. 1984). p. 17058

5. LAW; COURTS. The Judiciary Committee voted to report (but did not actually report) H. R. 1960, to amend title 28 of the U. S. Code relating to the jurisdiction of the U. S. district courts. p. D790-1

6. WILDLIFE. The Commerce Committee reported with amendments H. J. Res. 489, to provide for the protection of the golden eagle (S. Rept. 1986). p. 17163

7. EXPORT CONTROL. Both Houses received from Commerce a report on Export Control for the second quarter of 1962. pp. 17163, 17210

8. VIRGIN ISLANDS. Both Houses received from GAO "a report on the review of certain activities of the government of the Virgin Islands." pp. 17163, 17210

9. PERSONNEL. Sen. Proxmire expressed concern over "the serious shortage of scientific and engineering manpower" and inserted several items on the subject. pp. 17120-3

10. LEGISLATIVE PROGRAM. Agreed to a unanimous-consent agreement to begin consideration of the independent offices appropriation bill on Fri., Aug. 31. p. 17119

HOUSE

11. FARM PROGRAM. Agreed to H. Res. 772, to send to conference H. R. 12391, the proposed Food and Agriculture Act of 1962. Conferees were appointed. Senate conferees had already been appointed. pp. 17183-6

12. WILDERNESS. The Interior and Insular Affairs Committee voted to report (but did not actually report) with amendment H. R. 776, the proposed National Wilderness Preservation Act. p. D793

13. RESEARCH. Passed without amendment H. R. 12712, to assist the States to provide additional facilities for research at the State agricultural experiment stations. pp. 17186-8

14. FORESTRY. The Subcommittee on Forests of the Agriculture Committee voted to report to the full committee with amendment H. R. 12434 consisting of miscellaneous administrative provisions to facilitate the work of the Forest Service. p. D793

15. TERRITORIES. Agreed to the conference report on H. R. 10062, to extend the application of certain laws to American Samoa. This bill will now be sent to the President. p. 17173

16. PERSONNEL. Passed with amendment S. 919, to amend the Hatch Political Activities Act to eliminate the requirement that the Civil Service Commission impose no penalty less than 90 days' suspension for any violation of Sec. 9 of the Act. A similar bill, H. R. 12661, was laid on the table. pp. 17165-6

The Post Office and Civil Service Committee reported without amendment H.R. 5698, to extend the apportionment requirement in the Civil Service Act to

Calendar No. 1945

87TH CONGRESS, 2d Session | SENATE | REPORT No. 1984

PROVIDING RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS UPON WHICH VALUABLE IMPROVEMENTS HAVE BEEN PLACED, AND FOR OTHER PURPOSES

AUGUST 30, 1962.—Ordered to be printed

Mr. CHURCH, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 3451]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, 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:

Page 1, line 3 and line 8, strike out the word "any" and substitute the word "an".

Page 1, line 5, strike out the phrase "after due process,".

Page 1, line 5, after the word "invalid," insert the phrase "an interest in".

Page 2, line 5, strike out the phrase "after due process."

Page 2, line 20, strike out "seasonal or year-round" and substitute "citizen of the United States or a person who has declared his intention to become such who is a".

Page 2, line 21, strike "January 10, 1962," and insert "July 23, 1963,".

Page 2, line 21, strike the word "land" and substitute "improvements".

Page 2, line 23 after the word "placed.", add ", which constitutes for him a principal place of residence, and he and his predecessors in interest have been in possession for not less than seven years prior to July 23, 1962."

Page 3, line 6, after the word "necessary:", add ": *Provided further*, That in all appropriate cases Federal departments shall consult with county and other concerned local governmental subdivisions or

agencies to determine the effect of a proposed conveyance upon the services of government which might be then required."

Page 3, line 10, after the word "applicant", insert a comma ",".

Page 3, line 13, strike the word "will" and substitute the word "may".

Page 3, line 15 and line 21, strike the word "preference".

Page 3, line 22, strike the word "two" and insert the word "five".

Page 3, line 23, after the word "grant.", add the following:

> Where the lands have been withdrawn in aid of a function of a Federal department or agency, the head of such department or agency may permit the applicant to use and occupy the land for residential purposes under such terms and conditions as may be appropriate during the life of the applicant with provision for removal of any improvements or other property of the applicant within one year after the death of the applicant.

Page 3, line 24, through to page 4, line 11, strike all of section 5 and substitute in lieu thereof a new section 5 as follows:

> SEC. 5. The Secretary of the Interior shall set the price to be paid for conveyance upon the following criteria: (a) Whenever it shall be shown to his satisfaction that the land to be conveyed has been held in good faith by an applicant, his ancestors or grantors for more than twenty years prior to the date of this Act, the applicant shall pay such filing and processing fee as may be uniformly required, the cost of survey, if any is required for the disposition of the land involved, and the payment of not less than $5 per acre or fraction thereof nor more than the fair market value of such lands on the date of appraisal (exclusive of any improvements placed thereon by the applicant or his predecessors in interest) and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant; (b) *Provided*, That when the above conditions exist except that the land has been held for less than twenty years prior to the date of this Act, in addition to a filing fee and cost of survey, if applicable, the payment shall be the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) on the date of appraisal but in no event less than $5 per acre or fraction thereof: *Provided further*, That whenever the conveyance is a life estate or less, the applicant shall pay such filing and processing fee as may be uniformly required and an additional payment of not less than $5 per acre or fraction thereof nor more than 50 per centum of the resultant value that would be obtained from appraisal made under the terms of part (a) of this section, which amount may be made payable on an annual payment schedule.

Page 4, line 21, strike "Except where a mining claim has been or may be located at a time when the land included therein is" and substitute "With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was".

Page 4, line 23 and 24, strike "or where a mining claim was located after July 23, 1955,".

Page 5, line 1, after the word "States", add "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act,".

Page 5, line 7, after the word "States", add "which would not exist in the absence of this Act."

Page 5, line 8, through page 7, line 2, strike all of section 7 and substitute a new section 7 as follows:

> SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under the Act of July 31, 1947, as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate conveyed. The underlying oil, gas and other leasable minerals of the United States are hereby reserved, but without the right of ingress and egress for exploration and development purposes. Such minerals may, however, be leased by the Secretary under the mineral leasing laws.

Page 7, line 8, after the word "privileges", add "to qualify as an applicant".

Page 7, following line 4, insert a new section 9 as follows:

> SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

PURPOSE

The objective of S. 3451 is to give the Secretary of the Interior a full kit of legal tools and the discretion, when the public interest will not be injured, to permit persons who live on mining claims for residential purposes, who were in possession at least 7 years prior to July 23, 1962, where this is a principal home for them, and their claim has been invalidated or relinquished, to continue to reside in their home. The bill is a relief measure designed to aid those qualified people on whom a hardship would be visited were they to be required to move from their long-established homes.

NEED

In the mountain West, there is a long tradition supporting the right of a private citizen to go upon the public lands, to stake a mining claim, and thereafter to have and retain a possessory interest immune to interference from anyone. The power of the Government to challenge the validity of a mining claim has been recognized, but the Government traditionally has interfered little, and locators and their successors in interest have felt secure in their right to possession.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law, which is a muniment of his claim, is complied with. Thus, although some miners obtain patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not undertaken the expensive and protracted procedures necessary to obtain a patent.

Often in the past, the mining locator established his home upon his claim and worked his claim from his home. These homes have become, in many instances, permanent residences for the prospector's heirs. By long-established custom, mining claims embracing residential improvements have been sold for the value of the improvements, the seller giving a quitclaim deed.

Thus there can be found throughout the West, hundreds of unpatented mining claims, valuable chiefly for the fact that they have been used, sometimes for generations, as actual homesites, and as a principal place of residence, by families which have inherited them from the original locators, or paid value for the improvements, in reliance upon the customs prevailing in the area that effective title could be obtained by gift, inheritance, or quitclaim deed.

But, for one of a variety of reasons, many of the claims may not, in fact, be patentable at the present time. In some cases, the mineral veins which justified the original location have been worked out. In others, mineral deposits which would have sustained a patent application some years ago will no longer suffice, because rising costs and artificially fixed prices for the minerals have rendered actual mining operations uneconomic. In still other cases, due to the absence of surveys, or to inaccuracies in them, such claims have been located upon land which was, in fact, withdrawn from mineral entry, or has since been withdrawn, so that patent applications will not lie.

In all such cases the claims are subject to invalidation at the initiative of the Government. The situation was further clarified by the passage of Public Law 167 of the 84th Congress. This statute, enacted in 1955, prohibits all uses not reasonably incident to prospecting, mining, or processing operations on unpatented claims located after July 23, 1955. Moreover, it authorizes procedures under which prior locators, or their successors in interest, may be required to prove the validity of their claims or be subject to the same prohibitions. This law has resulted in an intensified program to eliminate uses of mining claims inconsistent with mining purposes. As to those who have purchased claims and given value in the expectation that they would be allowed to live on the claims, the results, in many cases, will produce real hardship.

Although the residential uses present an anomaly to the law, it is clear that there are, in many cases, substantial equities based on custom, need, and value given, in favor of many of these people. It is to the problem of resolving the anomaly, while recognizing the equities, that this legislation is directed.

It is not the way of a just Government to disturb arrangements, sanctioned by time and custom, which can be regularized without injury to the public interest. This the bill seeks to do.

SECTION-BY-SECTION ANALYSIS

Section 1 gives to the Secretary of the Interior discretionary authority to convey to an occupant of an unpatented mining claim not more than either 5 acres of land or the acreage actually occupied, whichever is less. The section further limits conveyances to those occupants whose mining claims are determined by the Secretary to be invalid or where the occupant himself, after notice that the claim is believed to be invalid, relinquishes to the United States all right to the claim. In order to avoid hardship and discrimination, the section extends the same privilege to occupants whose unpatented mining claims were invalidated or relinquished within 2 years prior to the effective date of the act.

The term "may convey" is fully intended to establish the discretionary nature of the authority conveyed to the Secretary. He will be expected to promulgate rules and standards as to the normal situation where the act will be applicable and for the handling of special or complex cases.

Where land is now needed or known to be needed for public uses or purposes he is under no directive to grant the use of land. In addition, he will be expected to exercise sound discretion in setting standards as to the circumstances under which a fee simple patent, life estate, lease, or term permit would be appropriate to the facts and consistent with the public interest.

In order to assure that the workload of the agencies will not be unduly increased, and to allow applicants a full opportunity to file, a period of 5 years from the effective date of the act is provided for making a filing.

The Secretary of the Interior may also delegate his authority under this act to the agencies managing public domain land, either in his Department or other departments. It is expected he will cooperate with the other departments in the promulgation of rules, regulations, and procedures, so that they will be properly consistent for all agencies, yet responsive to the needs which may be manifest for the various agencies.

The term "(a) 5 acres or (b) the acreage actually occupied by him, whichever is less" is intended to be a limitation to be judiciously applied, especially when a patent is to be issued. It is not the intent of this act to grant an acreage which may then be readily subdivided and sold but rather to grant only the acreage which the Secretary determines is needed for the applicant to use as his residence.

Section 2 defines a qualified applicant. He must be a citizen or a person who has declared his intention of becoming a citizen. He must be a residential occupant-owner as of July 23, 1962. This does not mean in actual physical residence on that date but rather that the residence must have been habitable and, as is explained below, used during the preceding 7 years in a manner consistent with the purposes intended to be covered by the act.

The committee substituted the term "and which constitutes for him a principal place of residence" for the term "seasonal or year-round" for the purpose of more clearly setting forth what is required to become a qualified applicant. In some circumstances climatic conditions make year-round residence impracticable. The language used intends to specify that the applicant must be one who uses his claim as one of his principal places of residence. Casual or intermittent

use, such as for a hunting cabin or for weekend occupancy, are not intended to be covered and the Secretary shall require applicants to submit proof of residence as a part of determining whether the applicant is qualified.

The use of the property for commercial purposes not connected with previous efforts to extract minerals, in addition to residence, would not be covered by this act, but a record of use for garden-type agricultural purposes would be if incidental to regular residential occupancy. The establishment of taverns, restaurants, stores, and offices, for example, is not intended to be regularized by this legislation. Where it is appropriate that such use be continued upon invalid mining claims, the departments may use other authority available to them. Should experience indicate that there are commercial uses not relating to mining disclosed by the operation of this act and actions taken under the mining law, which cannot be adequately handled by existing law, the department may wish to analyze its findings and experience and report its recommendations to the Congress.

The applicant's use must be not only residential but also he must be the occupant-owner of improvements. The purposes of this act do not extend to renters or to squatters. In some cases there will be persons who located mining claims and constructed the residence thereunder. In other cases, the person will have purchased or inherited the claim and improvements. In a few cases there may be other residents on a claim who can produce evidence that they purchased either the improvements or the privilege of constructing improvements. It is intended to cover this type of situation if the other conditions surrounding the claim also are appropriate for relief.

The applicant must be one whose residence stems from a lawfully filed and occupied mining claim or one whose occupancy has the color of law due to a claim of title. On-the-ground evidence or other proof should disclose that at some time in the past a bona fide effort was made by the applicant or his predecessor in interest to actually conduct the type of mining enterprises intended by the mining law of 1872.

The applicant and his predecessors in interest must have been in possession of the claim for not less than 7 years prior to July 23, 1962—that is, since July 23, 1955.

It was in 1955, that, at the request of this committee, the Congress enacted legislation which clearly reiterated that the 1872 mining law was to be used for those who sought to explore, prospect for, develop, and mine locatable minerals. Since that time, it has been quite clear that the mining law was neither intended to be, nor was to be, used as a device to obtain a homestead or other residence on public land. This 7-year proviso, taken together with the requirement of an applicant being a residential occupant-owner as of July 23, 1962, clearly controls not only who may be a qualified applicant but also constitutes a clear intent that on claims filed since July 23, 1955, residence will not ripen into an application. Those who have filed mining claims since July 23, 1955, as well as those who may have filed them since July 23, 1962, should be aware that there is no basis for the subsequent granting of residential occupancy under this act because their mining claim is found invalid.

It is the committee's intention that where husband and wife are occupying an unpatented mining claim for residential purposes, and an application is made under the act, the applicant would be deemed

to be the husband and wife. Thus, for example, where a conveyance of a life estate is made under the act or a permit is issued for the use and occupancy of the land during the life of the applicant, the surviving spouse would have the right or permission to remain on the land during the remainder of his lifetime after the death of the other.

The term "valuable improvements" is intended to include a presently habitable residence which has been used for this purpose, plus other accessory buildings incidental to residence, such as a tool shed, garage, barn, or chickenhouse presently fit for use.

Section 3 protects the interest of the Government by prohibiting conveyances of any land withdrawn in aid of another department or agency unless the consent is first obtained from the head of the governmental unit involved. Authorized conveyances could be made only under terms and conditions deemed necessary by the agency having jurisdiction over the land.

Our lands which have been withdrawn, such as national forest or parks, the broad public purposes of these withdrawals has been already established by the Congress, including adequate provision for occupancy or where appropriate for the alienation of Federal title. It is, therefore, appropriate that in these cases, or where State, county, municipality, water districts, have had land withdrawn in aid of one of their programs, their consent be obtained as to both the terms and conditions of the action taken upon an application for relief. The legislation does not intend that applicants shall displace public use of public land, or that land should be patented in fee in areas where such action would produce results at odds with public land programs. For these situations, where equities exist or hardship would result, the qualified applicants can generally be granted life estates for the remainder of their lives or permission to occupy the land for appropriate periods.

In addition, the type of grant to be made in any circumstance may affect the services which local government may have to provide, such as road maintenance, snow plowing, schoolbus, or power services. The section requires consultation with concerned local governments so that the action taken to regularize a residence will be decided with their views in mind.

Under section 4 the Secretary of the Interior, in those instances where the specific land occupied under the mining claim cannot be made available, may grant a right to the occupant for the purchase of another tract of public land. A sale of a substitute tract could only be made after an agreed termination of the occupancy of the unpatented mining claim and settlement of any liability for unauthorized use. The right would have to be exercised within 5 years.

There may be cases where this action would be in the public interest. The land to be made available would first have to be selected, designated, and classified for residential use by the Secretary of the Interior, not the applicant. The applicant may not displace an applicant under the Small Tract Act, for example. The land to be designated must be unappropriated and unreserved public domain lands and lands subject to classification of section 7 of the Taylor Grazing Act.

For example, a qualified applicant may desire a patent on the land he now occupies but the Secretary may conclude that neither a patent or a life estate or less would be consistent with the intent of the act. This might occur when the applicant has a residence which he values and seeks to perpetuate beyond the period feasible under a life estate.

The Secretary may, under this section, offer the applicant the opportunity to a patent to other land in the category described above. It may be expected, where the applicant may be offered a life estate or less, he would perhaps desire the possible opportunity provided by section 4. The possible unsuitability of the offered land to the applicant will not diminish his opportunity to settle on the original offer of the life estate or lesser on the area now occupied, provided he makes a final choice within 5 years from the date of this act.

However, where the applicant seeks a patent to the land he now occupies, but the Secretary in his discretion finds this is not in the public interest, the applicant may be offered a patent to other land as provided by section 4. He will be expected, in this case, to make his selection from the offered land.

In selecting areas to meet the intent of section 4, the Secretary will be expected to choose lands as close to the land of the applicant as possible which fall within the category defined by this section.

The last sentence of section 4 is intended to clearly enunciate the policy of Congress that where Federal land has been withdrawn, emphasis will be given to the granting of a life estate or less. This does not exclude the use of life estates or less on other lands when the public interest so indicates.

The authority granted by this sentence is not intended to exclude the use of a patent in appropriate cases on lands withdrawn for national forests, parks, and other Federal purposes. In some cases, communities or settlements exist where the grant of a patent in fee will be clearly in the public interest. In other cases there will be a long history of constant use for all or most of each year where the grant of a patent is entirely consistent with sound land use and the extinguishment of the residence on the death of the owner would destroy a valuable investment.

For most cases, however, the withdrawal of the land has been for the purpose of promoting its use by the public. Mining is a legitimate use but either permanent or indeterminate use as a residence not related to mining is not in the public interest. It is for this reason that the committee wished to clarify that a life estate or less was to be offered.

Therefore, on withdrawn public land, such as a national park or a national forest, the general rule will be that the applicant may be given a life estate or less. Where the history of occupancy is well established and its continuation does not interfere with an existing program in the immediate area or one presently known, it is anticipated that arrangements will be made to permit the applicant to continue in residence for a period not to exceed his lifetime. The committee expects that this will be done and that compassion and liberality will be judiciously applied.

An applicant will be considered to be a husband and wife, at the time of application, and the estate will run through the lifetime of each of these two persons. The provision for removal of the improvements 1 year after the death of the last survivor or termination of the estate shall include the right of the applicant or heirs to remove the property or improvements themselves during this period and the prompt elimination of the improvements remaining thereafter by the agency administering the land.

Should the property be voluntarily and permanently vacated by the applicant before the life estate or less expires, and this is clearly estab-

lished, there should be regulatory provisions for extinguishment of the grant so that the improvements will not be occupied by unauthorized users.

Section 5. The fact that the use of mining claims for other than mining purposes is improper, when not incidental to a mining operation, has received a great deal of public attention over the last 25 years. The Congress has had this matter called to its attention on several occasions by groups who recognize the effect improper use of mining claims has upon those who seek to use them solely for the purposes intended by law.

For example, in 1952 an extensive report, "The Problem of Mining Claims on the National Forests," was made to the Secretary of Agriculture by the National Forest Advisory Council. Its members, under the Secretary's direction, visited 50 national forests in the West and documented their report with 126 examples of loss of mining claims inconsistent with the mining law.

In 1955 the Congress amended the mining law in an effort to eliminate its abuse. This legislation has been helpful. The Comptroller General has just this year reported to the Congress on uses being made on mining claims.

In considering the purpose of this legislation, the committee also was faced with the problem of establishing an equitable solution to the financial aspects of the issue before it.

Notwithstanding the public attention the issue of improper use of mining claims has received, the committee was aware that long-standing custom was involved and that, in some instances, persons relying on this custom, or in ignorance, have purchased improvements on old mining claims with the intention that the use would be mainly residential with only minor efforts to develop and extract minerals.

Therefore, the committee concluded that the responsible and compassionate financial course would be to treat the claimants eligible for patents as falling in two broad groups: those whose location and use of the claim, including that of their ancestors or grantors, covered a period longer than 20 years before the date of this act and those whose mining claim covered a lesser period.

Both groups would be expected to pay such filing and processing fee as may be required and to pay the cost of necessary surveys of the land to be patented. In this connection, note is made of the fact that the cost of a survey is one also borne by an applicant for a mining patent applicant.

Both groups are entitled to have the value of the land determined exclusive of improvements by the applicant or his predecessors in interest.

A minimum charge of $5 per acre or fraction thereof was placed in the act, which is consistent with the mining law. This is intended to be an expression, for those persons receiving a patent under subsection (a) of a possible lower level for charges that might be made, especially since in their case the Secretary shall consider and give full effect to the applicant's equities.

It is intended that there be included in the consideration of equities the pecuniary situation of the applicant, ability to pay, whether he previously paid market value for the property, the original date when the mining claim was first staked, whether there are substantial reasons to believe that a concerted effort was made to develop and extract

the minerals sought as compared to a casual attempt, and whether the present occupant was relying on custom in his occupancy.

Those in the category under subsection (b) will be expected to pay fair market value for the land for these will be those claims filed within the last 20 years, the period during which there has been greater public notice that use of a mining claim for other than mining purposes is inconsistent with the mining law. However, since the purpose of the legislation is to afford relief through permitting continued occupancy in qualified cases and appropriate circumstances, the bill does permit the Secretary to make conveyances on the terms specified.

Where the conveyance is for a life estate or less, the appraisal criteria of subsection (a) prevail, except the cost of a survey, since it will not be needed, is omitted, and the equities may be considered.

In applying the rule of equity here, in addition to the equity factors above, the term of the estate, its probable or known length, and the age of the applicant may be considered.

The last clause of the section provides that the payment shall be computed at not more than 50 percent of the value determined under (a) in this section. The intent is that full recognition will be given here to the final elimination of the occupancy of the public land involved and the grant to the applicant. Where a patent in fee is granted under either (a) or (b) the occupant-owner will have perpetual title and be free to sell or otherwise dispose of the real property and improvements. A life estate or less conveys a greatly circumscribed privilege. It cannot be sold, assigned, or pass by devise or descent. It is merely the privilege to occupy for life or a stated number of years. In some cases this will result in total loss of the investment in the homesite due to its immobility. In many cases, however, the holder will have to keep the residence up or meet certain requirements of the type imposed by local government relative to sanitation right up to the end of use. The committee, therefore, placed an upper limit on the charge that could be made of not to exceed 50 percent of the resultant value obtained from an appraisal made under (a) above. The final phrase makes clear that it is not intended that there be an annual rental but rather a single charge for use, which the applicant may pay over a period of years when the Secretary finds that a hardship would be created by making the payment in a lump sum.

The Secretary will be expected to make a schedule of payments. The estate conveyed shall contain terms which provide for the extinguishment of any balance of payments due but not paid upon the death of the final holder of the estate.

Section 6 protects the interest of the United States in the following respects:

(1) An occupant would not be relieved from liability for unauthorized use even if a conveyance of land is made under the act, except to the extent the Secretary of the Interior deems equitable.

(2) If an unpatented claim was located on land withdrawn from entry, the United States would specifically be authorized to impose trespass charges. However, in other instances, occupancy trespass charges, as distinct from the unauthorized removal of timber or Federal property destruction, could not be imposed for any period prior to either the final determination of the invalidity of the mining claim of its voluntary relinquishment, whichever occurs first. This latter relief would only be available to those who are eligible for relief

under the act, receive a conveyance, and apply for a conveyance within 5 years from the date of enactment. This date coincides with the provisions under section 1 for the filing of applications. Where lands are withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, and where such department or agency would normally collect trespass damages, the arrangements for the settlement of any liability for unauthorized use contemplated by this section would be those which are satisfactory to the department or agency responsible for the administration of the land.

In view of the fact that the committee amended section 2 so that only those claims filed prior to July 23, 1955, are eligible for consideration, an amendment was made to eliminate language in the third sentence of the section as to claims filed after July 23, 1955, which would be inoperative due to the qualification requirements in section 2.

Section 7 treats the reservation of the mineral interests of the United States. Since the purpose of the legislation is to provide for residences on very small units of land, it is desirable that these people be granted a quiet occupancy.

The language recommended by the committee is designed to protect the occupancy of the area by the grantee during the period of his occupancy, as well as the Government. Thus, an occupant to whom an estate in the land is granted for residential purposes, would be fully protected against someone else going on the area to do prospecting work which could seriously annoy the applicant.

To protect the interests of the United States, all minerals are reserved for the term of the estate conveyed.

Minerals locatable under the mining laws or disposable under the act of July 31, 1947, are withdrawn for the term of the estate conveyed.

Leasable minerals may be leased by the Secretary, including all necessary protections for the occupant and the use of directional drilling to protect the Government's interests.

Section 8 provides that rights and privileges to qualify as an applicant under this act may pass only through devise or descent.

Section 9. The bill made no provision for the disposition of fees, survey costs or the payment of the purchase price for a patent or a life estate or less. This section provides for the application of existing law and thus the ultimate application of receipts to the proper accounts, including the operation of the laws relating to payments in lieu of taxes.

AMENDMENTS EXPLAINED

Page 1, lines 3 and 8, change the word "any" to "an". Technical amendments to relate the term to the qualifications required for consideration of the type of occupant eligible under this act.

Page 1, line 5, and page 2, line 6, strike "after due process". Unnecessary language since present law provides for the use of due process in invalidating a mining claim.

Page 2, line 20, strike "seasonal or year-round" and add at the end of line 23 "which constitutes for him a principal place of residence and he and his predecessors in interest have been in possession for not less than 7 years prior to July 23, 1962." The effect of this change has been described in the section-by-section analysis.

Page 2, line 21, change the date "January 10, 1962," to July 23, 1962." The purpose of this change is to harmonize this bill with the 1955-evision of the mining law.

Page 2, line 20, before the word "residential", insert "citizen of the United States or a person who has declared his intention to become such who". It is intended that the benefits of this act apply only to those who could have qualified as mining claim patentees on this basis. This is a requirement for a mining patent.

Page 2, line 21, strike the word "land" and insert in lieu thereof "improvements". A technical change since the "residential occupant-owner" owns only improvements not land.

Page 3, line 6, after the word "necessary", a clause relating to consultation with local governments has been added. Its purpose is described in the section-by-section analysis.

Page 3, line 10, after the word "applicant", insert a comma. A technical change for grammatical reasons.

Page 3, line 13, strike the word "will" and insert in lieu the word "may". This is described in the section-by-section analysis.

Page 3, lines 15 and 21, strike the word "preference". This is described in the section-by-section analysis.

Page 3, line 22, change "two" to "five". A technical change designed to make this section consistent with section 1.

Page 3, line 23, add a sentence on the use of life estates. This is described in the section-by-section analysis.

Page 3, line 24, strike all of section 5 and substitute a new section 5. This is described fully in the section-by-section analysis.

Page 4, line 21, strike "Except where a mining claim has been or may be located at a time when the land included therein is" and substitute "With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except when such claim was located at a time when the land included therein was". This is a technical amendment.

Page 4, lines 23 and 24, strike "or where a mining claim was located after July 23, 1955," the amendment to section 2 requiring 7 years' residence eliminates the need for this language.

Page 5, line 1, after the word "States", insert "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act,". This is a technical amendment.

Page 5, line 7, after the word "States.", insert "which would not exist in the absence of this Act". This is a technical amendment.

Page 5, line 8, strike all after section 7 and insert a new section. This is fully described in the section-by-section analysis.

Page 7, line 8, after the word "privileges", insert "to qualify as an applicant." This is to clarify that the rights and privileges under this act which may pass by devise and descent are only those which would qualify a person as an applicant.

Page 8, line 4, after section 8, add a new section 9. This is described fully in the section-by-section analysis.

REPORTS

It is the desire of the committee that the annual reports of the Department of the Interior shall contain adequate information describing the operation of this act. In addition, other departments, such as Agriculture, may wish to have their agencies make specific

reference to special aspects affecting lands withdrawn for their administration.

In addition, there should be included informative tables setting forth applications made, the type of case handled, and their disposition, acreages involved, revenues received and other pertinent data.

In view of the intent of this legislation, the agencies administering public lands should assist those who from here on may be undertaking to develop mining claims to have information that the purpose and intent of the mining law is to promote mining and it has no other purpose.

COSTS

This legislation provides that the Government will receive income for processing applications, where a patent is issued payment will be made for surveys, and in some cases collections for trespass will be made, and there will be income from the grant of patents, life estates, or less. The exact income cannot be estimated.

DEPARTMENTAL REPORTS

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 15, 1962.

DEAR SENATOR ANDERSON: This responds to your committee's request for reports on S. 3451, S. 3458, and S. 3564, the latter two of which are identical to each other, bills to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We recommend that S. 3451 be enacted, subject to consideration of our suggestions and comments below.

S. 3451 would authorize the Secretary of the Interior to convey to any occupant of an unpatented mining claim which is determined by the Secretary after due process to be invalid an area within the claim of not more than (1) 5 acres or (2) the acreage actually occupied by him, whichever is less. The Secretary may make a similar conveyance to any occupant of an unpatented mining claim who, after notice from an appropriate officer of the United States that the claim is believed to be invalid, relinquishes to the United States all rights he may have under the mining laws to such claim or who within 2 years prior to the enactment of the bill relinquished such rights to the United States or had his unpatented mining claim invalidated after due process. Any conveyance could only be made to a seasonal or year-round residential occupant owner as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed. The application for conveyance would be required to be filed within 5 years from the date of enactment of the bill. The term "qualified officer of the United States" means the Secretary or an employee of the Department of the Interior designated by him. However, the Secretary of the Interior could delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

Lands withdrawn for Federal, State, or local governmental units will be disposed of only with the consent of the head thereof and

subject to such terms or conditions as that unit deems necessary. If the land embraced in the mining claim is not available for disposition, the Secretary of the Interior, after concluding a satisfactory arrangement for termination of occupancy and settlement of any liabilities for unauthorized use, would grant an applicant a preference right to purchase some other tract of land 5 acres or less in area from those tracts made available for sale under this act by the Secretary of the Interior from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, as amended, 43 U.S.C. 315f. The right to purchase such lands would have to be exercised within 2 years from the date of the grant of the preference right.

Any conveyance under the bill would be made at no less than 50 percent of the fair market value (exclusive of any improvements placed on the land by the applicant or his predecessors in interest) as of the date of enactment of the bill less any equities possessed by the claimant and his predecessors in interest.

The execution of the conveyance of land occupied as a residential site within a mining claim would not relieve any occupant of the land conveyed of any liability, existing on the date of the conveyance, to the United States for unauthorized use of the conveyed land or interest in the land except to the extent the Secretary of the Interior deems equitable in the circumstances. Relief would be limited to those persons who have filed applications for conveyances under the bill within 5 years from its effective date. Except where a mining claim has been or may be located at a time when the land is withdrawn or otherwise not subject to mining location or where a mining claim was located after July 23, 1955, no trespass charges could be sought or collected by the United States based upon occupancy of the mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. This provision, we construe, to be applicable only to those situations where the persons involved are qualified applicants under the bill—it is not intended as a general remission of the right of the United States to collect for unauthorized use on mining claims wherever it has occurred. An appropriate amendment to clarify this matter is set forth below.

Section 7 of S. 3451 provides that any conveyance under the bill shall reserve to the United States all minerals and the right of the United States, its lessees, permittees, and licensees to enter upon the land and prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other land. The leasable materials and mineral materials so reserved would be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal. Subject to valid existing rights, upon issuance of a patent or instruments of conveyance under the act, the locatable minerals reserved to the United States would be withdrawn from all forms of appropriation under the mining laws. This section specifically provides that nothing in it is to be construed to pre-

clude a grantee holding any land conveyed under the act from granting to any person or group the right to prospect for or explore for any class of minerals for which mining location may be made under the U.S. mining laws on mutually agreeable terms, but no mining location can be made on the land as long as the withdrawal directed by the bill remains in effect.

A fee owner of the surface of any land conveyed under the act may at any time make application to purchase and the Secretary of the Interior shall sell to such owner the locatable mineral estate within the boundaries of the land. Before such sale is consummated, the surface owner would be required to pay to the Secretary of the Interior the sum of the fair market value of the interest sold and the cost of appraisal, but in no event less than the sum of $50 per sale and cost of appraisal of the locatable mineral interest. The Secretary would then be authorized to issue such instruments of conveyance as he deems appropriate.

Section 8 of S. 3451 provides that rights and privileges under the act shall not be assignable, but may pass through devise or descent.

S. 3458 and S. 3564 differ from S. 3451 in that the former make no provision for reservation of any mineral estate to the United States and in dealing with the "alternative tracts" provides that the land selected must be situated within an area within a radius of 50 miles from the land on which the mining claim is situated. S. 3458 and S. 3564 also contemplate that the preference right to obtain an alternative tract will be governed by the rule that priority in selection of the tracts by those eligible would be determined by the priority in filing applications therefor. We believe that any legislation on this subject should provide minimally for a reservation of those leasable minerals for which the lands are deemed valuable or prospectively valuable.

The 50-mile limitation would preclude broad exercise of "alternative tract" selections and would serve no public interest factor. In many situations there might not be any public lands within that radius suitable for designation as alternative sites by the Secretary of the Interior. For these reasons, we prefer the enactment of S. 3451.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law which is a muniment of his title is complied with. Thus, although many miners obtained patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not prosecuted their claims to patent. In some cases, claims did not contain quite enough valuable mineral to constitute a discovery within the purview of the mining laws and justify proceeding to patent.

There is, however, no requirement in law that a mining locator proceed to patent. In *Wilbur* v. *U.S. ex rel. Krushnic*, 280 U.S. 306 (1930) the Supreme Court of the United States stated as follows:

"When the location of a mining claim is perfected under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. The claim is property in the fullest sense of that term; and may be sold, transferred, mortgaged, and inherited without infringing any right or title of the United States. The right of the owner is taxable by the State, and is 'real property,' subject to the lien of a judgment recovered against the owner in a State or territorial court. The owner is not required to purchase the claim

or secure patent from the United States; but so long as he complies with the provisions of the mining laws, his possessory right, for all practical purposes of ownership, is as good as though secured by patent." Cf. the act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601, et seq.).

However, even though a mining locator may have made a discovery of a valuable mineral on his mining claim, after the land is mined out, his claim is subject to invalidation. In *United States* v. *Alonzo A. Adams, et al.*, A–27364 (July 1, 1957) the Department held that an application for a mineral patent will be rejected and the mining claim declared null and void where, although the claim may formerly have been valuable for minerals, it is not shown as a present fact that the claim is valuable for minerals. Thus some mining claims which were valid in their inception may no longer be valid because of the virtually complete mining out the valuable ore.

Often, the mining locator established his home upon his claim, and worked his claim from his home. These homes have become, in many instances, permanent residences for the prospector's heirs. Frequently, mining claims embracing residential improvements were conveyed as any other real estate might be conveyed.

Over the years, many claims, once valuable for their mineral content, have been mined out. Other claims, because of the present high cost of operations and the low values, are not presently susceptible to immediate mining and may not now be valuable for their mineral deposits. Yet many of the families of the original locators maintain homes within the limits of the mining claims, while others have sold for value the homes established by their forebears.

A present mineral examination might fail to disclose on many of these claims a valid discovery of a valuable mineral deposit, and thus subject the mining claim to cancellation by a determination of invalidity. Upon such a determination of invalidity, the holders of improvements on the claims would face great hardships in the loss, not only of the monetary value of the improvement, but also of their homes. Some of the families have lived on the mining claims for many years, and have paid taxes for the improvements on the lands. Because of the widespread use of mining claims for homesites and the general practice of transferring them by quitclaim deeds, many people honestly, although mistakenly, have assumed that the mining laws were and are an appropriate means of acquiring possession and ownership of mining claims for general residential purposes unrelated to mining. Hence numerous transactions of this nature have occurred in various portions of the public domain and mining claim occupancy problems have been multiplying for many years. This Department for several years has endeavored to alleviate the situation within the framework of existing law. The program for adjusting occupancy rights under existing law, we now recognize, has not proved to be entirely adequate. Many persons occupying lands in established residential communities have been unable to obtain the needed relief.

The Department cannot properly permit unauthorized use of Federal property. Although our Bureau of Land Management has endeavored to resolve the mining claim residence problem, through the Small Tract Act, as amended, 43 U.S.C. 682a, et seq., and other laws, we have not been successful in attaining a total resolution of the problem. Many of the present situations involve year-round

occupancy by "senior citizens" and others of limited means. Some of these individuals have purchased from other private parties what they believed to be fee title paying sums on the order of the then fair market value. Many of these individuals do not have the financial resources to pay the full measure of unauthorized use charges and again the full fair market value of the land they occupy. Avoidance of unnecessarily harsh treatment makes desirable additional legislation.

Your committee in Senate Report 1223, 86th Congress, 2d session, pertaining to H.R. 3676, culminating in the act of April 22, 1960 (74 Stat. 80), stated that unauthorized use of public lands interferes with orderly management or disposition and must be promptly and vigorously controlled. Your committee further stated that failure to eliminate unauthorized uses or to transform them into an authorized status leads to the spread of unauthorized use, deprives the Treasury of current revenues, and breeds disrespect for the property rights of the Government. We believe that enactment of S. 3451, as proposed to be amended by this report, would greatly facilitate the termination of unauthorized use.

It is our intention to retain in public ownership those lands needed for public or recreational values. Nor do we intend that the bill should lend itself to disposition of land valuable for minerals locatable under the U.S. mining laws. A proposed amendment below crystallizes this concept.

Our National Park Service endeavors to acquire privately owned lands within national parks. It is not our intent, therefore, to grant under the bill fee simple estates to lands within such parks. However, in order to resolve the mining claim residence problem in national parks, we would in appropriate instances grant life or lesser interests in the occupied lands if authority therefor is granted. The final result would be to remove from national park holdings any residence on mining claims which are invalidated or relinquished. A proposed amendment to effectuate this concept is set forth below.

Certain time limitations contained in the bill seriously impair its effectiveness to remedy the unauthorized occupancy situation. To limit the applicability of the bill to persons who will in the future, or have within the past 2 years from the date of the enactment of the bill, relinquished or had invalidated their unpatented mining claims, deprives the advantages of the bill to persons who through no fault of their own relinquished their claims or had them invalidated at an earlier date. We understand that there are situations where persons have remained on claims, after their relinquishment or invalidation, for many years. The bill should take these situations into consideration, otherwise its utility as remedial legislation would be diminished. Similarly, we believe that the right to select an alternative tract should exist for a period of 5 years from its grant. We are suggesting appropriate amendments below.

Section 7 of S. 3451, setting forth the provisions relating to mineral reservations appears to be similar to H.R. 10566 an act to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz. H.R. 10566 is directed to a situation where the Federal Government has disposed of the surface but has retained certain mineral interests. The situation involved in S. 3451 and related bills is substantially different in that

these bills relate to lands where the United States now owns the surface and subsurface estate in toto.

Section 7 of S. 3451 provides for reservation to the United States of (1) the locatable minerals, (2) leasable minerals, and (3) mineral materials. We believe that the locatable mineral estate should not be reserved to the United States but rather should be conveyed under the bill. If, in fact, the land is valuable for locatable minerals then the mineral locator presumably has a valuable mining claim and relief under the bill would be unnecessary. If, on the other hand, the lands do not contain significant values of locatable minerals then the bill may be applicable and no useful purpose would appear to be served by retention of the locatable mineral estate.

The procedure set forth in section 7 of S. 3451 envisages the issuance of two instruments of conveyance for one piece of land, one for the surface and the other for the locatable mineral estate. This, we believe , unnecessarily would add to the cost of administering the bill. We are unaware of any cogent considerations which would require this procedure.

We believe that it would be appropriate to reserve to the United States in all conveyances the oil and gas and those leasable minerals for which the land is deemed to be valuable or prospectively valuable. Oil and gas have been described as "fugitive" minerals, the occurrence of which is not always readily ascertainable. Moreover, oil and gas have constituted the source of some 95 per centum of all income derived from operations under the Mineral Leasing Act, as amended, 30 U.S.C. 181, et seq. We, therefore, believe that the automatic reservation of oil and gas to the United States is warranted by considerations of public interest. Appropriate language to carry out this concept is set forth below.

To effectuate our recommendations and to make certain technical changes we suggest that the bill be amended as set forth below:

(1) Amend line 5, page 1 to read as follows: "the Secretary, after due process, to be invalid, any interest in an area, not known to be valuable for minerals locatable under the United States mining laws,".

(2) On line 3, page 2 delete the words "within two years".

(3) On lines 15 and 21, page 3 delete the word "preference".

(4) On line 22, page 3 substitute "five" for "two".

(5) Amend lines 21 and 22, page 4 to read as follows: "this Act. With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was with-".

(6) Insert on line 25, page 4 after the word "collected" the following: "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act".

(7) Substitute for section 7 (line 8, page 5 to and including line 2, page 7) the following:

"SEC. 7. There shall be reserved to the United States, in any conveyance under this Act (1) oil and gas, (2) such other minerals for which the land is deemed valuable or prospectivley valuable by the Secretary of the Interior and which as of the time of issuance of patent are subject to disposition under the Mineral Leasing Act, 30 U.S.C. 181 et seq., as amended and supplemented, and (3) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove such minerals and to use so much of the surface and subsur-

face of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands. The deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal."

We believe that enactment of S. 3451, if amended as suggested in this report, would enable us to resolve substantially the long-standing problem of residency on mining claims which do not meet the requirement of law. Concededly the bill will not always offer a solution entirely satisfactory to the persons affected, but it will afford us a measure of flexibility to enable us to grant substantial relief.

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.,
Assistant Secretary of the Interior.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 15, 1962.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of July 12, 1962, for a report on S. 3451, a bill to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

We have no objection to the enactment of the bill if it is amended as hereinafter recommended.

S. 3451 relates to unpatented mining claims upon which valuable improvements have been placed and which under certain conditions have been or may be relinquished or which within 2 years prior to the act have been or may hereafter be determined to be invalid. The bill would authorize the Secretary of the Interior to convey to the seasonal or year-round residential occupant-owner of such a claim all or any part thereof up to 5 acres upon payment to the Government of a price to be fixed by the Secretary of the Interior which shall be not more than the fair market value (exclusive of improvements) but not less than 50 percent thereof.

The bill would provide that where the lands involved have been withdrawn in aid of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary could make such conveyance only with the consent of the head of that governmental unit and subject to that unit's specified terms and conditions.

S. 3451 would provide that where the Secretary of the Interior determines that the conveyance of such an unpatented mining claim to an occupant-owner is not in the public interest or where the agency

having jurisdiction over the lands does not consent to such conveyance, the claimant would be granted a preference right to purchase another tract of 5 acres or less of land made available for sale under this act by the Secretary of the Interior from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act.

The bill would further provide that the execution of a conveyance would not relieve the occupant of the land conveyed of any liability to the United States existing at the time of conveyance for unauthorized use of the conveyed lands except to the extent the Secretary of the Interior deems equitable. Relief under this section would be limited to cases where applications for conveyances were made within 5 years of the bill's enactment. No trespass charges would be sought or collected by the United States based upon occupancy of a claim for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim except under certain conditions.

S. 3451 would require that there be reserved to the United States all minerals with rights for prospecting, development, storage, transportation, and disposal. Leasable minerals could be leased by the United States but locatable minerals would be withdrawn from disposition. The surface owner would be permitted to purchase the locatable mineral interest.

Rights and privileges under the bill would not be assignable, but could pass through devise or descent.

This Department is in agreement with the general intent of the bill—to provide relief for persons who have occupied and have placed valuable improvements on unpatented mining claims which are subsequently determined to be invalid. The use and occupancy of unpatented mining claims in the national forests and elsewhere is a problem of which we are very much aware. Such use and occupancy often has an adverse effect on the administration of the national forests by this Department. We have been working toward a solution to these cases of unauthorized occupancy on the national forests for some time. Progress has been made in resolving these issues without reliance on harsh decisions.

Legislation to assist in solving this problem needs to fill two principal objectives: (1) settle problems of administration of these lands to insure that the lands will serve in the highest public interest, and (2) provide equitable relief to the occupant-owners of invalid mining claims.

Conveyance of land to a claimant must be consistent with the general land management policies and purposes of the Federal Government. Recognition needs to be given to the general undesirability of conveying areas that have been withdrawn for particular purposes or have been withdrawn in aid of a function of a Federal Department or agency, State or local governmental unit.

An example of such withdrawn areas are the national forests which were set apart from the public domain. These lands are reserved from appropriation and entry, except under the mining laws. Determination has already been made that these lands generally best serve the public interest as presently classified and managed under principles of multiple use to produce a sustained yield of services and products. It would be inconsistent with these established principles and pur-

poses to provide for general conveyance of all or parts of invalid mining claims within these lands to the occupants of such claims for their personal use.

Conveyance of lands withdrawn for specific purposes, such as the national forests, could best be done on the basis of land use policy, rather than on an individual case basis. Designation by the head of the Federal agency of areas where conveyance would not be detrimental to the purpose of the withdrawal would provide a much more consistent means of handling conveyance applications.

Typical situations within the national forests which would probably call for such designations might include areas where concentrations of mining claim occupants constitute community centers; areas which historically had been important in mining activity, where it was reasonable at the time of location for a claimant to expect a fair economic return from his mining operations and consequently it was reasonable for him to build a permanent home; areas where a significant number of claims in a relatively small gross area predate the establishment of the national forests. Designations would not be made in locations where holdings occur in a scattered pattern or in isolated situations.

We recognize, however, that there might still exist isolated instances where authorized action under the bill would not provide equity to persons who without full knowledge of the invalidity of a claim and in good faith, without any intent or design to violate the mining laws, have invested considerable amounts in improvements. Under existing regulations for the management and administration of the national forests, it is possible to validate such occupancy for a reasonable period of time.

For the foregoing reasons we recommend that section 3 be amended to read as follows:

"Section 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, the Secretary of the Interior may make conveyances under section 1 of this Act only in those portions of the withdrawn unit which the head of the Federal agency concerned has designated as an area where dispositions under this Act will not be detrimental to the purpose for which the withdrawal was made, and under such terms and conditions as the head of that agency may deem necessary.

"Where the lands have been withdrawn in aid of a function of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act only with the consent of the head of that governmental unit and under such terms and conditions as the head of that unit may deem necessary."

A conforming amendment should also be made in section 4 as follows:

Page 3, line 9: After the word "the" insert the words "designation or".

Page 3, line 10: Delete the words "is not" and insert in lieu thereof the words "has not been made or".

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,
Secretary.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, August 6, 1962.

HON. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated July 12, 1962, acknowledged July 13, you requested our report on S. 3451, 87th Congress. The stated primary purpose of this bill is to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed.

Section 1 would authorize the Secretary of the Interior to convey up to 5 acres of unpatented mining claims to the occupants of such claims after determination by the Secretary that such claims are invalid or after all rights in and to such claims have been relinquished to the United States.

Section 2 defines a qualified applicant as one who, as of January 10, 1962, is a seasonal or year-round residential occupant-owner of land now or formerly in an unpatented mining claim upon which valuable improvments have been placed. On claims that we reviewed on national forest lands reserve from the public domain, the estimated values of residence structurcs varied from about $300 to approximately $14,000. Accordingly, we believe that it would be desirable to establish some criteria for the Secretary to apply in his determinations of what constitutes valuable improvements. Such criteria should achieve reasonably uniform interpretation and would avoid unnecessary disputes as to who are qualified applicants under this section.

With further regard to section 2, there is some doubt as to whether the term "qualified applicant" would include persons who reside on land now or formerly in an unpatented mining claim but who have no vested interest in the land upon which they reside. For example, in our review of unpatented mining claims located in the national forests we found that of approximately 27 families which made up the population of the town of Atlanta, Idaho, only one of those families would be considered as an occupant-owner because it was the only family that had an ownership interest in the claim upon which it resided,

Section 3 provides that where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 only with the consent of that governmental unit and under such terms and conditions as that unit may deem necessary. As previously pointed out, some of the residential structures on unpatented mining claims have been estimated as valued up to $14,000. Under section 3, assuming that such structures are located on forest lands under the jurisdiction of the Department of Agriculture, it is difficult to see—as a practical matter—how the Secretary of Agriculture could prescribe terms and conditions which would result in anything but an outright convcyance of such lands to the occupant-owner. Such conveyances, as will be discussed later on, could have disruptive effects on forestry programs.

The language of section 5 leaves us in doubt as to the factors to be considered by the Secretary of the Interior in determining the purchase price to be paid to the Government by a claimant. This section

states that the Secretary shall determine the fair market value of the lands involved, exclusive of any improvements placed thereon by the applicant or his predecessors in interest or interests in lands, as of the date of the act. Section 5 further states that in establishing the purchase price to be paid by the claimant to the Government for the land or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. We do not know what equities a claimant might have in an invalid mining claim other than any improvements placed thereon by him or his predecessors in interest which are excluded from the fair market value. In any event, we believe that this section should be clarified so as to set out more specifically all of the factors to be considered by the Secretary in determining the fair market value.

In addition to the foregoing comments on specific sections of S. 3451, we have some general comments which we believe may be of interest.

Conveyance of land as authorized by the bill would tend to increase private land ownership within the public domain. The desirability of such conveyance is a policy matter solely for the determination of the Congress. However, our recently issued report to the Congress on the review of the administration by the Forest Service, Department of Agriculture, of mining claims on national forest lands reserved from the public domain disclosed a number of problem areas in the administration of the national forests which stemmed from either private land ownership within the forests or from possession of the type of unpatented mining claims, the ownership of which, under the provisions of the bill, could be conveyed to qualified applicants.

In one of the national forests, the sale of approximately 60 million board feet of timber has been delayed for nearly 5 years because the Forest Service has been unable to acquire the necessary road right-of-way across private land. According to Forest Service records, there was a large volume of overmature timber in the areas above the private land which needed to be harvested at the earliest opportunity. Extensive negotiations to secure a right-of-way across the private land had not been successful and because there was a possibility of a high damage award under condemnation proceedings, the Forest Service was considering the construction of a timber access road over an alternate route. We were advised by Forest Service officials that the alternate road will be less desirable than the proposed road because it will be of lower quality, will contain steeper grades, and will not provide access to all the timber in the area.

In another forest, sales of 12 million board feet of timber with an estimated value of $220,000 have been held up for a number of years because the Forest Service has been unable to obtain rights-of-way over a concentration of unpatented mining claims on which there are residential type structures. The Forest Service mineral examiner concluded that a valid mineral discovery did not exist on these claims.

According to the Forest Service records, there are in excess of 1,100,000 unpatented mining claims in the national forest. Forest Service officials estimated that there were at least 10,000 buildings of a residence nature located on unpatented mining claims. When lands are conveyed to private ownership they are no longer subject to Forest Service regulation. Forest Service officials stated that each

occupancy of lands that are not subject to Forest Service regulation additionally increases the danger of fires, creates cleanup, sanitation, and pollution problems, and otherwise adversely affects if not directly interferes with the work of forest management.

We have no further comments to make concerning S. 3451.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 16, 1962.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 3451, S. 3458, and S. 3564, the latter two of which are identical to each other, bills to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

The Department of the Interior in its report on the three bills stated a preference for S. 3451 and recommended its enactment if amended as suggested in their report. The Department of Agriculture in a separate report stated it would have no objection to enactment of S. 3451 if amended as they suggest. The amendments suggested by the two Departments pertain to different sections of the bill.

There would be no objection to enactment of S. 3451 from the standpoint of the administration's program if it is amended as suggested by the Departments of Agriculture and Interior.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

○

Calendar No. 1945

87TH CONGRESS
2D SESSION

S. 3451

[Report No. 1984]

IN THE SENATE OF THE UNITED STATES

JUNE 20, 1962

Mr. CHURCH introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

AUGUST 30, 1962

Reported by Mr. CHURCH, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to ~~any~~ *an* occupant of an unpatented mining claim which is determined by the Secretary, ~~after due process,~~ to be invalid, *an interest in* an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to ~~any~~ *an* occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is be-

lieved to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated ~~after due process~~. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a ~~seasonal or year-round~~ *citizen of the United States or a person who has declared his intention to become such who is a* residential occupant-owner, as of ~~January 10, 1962, of land~~ *July 23, 1962, of improvements* now or formerly in an unpatented mining claim upon which valuable improvements had been placed, *which constitutes for him a principal*

place of residence, and he and his predecessors in interest have been in possession for not less than seven years prior to July 23, 1962.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary: *Provided further, That in all appropriate cases Federal departments shall consult with county and other concerned local government subdivisions or agencies to determine the effect of a proposed conveyance upon the services of government which might be then required.*

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the ~~applicant~~ *applicant*, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, ~~will~~ *may* be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a ~~preference~~ right to purchase any

other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said ~~preference~~ right must be exercised within ~~two~~ *five* years from and after the date of its grant. *Where the lands have been withdrawn in aid of a function of a Federal department or agency, the head of such department or agency may permit the applicant to use and occupy the land for residential purposes under such terms and conditions as may be appropriate during the life of the applicant with provision for removal of any improvements or other property of the applicant within one year after the death of the applicant.*

~~SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price to be paid~~

~~to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.~~

SEC. 5. The Secretary of the Interior shall set the price to be paid for conveyance upon the following criteria: (a) Whenever it shall be shown to his satisfaction that the land to be conveyed has been held in good faith by an applicant, his ancestors or grantors for more than twenty years prior to the date of this Act, the applicant shall pay such filing and processing fee as may be uniformly required, the cost of survey, if any is required for the disposition of the land involved, and the payment of not less than $5 per acre or fraction thereof nor more than the fair market value of such lands on the date af appraisal (exclusive of any improvements placed thereon by the applicant or his predecessors in interest) and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant; (b) Provided, That when the above conditions exist except that the land has been held for less than twenty years prior to the date of this Act, in addition to a filing fee and cost of survey, if applicable, the payment shall be the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) on the date of appraisal but in no event less than $5 per acre or fraction

thereof: Provided further, That whenever the conveyance is a life estate or less, the applicant shall pay such filing and processing fee as may be uniformly required and an additional payment of not less than $5 per acre or fraction thereof nor more than 50 per centum of the resultant value that would be obtained from appraisal made under the terms of part (a) of this section, which amount may be made payable on an annual payment schedule.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. ~~Except where a mining claim has been or may be be located at a time when the land included therein is~~ *With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was* withdrawn from or otherwise not subject to such location, ~~or where a mining claim was located after July 23, 1955,~~ no trespass charges shall be sought or collected by the United

States *from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act,* based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States *which would not exist in the absence of this Act.*

~~SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, mining, treating, for purpose of prospecting for, drilling for, mining, treating, for such purposes, and whenever reasonably necessary, for surface and subsurface of such lands as may be necessary for drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface of the lands as may be necessary for storing, transporting, and removing such minerals on or from other lands.~~

~~(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.~~

~~(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.~~

~~(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.~~

~~(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to~~

~~the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.~~

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws are disposable under the Act of July 31, 1947, as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved, but without the right of ingress and egress for exploration and development purposes. Such minerals may, however, be leased by the Secretary under the mineral leasing laws.

SEC. 8. Rights and privileges *to qualify as an applicant* under this Act shall not be assignable, but may pass through devise or descent.

SEC. 9. *Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public*

lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

Calendar No. 1945

87TH CONGRESS
2D SESSION

S. 3451

[Report No. 1984]

A BILL

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

By Mr. CHURCH

JUNE 20, 1962

Read twice and referred to the Committee on Interior and Insular Affairs

AUGUST 30, 1962

Reported with amendments

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For information only; should not be quoted or cited)

Issued Sept. 7, 1962
For actions of Sept. 6, 1962
87th-2d, No. 160

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HIGHLIGHTS: Sen. Hickenlooper criticized and Sen. Humphrey defended Secretary's pledge of commodities to United Nations. Senate passed tax revision bill. Rep. Libonati commended forestry demonstration in Richmond, Va.

HOUSE

1. APPROPRIATIONS. Conferees were appointed on H. R. 12648, the agricultural appropriation bill. Senate conferees have already been appointed. p. 17573

   The "Daily Digest" states that "Conferees met in executive session to resolve the differences between the Senate- and House-passed versions of H. R. 12648, fiscal 1963 appropriations for the Department of Agriculture, but did not reach final agreement, and will meet again tomorrow." p. D813

2. FORESTRY. Rep. Libonati described and commended a recent forestry demonstration in Richmond, Va. pp. 17609-11

3. BREAD. The Ways and Means Committee reported with amendment H. R. 3985, to amend the Tariff Act of 1930 to impose a duty upon the importation of bread (H. Rept. 2325). p. 17612

4. SOCIAL SECURITY; FARMERS. Rep. Rhodes, Pa., inserted an article about a farmer getting social security disability benefits, "Social Security Helps Farmer."

p. 17576

5. ATOMIC ENERGY. Received from the President the annual report of U. S. participation in Atomic Energy Agency (H. Doc. 538). p. 17582, p. 17614

6. LEGISLATIVE PROGRAM. Rep. Albert announced that H. R. 12365, health clinics for migratory farmworkers, will be considered on Mon., and S. 4, Padre Island National Seashore, will be brought up on Tues. p. 17575

7. ADJOURNED until Mon., Sept. 10. p. 17612

SENATE

8. FARM PROGRAM; PUBLIC LAW 480. Sen. Hickenlooper criticized Secretary Freeman's pledge of commodities to the United Nations food program, questioned whether the Secretary has authority under Public Law 480 to pledge commodities for this purpose, and contended it was "the first step in relinquishing our control over the distribution of our surplus food and agricultural commodities." Sen. Humphrey defended the Secretary's action, stating that "I believe it falls full well within the scope of authority granted by the Congress to the executive branch." pp. 17668, 17710

9. TAXATION. By a vote of 59 to 24, passed with amendments H. R. 10650, the proposed Revenue Act of 1962. Conferees were appointed. pp. 17620-1, 17624-6, 17632-41, 17648, 17650-9

10. MINING. Passed as reported S. 3451, to authorize the Secretary of the Interior to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. pp. 17700-5

11. LAW; COURTS. Passed as reported H. R. 1960, to make it possible to bring actions against Government officials and agencies in U. S. district courts outside D. C., which, because of certain existing limitations on jurisdiction and venue, may now be brought only in the U. S. District Court for D. C. pp. 17699-700

12. CREDIT. The "Daily Digest' states that the Subcommittee on Production and Stabilization of the Banking and Currency Committee "by a vote of 5 to 4, defeated a motion to report to the full committee S. 1740, to require the disclosure of finance charges in connection with extensions of credit." p. D812

13. WILDLIFE. Passed over, at the request of Sen. Mansfield, H. J. Res. 489, to provide for protection of the golden eagle. p. 17696

14. RECLAMATION. The Interior and Insular Affairs Committee reported without amendment H. R. 11164, to approve an amendatory repayment contract negotiated with the Quincy Columbia Basin Irrigation District and authorize similar contracts with any of the other Columbia Basin irrigation districts (S. Rept. 2002). p. 17614

15. PERSONNEL. Agreed to as reported S. Con. Res. 53, declaring the sense of Congress that all official air travel by employees and officials of the Federal Government should be performed on U. S.-flag carriers except under the most limited circumstances. pp. 17693-4

Sen. Byrd, Va., submitted the report of the Joint Committee on Reduction of Nonessential Federal Expenditures on Federal employment and pay for July 1962. pp. 17615-9

Sen. Hickenlooper criticized the recent increase in the number of Federal employees and suggested that a moratorium be declared on the filling of all

Daniels. Joseph Patrick, Jr., found a bomb fuse under the house, and, not knowing what it was, told the other children he was going to throw it against the house. When he threw it and it struck the house, the fuse exploded. Joseph Patrick, Jr., was killed, and the other children were wounded. The report sent to the committee on the bill by the Department of the Army states that the fuse which exploded in this manner was presumed to have been one of a group of approximately 200 bomb fuses which were thrown by Army personnel into Arbuckle Creek at the boundary of the Avon Park Army Airfield.

"The Army report states that at a period estimated to be September or October 1945, Army personnel of unknown identity deposited approximately 200 bomb fuses, AN–M103 and AN–M101A2, in Arbuckle Creek, a stream of water flowing along the boundary of Avon Park Army Airfield, Fla. Apparently this method of disposal was adopted to expedite clearing an ordnance area. The fuses were in their original containers and undamaged when thrown into the deep water from a brigde which constituted a secondary entrance to the airfield. The water in Arbuckle Creek at that time was of sufficient depth that the fuses were submerged and unobserved. However, a severe drought in the spring of 1946 left several above the water level. Some fishermen evidently discovered the fuses but did not recognize them as such (even though labels were still on most of the containers), and carried some home as souvenirs.

"One of them, being used as a toy, exploded on May 25, 1946, fatally injuring Richard Jones, the 3-year-old son of Mr. and Mrs. Alton Jones of Avon Park. Mr. Jones filed a claim in the amount of $1,000 for the damages sustained on account of the death of his son, Richard Jones. The claim was settled administratively, and on March 25, 1948, a check in the amount of $1,000 was mailed to Mr. Jones in care of his attorney.

"In cooperation with the local police, the following measures were taken in an effort to prevent any recurrence of the above-cited tragedy:

"(a) All bomb fuses which could be located were collected and arrangements were made for disposal of them by demolition, and

(b) A campaign was conducted through newspaper articles and school announcements in Avon Park and nearby communities to locate any additional fuses and for collection of any explosives.

"Sometime during the month of April 1946 a fisherman, Moses Moore, went fishing in Arbuckle Creek, just south of the bridge, on the west bank. While thus engaged, he picked an object out of the creek that resembled a tin can, approximately 18 inches long. The can was partially opened and he removed its contents, subsequently identified as a nose bomb fuse, AN–M103. He gave it to one P. J. Daniels, who later threw the fuse in the lot behind the house in which he was living, and he did not see it again.

"On November 9, 1946, the five children described above were injured in the explosion of the fuse found under the house previously occupied by P. J. Daniels.

"The Army report reflects the fact that the military recognizes that the Army personnel who threw the fuses into the creek were not acting in a proper and responsible manner. In a letter from the commanding officer, Headquarters, Avon Park Army Airfield, Avon Park, Fla., dated November 13, 1946, to the commanding general, MacDill Field, Tampa, Fla.—subject: Preventive action taken regarding accidents occurring at Avon Park, Fla.—it was stated in part as follows:

"'4. It is recognized that the method of disposal of fuses adopted by former personnel assigned to this station was not in accordance with regulations.'

"A board of officers was convened at the Army airbase, MacDill Field, Fla., on November 19, 1946, to inquire into this matter. The report of that board stated, concerning the responsibility of the United States for the accident:

"'1. The bomb fuze which exploded causing the death of John [Joseph] patrick, Jr., and injuries to Shirley Ann Smith, Betty Anne Smith, Stanley Smith, and James Edward Harris [Junior] is assumed to be the property of the U.S. Government under authority of paragraph 143, article of war 83, Manual for Courts-Martial, which states in part: 'Although there may be no direct evidence that the property was military property belonging to the United States, still circumstantial evidence such as evidence that the property shown to have been lost, spoiled, damaged, or wrongfully disposed of by the accused was of a type and kind issued for use in, or furnished and intended for the military service, might warrant the court in inferring that it was such military property.'"

"The board also noted that the Army made prompt attempts to remove fuses and warn the public as to the danger when a child was killed in May of 1946. However, the second explosion involving the children named in this bill did occur, and this committee feels that there is a moral responsibility on the part of the Government to provide the relief as set forth in the amendment recommended in the Army report. That report sets out in detail the extent of the injuries and the medical expenses which resulted from the explosion. From an examination of these facts the committee has concluded that the amounts recommended by the Army are clearly justified. Accordingly it is recommended that the amended bill be considered favorably."

The committee is in agreement with the conclusions reached by the House Judiciary Committee and the Department of the Army. The investigation made by the Department of the Army reveals that the Government has a taint of responsibility for the death and injuries sustained by the claimants in the explosion of the bomb fuse. The committee is of the view that there is a moral obligation upon the Government to make some financial contribution for the consequences of this explosion. Accordingly, the committee recommends favorable consideration of H.R. 4635, without amendment.

JURISDICTION OF U.S. DISTRICT COURTS

The Senate proceeded to consider the bill (H.R. 1960) to amend ch. 85 of title 28, United States Code, relating to the jurisdiction of the U.S. District Courts and for other purposes, which had been reported from the Committee on the Judiciary, with amendments, on page 2, line 1, after the word "perform," to strike out "his duty" and insert "a duty owed to the plaintiff or to make a decision in any matter involving the exercise of discretion"; and after line 9, to strike out:

(c) A civil action in which each defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may be brought in any judicial district where a plaintiff in the action resides, or in which the cause of the action arose, or in which any property involved in the action is situated.

And, in lieu thereof, to insert:

(e) A civil action in which each defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, except as otherwise provided by law, be brought in any judicial district in which: (1) a defendant in the action resides, or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4) the plaintiff resides if no real property is involved in the action.

The amendments were agreed to.

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

The bill was read the third time and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1992), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

This legislation does not create new liabilities or new causes of action against the U.S. Government. The bill, as amended, is intended to facilitate review by the Federal courts of administrative actions. To attain this end, the bill does two things. First, it specifically grants jurisdiction to the district courts to issue orders compelling Government officials to perform their duties and to make decisions in matters involving the exercise of discretion, but not to direct or influence the exercise of the officer or agency in the making of the decision. Secondly, it broadens the venue provisions of title 28 of the United States Code to permit an action to be brought against a Government official in the judicial district (1) where a defendant resides, or (2) in which the cause of action arose, or (3) in which any real property involving the action is situated, or (4) if no real property is involved in the action, where the plaintiff resides. This bill will not give access to the Federal courts to an action which cannot now be brought against a Federal official in the U.S. District Court for the District of Columbia.

Where a statute does not specifically provide for review of the actions of a Government official, the aggrieved party may obtain judicial review through invoking one of several nonstatutory proceedings. Which of these he chooses turns upon the relief sought. In certain cases, the relief desired can be obtained only by compelling a Government official to perform an act which he is required to do by statute but which he has nevertheless failed to do. Traditionally, the appropriate remedy in that case has been a writ of mandamus. However, unless jurisdiction is otherwise acquired, the U.S. district courts have long disclaimed jurisdiction to hear petitions for mandamus.

The single exception to the general proposition that the U.S. district courts do not have jurisdiction over original actions for mandamus is the U.S. District Court for the District of Columbia. This court, in addition to being a Federal court, is also charged with the enforcement of domestic law. Its jurisdiction is derived not only from title 28 but also from the laws of the State of Maryland, which governed the area ceded to the District of Columbia in 1801. That body of law included jurisdiction to issue writs of mandamus in original proceedings.

The result of this historic accident has been that a person who seeks to have a Fed-

eral court compel a Federal official to perform a duty of his office must bring his action in the District Court for the District of Columbia. This the committee considers an unfair imposition upon citizens who seek no more than lawful treatment from their Government.

The problem of venue in actions against Government officials for judicial review of official action arises when the action must be brought against supervisory officials or agency heads whose official residences are, with few exceptions, in the District of Columbia. The need to bring an action against an agency head rather than an official in the field may arise either because of a statute authorizing such a suit or because of the doctrine of indispensable parties. The question of when a superior officer is an indispensable party is not altogether clear from the cases. Suffice it to say that if it is determined that a superior officer whose official residence is in the District of Columbia is an indispensable party, that action must be brought in the U.S. District Court for the District of Columbia.

The venue problem also arises in an action against a Government official seeking damages from him for actions which are claimed to be without legal authority but which were taken by the official in the course of performing his duty.

The committee is of the view that the current state of the law respecting venue in actions against Government officials is contrary to the sound and equitable administration of justice. Frequently, the administrative determinations involved are made not in Washington but in the field. In either event, these are actions which are in essence against the United States. The Government official is defended by the Department of Justice whether the action is brought in the District of Columbia or in any other district. U.S. attorneys are present in every judicial district. Requiring the Govermnent to defend Government officials and agencies in places other than Washington would not appear to be a burdensome imposition.

On the other hand, where a citizen lives thousands of miles from Washington, where the property involved is located outside of the District of Columbia, where the cause of action arose elsewhere, to require that the action be brought in Washington is to tailor our judicial processes to the convenience of the Government rather than to provide readily available, inexpensive judicial remedies for the citizen who is aggrieved by the workings of Government.

However, disregarding considerations of convenience, broadening of the venue provisions of title 28 to permit these actions to be brought locally is desirable from the standpoint of efficient judicial administration. Frequently, these proceedings involve problems which are recurrent but peculiar to certain areas, such as water rights, grazing land permits, and mineral rights. These are problems with which judges in those areas are familiar and which they can handle expeditiously and intelligently.

In addition, the present venue provision results in a concentration of these actions in the District Court for the District of Columbia, a court which is already heavily burdened. Court congestion is increased and substantial delays are incurred. The broadened venue provided in this bill will assist in achieving prompt administration of justice by making it possible to bring these actions in courts throughout the country, many of which are not nearly as burdened as the District Court for the District of Columbia.

To achieve these results, section 2 of this bill amends section 1391 of title 28 of the United States Code to provide that an action may be brought against an officer or an employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, in any judicial district where a defendant resides, or in which the cause of action arose, or in which any real property involving the action is situated, or if no real property is involved in the action, where the plaintiff resides.

The Department of Justicc in its report on the bill expressed concern that the bill might be interpreted to give the district courts jurisdiction to order a Government official to act in a manner contrary to his discretion. The committee, therefore, has adopted the amendment set forth to section 1 which specifies that the court can only compel the official or agency to act where there is a duty, which the committee construes as an obligation, to act or, where the official or agency has failed to make any decision in a matter involving the exercise of discretion, but only to order that a decision be made and with no control over the substance of the decision. The Department of Justice also expressed concern that where the plaintiff resides in a different judicial district than that in which real property involved in the action is situated, it would not be in the interest of an expeditious proceeding to have the action brought in the judicial district where the plaintiff resides. The committee considered this suggestion meritorious and approved the amendment set out to section 2 of the bill. The committee also approved an amendment to section 2 of the bill providing that the provision with respect to venue should apply only to the extent that it is not otherwise provided by law. Examples of such proceedings covered by this provision are proceedings brought with respect to Federal taxes and under section 5 of the act of September 26, 1961, relating to immigration.

The words "original jurisdiction" as used in section 1 of the bill are not intended to limit the existing powers of district courts to issue mandatory injunctions in aid of jurisdiction otherwise acquired. Likewise, there is no intent that the bill affect the doctrine of exhaustion of administrative remedies.

As stated in the House report, the bill does not define the term "agency," but the committee agrees that it should be taken to mean any department, independent establishment, commission, administration, authority, board, or bureau of the United States, or any corporation in which the United States has a proprietary interest.

The report of the Judicial Conference of the United States, as incorporated in the letter from Warren Olney III, Director of the Administrative Office of the U.S. Courts, affirmatively recommending the enactment of H.R. 1960 is attached hereto and made a part hereof. The report from the Department of Justice to the Judiciary Committee of the U.S. Senate on H.R. 1960 and its companion Senate bill, S. 20, is also attached hereto and made a part hereof.

NATIONAL CULTURAL CENTER WEEK

The joint resolution (S.J. Res. 214) authorizing the President of the United States to designate the period from November 26, 1962, through December 2, 1962, as National Cultural Center Week was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and requested to issue a proclamation designating the period from November 26, 1962, through December 2, 1962, as National Cultural Center Week; urging all persons, organizations, and governmental agencies involved in fostering the performing arts in this Nation to publicize and observe such week; and calling upon the Governors of the States to join in promoting the National Cultural Center campaign.

The preamble was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1991), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the joint resolution is to authorize and request the President of the United States to issue a proclamation designating the period from November 26, 1962, through December 2, 1962, as National Cultural Center Week.

RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

The bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed and for other purposes was announced as next order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 1, line 3, after the word "to", to strike out "any" and insert "an"; in line 5, after the word "Secretary", to strike out "after due process,"; in the same line, after the word "invalid", to insert "an interest in"; in line 8, after the word "to", to strike out "any" and insert "an"; on page 2, line 5, after the word "invalidated", to strike out "after due process"; in line 20, after the word "a", to strike out "seasonal or year round" and insert "citizen of the United States or a person who has declared his intention to become such who is a"; in line 22, after the word "of", to strike out "January 10, 1962, of land" and insert "July 23, 1962, of improvements"; in line 25, after the word "placed", to insert "which constitutes for him a principal place of residence, and he and his predecessors in interest have been in possession for not less than seven years prior to July 23, 1962"; on page 3, line 11, after the word "necessary", to insert a colon and *"Provided further,* That in all appropiate cases Federal departments shall consult with county and other concerned local government subdivisions or agencies to determine the effect of a proposed conveyance upon the services of government which might be then required."; in line 20, after the word "the", to strike out "applicant" and insert "applicant,"; in line 23, after the word "use", to strike out "will" and insert "may"; in line 25, after the word "a", to strike out "preference"; on page 4, line 6, after the word "Said", to strike out "preference"; in line 7, after the word

"within", to strike out "two" and insert "five"; in line 8, after the word "grant.", to insert "Where the lands have been withdrawn in aid of a function of a Federal department or agency, the head of such department or agency may permit the applicant to use and occupy the land for residential purposes under such terms and conditions as may be appropriate during the life of the applicant with provision for removal of any improvements or other property of the applicant within one year after the death of the applicant."; after line 15, to strike out:

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act. In establishing the purchase price to be paid by the claimant to the Government for land, or interests therein, the Secretary shall take into consideration any equities of the claimant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price to be paid to the Government shall not exceed the fair market value of the land or interest therein to be conveyed as of the effective date of this Act nor be less than 50 per centum of such value.

And, in lieu thereof, to insert:

SEC. 5. The Secretary of the Interior shall set the price to be paid for conveyance upon the following criteria: (a) Whenever it shall be shown to his satisfaction that the land to be conveyed has been held in good faith by an applicant, his ancestors or grantors for more than twenty years prior to the date of this Act, the applicant shall pay such filing and processing fee as may be uniformly required, the cost of survey, if any is required for the disposition of the land involved, and the payment of not less than $5 per acre or fraction thereof nor more than the fair market value of such lands on the date of appraisal (exclusive of any improvements placed thereon by the applicant or his predecessors in interest) and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant; (b) *Provided,* That when the above conditions exist except that the land has been held for less than twenty years prior to the date of this Act, in addition to a filing fee and cost of survey, if applicable, the payment shall be the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) on the date of appraisal but in no event less than $5 per acre or fraction thereof: *Provided further,* That whenever the conveyance is a life estate or less, the applicant shall pay such filing and processing fee as may be uniformly required and an additional payment of not less than $5 per acre or fraction thereof not more than 50 per centum of the resultant value that would be obtained from appraisal made under the terms of part (a) of this section, which amount may be made payable on an annual payment schedule.

On page 6, line 18, after the word "Act.", to strike out "Except where a mining claim has been or may be located at a time when the land included therein is" and insert "with respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was"; in line 23, after the word "location,", to strike out "or where a mining claim was located after July 23, 1955,"; on page 7, after the word "States", to insert "from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act,"; in line 9, after the word "States", to insert "which would not exist in the absence of this Act"; after line 10, to strike out:

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

And, in lieu thereof, to insert:

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws are disposable under the Act of July 31, 1947, as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved, but without the right of ingress and egress for exploration and development purposes. Such minerals may, however, be leased by the Secretary under the mineral leasing laws.

On page 9, line 18, after the word "privileges", to insert "to qualify as an applicant"; and after line 20, to insert a new section, as follows:

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to an occupant of an unpatented mining claim which is determined by the Secretary, to be invalid, an interest in an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to an occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a citizen of the United States or a person who has declared his intention to become such who is a residential occupant-owner, as of July 23, 1962, of improvements now or formerly in an unpatented mining claim upon which valuable improvements had been placed, which constitutes for him a principal place of residence, and he and his predecessors in interest have been in possession for not less than seven years prior to July 23, 1962.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary: *Provided further,* That in all appropriate cases Federal departments shall consult with county and other concerned local government subdivisions or agencies to determine the effect of a proposed conveyance upon the services of government which might be then required.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of

his occupancy and for settlement of any liability for unauthorized use, may be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said right must be exercised within five years from and after the date of its grant. Where the lands have been withdrawn in aid of a function of a Federal department or agency, the head of such department or agency may permit the applicant to use and occupy the land for residential purposes under such terms and conditions as may be appropriate during the life of the applicant with provision for removal of any improvements or other property of the applicant within one year after the death of the applicant.

SEC. 5. The Secretary of the Interior shall set the price to be paid for conveyance upon the following criteria: (a) Whenever it shall be shown to his satisfaction that the land to be conveyed has been held in good faith by an applicant, his ancestors or grantors for more than twenty years prior to the date of this Act, the applicant shall pay such filing and processing fee as may be uniformly required, the cost of survey, if any is required for the disposition of the land involved, and the payment of not less than $5 per acre or fraction thereof nor more than the fair market value of such lands on the date of appraisal (exclusive of any improvements placed thereon by the applicant or his predecessors in interest) and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant; (b) *Provided,* That when the above conditions exist except that the land has been held for less than twenty years prior to the date of this Act, in addition to a filing fee and cost of survey, if applicable, the payment shall be the fair market value of the lands involved (exclusively of any improvements placed thereon by the applicant or by his predecessors in interest) on the date of appraisal but in no event less than $5 per acre or fraction thereof: *Provided further,* That whenever the conveyance is a life estate or less, the applicant shall pay such filing and processing fee as may be uniformly required and an additional payment of not less than $5 per acre or fraction thereof nor more than 50 per centum of the resultant value that would be obtained from appraisal made under the terms of part (a) of this section, which amount may be made payable on an annual payment schedule.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws are disposable under the Act of July 31, 1947, as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved, but without the right of ingress and egress for exploration and development purposes. Such minerals may, however, be leased by the Secretary under the mineral leasing laws.

SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

Mr. CHURCH. On June 20 I introduced this bill, S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. This legislation was given a very careful hearing by our committee, and it has been amended with what I believe are reasonable and constructive changes to improve its operation. There is a companion bill awaiting action in the House.

The problem which confronts the Secretary of the Interior and the Secretary of Agriculture in administering the mining laws is that through long tradition the private citizen has not only had the right to go upon public lands and stake a claim, but also so long as he performed the work required under the law he could reside on the mining claim while continuing his search and development of minerals. In fact, under the law he could extract all of the minerals without the necessity, the expense, or the protracted procedure of obtaining a patent, and this was often done.

When the Congress passed Public Law 167 in 1955, a procedure was included which resulted in the Government undertaking a comprehensive examination of mining claims to determine the use being made of them, and this, in turn, has led to the Government invalidating many of these claims. Quite often, however, people are residing on these claims and still working them, though not in a full commercial sense, and these claims have become their homes. The result is that, while the claim may not now be patentable, these people are being told that they must move from their homes which they have long lived in, and in some cases severe hardship results.

The purpose of this legislation is to give to the Secretary of the Interior a full kit of legal tools and the discretion, when the public interest will not be injured, to permit persons who live on mining claims for residential purposes, who were in possession at least 7 years prior to July 23, 1962, where this is a principal home for them, and their mining claim has been invalidated or relinquished, to continue to reside in their home.

The bill is a relief measure designed to aid those qualified people on whom a hardship would be visited were they to be required to move from their long-established homes.

The Secretary is given discretion to determine not only whether he will permit continued residence, but the type of residence that will be permitted. He may issue a full title, a life estate, or something less, all contingent upon his determination of whether the public interest will be best served, along with his determination as to whether a hardship would result were he not to grant continued occupancy. The bill recognizes that it is not the way of a just government to disturb arrangements, sanctioned by time and custom, which can be regularized without injury to the general welfare.

In reporting the bill, the committee made several amendments, all designed to afford the greatest possible relief to the deserving but not to those who are not deserving. People who are squatters upon the public land or whose mining claims are obviously without a bona fide basis, are not intended to be the recipients of relief under the bill.

Mr. METCALF. Mr. President, I am pleased to be able to support the bill sponsored by the distinguished Senator from Idaho. I should like to ask a few questions about the bill. I would like to inquire of the Senator in regard to section 2 as to the position a person might find himself in, in the following situation:

In a few cases, people have resided on mining claims for many years and meet all the qualifications described in section 2, but since 1955, for one technical reason or another, they may have refiled and restaked their claim so that it still covers the area upon which their residence exists. Would it be the intent of this act to construe their possession as being of 7 years' duration or more despite a restaking since 1955?

Mr. CHURCH. Generally speaking the answer would be "Yes." Where the occupant-owner of improvements has continuous occupancy and he and his predecessors in interest have been in possession for not less than 7 years, the fact that he restaked his claim should not run against him. If the applicant can show that he has continuous residence and use, it would be intended that his application be given consideration and that he not be ruled out because of this restaking. However, where a person had moved on to a claim since 1955 and can show no prior residence, he would be excluded. The purpose of the act is to grant relief and the entire intent is that it is permissive with the Secretary of the Interior. Thus, it would be expected that the Secretary will examine more difficult cases or

problem cases and reach a reasonable solution, keeping in mind that the purpose of the act is to permit qualified people, on whom a hardship would otherwise be visited, to continue to reside in their homes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1984), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The objective of S. 3451 is to give the Secretary of the Interior a full kit of legal tools and the discretion, when the public interest will not be injured, to permit persons who live on mining claims for residential purposes, who were in possession at least 7 years prior to July 23, 1962, where this is a principal home for them, and their claim has been invalidated or relinquished, to continue to reside in their home. The bill is a relief measure designed to aid those qualified people on whom a hardship would be visited were they to be required to move from their long-established homes.

NEED

In the mountain West, there is a long tradition supporting the right of a private citizen to go upon the public lands, to stake a mining claim, and thereafter to have and retain a possessory interest immune to interference from anyone. The power of the Government to challenge the validity of a mining claim has been recognized, but the Government traditionally has interfered little, and locators and their successors in interest have felt secure in their right to possession.

Nothing in the mining laws requires a locator to proceed to patent. He may never do so, yet his estate is fully maintained in its integrity so long as the law, which is a muniment of his claim, is complied with. Thus, although some miners obtain patent to their claims, many others, content to enjoy their right of possession to the exclusion of third parties, have not undertaken the expensive and protracted procedures necessary to obtain a patent.

Often in the past, the mining locator established his home upon his claim and worked his claim from his home. These homes have become, in many instances, permanent residences for the prospector's heirs. By long-established custom, mining claims embracing residential improvements have been sold for the value of the improvements, the seller giving a quitclaim deed.

Thus there can be found throughout the West, hundreds of unpatented mining claims, valuable chiefly for the fact that they have been used, sometimes for generations, as actual homesites, and as a principal place of residence, by families which have inherited them from the original locators, or paid value for the improvements, in reliance upon the customs prevailing in the area that effective title could be obtained by gift, inheritance, or quitclaim deed.

But, for one of a variety of reasons, many of the claims may not, in fact, be patentable at the present time. In some cases, the mineral veins which justified the original location have been worked out. In others, mineral deposits which would have sustained a patent application some years ago will no longer suffice, because rising costs and artificially fixed prices for the minerals have rendered actual mining operations uneconomic. In still other cases, due to the absence of surveys, or to inaccuracies in them, such claims have been located upon land which was, in fact, withdrawn from mineral entry, or has since been withdrawn, so that patent applications will not lie.

In all such cases the claims are subject to invalidation at the initiative of the Government. The situation was further clarified by the passage of Public Law 167 of the 84th Congress. This statute, enacted in 1955, prohibits all uses not reasonably incident to prospecting, mining, or processing operations on unpatented claims located after July 23, 1955. Moreover, it authorizes procedures under which prior locators, or their successors in interest, may be required to prove the validity of their claims or be subject to the same prohibitions. This law has resulted in an intensified program to eliminate uses of mining claims inconsistent with mining purposes. As to those who have purchased claims and given value in the expectation that they would be allowed to live on the claims, the results, in many cases, will produce real hardship.

Although the residential uses present an anomaly to the law, it is clear that there are, in many cases, substantial equities based on custom, need, and value given, in favor of many of these people. It is to the problem of resolving the anomaly, while recognizing the equities, that this legislation is directed.

It is not the way of a just Government to disturb arrangements, sanctioned by time and custom, which can be regularized without injury to the public interest. This the bill seeks to do.

SECTION-BY-SECTION ANALYSIS

Section 1 gives to the Secretary of the Interior discretionary authority to convey to an occupant of an unpatented mining claim not more than either 5 acres of land or the acreage actually occupied, whichever is less. The section further limits conveyances to those occupants whose mining claims are determined by the Secretary to be invalid or where the occupant himself, after notice that the claim is believed to be invalid, relinquishes to the United States all right to the claim. In order to avoid hardship and discrimination, the section extends the same privilege to occupants whose unpatented mining claims were invalidated or relinquished within 2 years prior to the effective date of the act.

The term "may convey" is fully intended to establish the discretionary nature of the authority conveyed to the Secretary. He will be expected to promulgate rules and standards as to the normal situation where the act will be applicable and for the handling of special or complex cases.

Where land is now needed or known to be needed for public uses or purposes he is under no directive to grant the use of land. In addition, he will be expected to exercise sound descretion in setting standards as to the circumstances under which a fee simple patent, life estate, lease, or term permit would be appropriate to the facts and consistent with the public interest.

In order to assure that the workload of the agencies will not be unduly increased, and to allow applicants a full opportunity to file, a period of 5 years from the effective date of the act is provided for making a filing.

The Secretary of the Interior may also delegate his authority under this act to the agencies managing public domain land, either in his Department or other departments. It is expected he will cooperate with the other departments in the promulgation of rules, regulations, and procedures, so that they will be properly consistent for all agencies, yet responsive to the needs which may be manifest for the various agencies.

The term "(a) 5 acres or (b) the acreage actually occupied by him, whichever is less" is intended to be a limitation to be judiciously applied, especially when a patent is to be issued. It is not the intent of this act to grant an acreage which may then be readily subdivided and sold but rather to grant only the acreage which the Secretary determines is needed for the applicant to use as his residence.

Section 2 defines a qualified applicant. He must be a citizen or a person who has declared his intention of becoming a citizen. He must be a residential occupant-owner as of July 23, 1962. This does not mean in actual physical residence on that date but rather that the residence must have been habitable and, as is explained below, used during the preceding 7 years in a manner consistent with the purposes intended to be covered by the act.

The committee substituted the term "and which constitutes for him a principal place of residence" for the term "seasonal or year-round" for the purpose of more clearly setting forth what is required to become a qualified applicant. In some circumstances climatic conditions make year-round residence impracticable. The language used intends to specify that the applicant must be one who uses his claim as one of his principal places of residence. Casual or intermittent use, such as for a hunting cabin or for weekend occupancy, are not intended to be covered and the Secretary shall require applicants to submit proof of residence as a part of determining whether the applicant is qualified.

The use of the property for commercial purposes not connected with previous efforts to extract minerals, in addition to residence, would not be covered by this act, but a record of use for garden-type agricultural purposes would be if incidental to regular residential occupancy. The establishment of taverns, restaurants, stores, and offices, for example, is not intended to be regularized by this legislation. Where it is appropriate that such use may be continued upon invalid mining claims, the departments may use other authority available to them. Should experience indicate that there are commercial uses not relating to mining disclosed by the operation of this act and actions taken under the mining law, which cannot be adequately handled by existing law, the department may wish to analyze its findings and experience and report its recommendations to the Congress.

The applicant's use must be not only residential but also he must be the occupant owner of improvements. The purposes of this act do not extend to renters or to squatters. In some cases there will be persons who located mining claims and constructed the residence thereunder. In other cases, the person will have purchased or inherited the claim and improvements. In a few cases there may be other residents on a claim who can produce evidence that they purchased either the improvements or the privilege of constructing improvements. It is intended to cover this type of situation if the other conditions surrounding the claim also are appropriate for relief.

The applicant must be one whose residence stems from a lawfully filed and occupied mining claim or one whose occupancy has the color of law due to a claim of title. On-the-ground evidence or other proof should disclose that at some time in the past a bona fide effort was made by the applicant or his predecessor in interest to actually conduct the type of mining enterprises intended by the mining law of 1872.

The applicant and his predecessors in interest must have been in possession of the claim for not less than 7 years prior to July 23, 1962—that is, since July 23, 1955.

It was in 1955, that, at the request of this committee, the Congress enacted legislation which clearly reiterated that the 1872 mining law was to be used for those who sought to explore, prospect for, develop, and mine

locatable minerals. Since that time, it has been quite clear that the mining law was neither intended to be, nor was to be, used as a device to obtain a homestead or other residence on public land. This 7-year proviso, taken together with the requirement of an applicant being a residential occupant owner as of July 23, 1962, clearly controls not only who may be a qualified applicant but also constitutes a clear intent that on claims filed since July 23, 1955, residence will not ripen into an application. Those who have filed mining claims since July 23, 1955, as well as those who may have filed them since July 23, 1962, should be aware that there is no basis for the subsequent granting of residential occupancy under this act because their mining claim is found invalid.

It is the committee's intention that where husband and wife are occupying an unpatented mining claim for residential purposes, and an application is made under the act, the applicant would be deemed to be the husband and wife. Thus, for example, where a conveyance of a life estate is made under the act or a permit is issued for the use and occupancy of the land during the life of the applicant, the surviving spouse would have the right or permission to remain on the land during the remainder of his lifetime after the death of the other.

The term "valuable improvements" is intended to include a presently habitable residence which has been used for this purpose, plus other accessory buildings incidental to residence, such as a toolshed, garage, barn, or chickenhouse presently fit for use.

Section 3 protects the interest of the Government by prohibiting conveyances of any land withdrawn in aid of another department or agency unless the consent is first obtained from the head of the governmental unit involved. Authorized conveyances could be made only under terms and conditions deemed necessary by the agency having jurisdiction over the land.

Our lands which have been withdrawn, such as national forest or parks, the broad public purposes of these withdrawals has been already established by the Congress, including adequate provision for occupancy or where appropriate for the alienation of Federal title. It is, therefore, appropriate that in these cases, or where State, county, municipality, water districts, have had land withdrawn in aid of one of their programs, their consent be obtained as to both the terms and conditions of the action taken upon an application for relief. The legislation does not intend that applicants shall displace public use of public land, or that land should be patented in fee in areas where such action would produce results at odds with public land programs. For these situations, where equities exist or hardship would result, the qualified applicants can generally be granted life estates for the remainder of their lives or permission to occupy the land for appropriate periods.

In addition, the type of grant to be made in any circumstance may affect the services which local government may have to provide, such as road maintenance, snow plowing, schoolbus, or power services. The section requires consultation with concerned local governments so that the action taken to regularize a residence will be decided with their views in mind.

Under section 4 the Secretary of the Interior, in those instances where the specific land occupied under the mining claim cannot be made available, may grant a right to the occupant for the purchase of another tract of public land. A sale of a substitute tract could only be made after an agreed termination of the occupancy of the unpatented mining claim and settlement of any liability for unauthorized use. The right would have to be exercised within 5 years.

There may be cases where this action would be in the public interest. The land to be made available would first have to be selected, designated, and classified for residential use by the Secretary of the Interior, not the applicant. The applicant may not displace an applicant under the Small Tract Act, for example. The land to be designated must be unappropriated and unreserved public domain lands and lands subject to classification of section 7 of the Taylor Grazing Act.

For example, a qualified applicant may desire a patent on the land he now occupies but the Secretary may conclude that neither a patent or a life estate or less would be consistent with the intent of the act. This might occur when the applicant has a residence which he values and seeks to perpetuate beyond the period feasible under a life estate. The Secretary may, under this section, offer the applicant the opportunity to a patent to other land in the category described above. It may be expected, where the applicant may be offered a life estate or less, he would perhaps desire the possible opportunity provided by section 4. The possible unsuitability of the offered land to the applicant will not diminish his opportunity to settle on the original offer of the life estate or lesser on the area now occupied, provided he makes a final choice within 5 years from the date of this act.

However, where the applicant seeks a patent to the land he now occupies, but the Secretary in his discretion finds this is not in the public interest, the applicant may be offered a patent to other land as provided by section 4. He will be expected, in this case, to make his selection from the offered land.

In selecting areas to meet the intent of section 4, the Secretary will be expected to choose lands as close to the land of the applicant as possible which fall within the category defined by this section.

The last sentence of section 4 is intended to clearly enunciate the policy of Congress that where Federal land has been withdrawn, emphasis will be given to the granting of a life estate or less. This does not exclude the use of life estates or less on other lands when the public interest so indicates.

The authority granted by this sentence is not intended to exclude the use of a patent in appropriate cases on lands withdrawn for national forests, parks, and other Federal purposes. In some cases, communities or settlements exist where the grant of a patent in fee will be clearly in the public interest. In other cases there will be a long history of constant use for all or most of each year where the grant of a patent is entirely consistent with sound land use and the extinguishment of the residence on the death of the owner would destroy a valuable investment.

For most cases, however, the withdrawal of the land has been for the purpose of promoting its use by the public. Mining is a legitimate use but either permanent or indeterminate use as a residence not related to mining is not in the public interest. It is for this reason that the committee wished to clarify that a life estate or less was to be offered.

Therefore, on withdrawal public land, such as a national park or a national forest, the general rule will be that the applicant may be given a life estate or less. Where the history of occupancy is well established and its continuation does not interfere with an existing program in the immediate area or one presently known, it is anticipated that arrangements will be made to permit the applicant to continue in residence for a period not to exceed his lifetime. The committee expects that this will be done and that compassion and liberality will be judiciously applied.

An applicant will be considered to be a husband and wife, at the time of application, and the estate will run through the lifetime of each of these two persons. The provision for removal of the improvements 1 year after the death of the last survivor or termination of the estate shall include the right of the applicant or heirs to remove the property or improvements themselves during this period and the prompt elimination of the improvements remaining thereafter by the agency administering the land.

Should the property be voluntarily and permanently vacated by the applicant before the life estate or less expires, and this is clearly established, there should be regulatory provisions for extinguishment of the grant so that the improvements will not be occupied by unauthorized users.

Section 5. The fact that the use of mining claims for other than mining purposes is improper, when not incidental to a mining operation, has received a great deal of public attention over the last 25 years. The Congress has had this matter called to its attention on several occasions by groups who recognize the effect improper use of mining claims has upon those who seek to use them solely for the purposes intended by law.

For example, in 1952 an extensive report, "The Problem of Mining Claims on the National Forests," was made to the Secretary of Agriculture by the National Forest Advisory Council. Its members, under the Secretary's direction, visited 50 national forests in the West and documented their report with 126 examples of loss of mining claims inconsistent with the mining law.

In 1955 the Congress amended the mining law in an effort to eliminate its abuse. This legislation has been helpful. The Comptroller General has just this year reported to the Congress on uses being made on mining claims.

In considering the purpose of this legislation, the committee also was faced with the problem of establishing an equitable solution to the financial aspects of the issue before it.

Notwithstanding the public attention the issue of improper use of mining claims has received, the committee was aware that longstanding custom was involved and that, in some instances, persons relying on this custom, or in ignorance, have purchased improvements on old mining claims with the intention that the use would be mainly residential with only minor efforts to develop and extract minerals.

Therefore, the committee concluded that the responsible and compassionate financial course would be to treat the claimants eligible for patents as falling in two broad groups: those whose location and use of the claim, including that of their ancestors or grantors, covered a period longer than 20 years before the date of this act and those whose mining claim covered a lesser period.

Both groups would be expected to pay such filing and processing fee as may be required and to pay the cost of necessary surveys of the land to be patented. In this connection, note is made of the fact that the cost of a survey is one also borne by an applicant for a mining patent applicant.

Both groups are entitled to have the value of the land determined exclusive of improvements by the applicant or his predecessors in interest.

A minimum charge of $5 per acre or fraction thereof was placed in the act, which is consistent with the mining law. This is intended to be an expression, for those persons receiving a patent under subsection (a) of a possible lower level for charges that might be made, especially since in their case the Secretary shall consider and give full effect to the applicant's equities.

It is intended that there be included in the consideration of equities the pecuniary situation of the applicant, ability to pay,

whether he previously paid market value for the property, the original date when the mining claim was first staked, whether there are substantial reasons to believe that a concerted effort was made to develop and extract the minerals sought as compared to a casual attempt, and whether the present occupant was relying on custom in his occupancy.

Those in the category under subsection (b) will be expected to pay fair market value for the land for these will be those claims filed within the last 20 years, the period during which there has been greater public notice that use of a mining claim for other than mining purposes is inconsistent with the mining law. However, since the purpose of the legislation is to afford relief through permitting continued occupancy in qualified cases and appropriate circumstances, the bill does permit the Secretary to make conveyances on the terms specified.

Where the conveyance is for a life estate or less, the appraisal criteria of subsection (a) prevail, except the cost of a survey, since it will not be needed, is omitted, and the equities may be considered.

In applying the rule of equity here, in addition to the equity factors above, the term of the estate, its probable or known length, and the age of the applicant may be considered.

The last clause of the section provides that the payment shall be computed at not more than 50 percent of the value determined under (a) in this section. The intent is that full recognition will be given here to the final elimination of the occupancy of the public land involved and the grant to the applicant. Where a patent in fee is granted under either (a) or (b) the occupant-owner will have perpetual title and be free to sell or otherwise dispose of the real property and improvements. A life estate or less conveys a greatly circumscribed privilege. It cannot be sold, assigned, or pass by devise or descent. It is merely the privilege to occupy for life or a stated number of years. In some cases this will result in total loss of the investment in the homesite due to its immobility. In many cases, however, the holder will have to keep the residence up or meet certain requirements of the type imposed by local government relative to sanitation right up to the end of use. The committee, therefore, placed an upper limit on the charge that could be made of not to exceed 50 percent of the resultant value obtained from an appraisal made under (a) above. The final phrase makes clear that it is not intended that there be an annual rental but rather a single charge for use, which the applicant may pay over a period of years when the Secretary finds that a hardship would be created by making the payment in a lump sum.

The Secretary will be expected to make a schedule of payments. The estate conveyed shall contain terms which provide for the extinguishment of any balance of payments due but not paid upon the death of the final holder of the estate.

Section 6 protects the interest of the United States in the following respects:

(1) An occupant would not be relieved from liability for unauthorized use even if a conveyance of land is made under the act, except to the extent the Secretary of the Interior deems equitable.

(2) If an unpatented claim was located on land withdrawn from entry, the United States would specifically be authorized to impose trespass charges. However, in other instances, occupancy trespass charges, as distinct from the unauthorized removal of timber or Federal property destruction, could not be imposed for any period prior to either the final determination of the invalidity of the mining claim, of its voluntary relinquishment, whichever occurs first. This latter relief would only be available to those who are eligible for relief under the act, receive a conveyance, and apply for a conveyance within 5 years from the date of enactment. This date coincides with the provisions under section 1 for the filing of applications. Where lands are withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, and where such department or agency would normally collect trespass damages, the arrangements for the settlement of any liability for unauthorized use contemplated by this section would be those which are satisfactory to the department or agency responsible for the administration of the land.

In view of the fact that the committee amended section 2 so that only those claims filed prior to July 23, 1955, are eligible for consideration, an amendment was made to eliminate language in the third sentence of the section as to claims filed after July 23, 1955, which would be inoperative due to the qualification requirements in section 2.

Section 7 treats the reservation of the mineral interests of the United States. Since the purpose of the legislation is to provide for residences on very small units of land, it is desirable that these people be granted a quiet occupancy.

The language recommended by the committee is designed to protect the occupancy of the area by the grantee during the period of his occupancy, as well as the Government. Thus, an occupant to whom an estate in the land is granted for residential purposes, would be fully protected against someone else going on the area to do prospecting work which could seriously annoy the applicant.

To protect the interests of the United States, all minerals are reserved for the term of the estate conveyed.

Minerals locatable under the mining laws or disposable under the act of July 31, 1947, are withdrawn for the term of the estate conveyed.

Leasable minerals may be leased by the Secretary, including all necessary protections for the occupant and the use of directional drilling to protect the Government's interests.

Section 8 provides that rights and privileges to qualify as an applicant under this act may pass only through devise or descent.

Section 9. The bill made no provision for the disposition of fees, survey costs or the payment of the purchase price for a patent or a life estate or less. This section provides for the application of existing law and thus the ultimate application of receipts to the proper accounts, including the operation of the laws relating to payments in lieu of taxes.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

APPROPRIATIONS FOR MILITARY CONSTRUCTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate be permitted to consider tomorrow the military construction appropriation bill, H.R. 12870, making appropriations for military construction for the Department of Defense.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I move that when the business for today has been completed, the Senate adjourn until 10 o'clock tomorrow morning.

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

COMMITTEE MEETING DURING SESSION OF THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate tomorrow.

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

SELF-EMPLOYED INDIVIDUALS TAX RETIREMENT ACT OF 1961

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 10) to encourage the establishment of voluntary pension plans by self-employed individuals.

Mr. HARTKE. Mr. President, I wish to speak on the subject at hand; namely, H.R. 10, the passage of which is long overdue if the inequities of our tax structure are to be corrected.

Mr. President, the bill has been passed by the House and approved with amendments by the Senate Finance Committee and was reported to the Senate nearly a year ago.

However, let me digress for a moment on the subject of revenue loss and point out that apparently there are some persons who expound the theory that we must have a balanced budget, yet insist on the passage of legislation which throws this very balance out of whack.

I have consistently supported the principle of withholding of taxes on dividends and interest. The closing on this very loophole the insistence, if you will, that we collect taxes due from all by the withholding method as we now do on wages and salaries would have meant some $800 million in additional revenue to the Treasury. The Senate Finance Committee and this body opposed it. Yesterday, Wednesday, September 5, I offered another of several amendments to H.R. 10650. My amendment would have withheld interest on bonds and dividends from stocks only. This amendment was defeated, and with that vote an estimated $530 million to the Treasury was lost.

I should like, to remind those who are so quick to accuse others of budget-busting reexamine their position on withholding and see if they are being fair and consistent.

The principle involved in H.R. 10 would result in a small loss to the Treasury. But it, too, is consistent. It is designed to encourage voluntary pension plans among the self-employed—professional and business people such as: doctors, lawyers, dentists, storekeep-

ers, real-estate agents, architects, engineers, contractors, brokers, farmers, and all others who maintain their own businesses and professional offices.

In short, the bill permits self-employed persons to be treated for retirement fund purposes as employers of themselves, which, indeed, they are. At long last, by the passage of H.R. 10, employers will be on the same basis for taxation of retirement funds as their employees have been and are.

In 1942, the Congress undertook encouragement of private retirement funds to augment social security. There had been provisions for pension plans since the 1924 Revenue Act. But it remained for the encouragement of 1942 to stimulate the private pension programs to their present position. There are now more than 45,000 plans covering some 20 million employees. Eighty-five percent of the money put into these pension funds is from employers.

The act of 1942 allowed the employer to deduct payments into such pension funds for his employees as tax-deductible expenses. Such employer contributions and any earnings of the fund were held not taxable until distributed as employee benefits. This meant a great tax advantage to those who benefited from such funds. They were sure of being taxed for the income from the retirement funds after they had retired and their earnings greatly reduced or ended. In other words, the money that was laid aside for their retirement was then—and is now—taxable at a much lower rate than it would have been had it been taxed as income from the employer at the time it was paid into the fund.

The only prerequisite, so far as the Federal Government is concerned, to be able to have such tax treatment is to be an employee. If you are the employer, or if you are self-employed without employees, you cannot get any tax benefit in setting up a retirement program.

A self-employed person of 35 years, married and with a $10,000 taxable income would pay $260 in taxes if he were to earn an additional $1,000. This would leave him $740 additional to invest. Let us assume he does invest this money for 30 years at 4 percent compound interest. He would by age 65 accumulate $36,900. If on the other hand, the same man were employed by someone else and he received $1,000 from his employer deposited in a pension fund earning the same interest, at age 65 there would be $58,300 more for his retirement.

This is a gross inequity. It was recognized shortly after the act of 1942 became operative. By 1950 the American Bar Association drafted legislation to overcome what it considered discrimination against the self-employed. In 1951, Representative EUGENE KEOGH and the late Representative Daniel Reed introduced legislation to allow tax deferment on a limited amount of money set aside by the self-employed for their retirement. Since its introduction, this bill has had wide support, but somehow it has always failed of passage.

In 1958, the House passed the bill and the Senate did not have time to act. I well remember in 1959 associating myself with a number of my colleagues in the Senate in a version of the bill that allowed the Senate Finance Committee to begin consideration of this matter at an early date while H.R. 10 was pending in the House. The junior Senator from Florida [Mr. SMATHERS] was the leader of the group on the Senate side. Among others, Senator KEFAUVER worked for passage. Full hearings were held by the Finance Committee. However, it was not until this Congress that the Senate was in position again to consider this matter. I am proud that I was the author of the Senate bill S. 197, considered in advance of the appearance of the H.R. 10 of the 87th Congress.

It has been thoroughly considered by this body. Its passage should be affirmed without delay, and I shall be pleased to support the passage of the measure, which is long overdue.

Mr. MOSS. Mr. President, I have consistently supported H.R. 10 ever since I came to the Senate. This measure which will enable self-employed persons to provide for their own retirement is both fair and equitable.

Yesterday when an attempt was made to attach this bill as an amendment to the tax bill, H.R. 10650, I voted to table the amendment. I did not consider it in the best interest of H.R. 10 to attach it to another measure which was already extremely complex, which had been extensively amended on the floor, and which I felt might not be acceptable to a majority of the Members of the Senate or to the administration. I felt it far wiser to let H.R. 10 stand on its own merits. It is fully capable of doing so.

The people of Utah are greatly interested in H.R. 10, and many of them representing an excellent cross-section of the self-employed farm folks, small retailers, accountants, lawyers, dentists, physicians, and other self-employed and their employees have written to me during this and the last Congress urging its enactment.

Naturally, they have given a lot of thought to their old age, and the vast majority of them have nothing other than social security to live on once they retire. They cannot understand why they are being penalized because they are self-employed and do not work for a corporation. With but few exceptions, these are the average people of my State, the middle-income group often referred to as the backbone of this great country of ours.

These people are not asking the local, State, or Federal governments to take care of them in their retired years. They are asking simply for a postponement of tax liability so that they may themselves be able to set something aside for their own old age. They are willing to put up the money when they are able to spare it from the demands of their businesses. All they are asking of us, the Congress of the United States, is that we offer them the same tax consideration that 23 million corporate employees are already receiving, so that they can provide for themselves.

I think this is reasonable and practical, and I am confident that most of the Members of this body will agree with me. The fight to pass H.R. 10 has been under way now for over 10 years. The measure has always had bipartisan support from Members who feel that enactment of this bill is the best way to deal with this unfair situation. In my opinion, it is imperative that H.R. 10 be passed, as passed the Senate Finance Committee, without crippling amendments here and now. The self-employed and their employees have already waited too long for a fair retirement plan.

Mr. ALLOTT. Mr. President, I am pleased to rise in support of H.R. 10 which, as we know, is designed to allow self-employed persons to participate in voluntary retirement programs, within limits, on the same tax basis as employees.

I believe firmly in the principle of equal and uniform treatment for all taxpayers. This bill will extend to self-employed individuals and employees of these individuals the favorable tax benefits present law provides in the case of qualified retirement plans established by employers for their employees. These benefits are now denied them merely because of the nature of their business or employment.

I have consistently fought for and urged such legislation since coming to the U.S. Senate in 1954. I have cosponsored legislation similar to H.R. 10 in past Congress'.

Mr. President, this legislation does not pose a new question before Congress. I believe it was first considered in 1951. The bill passed the House in the 85th Congress and the 86th Congress and again in the present Congress. It has been thoroughly gone through by both the Senate Finance Committee and the House Committee on Ways and Means on a number of occasions. When the House passed this legislation in this Congress and the Senate Finance Committee favorably reported it last August, I know that I speak with many of my colleagues in this Chamber when I say that I believed that at last we were in a good position to give final approval and send the bill to the President for his signature. Now we are again approaching the end of the Congress with H.R. 10 still awaiting our action. Make no mistake, there are millions of people in all parts of this country who will be watching and waiting for us to work our will on this bill prior to adjournment. I was among those here who would have preferred to have seen this matter taken care of in the Internal Revenue Act of 1962 on which we completed action yesterday, but the majority, in its wisdom dictated no. That leaves it squarely before us here, today, to act. We are the hope of the self-employed—the farmer, the small businessman, the barber and beautician, the doctor, the dentist, the accountant, the architect, the garageman, the service station owner, the home-builder, the plumbing contractor, the realtor, the retail druggist, the retail grocer, the food broker, the manufacturer's representative, the professional engineer, the florist, and many, many others.

to be subject to the program could divert as much as their entire acreage for payment.

"Third. Certain crops not in surplus supply, such as safflower, sesame, and other minor crops, could be produced on diverted acreage at the discretion of the Secretary, and partial diversion payments could be made.

"Fourth. If more than one-third of the producers voting in the referendum opposed the program, price support would be provided at 50 percent of parity to cooperators.

" ...

"The bill provides also that the Secretary may increase the allotment for any type of wheat which would otherwise be in short supply. ...

"Authority is provided also for the Secretary to permit wheat to be produced on feed grain acreages to such extend and under such conditions as will not impair the operation of the wheat program. It is understood that this authority would not be used except in the case when an acreage diversion program for feed grains was in effect.

" ...

"Title IV--Farmers Home Administration

"The bill makes the following changes in the lending authorities of the Farmers Home Administration:

"First. Adds "recreational uses and facilities" to the purposes for which real estate loans may be made or insured to the owner-operators of not larger than family farms.

"Second. Adds "shifts in land use including the development of recreational facilities" to the purposes for which loans may be made or insured to associations serving farmers and other rural residents.

"Third. Adds "recreational uses and facilities" to the purposes for which operating loans may be made to the operator of not larger than family farms.

"Fourth. Adds a definition of farmers to include persons engaged in fish farming among farmers eligible for loans, and

"Fifth. Increases from 10 to 25 million the aggregate of the real estate loans which the Secretary may make out of the insurance fund to be sold and insured, which are on hand and not disposed of at any one time." pp. 18574-7

2. AGRICULTURAL APPROPRIATION BILL, 1963. Received the conference report on this bill, H. R. 12648 (H. Rept. 2381) (pp. 18487-9, 18583). Attached to this digest is a copy of the conference report and a summary of the action of the conferees.

3. FOREST SERVICE. Passed as reported H. R. 12434, to facilitate the work of the Forest Service (pp. 18560-1). This bill was reported with amendment on Sept. 15 (H. Rept. 2377) (p. 18583).

4. LOANS; FHA. Began debate on H. R. 12653, to amend the Consolidated Farmers Home Administration Act of 1961 in order to increase from $150 million to $200 million annually the limitation on the amount of loans which may be insured under such Act (p. 18561). This bill was reported with amendment on Sept. 15 (H. Rept. 2378) (p. 18583).

5. COOPERATION. The Agriculture Committee reported on Sept. 15 (during adjournment of the House) without amendment H. R. 12802, to authorize the Secretary of Agriculture to cooperate with States in the administration and enforcement of Federal laws relating to the marketing of agricultural products and to the eradication or control of plant and animal diseases and pests. (H. Rept. 2379) p. 18583

6. TOBACCO. The Agriculture Committee reported on Sept. 15 (during adjournment of the House) with amendment H. R. 12855, to amend provisions of the Agricultural Adjustment Act of 1938 providing for the lease and transfer of tobacco acreage allotments so as to exclude cigar-filler and cigar-binder tobacco, types 42,43,44,53,54, and 55, from the lease and transfer authority. (H. Rept. 2380). p. 18583

7. WILDLIFE. The Subcommittee on Irrigation and Reclamation of the Interior and Insular Affairs Committee voted to report to the full committee S. 1988, to aid in the administration of the Tule Lake, Lower Klamath, and Upper Klamath National Wildlife Refuges in Oregon and California. p. D853

8. FLOOD CONTROL. Received from the Budget Bureau plans for works of improvement relating to the following watersheds: Crooked Bayou, Ark.; West Fork of Pond River, Ky.; Hardin Creek, Tenn.; and Mill Creek, Tenn.; to Agriculture Committee. p.18583
Received from the Budget Bureau plans for works of improvement relating to the following watersheds; Tobesofkee, Ga. (supplemental); Cottonwood Creek, Okla.; and Delaware Creek, Okla.; to Public Works Committee. p. 18583

9. EDUCATION. The "Daily Digest" states that "Conferees, in executive session, reached agreement on the differences between the Senate- and House-passed versions of H. R. 8900, authorizing Federal financial assistance for institutions of higher education, and will meet again on Wednesday, September 19, to sign a conference report thereon." p. D853

10. MINING. Passed with amendment S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. A similar bill, H. R. 12761, was laid on the table. pp. 18532-4, 18545-50

11. AIR POLLUTION. Passed with amendment S. 455, to provide for public hearings on air pollution problems of more than local significance under, and extend the duration of, the Federal air pollution control law. A similar bill, H. R. 12833, which was earlier passed under suspension of the rules, was laid on the table. pp. 18556-60

12. EDUCATION; VETERANS. Passed with amendment S. 2697, to amend title 38, U.S.C., to provide an extension of the period within which certain educational programs must be begun and completed in the case of persons called to active duty during the Berlin crisis. A similar bill, H. R. 9962, was laid on the table. pp. 18489-92

13. PERSONNEL. The Post Office and Civil Service Committee reported with amendment S. 1070, to amend the Federal Employees' Group Life Insurance Act of 1954, as amended, so as to provide for an additional unit of life insurance (H. Rept. 2383). p. 18583

14. HOUSE RULES. Rep. Reuss urged five amendments to the Rules of the House of Representatives intended to expedite the business of Congress. pp. 18567-70

15. SMALL BUSINESS. Rep. Roudebush discussed the American patent system and said, "It is my firm conviction that the Congress must not take any precipitate action to alter our patent system." pp. 18577-81

Mr. LINDSAY. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LINDSAY asked and was given permission to revise and extend his remarks.)

Mr. LINDSAY. Mr. Speaker, I think that it should be made eminently clear that there is all the difference in the world between this bill that we are now debating and the bill just previously considered, one involving the National Security Agency. That bill involved only one agency in the Government and was confined to the number of direct Government employees employed in that agency. This bill concerns itself with the entire industrial complex of the United States, all universities and other nonprofit institutions that are engaged in research. I want to make that point absolutely clear so when Members vote on these two measures they do not confuse the two bills.

Mr. COLLIER. Mr. Speaker, will the gentleman yield?

Mr. LINDSAY. I yield to the distinguished gentleman from Illinois.

Mr. COLLIER. I take this time to ask the question and to clarify a question in my own mind with reference to this legislation. That question is this: At the present time when an industrial plant receives a contract for classified Government work, it is a matter of established routine, as I understand it, that there be a security clearance. In many cases the Federal Bureau of Investigation and other agencies investigate the background of the applicant. He is either hired or he is denied employment, and can be denied employment legally if in his background there is evidence of something in his background which in the interest of national security provides the reason for denial of employment. Hence the question: If it is discovered that an employee in an industrial plant who has access to security information has a Communist record, what is the difference, really, whether he is denied employment in the first place or discharged afterwards?

Mr. LINDSAY. Of course, the gentleman's question raises complex questions in law and in fact which are all the more reason why this bill should not be decided under a suspension of the rules. In substance, there is a thing known as due process. Due process requires that there be a field hearing. It also requires that when a man or a woman is arbitrarily dismissed from employment or separated from the nature of his or her work without due process so that employment becomes virtually impossible, that there also be provision for appeal to the courts in order that the judicial branch of the Government can take a look. This bill does not even provide for minimum procedures to appeal to the courts. One will have to attack the constitutionality of the act itself and take the case through the nonstatutory route to the courts and attack the bill in that fashion.

Mr. SCHERER. Mr. Speaker, will the gentleman yield?

Mr. LINDSAY. I yield to the distinguished gentleman from Ohio.

Mr. SCHERER. Does not the gentleman admit that the Government does not have an absolute property right in its defense secrets when the gentleman says that a person who is denied access to the secrets has the right to a hearing?

Mr. LINDSAY. I do not admit that.

Mr. COHELAN. Mr. Speaker, will the gentleman yield to me, because I would like to say with reference to the property right, is it not true that there is a property right inherent in the job that was lost under this procedure, which would give an individual the right to appeal to the courts? Would the gentleman agree with that?

Mr. LINDSAY. I would agree to that.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. LINDSAY. I yield.

Mr. WALTER. This is not a case of a right to a job. This is a case of a right to classified information.

Mr. LINDSAY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. RYAN].

Mr. RYAN of New York. Mr. Speaker, I rise in opposition to H.R. 11363.

This is not the first time I have opposed H.R. 11363. On August 20 I objected to this bill when it appeared on the Consent Calendar. At that time I outlined the reasons why the bill should not be passed. I pointed out that the measure has far-reaching consequences, for it includes not only persons working in industry but also persons in "educational, or research organization, institution, enterprise, or other legal entity, located in the United States." It was also stressed that the bill violates our civil liberties and is contrary to basic principles. Section 302 allows the Secretary of Defense to determine that a person, who is denied classified information, shall not have the right to cross-examination or have access to any of the information against him. In addition, it does not provide that a person, who is denied access to information by the Secretary of Defense, can appeal his decision. The bill specifically exempts the authority granted to the Secretary from the Administrative Procedure Act.

Mr. Speaker, this measure with its lack of cross-examination and its rejection of the basic safeguards of due process should not be approved by the Congress. It would be a significant display of the vitality of our Constitution if on the 175th anniversity of that magnificent document the House of Representatives refused to pass a bill which attempts to deny constitutional liberties.

Mr. Speaker, I include at this point in the RECORD a letter dated August 24, 1962, setting forth the observations of the AFL–CIO Department of Legislation on H.R. 11363:

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS,
Washington, D.C., August 24, 1962.

On behalf of the American Federation of Labor and Congress of Industrial Organizations I urge you most strongly to vote against H.R. 11363, the bill to provide legislative sanction for the so-called industrial security program.

The AFL–CIO does not yield to any group in its support of all necessary measures to protect the national security and resist Communist aggression and subversion. In doing so, however, we feel it is of the utmost importance that we do not ourselves become like the forces and institutions we are trying to defeat. Respect for constitutional safeguards is at the heart of the American way of life.

H.R. 11363 is scheduled to come before the House of Representatives under suspension procedure (requiring a two-thirds vote) on Monday, August 27, 1962. Only limited time, 20 minutes to a side, will be available to debate the far-reaching policy and constitutional issues involved in this legislation.

This new attempt to secure House approval of H.R. 11363, without hearings and under truncated legislative procedures, is the fourth time passage under such procedures has been attempted. This bill was first proposed for passage on the Consent Calendar in May 1962. Subsequently withdrawn by its sponsor, the bill was again brought up on the Consent Calendar on August 6, 1962, and August 20, 1962. On each previous occasion objection to consideration of the bill without debate was heard. The procedures thus far followed for securing affirmative House action on this measure are hardly such as to inspire public confidence in the bill.

This fact is of great importance because H.R. 11363 is a far-reaching bill containing broad policy and constitutional implications. Although it purports to deal with procedures for protection of classified information primarily in industrial establishments, the bill would also apply to any educational, or research organization, institution, enterprise, or other legal entity, located in the United States, whether or not operated for profit. In this broad area the bill would permit the Secretary of Defense to deny basic constitutional liberties of American citizens; namely, the rights to confront and cross-examine witnesses and the right to appeal to the courts from adverse decisions by the Secretary of Defense. Section 302 authorizes the Secretary of Defense to deny these rights where the Secretary personally determines that such rights cannot be accorded consistently with the national security. Section 307 of the bill expressly provides that the Administrative Procedure Act guaranteeing court review shall not apply to the use or exercise of any authority granted by this bill.

The attempt is made to justify this bill on the ground that all it is designed to do is to clarify the position of Congress with respect to the questions raised in the case of *Greene v. McElroy* (360 U.S. 4644 (1959)). Careful reading of the Greene case, however, makes clear that far more important issues are involved in this case than simply a clarification of existing law. As Chief Justice Warren pointed out in the Court's 8–1 decision in the Greene case:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the sixth amendment which provides that in all criminal cases the accused shall enjoy the right 'to be confronted with the witnesses against him.' This Court has been zealous to protect these rights from erosion."

We ask the Members of the House to be no less zealous than the Supreme Court in pro-

tecting the rights of confrontation and cross-examination against the serious damage to which they would be subjected by the passage of H.R. 11363.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

(Mr. RYAN of New York asked and was given permission to revise and extend his remarks and to include a letter from the AFL-CIO.)

Mr. LINDSAY. Mr. Speaker, I yield such time as he may require to the gentleman from New York [Mr. ROSENTHAL].

Mr. ROSENTHAL. Mr. Speaker, I rise in opposition to this bill. I think it is a deprivation of a major constitutional right. It is regrettable that it is brought up under this procedure with only 40 minutes of debate on a matter that is worth taking more time and attention. The fact of the matter is there is no real hurry or necessity for this legislation. Even if there were merit to it, which there is not, there is outstanding an Executive order which adequately covers the matter under consideration. The only reason the committee sees fit to bring up the bill is to get around and subvert the decision of the Supreme Court in Greene against McElroy. They seem to feel, for one reason or another, that there should be legislation sanction to their position. They have not indicated any reason why this must be done in this hurried fashion, when the matter so gravely affects the constitutional rights of so many people.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from New York [Mr. LINDSAY] and the gentleman from Wisconsin [Mr. REUSS] and say that I vigorously and strenuously oppose this legislation and urge all Members of the House to take a second look at it before we vote on Wednesday.

Mr. WILLIS. Mr. Speaker, the gentleman who preceded me said that there does not seem to be any reason to go forward with this legislation because of the Executive order that was issued. Let me remind the House that the decision which suggested and prompted this bill was handed down on June 29, 1959. The chairman of our committee, the gentleman from Pennsylvania [Mr. WALTER], on July 7, 1959, days afterward introduced this bill that the committee reported out. The House Committee on Un-American Activities reported the bill out and the House passed this bill by unanimous consent, but the Senate took no part. Now, of course, we are pursuing the same legislation we tried to put on the books for the last 2½ or 3 years and we are doing it to follow through the thought of the Supreme Court that it would be well not only for the President but for Congress to express itself on this matter.

Mr. SCHERER. Mr. Speaker, will the gentleman yield?

Mr. WILLIS. I yield.

Mr. SCHERER. The gentleman has already answered the question I had in mind. One of the reasons the Supreme Court, in Green against McElroy, allowed Green who had a long pro-Communist record, access to defense secrets, was because there was no legislative authority behind the procedures under which the Defense Department denied him access.

Mr. WILLIS. Exactly.

Mr. SCHERER. I wish we had the time to read here the record of Green and his association with Communist causes.

Mr. WILLIS. I want to restate what my good friend from Ohio said in his main argument, that very few people will be reached by this bill, but that these few cannot be accorded the normal confrontation procedure because of the illustration he gave. And let me say this, that the few people this bill would affect would be mighty glad to lay their hands on and really go through and know all about the secret defense documents that they perhaps only know a little about, and examine to their heart's content.

Perhaps it cannot be told who gave the information because that may be an undercover CIA agent in the very place he is working.

The SPEAKER pro tempore. The question is, Shall the House suspend the rules and pass the bill H.R. 11363 as amended?

The question was taken, and the Speaker pro tempore announced that in the opinion of the Chair two-thirds had voted in favor thereof.

Mr. LINDSAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Further proceedings on this matter will be put over until Wednesday next, and the point of order is withdrawn.

SELF-EMPLOYED INDIVIDUALS' TAX RETIREMENT ACT OF 1961

Mr. THOMPSON of Texas. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight Tuesday, September 18, 1962, to file a conference report on the bill H.R. 10, the Self-Employed Individuals' Tax Retirement Act of 1961.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

Mr. ASPINALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12761) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within three years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within three years from the enactment of this Act. Except where a mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon

occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals and mineral materials on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States. All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ASPINALL. Mr. Speaker, I yield myself 6 minutes.

(Mr. ASPINALL asked and was given permission to revise and extend his remarks.)

Mr. ASPINALL. Mr. Speaker, it is my feeling that this bill has run the gamut of a few misunderstandings so that Congress may have to change its usual procedure somewhat in the consideration of the legislation. If the bill is approved by the House, there will be a motion to take from the Speaker's table S. 3451, a similar bill, and to strike everything after the enacting clause of that bill and insert the contents of this bill. With that in mind, I think I can advise my colleagues that we shall endeavor to have a committee of conference appointed and the differences between the two Houses will then be ironed out. It is a fact that the contents of the Senate bill are not quite as favorable to the occupants of mining claims as the provisions of the House bill.

Mr. Speaker, the bill H.R. 12761 is designed to arm the Secretary of the Interior with discretionary authority in order to prevent hardship being suffered by people, who, in good faith, have established their residences on lands on which they have staked mining claims but now find themselves unable to obtain title to the property because they cannot comply with technical requirements of the mining laws. As an alternative to general legislation of the type that we are recommending today, the Committee on Interior and Insular Affairs and this House would be required to examine each case individually and enact individual relief bills.

The Subcommittee on Public Lands under the chairmanship of the gentlewoman from Idaho [Mrs. PFOST] held extensive hearings on the legislation. I will leave it to the chairman of the subcommittee and others to furnish the details of the specific need for enactment of this bill. But, I would like to set forth a few items for consideration of the House.

Ever since the general mining law was enacted in 1872 it has been the common practice in the West for independent miners to settle on the land being developed for its mineral value. Today we would classify these people as being engaged in small business. As such they did not always follow up their occupancies in the manner necessary to obtain a patent granting them fee title to the land.

Under the mining laws it is entirely possibly for someone to stake a claim and extract minerals without ever applying for transfer of title. It is also the position of the Department of the Interior that when the mineral content has been removed from the ground, the occupant can no longer prove discovery of a valuable mineral. For the benefit of those who read the RECORD, I am including, under permission previously granted, as part of my remarks at this point a quotation from a decision by the Department of the Interior in the case of United States against Eric North, A-27936, which was decided July 1, 1959:

> The important thing is that a discovery of a valuable mineral deposit must be shown as existent at the time of the application for patent. A discovery at some time in the past which has been exhausted by mining or which, although unexhausted, no longer warrants a reasonable man in the expenditure of time and money with the reasonable prospect of success in developing a valuable mine will not support an application for patent. A claim must be mineral in character and valuable for its mineral content at the time that the application for patent is made.

The bill before the House today would authorize the Secretary of the Interior, in his discretion, to make conveyances to seasonal or year-round residential occupants. The bill contains provisions to protect the interests of the United States. This legislation was initiated by the gentleman from California [Mr. JOHNSON] as a measure designed to give relief to people in California who were threatened with eviction from their homes because of their occupancy of mining claims that could not be perfected. I think it is significant that, when the Subcommittee on Public Lands looked into the situation, one of its first decisions was that relief was needed in all the public lands States and not in California alone. The legislation on which we are acting today is therefore a general bill that will apply to all areas with equal force.

It has been stated, and undoubtedly will be stated on the floor today, that this bill will also give relief to people who settled on mining claims primarily for the purpose of obtaining a homesite on lands that could not be obtained for such use under any provision of law. This is undoubtedly true; and there are probably some of such people who will receive a benefit from this legislation. But, following the basic principle of our common law that a person is innocent until proven guilty, I cannot believe that the typical American occupant is engaged in an unauthorized use for the purpose of defrauding the people of the United States. Nor do I believe that, because there will be a few who have willfully engaged in unauthorized use, we should deny relief to the large numbers who have occupied the lands under invitation from the United States to develop our mineral resources.

I urge the House to suspend the rules and adopt this legislation which will benefit families and individuals.

In order for one properly to understand the legislation, one must go back to the provisions of the mining law of 1872 and understand what it was at that time that was being required of people who wished to bring to the economy of the Nation, and for its sinews of war, the minerals which were to be found in the public lands of the Nation. Authority was given for the prospector to roam through the public lands for the purpose of discovering, if he could, deposits of minerals and to proceed by filing on the property either for a lode or for a placer claim. He has been entitled to possession of said claim so long as he did certain assessment work that was required under the provisions of the mining law.

Invariably the prospectors and the miners in the out-of-way places—and most of their locations were in out-of-

way places—built themselves a home of one kind or another, and in many instances these homes are still in existence and they have been handed down by the original locators to their heirs and members of their families.

One of the differences between the Senate and the House bills is that the House bill would permit those in possession at the time of the passage of the act to take advantage of the benefits provided by the legislation. The Senate bill states that applicants would have to be in possession some 7 years prior to the passage of the legislation, tying the cutoff date to the time of the passage of the 1955 law.

Mr. SAYLOR. Mr. Speaker, I yield myself 11 minutes.

(Mr. SAYLOR asked and was given permission to revise and extend his remarks.)

Mr. SAYLOR. Mr. Speaker, the gentleman from California [Mr. JOHNSON], the author of this bill, has brought to the attention of the House Interior and Insular Affairs Committee, and subsequently here on the floor of the House, a situation which is critical, a situation which needs attention.

The only question that is involved is how this problem shall be solved. In most instances those people who will be affected by this legislation went onto the sections of public land either in the public domain or in the national forests illegally. They remained there ever since that time illegally. What this bill attempts to do is to give to these people a fee title for as much as 5 acres of that land, or so much as they occupy not to exceed 5 acres.

CALL OF THE HOUSE

Mr. DINGELL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. SISK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 221]

Abbitt	Davis, Tenn.	Harvey, Mich.
Addabbo	Dawson	Hays
Andersen, Minn.	Delaney	Healey
	Diggs	Hébert
Anfuso	Dominick	Hoffman, Ill.
Ashley	Donohue	Hoffman, Mich.
Ayres	Dooley	Hull
Bailey	Dorn	Jarman
Baring	Doyle	Jennings
Barrett	Dwyer	Judd
Bass, N.H.	Edmondson	Kearns
Bass, Tenn.	Elliott	Kee
Bates	Ellsworth	Keith
Blitch	Fallon	Kelly
Boland	Farbstein	Kilburn
Bonner	Findley	Kluczynski
Bow	Fino	Lane
Boykin	Frazier	Lankford
Bruce	Frelinghuysen	Latta
Buckley	Friedel	Lesinski
Burke, Ky.	Fulton	Lindsay
Burke, Mass.	Garland	McCulloch
Carey	Garmatz	McDonough
Celler	Gavin	McDowell
Chiperfield	Gilbert	McMillan
Colmer	Glenn	McSween
Cook	Goodell	McVey
Corbett	Goodling	Macdonald
Cunningham	Green, Oreg.	Madden
Curtis, Mass.	Green, Pa.	Martin, Mass.
Davis, James C.	Harrison, Va.	Mason
May	Pilcher	Slack
Meader	Pirnie	Smith, Miss.
Merrow	Powell	Smith, Va.
Moeller	Pucinski	Stephen
Moore	Rains	Stratton
Moorehead, Ohio	Riley	Teague, Tex.
	Rivers, Alaska	Thompson, La.
Morris	Rivers, S.C.	Thompson, N.J.
Morrison	Roberts, Tex.	Tuck
Morse	Rogers, Tex.	Udall, Morris K.
Moulder	Rostenkowski	Ullman
Multer	Rousselot	Van Zandt
Nedzi	St. Germain	Vinson
Nix	Santangelo	Weaver
Norrell	Saund	Weis
O'Brien, Ill.	Scranton	Whalley
O'Hara, Mich.	Scely-Brown	Whitten
O'Neill	Selden	Wickersham
Peterson	Shelley	Winstead
Pfost	Shipley	Yates
Philbin	Sibal	Zelenko
Pike	Sikes	

The SPEAKER pro tempore. On this rollcall, 277 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION TO FILE CONFERENCE REPORT—COMMITTEE ON AGRICULTURE—FOOD AND AGRICULTURE ACT OF 1962

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. SAYLOR] is recognized.

Mr. SAYLOR. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. COOLEY] for a unanimous-consent request.

Mr. COOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a conference report on the bill, H.R. 12391.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The conference report and statement follow:

CONFERENCE REPORT (H. REPT. No. 2385)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12391) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "That this Act may be cited as the 'Food and Agriculture Act of 1962'.

"TITLE I—LAND-USE ADJUSTMENT

"SEC. 101. The Soil Conservation and Domestic Allotment Act (49 Stat. 163), as amended, is further amended as follows:

"(1) by repealing subsections (b), (c), (d), (e), (f), and (g) of section 7;

"(2) by repealing subsection (a) of section 8;

"(3) by amending the first sentence of subsection (b) of section 8 of said Act, as amended, by striking out the language 'Subject to the limitations provided in subsection (a) of this section, the' and inserting in lieu thereof the word 'The'; and

"(4) by adding a new subsection at the end of section 16 of said Act to read as follows:

"'(e)(1) For the purpose of promoting the conservation and economic use of land, the Secretaray, without regard to the foregoing provisions of this Act, except those relating to the use of the services of State and local committees, is authorized to enter into agreements, to be carried out during such period not to exceed ten years as he may determine, with farm and ranch owners and operators providing for changes in cropping systems and land uses and for practices or measures to be carried out primarily on any lands owned or operated by them and regularly used in the production of crops (including crops such as tame hay, alfalfa, and clovers, which do not require annual tillage, and including lands covered by conservation reserve contracts under subtitle B of the Soil Bank Act) for the purpose of conserving and developing soil, water, forest, wildlife, and recreation resources. Such agreements shall include such terms and conditions as the Secretary may deem desirable to effectuate the purposes of this subsection and may provide for payments, the furnishing of materials and services, and other assistance in amounts determined by the Secretary to be fair and reasonable, in consideration of the obligations undertaken by the farm and ranch owners and operators and the rights acquired by the Secretaray: *Provided*, That agreements for the establishment of tree cover may not provide for annual payments with respect to such land for a period in excess of five years.

"'(2) No agreement shall be entered into under this subsection covering land with respect to which the ownership has changed in the two year period preceding the first year of the contract period unless (a) the new ownership was acquired by will or succession as a result of the death of the previous owner, (b) the land becomes a part of an existing farm or ranch, or (c) the land is combined with other land as a farming or ranching enterprise which the Secretary determines will effectuate the purposes of the program: *Provided*, That this provision shall not prohibit the continuation of an agreement by a new owner after an agreement has once been entered into under this subsection.

"'(3) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under this subsection.

"'(4) The Secretary may agree to such modification of agreements previously entered into as he may determine to be desirable to carry out the purposes of this subsection or to facilitate the practical administration of the program carried out pursuant to this subsection.

"'(5) The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this subsection.

"'(6) Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this subsection, may provide in any agreement hereunder for (A) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (B) surrender of any such history and allotments.

"'(7) There is hereby authorized to be appropriated such sums as may be necessary to carry out this subsection. The Secretary is authorized to utilize the facilities, services, authorities, and funds of the Commodity Credit Corporation in discharging his func-

quate authority to handle this problem. The Secretary of Agriculture should, however, proceed with extreme caution in this matter. The principal concern of the conferees is that neither windfall profits nor losses should be incurred by holders of wheat on the effective date of the new program, because of inadequate mechanics for handling this problem.

The conferees also believe that the certificates should trade at face value or a preannounced value and that opportunities for speculation in certificates should be eliminated. This can best be accomplished by announcing in advance that CCC will be a free buyer and seller of certificates. This announcement should not preclude the handling of certificates in trade channels but it would eliminate the opportunity to hold certificates for financial gain. It would further eliminate the possibility of the disruption of orderly marketing because of an artificial shortage of certificates.

The conferees, by referring to specific problems, are not inferring that these are the only problems involved in the transition to the wheat certificate program or the only possibilities of interference with the orderly marketing processes. They are cited as a caution to the Secretary of Agriculture to use care in developing and administering this program. Conferences with committees of Congress, farm organizations, and the grain trade are essential to the proper development of the mechanics for handling the wheat certificate program.

The conferees also believe that it is important that the necessary mechanics of operation be worked out and announced well in advance of the effective date of the program. Only in this manner can all producers and grain handlers have an opportunity to adjust their operations to the certificate program.

Subtitle C—Dairy

13. House provided for a voluntary 9-month program (October 1, 1962–June 30, 1963) under which producers would be paid up to $2.50 per hundredweight for reducing their marketing below calendar 1961 levels. House also required price support or surplus removal loans on, or purchases of, products to be conditioned on certification that the support price was paid to the producers of the milk or butterfat. Senate contained no dairy provisions. Conference struck House provision.

Title IV—General

14. House limited FHA real estate loans for recreational uses to citizens with farm background or experience who are or will become owner-operators of not larger than family-size farms. Senate did not so limit. Conference agreed to House provision with a technical change.

15. Conference substitute omits the following provisions of the Senate amendment (which were not contained in House bill):

(a) Authority for sewer loans.

(b) Provision for REA direct loan account.

(c) Provision concerning use of farmer cooperatives.

16. Conference substitute contains the following provisions of the Senate amendment (which were not contained in House bill):

(a) Authority for loans to fish farmers.

(b) Congressional policy favoring use of customary trade channels.

The directive to the Secretary and Commodity Credit Corporation in section 402 to adopt certain policies and procedures is by its terms to be carried out "to the maximum extent practicable." In determining whether and the extent to which the adoption of such policies and procedures is practicable, it is intended that the Secretary and Commodity Credit Corporation have wide latitude for the exercise of discretion. In exercising such discretion, it is of course contemplated that there will be taken into consideration, among other factors, whether the policy or procedure would be consistent with the fulfillment of the Corporation's purposes and with the efficient and effective conduct of its operations. Section 402 is not intended in any way to override other statutory provisions which apply to the Secretary and Commodity Credit Corporation in carrying out their activities and responsibilities.

(c) Cherry marketing order provisions for advertising.

(d) Authority to make CCC feed available, prior to December 31, 1963, to milk producers to assure supply free of radioactive fallout contamination.

TITLE V—INDUSTRIAL USES OF AGRICULTURAL PRODUCTS

Conference substitute does not contain Senate provision (not in House bill) establishing an Agricultural Research and Industrial Use Administration within the Department of Agriculture to coordinate and expedite an expanded research program on industrial uses of agricultural commodities.

HAROLD D. COOLEY,
W. R. POAGE,
E. C. GATHINGS,
J. FLOYD BREEDING,
Managers on the Part of the House.

CORRECTION OF ROLLCALL

Mr. SAYLOR. Mr. Speaker, I yield to the gentleman from Kentucky [Mr. CHELF].

Mr. CHELF. Mr. Speaker, on rollcall No. 214 I am recorded as having been absent. I was present and answered to my name, and ask unanimous consent that the permanent RECORD and Journal be corrected accordingly.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

PROVIDING RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

Mr. SAYLOR. Mr. Speaker, this situation which is attempted to be corrected under this bill became so bad that the Comptroller General made a survey or a review of the administration by the Forest Service of the Department of Agriculture of mining claims on National Forest lands reserved from the public domain. It is astounding what this report, which was filed with the House on May 29 of this year, disclosed. It discloses among other things that they found unpatented mining claims being used for permanent residences, for summer homes, for townsites, orchards and commercial enterprises, farming—a house of ill repute, a nudist colony, restaurants, a rock museum and a real estate office. Hunting and fishing lodges are being maintained on unpatented mining claims.

Mr. Speaker, there are a host of other uses that are absolutely inconsistent with our national forest policy.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Iowa.

Mr. KYL. Is it not true in addition to these misuses of this Government land that because of certain mining claims, the Government has been forced into the impossible position of having to buy rights-of-way through these holdings to get to the Government forests so that they can be properly managed and harvested?

Mr. SAYLOR. The gentleman is correct. One of the things that was discovered was that several of these illegal mining claims happen to be the only means of access to several hundred million board feet of timber and the owners of these claims, of these illegal claims which the Government is now trying to cancel, have demanded an outlandish payment from the Government, or the prospective timber purchaser for a right-of-way across this fictitious mining claim and the matter is now in court.

Mr. KYL. Is it not also true, to compound this situation, there is actually no record of these mining claims that exist. Even with reference to the new mining claims, there is no suitable procedure for recording the transactions.

Mr. SAYLOR. The gentleman is correct. One of the things that disturbs me about this bill and even as to the cases where the Forest Service is acting, there is absolutely nothing to stop a person from coming in and filing a new mining claim on the same land from which the Government has already dispossessed the trespasser.

In an attempt to solve this problem, the gentleman from California introduced a bill which I think is far too broad. He attempts to give them a fee of up to 5 acres or the acreage actually occupied. One of the real difficulties with this bill is that he gives them that right as long as they were on the ground on the 12th day of January 1962, the date on which the first bill was filed.

The Senate, I am happy to inform the Members of the House, took a much more limited view of this proposition. While they did in some rare circumstances grant a fee, most of the people who would qualify under the Senate version would have to be on the land for a minimum of 7 years. I can find no justifiable reason for going back a mere 7 years. There are a number of good reasons for going back to a date such as the end of World War II, when a great many of the people in the West were looking for weekend homes, and under the guise of mining claims went in and picked some of the choicest spots in our national forests for their residences.

There is also a date, 1920, that might be suitable. This date is the one when this movement had its beginning. If the date 1920 were adopted, the particular case the gentleman from California [Mr. JOHNSON] relied upon for support before the committee—namely, a mining community which grew up on illegal mining claims—would be taken care of.

I feel that any people who went into a mining community and filed a claim even if they discovered no minerals, have some justification, and we should look with favor upon these cases. But, generally, the people who are included in the report of the Comptroller General do not fall in that category.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Iowa.

Mr. GROSS. Referring to the minority views accompanying this report, which is critical of things which have occurred, I do not find in the letter written by the Comptroller General that the bill meets the objections of the Comptroller General's office.

Mr. SAYLOR. I may say to the gentleman that the Comptroller General was very critical of practices that have been adopted and are still being conducted by the Department of Agriculture in these mining claims; and I am satisfied that neither the House bill nor the Senate bill goes as far as the report and the recommendations of the Comptroller General.

I believe that if this bill does to go conference that between the Senate version and the House version something can be worked out so that where there is a real hardship, equity can be done. I believe that many of these people have paid good money in good faith for property in what was originally mining communities. But where it is a summer camp or a residence in direct violation of the law I do not believe that we can in good conscience give them relief.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield.

Mr. ASPINALL. I am doubtful of permissive legislation that leaves it entirely within the discretion of the Secretary. Would it not make difficult the handling of situations to which the gentleman just made reference if introduced in this bill?

Mr. SAYLOR. I would hope that it would not. If the Secretary himself had the decision to make, I believe I could depend upon his decision; unfortunately, there are some career people downtown that do not believe as the chairman of the committee and myself believe, and it is for this reason therefore we must make this bill even more restrictive than it is.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield further?

Mr. SAYLOR. I yield.

Mr. ASPINALL. Is that not one instance where the House bill is perhaps stronger than the Senate bill?

Mr. SAYLOR. The gentleman is correct.

Mr. ASPINALL. We can take this particular matter to conference and iron it out, can we not?

Mr. SAYLOR. Correct. That is one reason why I am going along on the motion to suspend the rules and pass the bill, because of the statement the chairman of the full committee has made. I sincerely believe that this conference can and will work out a good piece of legislation.

Mr. ASPINALL. Mr. Speaker, I yield 8 minutes to the gentleman from California [Mr. JOHNSON].

(Mr. JOHNSON of California asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of California. Mr. Speaker, I rise in support of my bill, H.R. 12761, to provide relief of residential occupants of unpatented mining claims upon which valuable improvements have been placed. This legislation is designed to give the Secretary of the Interior the authority to convey at fair market value up to 5 acres of land which is occupied by persons who have filed mining claims on this property but have not perfected or patented these claims.

I would like first to emphasize two basic points: One, this proposed legislation would in no way amend the public mining laws; two, this legislation cannot be classified as a "giveaway" because in any event, the occupant must pay fair market value for the property and second, the authority is extended to the Secretary of the Interior to convey this land only if it is not needed for further governmental purposes.

Mr. Speaker, this is permissive legislation. It gives the Secretary of the Interior a much-needed tool to resolve a major problem which has developed not only in California but throughout the Western States.

Under the mining laws of 1872, citizens of the United States and those who have declared their intention to become such are guaranteed the right to enter upon the public lands of the United States, except those withdrawn from entry, to explore for and purchase valuable mineral deposits and to occupy lands in which such mineral deposits are found. There is no requirement however, that an occupant or locator, as he is known, must proceed to the purchase of the lands in which the valuable mineral deposits are found.

Numerous people have entered upon the public lands, staked claims in accordance with the mining laws, and proceeded to extract minerals without ever filing an application for patent to the land. Others have established locations and perfected mining claims but have been unable, because of other provisions of law, to proceed to patent even though they might have desired to do so. Once a mining claim is established, it was not—and is not—unusual for a claimant to take up residence on the land within the boundaries of the claim.

There is no doubt that many residential occupants on unpatented mining claims located such claims in good faith, in accordance with law, and had every expectation of acquiring fee title to the land in accordance with the mining laws.

Mining claims constitute property, giving the holder the right of possession. In the public land States unpatented mining claims are bought and sold on the open market. Some of the unpatented mining claims have been occupied for a great number of years by the same family. It may be impossible for the occupant to fulfill the objectives of the law at this time and obtain a patent to the land. The reason for this is that the law of discovery, which controls the determination of whether a patent will be issued, is related to both time and place; that is, there must be a valuable deposit, within the claim, on which a prudent man would be justified in expending additional funds to develop at the time of application for patent. If there had been a valid discovery at one time but all the minerals had been extracted, the Department of the Interior has held that the holder of the claim could not now proceed to patent because the claim is no longer mineral in character, or valuable for its mineral content, and a reasonable man would no longer be warranted in the expenditure of time and money to develop the claim.

These people who had acquired these mining claims as the original locator or through purchase of the claim or through bequest as the land was passed down through generation to generation through a single family have recorded their deeds with the county recorder and for the most part, believed that they had a valid title to the property. These properties have been taxed with the counties collecting taxes both on the improvements and on the possessory interest of the mining claim.

As is indicated in the committee report on this bill, both the Bureau of Land Management and the U.S. Forest Service have initiated programs designed to eliminate unauthorized use of unpatented mining claims and in many of these instances and especially those involving the Bureau of Land Management, these lands are being processed for sale or lease under public land laws.

Naturally, the first step was to clear the title to the property. To do this most of the claims were invalidated and the present occupants were faced with eviction. It was then that the people, many of whom had lived on the land for decades, found they had no legal title to the land.

Since much of the land involved was to be offered for public sale anyway it seemed only fair that these people should be offered a preference right to purchase it at fair-market value. This is what my legislation would do.

This legislation as reported out by the Committee on Interior and Insular Affairs, is an enabling bill which would give the Secretary of the Interior the authority to give a preference right to these occupants to purchase up to five acres of this land on which they have been living. The balance of the land in the claim would be sold to other private individuals under the provisions of the Small Tract Act or similar legislation. This legislation thus would protect the occupant from having to bid in an open auction against all comers for the land on which he lived.

As reported out by the Committee on Interior and Insular Affairs the bill provides the following things:

First. Any decision to convey any property under the provisions of this bill is discretionary with the Secretary of the Interior or the Secretary of Agriculture in the case of Forest Service land.

Second. To be eligible to perfect title to property under the provisions of this bill, the applicants must relinquish to the United States all rights in such claim which he may have had under the mining laws of this Nation.

Third. Applications must be made within a 3-year period.

Fourth. Where land has been withdrawn for Federal, State, county, municipal, water district or other local governmental purposes, the Secretary of Interior must receive consent of that agency before proceeding with the application. In cases where the Secretary of Interior or other governmental agencies determine there still is a public need for the property, the mining claim occupant may be offered a similar preference choice to acquire up to 5 acres of land in a tract being offered for public sale under regular laws.

Fifth. The occupant must pay fair-market value for his property.

Sixth. Maximum conveyances under the provisions of the bill would be 5 acres or less as under the Small Tract Act.

Seventh. All mineral rights will be reserved by the Federal Government.

Mr. Speaker, so that we all may have a complete picture of what this bill provides, I would like to make the following section-by-section analysis:

Section 1 gives the Secretary of Interior the discretionary authority to convey up to 5 acres to the occupant of an unpatented mining claim. Prior to this conveyance the claim must have been found invalid or the occupant must have relinquished his rights to the claim. In order to avoid hardships and discrimination, this section extends the same benefits to occupants whose unpatended mining claims were invalidated or relinquished within 2 years prior to the effective date of the act.

Section 2 defines a qualified applicant as a residential occupant-owner of the claim as of January 10, 1962. It also provides that to be eligible the occupant-owner must have made certain valuable improvements on the property.

Section 3 provides that the Secretary of Interior cannot convey any land withdrawn and/or administered by another department or agency of the Federal Government or State or local government without the consent of the head of that ageney.

Section 4: In the event that the agency which has jurisdiction of the property mentioned in section 3 should determine that the conveyance should not be made, section 4 provides that the occupant may have a preferenee right for the purchase of another tract of land in an area which is being disposed of under the public land laws.

Section 5 requires payment of fair market value for any property conveyed under the provision of this act.

Section 6 specifically provides that this act does not and I repeat does not relieve the occupant from any liability for unauthorized use or trespass since the invalidation of the mining claim or its voluntary relinquishment.

Section 7 reserves all mineral rights in the name of the United States.

Mr. OLSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Montana.

Mr. OLSEN. For how long a period of time would this preference right exist in these people to request a transfer from the Secretary?

Mr. JOHNSON of California. The preference right would be granted for the period of 2 years.

Mr. OLSEN. If the gentleman will yield further, that is, if 2 years from the date of passage of this act they do not make any claim for transfer of title, then their right is forever gone?

Mr. JOHNSON of California. Yes.

Mr. OLSEN. Then, in effect, this is a method of cleaning up titles to property which are now clouded by a claim of an unpatented mining claim?

Mr. JOHNSON of California. Anyone who is familiar with the West knows that there have been numerous claims filed—claims filed upon claims—and in the process of clearing up that property, either to contest the claim or declare the claim invalid or to process it and have the present occupant relinquish his mining rights to the claim so that the properties could be more or less subdivided or sold as places of residence, there has been a tremendous amount of litigation and consideration that has had to take place. As I say, in Calaveras County, where 27 claims were involved, when the contested claims were turned over and the relinquishment was given by the people in the area, the parcels broke up into 97 pieces and only 8 pieces were finally disposed of. Those were pieces in the possession of people who had homes located on them and the people who acquired these paid the fair market value for the properties received. They ran from an acre to 2½ acres.

Mr. SAYLOR. Mr. Speaker, I yield 8 minutes to the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, it is with a great deal of sadness that I oppose this legislation which has been introduced by my good friend and colleague, the gentleman from California [Mr. JOHNSON], and especially since it has come out of the Committee on Interior and Insular Affairs which is chaired by my distinguished friend, the gentleman from Colorado [Mr. ASPINALL], who have both always been known for their care of the public interest. My opposition to this bill is not predicated upon any lack of affection or high regard for these two distinguished gentlemen, or lack of regard for their character, or for their valued and esteemed service in the Congress of the United States. But let it suffice that this is a bad piece of legislation which could only come to the floor of the Congress during the closing days of a session. Let it suffice that this is a bill which will give, according to the figures of its author, something on the order of two acres potentially to each of 1.1 million people who have patented mining claims in the national forests alone, or some 2.2 million acres of the public domain. We do not know how many other unpatented mining claims are in the Bureau of Land Management or many other public places of the United States, or how much of this sort of public land will be disposed of by this bill.

Mr. Speaker, the plain and simple effect of this legislation—and the Members of the House should remember this—is going to be to change what is simply a license to enter the public domain to prospect and then to develop a mining claim where minerals are discovered into a right to purchase fee simple title potentially in 1.1 million cases in the national forests alone. This land does not belong to me—or to anyone else in the House. It is a sacred treasure belonging to all Americans, and is in trust for them, held by their Government.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield very briefly to the gentleman.

Mr. JOHNSON of California. Does not the gentleman agree that the legislation is permissive?

Mr. DINGELL. I agree that it is permissive, but I also agree that at all odds almost everyone who is potentially eligible to receive under this legislation will get himself busy and will receive the lands described in the bill.

I will further make the statement that in instances here where people are not genuinely authorized to receive, they will utilize every political pressure they can to come in under the provisions of the bill.

Mr. Speaker, this is a bad bill and I shall explain to the House why this legislation should be killed, in the public interest. Let us listen to this. This is from the report of the Comptroller General with reference to the national forest lands, where he said:

> Numerous unpatented mining claims in national forests are apparently being used for purposes not related to mining.

This is what this land-grab is for. This legislation is for the purpose of giving these people who have entered, not to mine, not to utilize it under the mining laws, but to get themselves a nice chunk of valuable public real estate. These lands, as my good friend on the minority side said, are being used for a whole series of purposes. They are being used for residences, summer homes, town sites, orchards, commercial enterprises, farming, and for a house of ill repute. And I saw in the paper not too long ago where gambling casinos have been established in these areas. In addition, the report of the Comptroller General says that these areas are also being used for a nudist camp. Now, I have no objection to a nudist camp and these other uses, but I do not think they ought to be set up on the public domain.

Remember, this legislation does just one thing. It converts the barest of license into the right of an individual to buy a fee simple piece of public domain to have and to hold in perpetuity and to pass on to his heirs. This is all this bill does, and it means that in excess of 1 million, or, perhaps, according to the calculation of my good friend, something on the order of 2.2 million acres of our national forests are going to be sold out from under their true owners to squatters who have—and we have no way of knowing how much land that comes under the Bureau of Land Management or other agencies is going to be taken under this bill. This is land which belongs

to all of us; it is a sacred trust for all our people.

Mr. Speaker, we are told that these squatters are little people, people who are being wronged by this situation. They are not being wronged. They knew under the law what rights they had when they entered the public domain to take an interest in land which the mining laws gave them. What have they used these lands for? Have they cooperated with the United States in the management of these lands? The answer is "No." The fact of the matter is that in one national forest alone, Rogue River National Forest, 4 million feet of timber cannot be cut because there are 21 unpatented mining claims of holders who will not allow the Federal Government to enter to do control work in other parts of that national forest. It was estimated by the Forest Service that it would cost $1 million just to buy the rights-of-way and do the control work to harvest this overage timber. If this bill passes, an appropriation bill in the next congress will include this item .

In the Siskiyou National Forest timber sales in the amount of 12 million feet of timber were delayed, could not be harvested, because of these unpatented mining claims holders who would not permit the representatives of the people to attend to the public affairs and look after the land which belongs to all of us.

In the Wenatchee National Forest 12 million feet of good timber cannot be harvested because the rights-of-way will not be given by unpatented claim owners. In this same national forest the Government is being impeded by mining claim holders who will not permit the Federal Government to go across the land and to engage in insect control.

In the Plumas National Forest and the Wichita and the Tahoe National Forest, in almost every one that has been studied by the Comptroller General, these people are not cooperating. This is bad legislation. It is not in the public interest. Its purpose is to give away one of the great treasures and one of the great national heritages which we as Americans have, the national forest lands, which these people have attempted to get under invalid mining claims.

This is what the Forest Service had to say:

> Forest Service officials stated that the primary objective of increasing numbers of people who have mining claims is simply a desire to have a place in the mountains to go to and enjoy and ultimately to own, without regard to requirements of the mining laws.

This is a quote from the report of the Comptroller General of the United States.

So this legislation should not be enacted by this Congress. It is not in the public interest. If this Congress seeks to establish a good record of protecting the public interest, of conserving the public domain and seeing to it that the laws are fairly and fully and properly complied with and carried out, we should not grant this kind of special exemption.

Let it be said here clearly that if the Congress gives this kind of exemption for a raid upon the public domain in the national forests we will in the future be called upon to carry out the same exact woeful precedent which we are setting today, and in turn, merely because people come forward and say, "Well, I built a home on this," we will again give away a precious portion of the public domain.

No one would be weeping if it were said, Why, they built a home upon the premises, the tract of land owned by the author of this bill, and if the author of this bill, having had some squatter move in on his land, summarily threw him out, and threw out the improvements that squatter had put on his land. Everybody would say it served him right.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield.

Mr. JOHNSON of California. Is it not true that this would only come into play if the Secretary of the Interior or the Secretary of Agriculture or any other designated officer were offering land for sale, and if it involved these properties where these people are located on an unpatented mining claim they could then take the advantage of the preference given them of acquiring their own piece of property for their own home. There is quite a bit of public domain. This is not the question. In California they are selling many, many acres of public domain under an act which provides for exchange or sale. This merely gives them a home.

Mr. DINGELL. I see an incredible amount of evil happening to the public domain if this legislation becomes law, and in answer to the gentleman say that while this measure masquerades as permissive it will in fact be nearly mandatory in effect because of political and other pressures.

(Mrs. PFOST (at the request of Mr. ASPINALL) was given permission to extend her remarks at this point in the RECORD.)

Mrs. PFOST. Mr. Speaker, as indicated by the chairman of the Committee on Interior and Insular Affairs, the gentleman from Colorado [Mr. ASPINALL], the bill we are now considering is designed to assist individuals and families. It will not help corporations. It is designed to prevent families from being evicted from their residences that have been established on public lands under the mining laws.

I feel certain that no one in the House will quarrel with the objective of this legislation, in view of the assurance that I can give, as chairman of the subcommittee that considered the bill, that the national interest is being protected and the United States will receive fair market value for any land sold under the provisions of this bill.

The Subcommittee on Public Lands, of which I have the honor to be chairman, held extensive hearings and examined the proposal very carefully. We concluded that equity and fairness dictate the enactment of legislation to permit the sale of portions of unpatented mining claims to residential occupants where valuable improvements have been placed on the property.

The bill that we have brought before the Members limits to 5 acres the area that may be sold to an occupant; and, if less than 5 acres is being occupied, the lesser acreage will be sold. In order to qualify for acquisition, an applicant must be a seasonal or year-round residential occupant-owner of land now or formerly in an unpatented mining claim. Further, in order to be eligible to acquire land, the occupant's mining claim must have been invalidated by the Secretary of the Interior or, in response to a notification that the claim is believed to be invalid, the claimant relinquished to the United States his interest in the claim. The bill protects the public interest in many ways. First, there is a specific requirement that, if the occupied lands have been withdrawn for some public use, the conveyance can be made only with the consent of the governmental unit having jurisdiction over the area. Secondly, the authority is discretionary and the Secretary of the Interior may determine that disposition is not in the public interest. Parenthetically, I also point out that the occupant also is given additional protection; if the land he occupies is not made available for conveyance, he receives a preference to purchase public lands of similar acreage made available for sale by the Secretary of the Interior.

The bill further provides that, even though a conveyance be executed, an occupant will not thereby be relieved from any liability for prior unauthorized use. Finally, the public interest is protected by providing for reservation to the United States of all minerals that may be in the land conveyed. Although the basis of this legislation is that the land to be conveyed is nonmineral in character, the committee recognizes that there may be deep-lying ore bodies presnt, or there may be minerals that are now unknown. The bill therefore reserves these minerals to the United States and, then, provides specific disposal procedures under which the United States would separately be able to obtain payment of full market value if minerals are discovered at a later date.

In addition to my interest in this bill as chairman of the Subcommittee on Public Lands, I wholeheartedly support this legislation because it is necessary to assist people in my own State of Idaho. This is not a new problem. The gentleman from Colorado, Chairman ASPINALL, has pointed out that under the mining laws occupants of mining claims need not proceed to obtain title to the lands. The fact is, I think, that many people, being unaware of the need to protect their occupancy, just did not take the trouble to complete the formalities that they might have been able to comply with at one time. Some of the claims have been exhausted and the minerals removed; others can not meet the test of a discovery because of the general depressed conditions of our domestic mining and minerals industries.

There is no reason why families occupying such mining claims areas should be forced to leave under a threat of eviction with a cloud on their title. If

the land is required for a governmental purpose, these people should release their claims and move off the property. But, if there is no governmental requirement for the property, the United States should make the land available for sale. H.R. 12761 recognizes both situations.

I wish to compliment the gentleman from California [Mr. JOHNSON] for the manner in which he has pursued this problem in bringing it to our attention with a sensible solution. I also am pleased to be associated in this legislation with Senator CHURCH, of my own State of Idaho, who has sponsored a similar bill (S. 3451) in the other body.

Mr. Speaker, I recommend enactment of this legislation and urge the House to suspend the rules and pass H.R. 12761.

The SPEAKER pro tempore. The question is, Will the House suspend the rules and pass the bill H.R. 12761?

The question was taken, and on a division (demanded by Mr. DINGELL) there were—ayes 49, noes 13.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds having voted in the affirmative, the rules are suspended and the bill is passed, and without objection, a motion to reconsider is laid on the table.

There was no objection.

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. HALLECK. Mr. Speaker, I make the point of order that the point of order comes too late. The result of the vote has been announced.

The SPEAKER pro tempore. The gentleman is making a point of order.

Mr. DINGELL. And I object to the vote.

The SPEAKER pro tempore. That objection comes too late.

Mr. DINGELL. Very well, Mr. Speaker, I withdraw the point of order.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. MILLS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 222]

Abbitt	Bow	Diggs
Addabbo	Boykin	Dominick
Andersen, Minn.	Bruce	Donohue
Anfuso	Buckley	Dooley
Ashley	Burke, Ky.	Dorn
Ayres	Burke, Mass.	Doyle
Bailey	Cahill	Dwyer
Baker	Carey	Edmondson
Baring	Celler	Elliott
Barrett	Colmer	Ellsworth
Barry	Cook	Farbstein
Bass, N.H.	Corbett	Findley
Bass, Tenn.	Cunningham	Fino
Bates	Curtis, Mass.	Frazier
Becker	Davis, James C.	Frelinghuysen
Blitch	Davis, Tenn.	Fulton
Boland	Delaney	Garland
Bonner	Dent	Gavin
Glenn	Macdonald	Gilbert
Goodell	Madden	Roberts, Ala.
Goodling	Martin, Mass.	Roberts, Tex.
Gray	Mason	Rogers, Tex.
Green, Oreg.	May	Rostenkowski
Green, Pa.	Meader	Rousselot
Harrison, Va.	Merrow	St. Germain
Harsha	Minshall	Santangelo
Harvey, Mich.	Moeller	Saund
Hays	Monagan	Scherer
Healey	Moore	Scranton
Hébert	Moorehead, Ohio	Seely-Brown
Herlong	Morris	Selden
Hoffman, Ill.	Morrison	Shelley
Hoffman, Mich.	Morse	Sheppard
Hull	Moulder	Shipley
Jarman	Multer	Sibal
Jennings	Nedzi	Sikes
Joelson	Nix	Smith, Miss.
Judd	Norrell	Smith, Va.
Kearns	O'Brien, Ill.	Spence
Kee	O'Hara, Mich.	Stephens
Keith	O'Neill	Stratton
Kelly	Patman	Thompson, La.
Kilburn	Peterson	Thompson, N.J.
Kilgore	Pfost	Tuck
Kornegay	Philbin	Udall
Kowalski	Pike	Van Zandt
Lane	Pilcher	Vinson
Lankford	Pillion	Wailhauser
Latta	Powell	Weaver
Lesinski	Pucinski	Weis
McCulloch	Quie	Whalley
McDonough	Rains	Wickersham
McDowell	Riley	Winstead
McMillan	Rivers, Alaska	Yates
McSween	Rivers, S.C.	Zelenko
McVey		

The SPEAKER pro tempore. On this rollcall, 267 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CORRECTION OF ROLLCALL

Mr. ALGER. Mr. Speaker, rollcall No. 213 of September 13, 1962, shows that I was absent. I was present and answered to my name, and I ask unanimous consent that the RECORD be corrected accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RELIEF FOR OCCUPANTS OF UNPATENTED MINING CLAIMS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to an occupant of an unpatented mining claim which is determined by the Secretary to be invalid, an interest in an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to an occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of the amount establishcd pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided,* That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a citizen of the United States or a person who has declared his intention to become such who is a residential occupant-owner, as of July 23, 1962, of improvements now or formerly in an unpatented mining claims upon which valuable improvements had been placed, which constitutes for him a principal place of residence, and he and his predecessors in interest have been in possession for not less than seven years prior to July 23, 1962.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary: *Provided further,* That in all appropriate cases Federal departments shall consult with county and other concerned local government subdivisions or agencies to determine the effect of a proposed conveyance upon the services of government which might be then required.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, may be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said right must be exercised within five years from and after the date of its grant. Where the lands have been withdrawn in aid of a function of a Federal department or agency, the head of such department or agency may permit the applicant to use and occupy the land for residential purposes under such terms and conditions as may be appropriate during the life of the applicant with provision for removal of any improvements or other property of the applicant within one year after the death of the applicant.

SEC. 5. The Secretary of the Interior shall set the price to be paid for conveyance upon the following criteria: (a) Whenever it shall

be shown to his satisfaction that the land to be conveyed has been held in good faith by an applicant, his ancestors or grantors for more than twenty years prior to the date of this Act, the applicant shall pay such filing and processing fee as may be uniformly required, the cost of survey, if any is required for the disposition of the land involved, and the payment of not less than $5 per acre or fraction thereof nor more than the fair market value of such lands on the date of appraisal (exclusive of any improvements placed thereon by the applicant or his predecessors in interest) and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant; (b) *Provided,* That when the above conditions exist except that the land has been held for less than twenty years prior to the date of this Act, in addition to a filing fee and cost of survey, if applicable, the payment shall be the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) on the date of appraisal but in no event less than $5 per acre or fraction thereof: *Provided further,* That whenever the conveyance is a life estate or less, the applicant shall pay such filing and processing fee as may be uniformly required and an additional payment of not less than $5 per acre or fraction thereof nor more than 50 per centum of the resultant value that would be obtained from appraisal made under the terms of part (a) of this section, which amount may be made payable on an annual payment schedule.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands, except to the extent that the Secretary of the Interior deems equitable in the circumstances. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within five years from the enactment of this Act. With respect to any mining claim, embracing land applied for under this Act by a qualified applicant, except where such mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws are disposable under the Act of July 31, 1947, as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved, but without the right of ingress and egress for exploration and development purposes. Such minerals may, however, be leased by the Secretary under the mineral leasing laws.

SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

Mr. ASPINALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPINALL: Strike out all after the enacting clause of S. 3451 and insert the provisions of H.R. 12761, as passed.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Colorado.

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12761) was laid on the table.

CONFERENCE REPORTS

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the conferees on the part of the House have until midnight tomorrow night, September 18, 1962, to file a conference report to accompany H.R. 12180, and another conference report to accompany H.R. 6682.

Mr. BROWN. Mr. Speaker, reserving the right to object, may I inquire of the gentleman from Arkansas for what these two bills provide?

Mr. MILLS. If the gentleman will yield, these are bills that passed the House by unanimous consent to which the Senate appended amendments. Both of them, as I recall, were passed under unanimous consent.

Mr. BROWN. I was just hoping that one of them was the tax revision bill.

Mr. MILLS. No; that will come later.

Mr. BROWN. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1963

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oklahoma [Mr. STEED].

Mr. STEED. Mr. Speaker, I desire to announce that the conference report on the legislative branch appropriation bill, H.R. 11151, will be called up for action on tomorrow. In view of the fact that one Senate amendment is in serious disagreement, I ask unanimous consent that a letter on this amendment being circulated to all the Members and signed by the gentleman from Washington [Mr. HORAN] and myself be printed at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The matter referred to follows:

SEPTEMBER 17, 1962.

Re patron mail provision for franked mail.

DEAR COLLEAGUE: Senate amendment No. 44 to the legislative appropriation bill, which would deny the use of any simplified form of address on congressional franked mail, will soon come up for a separate vote in the Houses—probably this week. As the ranking House conferees on the bill, we feel we should again summarize for the information of Members the salient features and dimensions of the Senate language.

1. The House, by record vote, rejected the identical proposition last April.

2. If the amendment were adopted, henceforth all franked mail—rural and star route as well as city and town—would have to include name and address (even for such things as lists of publications, farm bulletins, etc.).

3. Franked mail would not even have parity with private mailers on either rural, star, or city routes or boxes (private mailers can send rural mail addressed simply "Postal patron, local" and city mail without name).

4. Present simplified addressing procedure reduces cost in Member's offices and in the Post Office. (The Department states: "The per piece handling cost of congressional mail, addressed to 'Postal Patron' without street address on city carrier routes and post office boxes, will be less than the same mail fully addressed to each household"). Of course, the same would hold true for rural mail.

5. The House Doorkeeper testified in March (hearing, p. 145): "This patron mail, so-called, has not affected the workload of this House folding room whatsoever."

6. Simplified addressing procedure is entirely permissive. Members can continue to use the more complete address if they prefer.

The two Houses for many years have observed the rule of comity as to their respective housekeeping matters. This is an exception to the longstanding custom.

In summary, it is our view—

1. That Congress should protect the use of the frank as a means of effectively and economically getting Government publications and other information to constituents.

2. That if any isolated abuses are felt to have occurred, they should be considered as matters of policy by the appropriate legislative committees.

Sincerely yours,

WALT HORAN,
TOM STEED,
Members of Congress.

CAPTIONED FILMS FOR THE DEAF

Mrs. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2511) to provide for the production and distribution of educational and training films for use by deaf persons, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to provide in the Department of Health, Education, and Welfare for a loan service of captioned films for the deaf", approved September 2, 1958 (72 Stat. 1742), is amended to read as follows:

"That the objectives of this Act are—

"(a) to promote the general welfare of deaf persons by (1) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (2) providing, through these films, enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (3) providing

14. MONOPOLIES. The Subcommittee No. 5 of the Judiciary Committee voted to report to the full committee with amendment H. R. 3465, to reaffirm the national public policy and purposes of Congress in enacting the Robinson-Patman Anti-Price-Discrimination Act. p. D873

15. TRADE FAIRS. The Merchant Marine and Fisheries Committee voted to report (but did not actually report) with amendment S. 3389, to promote the foreign commerce of the U. S. through the use of mobile trade fairs. p. D873

16. COMPACTS. The Merchant Marine and Fisheries Committee voted to report (but did not actually report) S. 3431, to consent to the amendment of the Pacific Marine Fisheries Compact and to the participation of certain additional States in such compact in accordance with the terms of such amendment. D. 873

SENATE

17. FARM PROGRAM. Agreed to a unanimous-consent agreement by Sen. Mansfield to consider the conference report on H. R. 12391, the farm bill, Tues., Sept. 25, and to vote on adoption of the report at 3 p.m. that day. pp. 18959-60

Sen. Curtis criticized the President for not taking action to end the Chicago and North Western Railway strike which is affecting the shipment of agricultural commodities, urged enactment of legislation, if necessary, to end the strike, and inserted several items on the strike. pp. 18892-4

18. PERSONNEL. Sen. Williams, Del., stated that "early in April it was called to my attention that certain employees of the Department of Agriculture were abusing their annual and sick leave and were padding their official travel vouchers," and inserted his correspondence with the Civil Service Commission over one alleged case in REA p. 18902

Sen. Johnston, on behalf of the Post Office and Civil Service Committee, was granted permission to file a report on the Federal pay and postal rate bill this weekend during adjournment of the Senate. p. 18980

19. FORESTRY. Sen. Engle commended the four-point program proposed by the boards of supervisors of nine northern Calif. counties to aid the lumber industry and inserted their resolution on the proposal. p. 18900

20. RECLAMATION. Passed without amendment H. R. 11164, to approve an amendatory repayment contract negotiated with the Quincy Columbia Basin Irrigation District and authorize similar contracts with any of the Columbia Basin irrigation districts (pp. 18953-60). This bill will now be sent to the President. By a vote of 13 to 61, rejected a proposed amendment by Sen. Miller to prohibit for 10 years the use of water from the project for the production on newly irrigated lands of any basic agricultural commodity in surplus supply (pp. 18953-9). Consideration of a similar bill, S. 3162, was indefinitely postponed (p. 18960).

Passed without amendment H. R. 575, to authorize the Secretary of the Interior to construct the upper division of the Baker reclamation project, Ore. This bill will now be sent to the President. pp. 18960-72

21. LAW; COURTS. Concurred in the House amendments to H. R. 1960, to make it possible to bring actions against Government officials and agencies in the U.S. district courts outside D. C., which, because of certain existing limitations on jurisdiction and venue, may now be brought only in the U. S. District Court for D. C. This bill will now be sent to the President. p. 18972

22. STOCKPILING. Passed without amendment H. R. 12416, to waive the statutory requirement for a 6-month waiting period before GSA is authorized to dispose of 4,000 long tons of chestnut tannin extract from the national stockpile. This bill will now be sent to the President. pp. 18972-3
Agreed to without amendment H. Con. Res. 509, expressing Congressional approval for the disposal by GSA of approximately 12,245 tons of chestnut tannin extract from the national stockpile. p. 18973

23. MINERALS. Conferees were appointed on S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. House conferees have not been appointed. pp. 18918-9

24. LEGISLATIVE BRANCH APPROPRIATION BILL, 1963. Agreed to the conference report on this bill, H. R. 11151, and acted on amendments in disagreement. This bill will now be sent to the President. pp. 18914-6

25. NOMINATIONS. Confirmed the nomination of W. Willard Wirtz to be Secretary of Labor. pp. 18884-5

26. FISHERIES. The Commerce Committee reported S. Res. 392, expressing the sense of the Senate that the President should propose an International Conference on the Conservation of Fishery Resources. p. 18885

27. TRANSPORTATION. Sen. Bartlett inserted an article commending Sen. Magnuson for receiving the thirteenth annual National Transportation Award of the National Defense Transportation Association. pp. 18897-8

28. LEGISLATIVE PROGRAM. Sen. Mansfield stated that the school lunch fund apportionment bill will probably be considered Fri., Sept. 21. p. 18959

ITEMS IN APPENDIX

29. FARM PROGRAM; PERSONNEL. Extension of remarks of Rep. Cooley commending Secretary Feeeman, stating that "Orville Freeman has provided fine leadership and by his intelligent devotion to duty he has endeared himself to the Members of Congress and to his countrymen," and inserting Drew Pearson's article, "Orville L. Freeman, the Farmers Champion." p. A6970

30. NOMINATIONS. Extension of remarks of Rep. Burke stating that in selecting Anthony J. Celebrezze as Secretary of HEW, President Kennedy has "added another truly outstanding member to his official family." pp. A6978-9

BILLS INTRODUCED

31. FARM PROGRAM. H. R. 13183, by Rep. Clem Miller, to amend the Agricultural Adjustment Act of 1933 as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 as amended; to Agriculture Committee.

32. RECLAMATION. H. R. 13184, by Rep. Sisk, to provide for the payment of compensation, including severance damages, for rights of way acquired by the United States in connection with reclamation projects the constructionof which commenced after January 1, 1961; to Interior and Insular Affairs Committee.

33. WATER POLLUTION. H. R. 13186, by Rep. Blatnik, to amend the Federal Water Pollution Control Act to provide financial assistance to municipalities and others for the separation of combined sewers; to Public Works Committee. Remarks of author, p. A6968-9

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. SPARKMAN. Madam President, the Committee on Foreign Relations and the Committee on Armed Services have unanimously reported to the Senate a joint resolution which, in my judgment, clearly and forcefully expresses the determination of the American people to defeat the designs of Communist aggression in the Western Hemisphere and to do so by means that are consistent with traditional American policies including the Monroe Doctrine, with the national security requirements of the United States, and with our obligations under the Rio Treaty of 1947.

Senate Joint Resolution 230 expresses the determination of the United States; first, to prevent the Cuban Communist regime, by whatever means may be necessary including the use of arms, from engaging in aggression or subversion in any part of this hemisphere; second, to prevent the creation in Cuba of an externally supported military capability endangering the security of the United States; and third, to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

This resolution is designed to strengthen the hand of the President in his stated determination to take whatever action may be necessary to protect the security of the United States and its allies. The resolution is entirely consistent with President Kennedy's statement of September 13, when he said:

> If at any time the Communist buildup in Cuba were to endanger or interfere with our security in any way, including our base at Guantanamo, our passage to the Panama Canal, our missile and space activities in Cape Canaveral—or the lives of American citizens in this country, or if Cuba should ever attempt to export its aggressive purposes by force or the threat of force against any nation in this hemisphere or become an offensive military base of significant capacity for the Soviet Union, then this country will do whatever must be done to protect its own security and that of its allies.

This resolution must be considered within the broad context of our worldwide struggle against Communist imperialism and our long-term relations with Latin America. Our relations with Latin America have been altered by two great historical changes since the end of World War II.

The first of these has been the emergence of the United States from isolationism and its acquisition of worldwide responsibilities beyond the limits of the Western Hemisphere. This change has greatly altered the conditions governing our implementation of the Monroe Doctrine, which was based in part on the assumption that the nations of the Western Hemisphere would remain uninvolved in the conflicts of Europe. We are now deeply involved in these conflicts and, as a result, their impact is felt in our own hemisphere as well as in the outside world. The core of the Monroe Doctrine—its determination to defend the Western Hemisphere against extracontinental aggression and imperialism—remains a valid and vital principle of our foreign policy. But in discharging our obligations under the Monroe Doctrine, we must act with full regard for the fact that the problem of Cuba and of Communist designs in the Western Hemisphere is not an isolated one but part of our worldwide struggle against Communist imperialism.

The second great change in our relations with Latin America since the end of World War II has been the emergence of Latin America into the mainstream of world history, its awakening to the great forces—communism, democracy, and nationalism—which have aroused all of the peoples of the non-European world. Latin America, in short, has been drawn into the worldwide social revolution against economic deprivation and political humiliation. The tragedy of Cuba is that the aspirations of its people for freedom and a better life have been betrayed by a demagog whose appetite for power has brought his country to its present status as a chattel of Communist imperialism.

Under these conditions the basic aims of the United States in Latin America as expressed in the Monroe Doctrine can best be realized by combining measures of collective security whenever possible—unilateral action when necessary—with policies designed to help the peoples of Latin America achieve the aims of their social revolution under free institutions. If the Alliance for Progress succeeds, it will give this hemisphere not only the social and economic justice that its peoples demand but also the fullest possible measure of security against Communist imperialism.

Because I believe that Senate Joint Resolution 230 is entirely consistent with these realities of our Latin American relations as well as with our obligations as a member of the Organization of American States and the United Nations, I commend its adoption to the Senate.

Mr. CHAVEZ rose.

Mr. SPARKMAN. Madam President, I yield to the Senator from New Mexico.

Mr. CHAVEZ. I am in favor of everything the Senator from Alabama has said, but how can we justify saying we object to the Russians being in Cuba when we have a base within 60 miles of the Russian border, in Turkey? I have been at our airbase in Turkey, 60 miles from Russia. How can we justify that and at the same time object to the Russians being in Cuba? I wish the Senator would answer.

Mr. SPARKMAN. That question has been raised a good many times. Our answer is that we are in positions near the Russian borders purely for the purpose of protecting our own national security in conjunction with our allies. We have the base in Turkey, for example, at the request of the Turkish Government. We certainly have no aggressive purpose in being there. We are not trying to subvert the Turkish Government or to install our system of government there. We are working with the Turkish Government, at its invitation and on a defensive basis, not on an offensive basis.

Mr. CHAVEZ. In my opinion, the Committee on Foreign Relations, is mistaken in respect to the people of Latin America. There are not many Communists in Latin America. They are few, but noisy—very noisy. Latin America could not be made a Communist area. It could not be done. The people are not of that mind philosophically, by national origin, or otherwise. They are for this country.

Mr. President, what worries me is that some people in the United States brag about being anti-Communist. What we do in Europe, of course, might be necessary, and I am for it. Nevertheless, it gives the people as a whole time to think.

Mr. SPARKMAN. The Senator has made a very thoughtful suggestion. I wish to emphasize a point he has made, because I think he is right The Latin American is not by nature a Communist. And he is not likely to be, provided he can be free, independent, and enjoy the reasonable comforts that a person is entitled to in life. I think the Senator is correct.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a very brief statement?

The PRESIDING OFFICER. The 10 minutes which the Senator from Alabama allotted to himself have expired.

Mr. SPARKMAN. Madam President, I yield myself an additional 5 minutes. I had promised the Senator from Washington [Mr. JACKSON] that I would yield to him for a question.

Mr. JACKSON. Madam President, I should like to endeavor to make the legislative history of Senate Joint Resolution 230 as clear as possible by asking the distinguished Senator in charge of the pending joint resolution whether or not the proposal is limited to Cuba.

Mr. SPARKMAN. In answer to the question propounded by the Senator from Washington, I point out that he is correct. The Senator will note that the title itself states—

> Expressing the determination of the United States with respect to the situation in Cuba.

Some Senators felt that we ought to have made the resolution more widespread than that. But we were dealing with the Cuban situation.

Mr. JACKSON. The fact that we are not resolving in the joint resolution questions with reference to other areas in Central and South America is not to be taken as an assumption that we are not concerned with the threat to all areas of the Western Hemisphere. Is that correct?

Mr. SPARKMAN. The Senator is correct. I believe the manner in which we have incorporated the Monroe Doctrine in the joint resolution can be taken to indicate our interest in all the Western Hemisphere, because the Monroe Doctrine certainly covers the entire Western Hemisphere.

Mr. JACKSON. I am happy that the Senator has made that point. The fact that we are legislating with reference to Cuba is not to be taken by implication to mean that we are not concerned with the threat to the other countries in the Western Hemisphere by any power anywhere in the world. Is that not correct?

Mr. SPARKMAN. The Senator is absolutely correct.

Mr. JACKSON. Historically, the Monroe Doctrine has been thought to apply only to threats from European countries, but many of us feel that what we are concerned about is the security and integrity of the Western Hemisphere.

Mr. SPARKMAN. Yes. I point out that we have not only the Monroe Doctrine, but also we have bolstering that doctrine the Rio Treaty and the Punta del Este Treaty, all of which amount to a closer tying together of the nations of the Western Hemisphere within the framework or in recognition of the Monroe Doctrine.

Mr. JACKSON. I merely wish to make certain that all powers anywhere in the world that attempt to threaten the security and the integrity of any part or all parts of the Western Hemisphere are not able to assume that because we are dealing in this resolution with a specific current situation in Cuba, by implication there would be afforded to them a license to move in.

Mr. SPARKMAN. The Senator is absolutely correct.

Mr. JACKSON. On the contrary, the Monroe Doctrine, the Rio Treaty of 1947, and the Punta del Este meeting in January 1962, are all applicable, including the right of the United States to take whatever unilateral action it may find necessary at any time to provide for our own security, should that situation arise.

Mr. SPARKMAN. The Senator is correct. I made that statement in the concluding paragraph of my statement.

Mr. CASE. Madam President, will the Senator yield?

Mr. SPARKMAN. I understand that the Senator from New Jersey wishes to ask a question along the same line.

Mr. CASE. Yes. I thank the Senator. In summary, the joint resolution is not intended to be a limitation upon our own rights as a Nation or upon our freedom of action in pursuance of our traditional position.

Mr. SPARKMAN. Not at all. I regard it as a reaffirmation.

Mr. CHAVEZ. Madam President, will the Senator yield?

Mr. SPARKMAN. I yield to the Senator from New Mexico.

Mr. CHAVEZ. I wish to state a little history about Latin America. Simon Bolivar, of Venezuela, was the one who made Latin America independent. He had observed what had been done in relation to the 13 Colonies in the United States, and he wanted to create that kind of union in South America. Instead of 20 countries, he wanted one solid independent country. However, others including England, wanted Latin America divided, for being divided, it could be conquered.

Mr. SPARKMAN. Madam President, I appreciate the remarks of the Senator from New Mexico.

I have agreed to yield briefly to the Senator from New Mexico [Mr. ANDERSON].

RELIEF FOR CERTAIN RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, which was, to strike out all after the enacting clause and insert:

That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws or who, within two years prior to the date of this Act, relinquished such rights to the United States or had his unpatented mining claim invalidated. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within three years from the date of this Act and upon payment of the amount established pursuant to section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary of the Interior may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a seasonal or year-round residential occupant-owner, as of January 10, 1962, of land now or formerly in an unpatented mining claim upon which valuable improvements had been placed.

SEC. 3. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make conveyances under section 1 of this Act, only with the consent of the head of that governmental unit and under such terms and conditions as that unit may deem necessary.

SEC. 4. Where the Secretary of the Interior determines that a disposition under section 1 of this Act is not in the public interest or the consent required by section 3 of this Act is not given, the applicant, after arrangements satisfactory to the Secretary of the Interior are made for the termination of his occupancy and for settlement of any liability for unauthorized use, will be granted by the Secretary, under such rules and regulations for procedure as the Secretary may prescribe, a preference right to purchase any other tract of land, five acres or less in area, from those tracts made available for sale under this Act by the Secretary of the Interior, from the unappropriated and unreserved lands and those lands subject to classification under section 7 of the Taylor Grazing Act, upon the payment of the amount determined under section 5 of this Act. Said preference right must be exercised within two years from and after the date of its grant.

SEC. 5. The Secretary of the Interior prior to any conveyance under this Act shall determine the fair market value of the lands involved (exclusive of any improvements placed thereon by the applicant or by his predecessors in interest) or interests in lands as of the date of this Act.

SEC. 6. The execution of a conveyance authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the conveyed lands or interests in lands. Relief under this section shall be limited to those persons who have filed applications for conveyances pursuant to this Act within three years from the enactment of this Act. Except where a mining claim was located at a time when the land included therein was withdrawn from or otherwise not subject to such location, or where a mining claim was located after July 23, 1955, no trespass charges shall be sought or collected by the United States based upon occupancy of such mining claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act.

SEC. 7. (a) In any conveyance under this Act there shall be reserved to the United States (1) all minerals and (2) the right of the United States, its lessees, permittees, and licensees to enter upon the land and to prospect for, drill for, mine, treat, store, transport, and remove leasable minerals and mineral materials and to use so much of the surface and subsurface of such lands as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing such minerals and mineral materials on or from other lands.

(b) The leasable minerals and mineral materials so reserved shall be subject to disposal by the United States in accordance with the provisions of the applicable laws in force at the time of such disposal.

(c) Subject to valid existing rights, upon issuance of a patent or other instrument of conveyance under this Act, the locatable minerals reserved by this section shall be withdrawn from all forms of appropriation under the mining laws.

(d) Nothing in this section shall be construed to preclude a grantee, holding any lands conveyed under this Act, from granting to any person or firm the right to prospect or explore for any class of minerals for which mining locations may be made under the United States mining laws on such terms and conditions as may be agreed upon by said grantee and the prospector, but no mining location shall be made thereon so long as the withdrawal directed by this Act is in effect.

(e) A fee owner of the surface of any lands conveyed under this Act may at any time make application to purchase, and the Secretary of the Interior shall sell to such owner, the interests of the United States in any and all locatable minerals within the boundaries of the lands owned by such owner, which lands were patented or otherwise conveyed under this Act with a reservation of such minerals to the United States.

All sales of such interests shall be made expressly subject to valid existing rights. Before any such sale is consummated, the surface owner shall pay to the Secretary of the Interior the sum of the fair market value of the interests sold, and the cost of appraisal thereof, but in no event less than the sum of $50 per sale and the cost of appraisal of the locatable mineral interests. The Secretary of the Interior shall issue thereupon such instruments of conveyance as he deems appropriate.

SEC. 8. Rights and privileges under this Act shall not be assignable, but may pass through devise or descent.

Mr. ANDERSON. Madam President, I move that the Senate disagree with the amendment of the House of Representatives, and ask for a conference with the House on the disagreeing votes of the 2 Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BIBLE, Mr. CHURCH, Mr. JACKSON, Mr. KUCHEL, and Mr. ALLOTT conferees on the part of the Senate at the conference.

U.S. POLICY WITH RESPECT TO CUBA

The Senate resumed the consideration of the joint resolution (S.J. Res. 230) expressing the determination of the United States with respect to the situation in Cuba.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Madam President, I yield myself an additional 5 minutes.

In conclusion, I am sure every Senator knows that the two committees met jointly, held extensive hearings on Monday, and then worked quietly on Tuesday in an effort to agree upon the wording, without a formal committee meeting. On Wednesday we met again for the purpose of having the committees agree on the wording. One might think that it would be a very difficult task to get two committees with a total membership of 33 together on that subject.

However, we arrived at an adjustment yesterday morning without too much difficulty. It was unanimous. Every member of both committees voted for the wording of the resolution. The meetings were presided over by the very able veteran Senator from Georgia [Mr. RUSSELL], chairman of the Armed Services Committee. I mean veteran in point of service, not in age, because he is eternally young.

Mr. RUSSELL. I particularly thank the Senator for the latter remark.

Mr. SPARKMAN. Of course he did the only type of job that we could have expected of him, a superb job. I wish to add that this morning the House Foreign Affairs Committee agreed by unanimous vote on the identical wording of the resolution that has been reported by our two committees.

Therefore, Madam President, before concluding these brief remarks, I express the hope that Members of the Senate, who, of course, have complete freedom in offering amendments to this resolution, will bear in mind that the resolution now before us is the product of most careful consideration by members of two committees of the Senate, the House Foreign Affairs Committee, and the executive branch. Obviously, not every member of the joint committee was fully satisfied with every phrase and every word in the pending resolution. A number of changes were suggested and some of them adopted during our consideration of this resolution. I would suggest that Members who may wish to propose amendments to the pending resolution examine the executive session record of the joint committee before submitting amendments. I am sure that such examination will reveal reasons which will commend to Members the resolution in the form in which it has been reported. The executive session transcript is available in the Foreign Relations Committee room or it will be brought to the floor of the Senate for examination by individual Members if they desire that be done.

Let me say that Secretary of State Rusk and Deputy Assistant Secretary of Defense Bundy were most candid and fortheoming in their testimony. The hearings which are before every Member of the Senate have been edited to delete security information. However, the unedited version is available for consultation.

Finally, Madam President, let me emphasize that this is one of those rare occasions in the Senate of the United States when it is more important that the Senate speak with a united voice than that we appear disunited as a consequence of unnecessarily perfecting amendments whose purpose may be to clarify concepts in the minds of a few Members of the Senate. I urge, therefore, that Members who may have questions regarding the meaning of particular language in this resolution, or doubts about whether it goes too far or not far enough, resolve their doubts in favor of helping this Nation speak with one voice on the critical situation in Cuba.

Madam President, I now yield to the Senator from Florida.

Mr. SMATHERS. Madam President, first, I rise to congratulate the members of the Armed Services Committee and the Foreign Relations Committee for bringing to the floor of the Senate this very excellent resolution. I completely agree with the able Senator from Alabama that in this field it is most important that we speak with one voice. The committees have rendered a signal service.

We all recognize that the final decision is left to the President of the United States by the Constitution. It is a most difficult decision for him to make. It is not easy, no matter how we look at it. I am certain, however, that he will be comforted in the knowledge that Congress supports him in any strong and firm action which he might determine needs to be taken, first, to protect the national interest of the United States and, second, to get rid of communism in Cuba.

I have previously discussed and thought about offering two resolutions. I have decided not to bring them up at this time, as I previously stated to the committee. The resolution which I have submitted are more specific in nature, but they fall within the context of the overall pending resolution.

Rather than complicate the pending resolution, and bring about debate, which might create the impression that we are divided with respect to the steps that ought to be taken, I will withhold pressing my resolutions at this time. However, I expect to press them before the Foreign Relations Committee at a later date.

I am very happy that the committees have seen fit to add the last paragraph to the resolution, which makes mention of the Organization of American States.

I supplement what has previously been said by saying that in the very basic document which formed the Organization of American States, about 1948, this kind of strong action was called for in dealing with outside influences.

Prior to that there was the Rio pact. Subsequent to that there was the Act of Bogotá. Subsequent to that, in 1954, there was the strongest statement yet made, at Caracas. After that, an additional statement was made at Costa Rica, in 1960. Then, of course, there were the findings at Punta del Este, in 1961.

Each of these documents states clearly that it is the duty of the nations of the Western Hemisphere to band together in action to stop any outside power from coming in and exercising its influence contrary to the principles of democracy as we understand them in the Western Hemisphere.

I believe we are about to take the logical first step. It is my hope, possibly after the meeting that has been called for by Secretary Rusk of the foreign ministers of the Western Hemisphere nations—who actually only advise, and do not have much authority—that the President of the United States himself will consider, probably later this year or early next year—and the sooner the better—calling a meeting of the heads of state of the countries of the Western Hemisphere, where there could be outlined the inroads which have been made by the Communists in Cuba, and the danger to the whole hemisphere of having the Communists in Cuba. I believe that needs to be done to preserve the meaning and worth of the Organization of American States.

In conclusion, I again congratulate the able Senator from Alabama [Mr. SPARKMAN], the Senator from Georgia [Mr. RUSSELL], the minority leader [Mr. DIRKSEN], the Senator from Massachusetts [Mr. SALTONSTALL] and other Senators who have brought this meaningful resolution to the Senate. I am certain that it will at least imply to the President of the United States that the Members of Congress want him to take affirmative and strong action in this field. I am certain he will be so encouraged, and I believe also that he will be comforted in the decisions which he must subsequently make.

Mr. SPARKMAN. I thank the Senator from Florida. I commend him, because I know the great interest he has shown in this field. Incidentally, if Senators

have not already noted it, the appendix of the hearings contains the documents of the several conferences mentioned by the Senator from Florida.

Madam President, I yield such time to the Senator from Massachusetts [Mr. SALTONSTALL] as he may need.

Mr. SALTONSTALL. Madam President, I shall be very brief. First, I commend the Senator from Alabama, the acting chairman of the Committee on Foreign Relations, and my own chairman of the Committee on Armed Services, the Senator from Georgia [Mr. RUSSELL], on the manner in which they conducted the hearings, and especially on the manner in which they drafted the pending resolution, which I trust will be unanimously adopted without any amendments. I believe it is essential to do so, because the House has followed our language, and we want to be united, and not have any question as to further interpretation.

As I see it, the resolution supports three general principles. The main purpose of the resolution is to indicate to the world, more specifically and more directly to the Communist governments in Cuba and Moscow, that the people of the United States are actively supporting the President of the United States in whatever action he deems it necessary to take to prevent any action by the Castro regime in Cuba which would threaten the security of the United States or of any of the other countries of Latin America.

The second point is the support of the principle of the Monroe Doctrine.

We realize that the world has undergone great changes in the past 10 years. As I see it, the resolution is in support of the principle of the Monroe Doctrine; but today we also have other agreements, which the Senator from Alabama [Mr. SPARKMAN] and the Senator from Florida [Mr. SMATHERS] have just mentioned, agreements which tie us together in certain ways with the countries of Latin America and South America. We are a member of the Organization of American States, and we have been a party to additional meetings which have taken place and treaties which have been entered into by countries of the Americas. That means that in carrying out the principle of the Monroe Doctrine, we must discuss hemispheric questions with our friends and neighbors in the other countries to obtain their support where and how we can.

But we should always remember that the resolution supports the principle that we intend to take any unilateral action which may be necessary to our own security. That is fundamental. That is made clear in the joint resolution.

The joint resolution also states that it is our purpose to prevent any further development, by external support, of military force in Cuba which would threaten not only the United States itself, but also the other American nations. We have made it clear that we will work with them in accordance with the general principles of the Monroe Doctrine, but that we will take whatever unilateral action we believe is essential if we cannot obtain their cooperation when our own security is endangered.

Finally, the joint resolution supports the principle of self-determination for the Cuban people. We intend to help our Cuban friends in their aspirations to again have a free Cuba.

Overall it is a clear, strong statement that we will do everything we can to prevent Communist infiltration into the Western Hemisphere, and that is the only interpretation which can be given the resolution.

I am glad the resolution expresses "the determination of the United States" rather than the "sense of Congress" or any other language, because this means that we, as representatives of the people of the United States, are interpreting their will to be in support of the President, and the President is interpreting the will of the people in whatever action he may take.

I thank the Senator from Alabama for the opportunity to make this statement.

Mr. SPARKMAN. I thank the distinguished Senator from Massachusetts.

Madam President, I now yield 12 minutes to the Senator from Utah.

Mr. MOSS. Madam President, I, too, express appreciation and gratitude to the acting chairman of the Committee on Foreign Relations, the chairman of the Committee on Armed Services, and all other members of those two committees who have prepared and drafted the resolution which is before the Senate today.

I concur in what has been said earlier about the need for unity of purpose at this time. I hope this body will act as with a single voice in approving the joint resolution.

Madam President, America's firm insistence on democracy and freedom for the countries of the Western Hemisphere is hallowed by both time and tradition. It is as deep as the wellsprings of our own free Government, and as sacred to us.

In 1823, we enunciated the Monroe Doctrine, a unilateral statement that the United States would consider any attempt of an extrahemispheric power to extend its system to any portion of this hemisphere dangerous to the peace and safety of the United States. This doctrine is still applicable, and we have consistently, and with resolution, opposed any aggressive influence in this hemisphere on the part of any government from the other hemisphere.

Our policy toward the Castro regime and Soviet Communist influence in Cuba is completely in line with our traditional policy. Our policy is to rid the hemisphere of the Castro regime and the Soviet influence, and to permit the people of Cuba to choose freely the type of government they want.

Our policy, furthermore, is to prevent the Castro regime from exporting its aggressive purposes by force or the threat of force to any other part of the hemisphere. We will do this by taking whatever action is necessary. The United States, in conjunction with the other countries of the hemisphere, will make sure that the increased Soviet military aid to Cuba, while a burden to the Cuban people, will be nothing more than that.

The recent Soviet shipments to Cuba of arms and technicians indicate a significant increase in the Soviet involvement in Cuba. This situation has created a noisy cry from a number of sources for immediate military intervention to remove this spot of Communist influence in the Western Hemisphere. This sounds simple but its implications are enormous.

President Kennedy has assured us that this country pretty well knows what is going on inside Cuba. We have the island under full surveillance. We are following every ship that is coming to, and going from, the island, and we have a close watch on what those ships are loading and unloading. We have every reason to believe that we are completely informed on the location of missile sites and we know the kind of missiles that the Cubans have. We know of the deployment of aircraft, tanks, and artillery. This outside military aid will increase the defense capacity of the regime and the effectiveness of the Cuban military force for possible internal use, but there is no evidence of any organized outside combat force in Cuba from any Soviet bloc country. There is no evidence of any significant offensive capability including offensive ground-to-ground missiles of sufficient range to reach our shores either in Cuban hands or under Soviet direction and guidance.

There is little doubt that if we directed our superior military force at Cuba right now, we could smash the island and take it over. It would not be too hard for a giant like America to knock over a small country like Cuba, which is about as large as one of our middle-sized States. We would lose some fine American boys, and some equipment, but we could do it.

But to move now without evidence of actual or planned aggression outside Cuba might be a victory won at a prohibitive cost. Action that the peoples of the world might view as naked aggression on our part might cost us both our moral and intellectual leadership of the world. Never has it been more necessary, and perhaps more difficult, to practice restraint and judgment in this world community. By rash and headlong action we well might destroy the beginnings of a world order under law which is slowly and painfully emerging at the United Nations.

America today stands as a symbol to all people because of our devotion to justice, and liberty, and to self-determination for all. Our Declaration of Independence and the writings of Thomas Jefferson are the foundation stones of our Republic and our political freedom. We have built on them by our idealistic participation in World War I, under Woodrow Wilson, to keep the world safe for democracy, and in World War II, under Franklin D. Roosevelt, to preserve the freedom of men all around the globe. There was never a more eloquent expression of the basic rights of man than the four freedoms of Franklin Roosevelt and Winston Churchill, nor of the goals for peace of

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For information only; should not be quoted or cited)

Issued Sept. 24, 1962
For actions of Sept. 21, 1962
87th-2d, No. 171

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HIGHLIGHTS: Sen. Mansfield defended ASC committees against recent criticism. Sens. Pearson and Mundt criticized conference report on farm bill. Sen. Humphrey commended USDA on its centennial anniversary. Sen. Neuberger inserted article on Oregon Dunes National Seashore controversy. Sen. Mundt urged aid for lumber industry. Senate passed school lunch fund apportionment bill. Sen. Humphrey expressed concern over House reductions in foreign aid appropriation bill. Sen. Monroney inserted article urging user charges on inspection services at airports. Rep. Dole criticized debate on farm bill conference report. Rep. Saylor criticized committee action on wilderness bill. Rep. Derwinski criticized cotton program.

HOUSE

1. PERISHABLE COMMODITIES. Both Houses agreed to the conference report on S. 1037, to amend the Perishable Agricultural Commodities Act as follows: Clarifies provisions dealing with the eligibility for license, or for employment by licensees, of persons guilty of specified acts and persons affiliated with them; authorizes an increase of license fees from $25 per year to such higher rate not above $50 as may prove necessary; eliminates the Export Apple and Pear Act from the acts administered with license fees received under the Perishable Agricultural Commodities Act, and authorizes appropriations to carry out the Export Apple and Pear Act; regulates the use of trade names by licensees to prevent deception; provides that opportunity for an oral hearing need not be provided in reparation cases unless the amount in dispute exceeds $1,500 (instead of $500); makes it clear that in an appeal from a reparation order bond must be filed within 30 days after entry of the order and provides that the bond shall be in cash, negotiable securities, or the undertaking of a recognized surety company, and defers license suspension in case of appeal until all judicial appeals have ended. This bill will now be sent to the President. pp.

19113, 19199

2. WILDERNESS. Rep. Saylor criticized Rep. Aspinall's defense of the action of the Interior and Insular Affairs Committee on the wilderness bill. pp. 19131-2

3. FARM PROGRAM. Rep. Dole criticized the debate on the conference report on H. R. 12391, the proposed Food and Agriculture Act of 1962, saying, "It is regrettable the Wheat Subcommittee chairman of the House Committee on Agriculture would not permit an exchange of questions and answers." pp. 19107-8

4. APPROPRIATIONS. Rep. Cannon inserted a table of appropriation bills, 87th Congress, 2nd session, as of Sept. 21, 1962. pp. 19132-3

5. COTTON. Rep. Derwinski criticized the cotton program and urged that "the Government ... get out of the cotton business and restore that commodity to a free market." p. 19127

6. PERSONNEL. By a vote of 324 to 8, agreed to the conference report on H. R. 12180, to extend until July 1, 1964, the existing provisions of law permitting the free importation of personal and household effects brought into the U.S. under Government orders. pp. 19108-11

7. TARIFFS. Agreed to the conference report on H. R. 6682, to provide for the exemption of fowling nets from duty. p. 19112

8. MIGRATORY BIRDS. The Merchant Marine and Fisheries Committee reported with amendment S. 3504, to provide for alternate representation of secretarial officers on the Migratory Bird Conservation Commission (H. Rept. 2453). p. 19144

9. MINING. Conferees were appointed on S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. Senate conferees have already been appointed. p. 19126

Agreed to the conference report on H. R. 8134, to effect a statutory withdrawal of certain former Taylor Grazing Act lands near Phoenix, Ariz., from all forms of entry under the public land laws. p. 19127

Agreed to the conference report on H. R. 10566, to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz. p. 19127

10. COMPACTS. The Merchant Marine and Fisheries Committee reported without amendment S. 3431, to consent to the amendment of the Pacific Marine Fisheries Compact and to the participation of certain additional States in such compact in accordance with the terms of such amendment (H. Rept. 2454). p. 19144

11. INFORMATION. The Government Operations Committee issued a report pertaining to safeguarding of official information (H. Rept. 2456). p. 19144

12. FARM LABOR. The Rules Committee reported a resolution for the consideration of S. 1123, to amend the Fair Labor Standards Act of 1938, to extend the child labor provisions thereof to certain children employed in agriculture. p. 19144

13. TRADE FAIRS. The Merchant Marine and Fisheries Committee reported with amendment S. 3389, to promote the foreign commerce of the U.S. through the use of mobile trade fairs (H. Rept. 2463). p. 19144

The SPEAKER. The vote is on the motion of the gentleman from Wisconsin to recommit the bill.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken and there were—yeas 95, nays 208, not voting 132, as follows:

[Roll No. 244]

YEAS—95

Alger	Feighan	McCulloch
Andersen, Minn.	Findley	Matthews
Anderson, Ill.	Ford	May
Ashbrook	Garland	Michel
Ayres	Gavin	Miller, N.Y.
Baker	Goodell	Milliken
Baldwin	Goodling	Mosher
Baring	Griffin	Nygaard
Bell	Gross	O'Konski
Bennett, Fla.	Gubser	Pelly
Berry	Hall	Pillion
Betts	Harrison, Wyo.	Ray
Bolton	Harsha	Reece
Bow	Harvey, Mich.	Rogers, Fla.
Bray	Hemphill	Roudebush
Brown	Hiestand	Rousselot
Bruce	Hoeven	St. George
Byrnes, Wis.	Hoffman, Ill.	Saylor
Cederberg	Horan	Schadeberg
Chiperfield	Hosmer	Schenck
Church	Jensen	Schneebeli
Clancy	Johansen	Schwengel
Corbett	Jonas	Shriver
Cramer	Kilburn	Siler
Cunningham	King, N.Y.	Teague, Calif.
Curtis, Mo.	Knox	Thomson, Wis.
Dague	Kunkel	Utt
Devine	Kyl	Van Pelt
Dole	Laird	Waggonner
Durno	Langen	Westland
Ellsworth	Lesinski	Wharton
	Lipscomb	Wilson, Calif.

NAYS—208

Abbitt	Flynt	Mailliard
Abernethy	Forrester	Marshall
Addabbo	Fountain	Mathias
Alford	Frazier	Merrow
Andrews	Friedel	Miller, George P.
Ashley	Fulton	Mills
Aspinall	Gallagher	Moeller
Avery	Gary	Monagan
Bailey	Gathings	Moorhead, Pa.
Barry	Giaimo	Morgan
Bates	Glenn	Morrison
Beckworth	Gonzalez	Moss
Belcher	Granahan	Murphy
Boggs	Grant	Murray
Boland	Gray	Natcher
Bonner	Green, Oreg.	Nedzi
Boykin	Griffiths	Nelsen
Brademas	Hagen, Calif.	Nix
Brewster	Haley	O'Brien, N.Y.
Brooks, Tex.	Halpern	O'Hara, Ill.
Broomfield	Harding	O'Hara, Mich.
Broyhill	Hardy	Olsen
Burke, Mass.	Harris	O'Neill
Burleson	Healey	Osmers
Byrne, Pa.	Hechler	Ostertag
Cahill	Herlong	Passman
Cannon	Holifield	Patman
Casey	Holland	Perkins
Chamberlain	Huddleston	Peterson
Chelf	Ichord, Mo.	Pfost
Chenoweth	Inouye	Philbin
Clark	Jennings	Pike
Coad	Joelson	Poage
Collier	Johnson, Calif.	Poff
Colmer	Johnson, Md.	Powell
Conte	Jones, Ala.	Price
Corman	Jones, Mo.	Pucinski
Curtin	Karsten	Purcell
Daddario	Karth	Quie
Daniels	Kastenmeier	Rains
Davis, John W.	Keith	Randall
Davis, Tenn.	Kilgore	Reuss
Delaney	King, Calif.	Rhodes, Ariz
Dent	King, Utah	Rhodes, Pa.
Dingell	Kirwan	Riehlman
Donohue	Kitchin	Roberts, Ala.
Dowdy	Kornegay	Roberts, Tex.
Downing	Lane	Robison
Doyle	Lankford	Rodino
Dulski	Lennon	Rogers, Tex.
Dwyer	Libonati	Rooney
Elliott	McDowell	Rosenthal
Everett	McFall	Rostenkowski
Evins	McMillan	Roush
Fallon	Macdonald	Ryan, N.Y.
Farbstein	Mack	St. Germain
Fisher	Madden	Schweiker
Flood	Mahon	Scott
	Taylor	Wallhauser
	Selden	Teague, Tex.
	Walter	
	Sheppard	Thompson, Tex.
	Weaver	
	Shipley	Toll
	Whitten	
	Sisk	Tollefson
	Widnall	
	Slack	Trimble
	Williams	
	Smith, Calif.	Tupper
	Willis	
	Smith, Iowa	Udall, Morris K.
	Winstead	
	Stafford	Ullman
	Young	
	Staggers	Vanik
	Younger	
	Stephens	Van Zandt
	Zablocki	
	Sullivan	Vinson

NOT VOTING—132

Adair	Gilbert	Norblad
Albert	Green, Pa.	Norrell
Alexander	Hagan, Ga.	O'Brien, Ill.
Anfuso	Halleck	Pilcher
Arends	Hansen	Pirnie
Ashmore	Harrison, Va.	Reifel
Auchincloss	Harvey, Ind.	Riley
Barrett	Hays	Rivers, Alaska
Bass, N.H.	Hébert	Rivers, S.C.
Bass, Tenn.	Henderson	Rogers, Colo.
Battin	Hoffman, Mich.	Roosevelt
Becker	Hull	Rutherford
Beermann	Jarman	Ryan, Mich.
Bennett, Mich.	Johnson, Wis.	Santangelo
Blatnik	Judd	Saund
Blitch	Kearns	Scherer
Bolling	Kee	Scranton
Breeding	Kelly	Seely-Brown
Bromwell	Keogh	Shelley
Buckley	Kluczynski	Short
Burke, Ky.	Kowalski	Sibal
Carey	Landrum	Sikes
Celler	Latta	Smith, Miss.
Cohelan	Lindsay	Smith, Va.
Cook	Loser	Spence
Cooley	McDonough	Springer
Curtis, Mass.	McIntire	Steed
Davis, James C.	McSween	Stratton
	McVey	Stubblefield
Dawson	MacGregor	Taber
Denton	Magnuson	Thomas
Derounian	Martin, Mass.	Thompson, La.
Derwinski	Martin, Nebr.	Thompson, N.J.
Diggs	Mason	Thornberry
Dominick	Meader	Tuck
Dooley	Miller, Clem	Watts
Dorn	Minshall	Weis
Edmondson	Montoya	Whalley
Farbstein	Moore	Whitener
Fenton	Moorehead, Ohio	Wickersham
Finnegan	Morris	Wilson, Ind.
Fino	Morse	Wright
Fogarty	Moulder	Yates
Frelinghuysen	Multer	Zelenko
Garmatz		

So the motion was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Moorehead of Ohio for, with Mr. Hébert against.

Mr. Bromwell for, with Mr. Derounian against.

Mr. Beermann for, with Mr. Becker against.

Mr. Hoffman of Michigan for, with Mr. Frelinghuysen against.

Mr. Taber for, with Mr. Morse against.

Mr. Mason for, with Mr. Auchincloss against.

Mr. Short for, with Mr. Keogh against.

Mr. Reifel for, with Mr. Rivers of Alaska against.

Mr. Adair for, with Mr. Garmatz against.

Mr. Harvey of Indiana for, with Mr. Thompson of Louisiana against.

Mr. Martin of Nebraska for, with Mr. Sikes against.

Mr. Latta for, with Mr. Spence against.

Mr. Scherer for, with Mr. Blatnik against.

Until further notice:

Mr. Rutherford with Mrs. Weiss.

Mr. Rogers of Colorado with Mr. Springer.

Mr. Rooseveit with Mr. Fino.

Mr. Hagan of Georgia with Mr. Dominick.

Mr. O'Brien of Illinois with Mr. Curtis of Massachusetts.

Mr. Clem Miller with Mr. Bennett of Michigan.

Mr. Tuck with Mr. MacGregor.

Mr. Johnson of Wisconsin with Mr. Pirnie.

Mr. Ashmore with Mr. Judd.

Mr. Alexander with Mr. Martin of Massachusetts.

Mr. Kluczynski with Mr. Battin.

Mr. Breeding with Mr. McIntire.

Mr. Loser with Mr. Wilson of Indiana.

Mr. Burke of Kentucky with Mr. McDonough.

Mr. Cohelan with Mr. Lindsay.

Mr. Montoya with Mr. Meader.

Mr. Morris with Mr. Scranton.

Mr. Dorn with Mr. Norblad.

Mr. Pilcher with Mr. Minshall.

Mr. Fogarty with Mr. Sibal.

Mr. Ryan of Michigan with Mr. Derwinski.

Mr. Green of Pennsylvania with Mr. Moore.

Mr. Barrett with Mr. Kearns.

Mr. Henderson with Mr. Bass of New Hampshire.

Mr. Shelley with Mr. Fenton.

Mr. Santangelo with Mr. Dooley.

Mr. Thompson of New Jersey with Mr. Seely-Brown.

Mr. Hull with Mr. McVey.

Mr. FASCELL changed his vote from "yea" to "nay."

Mr. POWELL changed his vote from "yea" to nay."

Mr. HARDY changed his vote from "yea" to "nay."

Mr. GLENN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow to file a report on H.R. 11851.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. McGown, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8134) entitled "An act to authorize the sale of the mineral estate in certain lands."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10566) entitled "An act to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz."

The message also announced that the Senate agrees to the amendment of the House to the texts of the bill (S. 507) entitled "An act to set aside certain lands in Washington for Indians of the Quinaielt Tribe," with an amendment as follows: In the House engrossed amendment, strike out section 2 and insert in lieu thereof the following:

SEC. 2. The Indian Claims Commission is directed to determine in accordance with

the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

CORRECTION OF ROLLCALL

Mr. WESTLAND. Mr. Speaker, on rollcall No. 236 I am recorded as absent. I was present and answered to my name and ask unanimous consent that the RECORD and Journal be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

COMMITTEE ON APPROPRIATIONS

Mr. CANNON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have permission during the remaining days of the session to include the customary tabulations showing the up-to-date status of the appropriation bills as they are processed.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEGISLATIVE PROGRAM FOR WEEK OF SEPTEMBER 24

Mr. HOEVEN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute to ask the majority whip if he can announce the program for next week.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BOGGS. Mr. Speaker, Monday the first order of business will be House Joint Resolution 224, active duty for certain Armed Forces Reserves, with 2 hours of debate.

That will be followed by District Day, and there are 15 bills on the District Calendar, as follows:

S. 2795: Insignia of detective and collection agencies.

S. 1651: Contracts approval.

S. 2977: Policies of group life insurance, credit unions.

H.R. 12417: Small claims court.

H.R. 12690: Insurance companies, investments of funds.

H. Res. 799: Provide for a statue, "the Maine Lobsterman."

H.R. 12964: Registered nurse, minimum-age limitation.

S. 2793: Restoration operators' permits, assess reasonable fees.

H.R. 10319: Compensation adjustments, certain police and firemen.

S. 914: Public Assistance Act of 1961.

H.J. Res. 854: Restoration of Belasco Theater as a Municipal Theater.

H.J. Res. 865: Theaters, antidemolition bill.

H.R. 13163: Redevelopment Act amendments of 1962.

S. 1291: Increase the fees of learners' permits.

H.R. 8738: Amend Life Insurance Act. Concur in Senate amendments.

For Tuesday and the balance of the week, the conference report on the bill H.R. 10, Self-Employed Individuals Tax Retirement Act of 1961.

S. 320: Conference report—Registration of State certificates, Interstate Commerce Act.

House Resolution 801: To take H.R. 7283, War Claims Act of 1948, as amended, from the Speaker's table and send to conference.

House Joint Resolution 886: Expressing the concern of the United States relative to Cuba. Three hours of debate.

S. 1123: Child labor provisions, Fair Labor Standards Act. One hour of debate.

Conference reports, of course, may be brought up at any time and any further program will be announced later.

Mr. AVERY. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield.

Mr. AVERY. I wondered if the distinguished majority whip could make any announcement as to the expectation of the leadership as to our being able to finish congressional business next week.

Mr. BOGGS. I presume I can speak only for myself, but I would be surprised if we finished next week. We will try to do so.

Mr. AVERY. If the gentleman will yield further, I do not want to place words in his mouth, but is he saying that it appears we are not going to finish next week?

Mr. BOGGS. Let us put it that way.

Mr. AVERY. I appreciate the gentleman's expression.

Mr. GAVIN. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield.

Mr. GAVIN. What time are we expected to come in on Monday?

Mr. BOGGS. At 12 o'clock.

CALENDAR WEDNESDAY BUSINESS DISPENSED WITH

Mr. BOGGS. Mr. Speaker, I ask unanimous consent to dispense with business in order on Calendar Wednesday next week.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 24

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield.

Mr. WILLIAMS. As the gentleman knows, the Committee on Interstate and Foreign Commerce is favorably considering a rather complicated drug bill which is in line, I believe, with the President's program. In all probability the committee will report that bill within the next 3 or 4 days. Can the gentleman give us some indication of when that bill might be scheduled for consideration in the House? I realize the gentleman cannot be specific, but can he give me an educated guess?

Mr. BOGGS. I would think first it would depend on when the distinguished gentleman's committee reports the bill. If it is reported in time and the committee gets a rule in time we may be able to consider it next week.

Mr. WILLIAMS. I thank the gentleman.

The SPEAKER. The gentleman from Louisiana asks unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next. Is there objection?

There was no objection.

CORRECTION OF ROLLCALL

Mr. NYGAARD. Mr. Speaker, on rollcall No. 236, I am recorded as not being present. I was here and answered to my name, and I ask unanimous consent that the RECORD be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

CORRECTION OF RECORD

Mr. KUNKEL. Mr. Speaker, on page 19019 of the RECORD, it is recorded that I stated the Western Union Co. said $18,000. That is an error. It should be "about $13,000."

I ask unanimous consent, Mr. Speaker, that the RECORD be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Michigan [Mr. DINGELL] has removed his objection to this bill.

Mr. ASPINALL. The gentleman from Colorado now states that after consultation with the gentleman from Michigan [Mr. DINGELL], within 30 minutes, at which time I asked the gentleman from Michigan [Mr. DINGELL] to be on the floor. The gentleman from Michigan [Mr. DINGELL] said he had no further opposition to the appointment of conferees.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none and appoints the following conferees: Mrs. PFOST and Messers. BARING, JOHNSON of California, SAYLOR, and CUNNINGHAM.

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For information only; should not be quoted or cited)

Issued Oct. 9, 1962
For actions of Oct. 8, 1962
87th-2d, No. 184

CONTENTS

HIGHLIGHTS; Sen. Mundt criticized farm program. Sen. Proxmire opposed mandatory controls on feed grains. Sen. Russell defended his position in USDA appropriation bill controversy. Senate agreed to conference report on foreign aid appropriation bill. Sen. Smathers objected to immediate consideration of supplemental appropriation bill. House received conference report on State-Justice-Commerce appropriation bill. Rep. Saylor criticized speech by general manager of National Rural Electric Cooperation Association.

HOUSE

1. STATE-JUSTICE-COMMERCE APPROPRIATION BILL, 1963. Received the conference report on this bill, H. R. 12580 (H. Rept. 2546)(pp. 21590-2). This bill includes $115,480,000 for the Area Redevelopment Administration, and $3,695,000 for export control.

2. PERSONNEL. Several Representatives criticized difficulty in obtaining information from the executive agencies with regard to summer employment, and Rep. Beckworth inserted a table showing the summer employment in this Department in detail. pp. 21607-24

3. ELECTRIFICATION. Rep. Saylor criticized speech by the general manager of the National Rural Electric Cooperative Association and criticized the inclusion of certain projects in the omnibus rivers, harbors, and flood control bill. pp. 21599-601

4. MINING. Received the conference report on S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed (H. Rept. 2545). pp. 21589-90, 21628

5. MONOPOLIES. Rep. Pfost urged enactment of the proposed Quality Stabilization Act before adjournment. pp. 21624-5

6. LEGISLATIVE ACCOMPLISHMENTS. Several Representatives reviewed the legislative accomplishments of this session of Congress. pp. 21604-7, 21626-8

SENATE

7. FARM PROGRAM. Sen. Mundt criticized the Administration's farm program, stating that "The farmers should know that in 1964 they face catastrophic consequences as a result of the 1962 Farm Act with its program of flexible, falling farm supports which far out-Benson Ezra Benson," and inserted a New York Times story to support his position. pp. 21556-7

Sen. Proxmire referred to the Times story, expressed his opposition to mandatory controls of feed grains, and stated that "if a mandatory controls program were adopted by Congress, farmers will very likely vote them down at least the first year or two." pp. 21564-5

8. AGRICUETURAL APPROPRIATION BILL, 1963. Sen. Russell defended his position in the controversy over this bill, stated that there has been persistent misrepresentation of the issues involved, that the "issue is whether the Senate has a right to amend an appropriation bill in any and every respect," and inserted his correspondence with Secretary Freeman in support of the establishment of a peanut reaearch laboratory in Ga. Sen. Keating commended Sen. Russell's statement. pp. 21550-1

9. SUPPLEMENTAL APPROPRIATION BILL, 1963. The Appropriations Committee reported with amendments this bill, H. R. 13290 (S. Rept. 2285). Sen. Smathers invoked the Senate rule requiring that the appropriation bill lie on the table for three days after being reported. The Chair stated that the bill could not be considered before next Fri. (pp. 21524-5). Attached to this Digest is a summary of items for this Department.

10. FOREIGN AID APPROPRIATION BILL, 1963. Agreed to the conference report on this bill, H. R. 13175, and acted on amendments in disagreement (pp. 21548-56, 21572-5). This bill will now be sent to the President. As agreed to the bill includes $225,000,000 for development grants, $975,000,000 for development loans, $30,000,000 for investment guaranties, $425,000,000 for the Alliance for Progress with Latin America, $59,000,000 for the Peace Corps, $2,000,000,000 for the International Monetary Fund, and $1,295,000,000 for the Export-Import Bank of Washington.

11. TRANSPORTATION. Agreed to the conference report on H. R. 5700, to permit the Secretary of the Treasury to designate any contract carrier, authorized to act as such by an agency of the U. S., as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. pp. 21561-2

Received from the Commerce Committee its report, "Implementation of the Cargo Preference Laws by the Administrative Departments and Agencies" (S. Rept. 2286). p. 21525

12. ECONOMICS. Sen. Proxmire inserted an article by Federal Reserve Board member George Mitchell, "Count Monetary Policy in the Past 6 Months Have Made a Greater Contribution to Our Overall Economic Well-Being?" pp. 21526-8

87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2545

UNPATENTED MINING CLAIMS

OCTOBER 8, 1962.—Ordered to be printed

Mrs. PFOST, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3451]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same with an amendment as follows:

In lieu of the matter inserted by the House amendment insert the following:

That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an interest, up to and including a fee simple, in and to an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of an amount established in accordance with section 5 of this Act.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: Provided, That the Secretary may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

SEC. 2. For the purposes of this Act a qualified applicant is a residential occupant-owner, as of the date of enactment of this Act, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962.

SEC. 3. Where the lands for which application is made under section 1 of this Act have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary.

SEC. 4. (a) If the Secretary of the Interior determines that conveyance of an interest under section 1 of this Act is otherwise justified but the consent required by section 3 of this Act is not given, he may, in accordance with such procedural rules and regulations as he may prescribe, grant the applicant a right to purchase, for residential use, an interest in another tract of land, five acres or less in area, from tracts made available by him for sale under this Act (1) from the unappropriated and unreserved lands of the United States, or (2) from lands subject to classification under section 7 of the Taylor Grazing Act (48 Stat. 1272), as amended (43 U.S.C. 315f). Said right shall not be granted until arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred and shall expire five years from the date on which it was granted unless sooner exercised. The amount to be paid for the interest shall be determined in accordance with section 5 of this Act.

(b) Any conveyance of less than a fee made under this Act shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

SEC. 5. The Secretary of the Interior, prior to any conveyance under this Act, shall determine the fair market value of the interest to be conveyed, exclusive of the value of any improvements placed on the lands involved by the applicant or his predecessors in interest. Said value shall be determined as of the date of appraisal. In establishing the purchase price to be paid by the applicant for the interest, the Secretary shall take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price for any interest conveyed shall not exceed its fair market value nor be less than $5 per acre. The Secretary may, in his discretion, allow payment to be made in installments.

SEC. 6. (a) The execution of a conveyance as authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the land in and to which an interest is conveyed.

(b) Except where a mining claim embracing land applied for under this Act by a qualified applicant was located at a time when the land included therein was withdrawn or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such claim,

whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing contained in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act. Relief under this section shall be limited to persons who file applications for conveyances pursuant to section 1 of this Act within five years from the date of its enactment.

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under the Act of July 31, 1947 (61 Stat. 681), as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved for exploration and development purposes, but without the right of surface ingress and egress, and may be leased by the Secretary under the mineral leasing laws.

SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

And the House agree to the same.

GRACIE PFOST,
WALTER S. BARING,
HAROLD T. JOHNSON,
GLENN CUNNINGHAM,
Managers on the Part of the House.

ALAN BIBLE,
FRANK CHURCH,
HENRY M. JACKSON,
THOMAS H. KUCHEL,
GORDON ALLOTT,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to the amendment to the text of the bill:

The amendment to S. 3451 which was adopted in the House differed from the bill as it came from the Senate in many respects. The principal differences between the two versions and the disposition of these differences recommended in the substitute which the conference committee proposes are as follows:

(1) The House version would have permitted any "seasonal or year-round residential occupant-owner, as of January 10, 1962," of improved land in an unpatented mining claim which is found to be invalid or is relinquished or which, within 2 years preceding the date of the act, was found to be invalid or was relinquished, to apply for relief under the act. The Senate version used July 23, 1962, as the critical date, required the applicant to be a citizen or declarant, and provided that the improvements should be "a principal place of residence" for him and that he or his predecessor in interest should have been in possession of the claim for at least 7 years. The conference committee recommends, in substance, adoption of the Senate "principal place of residence," 7-year possession, and July 23, 1962, tests, and omits the citizenship provision as unnecessary and the retrospective 2-year provision as inconsistent with certain other provisions of the conference amendment.

(The conference committee notes that the amendment it proposes does not require the mining claim to be *the* principal place of residence of an applicant. It requires, rather, that it be *a* principal place of residence. This is intended to avoid problems in cases in which weather and topography make the site, though suitable for continuous occupancy for several months each year, impossible for the remainder of the time. It also eliminates, on the other hand, the occasional week-ender who cannot, in good faith, be said to use the site as a *principal* place of residence. It is also noted that the expression "occupant-owner" is not intended to ratify claims of ownership in the usual sense of the word; it is used to describe persons who have constructed improvements, regardless of whether title might ultimately be found to be in them or in the Government.)

(2) The House version did not explicitly provide for conveyance of anything less than a fee simple. The Senate version, however, provided for conveyance of a life estate or lesser interest in appropriate cases. The conference committee version follows, in effect, the Senate provisions in this respect.

(3) The House version would have allowed applications to be filed at any time during the next 3 years and required a lieu-selection right to be exercised within 2 years from the date it is granted. The Senate version provided 5 years in each of these cases. The conference committee recommends adoption of the Senate provisions on these points.

(4) The House version provided that if an applicant is not permitted to acquire a home site on his mining claim because such acquisition is inconsistent with the public interest or because the necessary consent is not given by an agency in aid of whose functions the land is withdrawn, the Secretary of the Interior "will" grant a "preference" right to purchase certain other lands. The Senate version made the granting of such a right a matter of Secretarial discretion and omitted the "preference" phrascology. The conference committee version adopts these features of the Senate bill. It provides, however, that an in-lieu right may be granted only if the Secretary finds that conveyance of an interest in the original mining claim lands would be "justified" but cannot be granted because necessary consents cannot be had.

(5) The House and Senate versions limited the lands that could be used for lieu selections to certain unappropriated and unreserved lands of the United States and certain lands which are subject to classification under section 7 of the Taylor Grazing Act. To this the Senate version added provision for conveyances of life interests in withdrawn lands, such conveyances to be made by the head of the department for whose benefit the lands are withdrawn. The conference committee version deletes the provision covering withdrawn lands since it is in large measure fully covered by other provisions of the bill and, in the form in which it appeared in the Senate version, would have scattered authority to make conveyances and would have allowed an agency administering land under temporary withdrawal to grant life interests outrunning the period for which the withdrawal is effective.

(6) The House version provided for payment of fair market value of the lands conveyed, this value to be determined as of the date of the act. The Senate version provided for payment of not less than $5 per acre nor more than fair market value, determined as of the date of appraisal, in the case of fee transfers of lands held more than 20 years; $5 or fair market value, whichever is greater, in the case of other fee transfers; and not less than $5 per acre nor more than 50 percent of fair market value for transfers of a life estate or lesser interest. It also provided that in making an appraisal "the Secretary shall consider and give full effect to the equities" of the applicant and that, in the case of transfers of a life or lesser interest, he might provide for payments "on an annual payment schedule." The conference committee version provides that fair market value shall be found as of the date of appraisal, fixes a minimum sale price of $5 per acre and a maximum price of fair market value, requires the Secretary to take equities into account when determining the purchase price, and allows him to accept installment payments.

(7) Both the House and the Senate versions reserved all minerals to the United States, withdrew the locatable minerals, and provided for the leasing of leasable minerals. The House version included, but the Senate version omitted, provisions permitting grantees to allow

exploration for locatable minerals and to purchase them from the United States at any time. The Senate version included, and the House version omitted, provision that lessees of the leasable minerals should not have rights of ingress or egress to the surface of lands conveyed under the act. The conference committee version adopts, in substance, the Senate version with respect to minerals. The committee notes that, although surface ingress and egress is not reserved, many minerals (particularly oil and gas) can frequently be extracted by such means as slant drilling and that the reservation from a conveyance of the leasable minerals for exploration and development includes exploration and development by all means which do not involve an invasion of the surface during the term of the estate or interest conveyed.

(8) The Senate version included a requirement that the conveying agency, before making a conveyance, should consult with local authorities "to determine the effect of a proposed conveyance upon the services of government which might be then required." The House version contained no such provision. The conference committee version follows the House in this respect.

(9) The Senate version included provisions with respect to the disposition of moneys received under the act. The House version included no comparable provision. The conference committee version adopts the Senate language which substantially reaffirms the law that would apply in any event.

(10) The Senate version provided that the execution of a conveyance should not relieve the occupant of an unpatented mining claim of liability for unauthorized use of the lands conveyed to him that had theretofore accrued "except to the extent that the Secretary of the Interior deems equitable in the circumstances." The House version omitted the quoted language. So, too, does the conference committee version.

In addition to the points noted above, the conference committee version of the bill contains many minor clarifying language changes from the text of the Senate or House versions of the bill.

GRACIE PFOST,
WALTER S. BARING,
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GLENN CUNNINGHAM,
Managers on the Part of the House.

○

did numerous times. I went before the Judiciary Committee to present my argument. Unfortunately the House, through its committees, turned down our pleas. Regretfully to me at least, my district and FRANK's were consolidated.

Today friends and colleagues have expressed themselves on the results not, I hope on the outcome of our campaign but on the failure of Congress to increase the number of Members of the House and have paid tribute to the fine job my colleague, FRANK SMITH, has done in numerous fields.

Mr. Speaker, I would be remiss if I did not here state that while FRANK's philosophy differs considerably from my own, that in the heat of campaign, since our districts were put together, that, naturally, from my viewpoint, many things were said and done, which I deplore and, of course regret, I feel I should say here:

FRANK SMITH has done an excellent job in many fields, particularly in the field of flood control, watershed protection, flood prevention, public roads, and public works generally. His effective efforts will be missed not only by the area but by me.

Mr. Speaker, this is not an easy speech for me to make, but in all fairness, FRANK SMITH has done a fine job in many areas. Perhaps a new day is dawning, perhaps I do look to the past, but I give to my colleague the same sincerity of purpose, the same acknowledgement for his constructive work. Truly, I wish for him and his fine family the very best.

Sincerely, Mr. Speaker, in the final analysis, with what I sometimes think I see ahead, it is an open question as to who won.

GENERAL LEAVE TO EXTEND

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks at this point in the RECORD.

The SPEAKER pro tempore (Mr. BASS of Tennessee). Is there objection to the request of the gentleman from Alabama?

There was no objection.

RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

Mrs. PFOST submitted the following conference report and statement on the bill (S. 3451) providing relief for residential occupants of unpatented mining claims:

CONFERENCE REPORT (H. REPT. No. 2545)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following: "That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an interest, up and including a fee simple, in and to an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of an amount established in accordance with section 5 of this Act.

"As used in this section, the term 'qualified officer of the United States' means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

"SEC. 2. For the purposes of this Act a qualified applicant is a residential occupant-owner, as of the date of enactment of this Act, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962.

"SEC. 3. Where the lands for which application is made under section 1 of this Act have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary.

"SEC. 4. (a) If the Secretary of the Interior determines that conveyance of an interest under section 1 of this Act is otherwise justified but the consent required by section 3 of this Act is not given, he may, in accordance with such procedural rules and regulations as he may prescribe, grant the applicant a right to purchase, for residential use, an interest in another tract of land, five acres or less in area, from tracts made available by him for sale under this Act (1) from the unappropriated and unreserved lands of the United States, or (2) from lands subject to classification under section 7 of the Taylor Grazing Act (48 Stat. 1272), as amended (43 U.S.C. 315f). Said right shall not be granted until arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred and shall expire five years from the date on which it was granted unless sooner exercised. The amount to be paid for the interest shall be determined in accordance with section 5 of this Act.

"(b) Any conveyance of less than a fee made under this Act shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

"SEC. 5. The Secretary of the Interior, prior to any conveyance under this Act, shall determine the fair market value of the interest to be conveyed, exclusive of the value of any improvements placed on the lands involved by the applicant or his predecessors in interest. Said value shall be determined as of the date of appraisal. In establishing the purchase price to be paid by the applicant for the interest, the Secretary shall take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy. In any event, the purchase price for any interest conveyed shall not exceed its fair market value nor be less than $5 per acre. The Secretary may, in his discretion, allow payment to be made in installments.

"SEC. 6. (a) The execution of a conveyance as authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the land in and to which an interest is conveyed.

"(b) Except where a mining claim embracing land applied for under this Act by a qualified applicant was located at a time when the land included therein was withdrawn or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing contained in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act. Relief under this section shall be limited to persons who file applications for conveyances pursuant to section 1 of this Act within five years from the date of its enactment.

"SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under the Act of July 31, 1947 (61 Stat. 681), as amended (30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas, and other leasable minerals of the United States are hereby reserved for exploration and development purposes, but without the right of surface ingress and egress, and may be leased by the Secretary under the mineral leasing laws.

"SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

"SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved."

And the House agree to the same.

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STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the

House to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to the amendment to the text of the bill:

The amendment to S. 3451 which was adopted in the House differed from the bill as it came from the Senate in many respects. The principal differences between the two versions and the disposition of these differences recommended in the substitute which the conference committee proposes are as follows:

1. The House version would have permitted any "seasonal or year-round residential occupant-owner, as of January 10, 1962" of improved land in an unpatented mining claim which is found to be invalid or is relinquished or which, within 2 years preceding the date of the act, was found to be invalid or was relinquished, to apply for relief under the act. The Senate version used July 23, 1962, as the critical date, required the applicant to be a citizen or declarant, and provided that the improvements should be "a principal place of residence" for him and that he or his predecessor in interest should have been in possession of the claim for at least 7 years. The conference committee recommends, in substance, adoption of the Senate "principal place of residence," 7-year possession, and July 23, 1962, tests, and omits the citizenship provision as unnecessary and the retrospective 2-year provision as inconsistent with certain other provisions of the conference amendment.

(The conference committee notes that the amendment it proposes does not require the mining claim to be the principal place of residence of an applicant. It requires, rather, that it be a principal place of residence. This is intended to avoid problems in cases in which weather and topography make the site, though suitable for continuous occupancy for several months each year, impossible for the remainder of the time. It also eliminates, on the other hand, the occasional week-ender who cannot, in good faith, be said to use the site as a principal place of residence. It is also noted that the expression "occupant-owner" is not intended to ratify claims of ownership in the usual sense of the word; it is used to describe persons who have constructed improvements, regardless of whether title might ultimately be found to be in them or in the Government.)

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3. The House version would have allowed applications to be filed at any time during the next 3 years and required a lieu-selection right to be exercised within 2 years from the date it is granted. The Senate version provided 5 years in each of these cases. The conference committee recommends adoption of the Senate provisions on these points.

4. The House version provided that if an applicant is not permitted to acquire a homesite on his mining claim because such acquisition is inconsistent with the public interest or because the necessary consent is not given by an agency in aid of whose functions the land is withdrawn, the Secretary of the Interior "will" grant a "preference" right to purchase certain other lands. The Senate version made the granting of such a right a matter of secretarial discretion and omitted the "preference" phraseology. The conference committee version adopts these features of the Senate bill. It provides, however, that an in-lieu right may be granted only if the Secretary finds that conveyance of an interest in the original mining claim lands would be "justified" but cannot be granted because necessary consents cannot be had.

5. The House and Senate versions limited the lands that could be used for lieu selections to certain unappropriated and unreserved lands of the United States and certain lands which are subject to classification under section 7 of the Taylor Grazing Act. To this the Senate version added provision for conveyances of life interests in withdrawn lands, such conveyances to be made by the head of the department for whose benefit the lands are withdrawn. The conference committee version deletes the provision covering withdrawn lands since it is in large measure fully covered by other provisions of the bill, and in the form in which it appeared in the Senate version, would have scattered authority to make conveyances and would have allowed an agency administering land under temporary withdrawal to grant life interests outrunning the period for which the withdrawal is effective.

6. The House version provided for payment of fair market value of the lands conveyed, this value to be determined as of the date of the act. The Senate version provided for payment of not less than $5 per acre nor more than fair market value, determined as of the date of appraisal, in the case of fee transfers of lands held more than 20 years; $5 or fair market value, whichever is greater, in the case of other fee transfers; and not less than $5 per acre nor more than 50 percent of fair market value for transfers of a life estate or lesser interest. It also provided that in making an appraisal "the Secretary shall consider and give full effect to the equities" of the applicant and that, in the case of transfers of a life or lesser interest, he might provide for payments "on an annual payment schedule." The conference committee version provides that fair market value shall be found as of the date of appraisal, fixes a minimum sale price of $5 per acre and a maximum price of fair market value, requires the Secretary to take equities into account when determining the purchase price, and allows him to accept installment payments.

7. Both the House and the Senate versions reserved all minerals to the United States, withdrew the locatable minerals, and provided for the leasing of leasable minerals. The House version included, but the Senate version omitted, provisions permitting grantees to allow exploration for locatable minerals and to purchase them from the United States at any time. The Senate version included, and the House version omitted, provision that lessees of the leasable minerals should not have rights of ingress or egress to the surface of lands conveyed under the act. The conference committee version adopts, in substance, the Senate version with respect to minerals. The committee notes that, although surface ingress and egress is not reserved, many minerals (particularly oil and gas) can frequently be extracted by such means as slant drilling and that the reservation from a conveyance of the leasable minerals for exploration and development includes exploration and development by all means which do not involve an invasion of the surface during the term of the estate or interest conveyed.

8. The Senate version included a requirement that the conveying agency, before making a conveyance, should consult with local authorities "to determine the effect of a proposed conveyance upon the services of Government which might be then required." The House version contained no such provision. The conference committee version follows the House in this respect.

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In addition to the points noted above, the conference committee version of the bill contains many minor clarifying language changes from the text of the Senate or House versions of the bill.

GRACIE PFOST,
WALTER S. BARING,
HAROLD T. JOHNSON,
GLENN CUNNINGHAM,
Managers on the Part of the House.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1963

Mr. ROONEY submitted the following conference report and statement on the bill (H.R. 12580) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1963, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 2546)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12580) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1963, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 7, 8, 14, 19, 22, 23, 24, 28, 35, 51, 52, 53, and 54.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 5, 6, 10, 12, 13, 16, 18, 21, 31, 32, 34, 37, 38, 39, 40, 42, 47, 50, 55, and 56, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$141,210,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$41,950,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,832,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,800,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amend-

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For information only; should not be quoted or cited)

Issued Oct. 11, 1962
For actions of Oct. 10, 1962
87th-2d, No. 186

CONTENTS

HIGHLIGHTS: House rejected Senate USDA appropriation continuation measure. Sens. Russell and Morse criticized House action on USDA appropriation continuation measure. Sen. Proxmire opposed mandatory controls on feed grains. Sen. Humphrey commended administration farm program. Both Houses agreed to conference report on State-Justice-Commerce appropriation bill. House received conference report on roads bill.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL, 1963. By a vote of 245 to 1, agreed to H. Res. 831, "That Senate Joint Resolution 234, making appropriations for the Department of Agriculture and the Farm Credit Administration for the fiscal year 1963, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution." pp. 21785-7

2. ROADS. Received the conference report on H. R. 12135, the proposed Federal-Aid Highway Act of 1962 (H. Rept. 2549). This bill includes authorizations of $33,000,000 for the fiscal year 1964 and $33,000,000 for the fiscal year 1965 for forest highways, and for forest development roads and trails $10,000,000 additional for 1963, $70,000,000 for 1964, and $85,000,000 for 1965.

pp. 21852-3, 21888

3. PUBLIC WORKS. Conferees were appointed on H. R. 13273, the omnibus rivers, harbors, and flood control bill. Senate conferees have not yet been appointed. Earlier agreed to a resolution to send this bill to conference. pp. 21797-802, 21803, 21883
   Rep. Saylor criticized certain provisions of this bill as it passed the Senate. pp. 21824-5

4. STATE-JUSTICE-COMMERCE APPROPRIATION BILL, 1963. Both Houses agreed to the conference report on this bill, H. R. 12580, and acted on amendments in disagreement. This bill will now be sent to the President. This bill includes $115,050,000 for the Area Redevelopment Administration, $3,625,000 for export control, and $32,000,000 for forest highways. pp. 21757-63, 21803-8

5. LANDS; EASEMENTS. Concurred in the Senate amendment to H. R. 8355, to authorize executive agencies to grant easements in, over, or upon real property of the U. S. under the control of such agencies. This bill will now be sent to the President. p. 21784

6. BUILDINGS; CONTRACTS. Rep. Bow objected to a unanimous consent request to send to conference H. R. 11880, to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, including agricultural attache housing. p. 21784

7. PAY BILL. Rep. Johansen criticized the passage of the pay bill. pp. 21802-3

8. TRANSPORTATION. Agreed to the conference report on H R. 5700, to amend the Tariff Act of 1930 to permit contract carriers by motor vehicle to transport bonded merchandise. This bill will now be sent to the President. p. 21809

9. MINING. Began consideration of the conference report on S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. pp. 21817-20

10. D. C. APPROPRIATION BILL, 1963. Received the conference report on this bill, H. R. 12276 (H. Rept. 2548). pp. 21851-2, 21888

11. ELECTRIFICATION. Rep. Pfost urged enactment of legislation to retain for the Northwest first call on Northwest power. pp. 21869-70

12. CRANBERRIES. Received from GAO a report on the review of the cranberry indemnity payment program administered by AMS. p. 21888

13. LEGISLATIVE ACCOMPLISHMENTS. Several Representatives inserted statements on the legislative record of the 87th Congress. pp. 21821-4, 21857-8, 21870-1, 21883-6

14. LEGISLATIVE PROGRAM. Rep. Albert announced that the conference reports on S. 3451, unpatented mining claims, H. R. 12276, the D.C. appropriation bill, and H. R. 12135, the highway bill, will be considered on Thurs. p. 21820

SENATE

15. FARM PROGRAM. Sen. Humphrey commended the administration's farm program, reviewed recent improvements in the farm economy, stated that "the agricultural economy of this Nation is in a decided upswing," and inserted a news release of this Department containing a statement of the National Agricultural Advisory

done and what justification there is for their exclusion.

Mr. GROSS. If the gentleman from Iowa is fortunate enough to be reelected, he will join the gentleman from Arizona. We will do exactly that if I am reelected.

Mr. MORRIS K. UDALL. I do not think there is much doubt about that.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. HOSMER. What are the publications that are excepted; will the gentleman state what they are?

Mr. GROSS. The bill specifies trade publications serving the performing arts, which, as I understand it, may mean Billboard and Variety. Why these two should be excepted, I do not know.

Mr. HOSMER. I thank the gentleman.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Nebraska.

Mr. CUNNINGHAM. I agree with the statement that has been made by the gentleman from Iowa and the gentleman from Arizona. I hope the committee will look into this further next year. However, on behalf of the minority members of the committee, may I say that we will not object to the passage of this bill.

Mr. Speaker, I would like the legislative history on this particular bill to be perfectly clear. In the hearings it was developed that annual publication of ownership and circulation information served a very useful purpose, and that publication of this data is in the public interest. Publications are required to print the information annually at the present time. In the past nonprofit publications have not been required even to file information.

In the bill now before us, nonprofit publications will supply the information, but are not required to publish it, nor are profitmaking publications serving the performing arts.

Even though this information in these cases does not have to be printed in the publication, certainly it must be the intent of Congress that this data be available to the general public. After all, we are dealing with what is called the second-class privilege. Newspapers and magazines are carried at lower rates, and properly so, because of the public interest nature of publications which qualify for that rate. Now merely because this bill says that a few publications, whether in section 4369(a) or section 4369(b), title 39 of the code, after this bill is enacted, need only furnish ownership and circulation information to the Postmaster General, I would like to be certain that this information will be generally available and that no wall of secrecy will be created by the Post Office Department about it.

I support the bill but feel that the legislative history should show that we are not making any of this information classified. Since these publications use second-class mail for which Congress has historically made special provision, we in Congress and the general public have a right to have this information available whether or not it is published in any particular magazine.

(Mr. CUNNINGHAM asked and was given permission to revise and extend his remarks.)

Mr. OLSEN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Montana.

Mr. OLSEN. Mr. Speaker, I wish to subscribe to the remarks of the gentleman from Nebraska [Mr. CUNNINGHAM]. I also agree that we do not want the exclusion of these magazines which serve the performing arts to include any more publications than just the two that have been mentioned. Like the gentleman from Iowa, I do think there should be some hearings to determine just why these two magazines have been excepted.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

UNPATENTED MINING CLAIMS

Mrs. PFOST. Mr. Speaker, I call up the conference report on the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentlewoman from Idaho?

Mr. SAYLOR. Reserving the right to object, Mr. Speaker, will the gentlewoman explain the bill, and yield me some time to speak on this matter?

Mrs. PFOST. I will be very glad to.

The SPEAKER. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 8, 1962.)

Mrs. PFOST. Mr. Speaker, it is with real pleasure and a sense of achievement that I bring before the House for approval today the report of the committee on the conference on S. 345, an act that will provide essential relief to residential occupants who have placed valuable improvements on lands held on mining claims and who now, for the most part, through no fault of their own, are unable to proceed to obtain title to the land under the mining laws.

This is a bill that will save the homes of small families. It will save the homes of hard working American families that have been occupying public lands in good faith in anticipation of obtaining title.

I shall not dwell further on the purpose and background of the bill except to remind the House that on September 17 last this body suspended the rules and passed S. 3451 with an amendment that substituted the language of the House bill (H.R. 12761) by the gentleman from California [Mr. JOHNSON].

The bill we passed was a good one; but I earnestly recommend to the House the bill that has come out of conference as an even better one, and I will hit the high spots of what we have accomplished in conference.

As recommended by the conference committee, an applicant to qualify will be required to have been a residential occupant owner as of July 23, 1955, on a mining claim which for him constitutes a principal place of residence. In the bill passed by the House last month, the critical date of occupancy was January 10, 1962. The House conferees, in recommending that the House recede from its position, recognized that July 23, 1955, represents a logical date from which to base occupancy because that is the date on which a statute became effective making it clear for the first time that mining claims were not to be used and occupied for nonmining purposes. The effect of using this date is to eliminate from possible consideration to receive the benefits of the legislation now before the House any persons who might have sought to subvert the mining laws.

The varying versions passed by the House and the Senate both contemplated that there might be conveyances to occupants of an interest less than fee title. However, the Senate bill made this explicit and the House conferees recommend this provision so that the administrators will have no doubt about their authority to grant, for example, a life estate in an area where the Government itself has a long-range requirement for the property.

The final major item in disagreement relates to the formula to be used in determining the monetary consideration to be paid by a residential occupant for the purchase of his property. The committee on conference recommends the procedure we have agreed upon, which requires the Secretary of the Interior to determine the fair market value of the interest to be conveyed; thereafter the Secretary would take into consideration any equities of the applicant and his predecessors in interest and establish a purchase price that would be no more than the appraised market value but not less than $5 per acre which, I should point out, is the amount that, generally speaking, would have to be paid if title to the property were being acquired under the mining laws. This price formula is a compromise between the provisions that were contained in the House and Senate bills. We think it is fair to the occupant while protecting the interest of the United States.

There were, of course, other differences between the bills; but they were not of such significance, Mr. Speaker, as to require detailed analysis. Each and every difference and the recommended solution is set forth in great detail in the statement of the managers on the part of the House which I hope each Member has at his desk and which was printed in full starting at page 21598 in the CONGRESSIONAL RECORD for October 8.

This legislation is needed and it is needed now. Unless we act promptly, some of these families may face eviction in their long-established homes. It would be tragic to have any family evicted and then have the same land put up for sale on the open market merely because there is no provision in general law whereby the present occupant can obtain a preference or priority right.

I urge adoption of the conference report.

Mr. SAYLOR. Mr. Speaker, will the gentlewoman yield?

Mrs. PFOST. Mr. Speaker, I yield 10 minutes to the gentleman from Pennsylvania [Mr. SAYLOR].

(Mr. SAYLOR asked and was given permission to revise and extend his remarks.)

Mr. SAYLOR. Mr. Speaker, I find it necessary for me to take exception to the conference report which has been filed in this case. This bill was brought up under suspension and at the time I asked the House to vote in favor of suspension of the rules. I did so because the action of the other body in handling this bill led me to believe the Senate was cognizant of the evils which had arisen as a result of certain uses of mining claims and were conscientiously attempting to remedy a bad situation. I say they were conscientiously trying to remedy a bad situation because the original author of the bill in the House, the gentleman from California [Mr. JOHNSON], called the attention of our committee to certain cases where there had been real hardships.

For example, he pointed out one or two towns and he gave us the maps together with the overlay showing that the people had originally gone into an area that had been actively used for mining, filed mining claims and had built homes. Those homes have been there not for just 7 years, as provided in this bill, but they have been there for three and four generations in some cases. They have been handed down from father to son. They have been sold. Unless something is done to give these people relief, a real hardship will take place.

However, there is another group of people who have filed mining claims who never intended to prospect for any minerals whatsoever. What they were looking for was a nice place in a national forest or some beautiful spot in our public domain for the purpose of building a nice weekend cottage; and they have it. This has become almost a national scandal. The late Bernard DeVoto was responsible for writing a series of articles calling this to the attention of the American people and calling attention to this use of mining claims for summer cottages, other illegal uses, and they have been stopped.

The Comptroller General of the United States in May of this year published a report and I quote from a portion of that report:

> The use of unpatented mining, claims for purposes not related to mining is not in accord with the intent of the mining laws. Judicial decisions dating back to the 19th century state that possession of an unpatented mining claim does not confer the right to take timber or otherwise make use of the surface of the claim except as may be necessary for mining. * * *
>
> Mining claims, many of which are located in areas where there are vast quantities of merchantable timber, are hindering the effective administration of national forest lands by preventing Forest Service access to Federal timber and other resources. In some cases we reviewed, planned sales of many millions of board feet of timber, some of which was overmature, diseased, and insect-infested, had been postponed for long periods because of lack of rights-of-way across mining claims. * * *
>
> Mining claims, many of which are located in areas where there are vast quantities of merchantable timber, are hindering the effective administration of national forest lands by preventing Forest Service access to Federal timber and other resources.
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>
> However, the more than 1,100,000 unpatented claims in the national forests may in the future constitute an even greater hinderance to management of the forests because, as patents are obtained on claims, the Government usually loses all rights to the use of the claims, including rights-of-way across them.
>
> Numerous unpatented mining claims in national forests are apparently being used for purposes not related to mining. Permanent residences, summer homes, townsites, orchards, commercial enterprises, farming, and a house of ill repute are examples of uses made of some unpatented claim sites.
>
> * * * * *
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> Forest Service officials stated that the primary objective of increasing numbers of people who have mining claims is simply a desire to have a place in the mountains to go to and enjoy and ultimately to own, without regard to requirements of the mining laws.

This conference report goes even further than the House bill. The House bill that the gentleman from California [Mr. JOHNSON] introduced said that anyone who did not have a claim on the 10th day of January 1962, when he filed this bill, would have no right whatsoever. The conference report updated that to the 23d day of July 1962, and put a provision in here that it should be not the principal place of residence, but it should be a principal place of residence. Further that the only requirement should be that the present occupant or his predecessor in interest should have been in possession for at least 7 years.

The Forest Service is opposed to this type of legislation.

It is for these reasons that I feel that this conference report should be rejected. The situation which the gentleman from California [Mr. JOHNSON] originally intended to take care of in his bill is one of real hardship, and I could say to him that I would be happy to cooperate, if reelected to the 88th Congress, to see to it that these people are taken care of. But I am opposed to bills of this type which will allow the actual rape of the national forests and our public lands. This is the challenge that we have before us and I hope that we will measure up to that challenge.

I realize that opposing a conference report is rather difficult, but I intend to ask for a vote on final passage, and I sincerely hope that the House will reject this conference report.

The date that should be adopted is January 1, 1920. On this date you can take care of all of the people who went into the mining areas during World War I and before that time and did a job and have since considered that their home. But if we adopt the date of July 23, 1962, all we will do is enrich a number of people who have performed in the first instance an illegal act.

I hope that the conference report is turned down.

Mrs. PFOST. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. JOHNSON].

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I want to say that the article or the investigation referred to by the gentleman from Pennsylvania has no application to this report whatsoever. There is no change in the mining laws. The Secretary of Agriculture through the Forest Service or the Secretary of the Interior through the Bureau of Land Management has a right today to move in on any mining claim as to the validity of the mining claim. Therefore, we have not changed that in this particular piece of legislation.

When we met in conference, we went into this matter, and as far as the Forest Service is concerned and the Department of Agriculture, they are not in opposition to the conference report. I might say all conferees, both on the Senate side and the House side, with the exception of the gentleman from Pennsylvania [Mr. SAYLOR] agreed to this conference report.

As far as the Bureau of Land Management is concerned, the only time this will come into effect is when the Bureau of Land Management is wanting to dispose of some land as they are throughout the West at the present time.

This would give the present occupant of an unpatented mining claim, who has his place of residence there, a preference, or a privilege to ask for the right to purchase that piece of property at fair market value, with all of the mineral rights being retained by the U.S. Government. This is certainly no give away. This land in the West is being disposed of each and every day of the year.

In this conference report we give a right to the agency of the Government to grant a life estate or lesser estate or to grant up to and including a fee title. I am certain that the Bureau of Land Management wants to grant a fee in the land that they dispose of, because at the present time in these areas they are disposing of many tracts of land under the Small Tracts Act. In these cases the individual will only have the right to purchase up to 5 acres. It has been my experience in California in the areas where this is being done at the present time under the Small Tract Act that those lands were less than 5 acres, and they were sold at fair market value. Fair market value was as high as $1,100 an acre.

I am sure no Member in this Congress would want to deprive an American citizen of a place to live in this country. These people have filed these claims. They were legitimate claims and many of them are just as legitimate today as in the days when they were filed upon.

These people are very hard pressed. In my country, in many of the counties, 85 percent of the land is owned by the Federal Government. We have very little private land left. These people are living in their homes that were built there, and they are only asking for a preference if and when this land is going to be put up for sale they may go in and negotiate with the agency of Government and pay the fair market value at the time the lands will be acquired or sold.

Since coming to the Congress I have watched all sorts of redevelopment measures. We have furnished housing throughout the United States for many people. We have furnished housing throughout the world for many of the people in undeveloped countries. We are only asking for a right or a preference to go in there and purchase this land from the U.S. Government at fair market value. This is no raid upon the Federal land reserves. These are only lands that the Government wishes to dispose of, and in the instance of the lands within the National Forest reserves there will be no land sold.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mrs. PFOST. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. The gentleman from California speaks of land that is being put up for public sale. This is land that is presently under the control of the Secretary of the Interior and the Bureau of Land Management; is that correct?

Mr. JOHNSON of California. In some specific cases it is also land that is under the jurisdiction of the Department of Agriculture.

Mr. SAYLOR. The ones in the national forests are not being put up for sale?

Mr. JOHNSON of California. That is correct. Most of the lands are mining claims that are being considered by the Forest Service. If the applicant is willing to waive the surface rights, then the applicant is left to remain there and live there.

Mr. SAYLOR. In other words, he is given a license or a permit to live there for a period of years?

Mr. JOHNSON of California. He is not given a permit. He merely remains there and so far has not been disturbed.

Mr. Speaker, this bill would allow the Forest Service to give him a life estate or lease.

Mr. Speaker, since this bill has been before the Congress for a considerable length of time—the House passed a version under suspension of the rules and the Senate passed a version under a unanimous vote—the bill has been thoroughly considered in conference. All the conferees with the exception of one, the gentleman from Pennsylvania, have agreed to this conference report.

Mr. Speaker, I am sure that there is nothing in this bill that would harm or raid the Federal land reserves. We are merely trying to take care of Americans so that they might have a place to live.

Mr. Speaker, I might say that in these mountain counties about which I speak and which are found elsewhere in the West, this is about the only place we have on which to build a home. Most of them are straight up and down. Many of these claims are on level areas where people have placed their homes and have lived there for a long time. In many of the communities which it is my pleasure to represent practically the entire town is located on mining claims.

Mr. Speaker, I think this Congress certainly wants to take care of that type of American citizen who is willing to take care of himself and is willing to pay a fair market value for the small parcel of land which he is going to use for his home.

Mrs. PFOST. Mr. Speaker, I think three points made by the gentleman from Pennsylvania need to be answered.

First is the reference to the presence of a house of ill repute on an unpatented mining claim which, I say, is an attempt to get headlines on this legislation. It has no bearing, because in the report of the Comptroller General, although made in 1962, it is pointed out that a court injunction enjoining and restraining the illegal operation had been obtained in December 1957.

The Federal Government, through that action and the commendable diligence of the Forest Service, regained possession of the property in July 1960. This shows that our administrators are enforcing the law. In addition these people in any event would not be qualified under this legislation because it applies to residences and such illegal use would not be embraced.

Mr. SAYLOR. Mr. Speaker, will the gentlewoman yield?

Mrs. PFOST. Yes.

Mr. SAYLOR. I might say to my good colleague, the gentlewoman from Idaho, if I were seeking to get headlines, I would have referred to that part of the report which says there was a nudist colony conducted on one of these areas. Also, had I been given an opportunity to read further, I would have advised further that the house of ill repute for 7 years was closed, the nuisance was abated, and the mining claim was declared null and void.

Mrs. PFOST. Mr. Speaker, since the gentleman from Pennsylvania has brought up the question of the nudist colony, I want to point out that it was located on patented land and has no relationship to the legislation now under consideration.

Mr. Speaker, there are two other points which I should like to bring up.

The proposal to go back to January 1920 as the date of occupancy for qualification under the legislation has no basis in logic. It is intended to destroy the effectiveness of the bill that is before the House today.

I submit, Mr. Speaker, that the date of July 23, 1955, as the base time from which an occupant or his predecessor in interest must have been occupying an unpatented mining claim is a reasonable, logical, compromise solution of a difficult problem. Like all compromises it is not perfect.

The House bill approached the problem on the theory that this is relief legislation and that therefore the relief should be available to all occupants as of the approximate date on which the proposed introduction of legislation was announced. This date was January 10, 1962; and the House bill would have permitted residential owner-occupants of unpatented mining claims of that date to qualify for the purchase of their homesites. We thought this made good sense in keeping with the general principle behind relief legislation: wipe the slate clean as of the date on which you decide to provide relief.

The Senate version referred to 7 years occupancy prior to July 23, 1962, thereby establishing the July 23, 1955 date. There is considerable merit to this approach both from the standpoint of the fact that, against anyone but the Government, a person could in many States in 7 years obtain title through adverse possession; likewise, the date coincided with the enactment of the Multiple Use Act of 1955 which limited surface use of mining claim areas to mining activities. From that date forward, persons staking mining claims did so under a law that specifically limited their rights of occupancy.

When we went to conference, the dispute on this point was January 10, 1962, versus July 23, 1955. We have adopted the more restrictive Senate approach; we have recommended that the House receded from its position; and we think we have a date that has been justified both in fairness to the occupants and in protecting the national interest.

I would also like to restate this point: If we are going to grant relief to these people, we could not go back any earlier than 1955 without destroying the very basis and concept of the legislation.

Mr. Speaker, let us remember that this act is discretionary and will not give benefits to those who do not act in good faith. It is permissive and discretionary legislation.

Mr. Speaker, in further support of the conference report on S. 3451 I want to set the record straight as it relates to certain statements that were made on the floor of the House by the gentleman from Michigan [Mr. DINGELL] at the time this measure was originally passed by the House.

First. The statement that 1.1 million people have mining claims that would result in 2.2 million acres of the public domain being disposed of under the bill is an erroneous conclusion.

The report of the Comptroller General of the United States submitted to the Congress in May 1962 indicates that there are approximately 1.1 million unpatented mining claims within the national forests. I think that everyone knows that the great majority of such claims are not occupied. The bill would apply only to lands used for residential purposes and upon which valuable improvements have been constructed. I am advised that the gentleman from Michigan was told that there were probably about 10,000 such unpatented mining claims in the national forests which, based on his arithmetic of 2 acres per

claim, would result in a maximum of 20,000 acres being eligible for transfer under this legislation.

Actually, nobody knows exactly how many of these claims exist, nor how many people have them. The estimate that we have was furnished to the Subcommittee on Public Lands on May 1, 1962, in the testimony of Arthur W. Greeley, Assistant Chief of the Forest Service, who stated:

Our guess, and I would have to call it that, although we believe it is an educated guess, is that there are probably about 10,000 claims within the national forest upon which this type of improvement has been constructed and upon which some kind of action under this legislation would be called for.

So we see that the threat of a million acres of forest land being disposed of is reduced by 98 percent.

Second. It is inaccurate to think that all claims that are eligible will be turned into disposals. First of all the legislation is stricty discretionary. There is no "right" to purchase as suggested by the gentleman from Michigan and, in fact, there are provisions requiring the Secretaries of the executive departments to withhold from sale property that is needed for some public purpose. Second, it is not only possible but probable that, particularly in the national forests, many of the occupancies will be converted into life estates rather than fee transfers.

So even the 20,000 acres that might be eligible for consideration under the bill will be reduced further.

Third. It is inaccurate to state that the type of occupancies involved in S. 3451 are instrumental in blocking access to timber sale areas. As a matter of fact the very cases pointed to by the gentleman from Michigan, based on the Comptroller General's report, are cases that would not qualify under the legislation now before the House.

Furthermore in at least three of the forests mentioned by the gentleman from Michigan there appear to be no residences on any unpatented mining claims, and the Comptroller General's report itself specifically stated that access in these forests was blocked by owners of patented mining claims.

Fourth. Other misleading statements were the references to the presence of a house of ill repute, gambling casinos, and a nudist camp in these areas. However, these activities do not constitute residential occupancies, and therefore would not be involved in this legislation.

As I pointed out to the House in resonse to the gentleman from Pennsylvania, when the Comptroller General's report was released in May, the house of ill repute had long since ceased to operate and the nudist camp was on patented lands. Finally, with reference to having read in the paper about the gambling casinos, responsibility requires at least a reference to the source, but none was given.

These are the major points and now the record is straight. I do, however, want to add one further word of explanation. There is a difference between unpatented and patented mining claims. Once the land has been patented it is improper to refer to it as a claim; a patent under the mining laws transfers full fee title with all of the rights of private ownership. The Comptroller General has suggested that Congress consider the possibility of changing the mining laws. But I submit to my colleagues that we should not try to do so in connection with a piece of discretionary relief legislation such as S. 3451 and, secondly, we should not use such arguments as a smokescreen in an attempt to change basic law through indirection.

In view of the facts and that discretion will be vested in the Secretaries, I urge the adoption of the conference report on this relief legislation.

(Mrs. PFOST asked and was given permission to revise and extend her remarks.)

The SPEAKER. The question is on the conference report.

Mr. SAYLOR. Mr. Speaker, I should like to advise the Chair that I intend to ask for the yeas and nays.

The SPEAKER. The gentleman advises the Chair that if the question on agreeing to the conference is put he will object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present?

Mr. SAYLOR. That is correct, Mr. Speaker.

The SPEAKER. Without objection, further consideration of the conference report will be postponed until tomorrow.

There was no objection.

PERSONAL EXPLANATION

Mr. COHELAN. Mr. Speaker, on rollcalls 288 and 289 I am recorded as absent. My absence was due to my attendance at memorial services for our late colleague, Clem Miller. I should like the RECORD to show that had I been present I would have voted "yea" on both rollcalls.

CORRECTION OF THE RECORD

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent to correct a typographical error in the CONGRESSIONAL RECORD for October 1, 1962. In line 18 of my remarks appearing on page 20346 the name of the distinguished member of the General Assembly of Illinois, the Honorable Abner Mikva is spelled "Mikra." A similar misspelling occurs in line 4 of column 3 of page 20346. I ask unanimous consent that the name of my distinguished constituent be corrected to "Mikva" in the permanent RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM FOR THE BALANCE OF THE WEEK

The SPEAKER. The Chair recognizes the gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Speaker, I asked for recognition to inquire of the majority leader if he can tell us the program for tomorrow and any subsequent days.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. Of course, I yield.

Mr. ALBERT. Mr. Speaker, I can only announce now that the unfinished business is agreeing to the conference report on S. 3451, unpatented mining claims, following that, the following conference reports are ready and it is expected they will be taken up tomorrow in the following order:

H.R. 12276—conference report on the District of Columbia appropriation bill.

H.R. 12135—conference report on the Federal Highway Act of 1962.

It is also expected that S. 1447—conference report on the District of Columbia teachers salaries will be ready tomorrow.

Any further program we shall announce tomorrow.

Mr. BYRNES of Wisconsin. Mr. Speaker, may I inquire of the gentleman if a public works conference report is filed tonight whether that will come up tomorrow.

Mr. ALBERT. On the appropriation bill?

Mr. BYRNES of Wisconsin. No; the general public works bill that was sent to conference.

Mr. ALBERT. We shall be happy to program that just as soon as it is ready, I advise the gentleman. We shall announce any other matters that may be ready as soon as we are aware that they are ready.

Mr. HORAN. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman.

Mr. HORAN. May I inquire with reference to the public works appropriation bill which I understand on the Senate side is more comprehensive than it was on our side, when that will come back to the House?

Mr. ALBERT. The distinguished chairman of the Committee on Appropriations has advised me that he is not ready to call that report up but will advise us as soon as he is in a position to do so.

Mr. BYRNES of Wisconsin. Mr. Speaker, I thank the gentleman.

FILING OF CONFERENCE REPORT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the conferees on the bill S. 1447 may have until midnight tonight to file a conference report.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REPORT ON THE 87TH CONGRESS

(Mr. MATHIAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATHIAS. Mr. Speaker, from time to time during the 87th Congress

No. 47: House receded and agreed to the Senate amendment to provide that Public Law 480 funds may be used for "unrecovered prior years' costs, including interest thereon."

No. 51: Both Houses receded from disagreement and agreed to an amendment to provide that funds for the International Wheat Agreement may be used for "expenses during fiscal year 1963 and unrecovered prior years' costs, including interest thereon."

No. 53: Both Houses receded from disagreement and agreed to an amendment to provide that funds for the barter and exchange of agricultural commodities for the supplemental stockpile may be used for "expenses during fiscal year 1963 and unrecovered prior years costs."

The House Appropriations Committee reported H. J. Res. 903, to make continuing appropriations for the Department of Agriculture and related agencies for the fiscal year 1963, but no action was taken on this measure in view of agreement of the regular annual appropriation bill (H. Rept. 2551). p. 22015

10. MINING. Both Houses agreed to the conference report on S. 3451, to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed. This bill will now be sent to the President. pp. 21914, 21959-60

11. D. C. APPROPRIATION BILL, 1963. Both Houses agreed to the conference report on this bill, H. R. 12276. This bill will now be sent to the President. pp. 21915-9, 21965-9

12. TERRITORIES. Received from Interior a proposed bill "to promote the economic and social development of the Trust Territories of the Pacific Islands"; to Interior and Insular Affairs Committee. p. 22015

13. COMMITTEES. Rep. H. Carl Andersen resigned from, and Rep. Odin Langen was elected to, the Committee on Appropriations. p. 21965

The Interstate and Foreign Commerce Committee issued a report on the activities of that Committee (H. Rept. 2553). p. 22015

ITEMS IN APPENDIX

14. FARM PROGRAM. Extension of remarks of Rep. Beckworth inserting an article, "Government Makes No Hay With Farmers." p. A7559

Extension of remarks of Rep. Norblad inserting an article "on the subject of the need for freedom in agriculture." pp. A7590-1

Extension of remarks of Rep. Weaver inserting an article on the new farm bill which suggests that "the major provisions of the bill are, in themselves, constructive for the agricultural economy." pp. A7601-2

15. LEGISLATIVE PROGRAM. Extension of remarks of Reps. Collier, Johnson (Calif.), Ichord, and Cahill inserting resumes of major legislation enacted during the Congress. pp. A 7560-2, A7581-2, A7585-6, A7592-4

Extension of remarks of Sen. Kefauver stating that "the many procedural difficulties confronted by this Congress constitutes overwhelming evidence of the necessity of Congress considering substantial reforms in a number of its ways of doing business." pp. A7562-3

16. LABELING; MARKETING. Extension of remarks of Rep. Lane inserting an article, "Advertising: True or False." pp. A7563-5

17. FLOOD CONTROL. Extension of remarks of Rep. Rogers inserting the report of the Resolution Committee of the National Rivers and Harbors Congress. pp. A7602-3

18. PATENTS. Extension of remarks of Rep. Mathias urging an investigation of the existing law and actual practice with respect to copyrighting and inserting an article. pp. A7611-2

19. FOREIGN TRADE. Extension of remarks of Rep. Betts inserting an article, "Foreign Trade Offers No Magic." pp. A7616-9

BILLS INTRODUCED

20. TERRITORIES. H. R. 13396, by Rep. Aspinall, to promote the economic and social development of the Trust Territory of the Pacific Islands; to Interior and Insular Affairs Committee.

21. COMMISSION. H. R. 13397, by Rep. Bell, to provide for the establishment of a Permanent Commission on Governmental Operations; to Goverment Operations Committee.

BILLS APPROVED BY THE PRESIDENT

22. FOREIGN TRADE. H. R. 11970, the "Trade Expansion Act of 1962". Approved October 11, 1962 (Public Law 87-794).

23. FHA LOANS. H. R. 12653, to amend the Consolidated Farmers Home Administration Act of 1961 in order to increase from $150 million to $200 million annually the amount of loans which may be insured under the Act. Approved October 11, 1962 (Public Law 87-798).

24. WHEAT. H. R. 13241, to amend Sec. 309 of the Food and Agriculture Act of 1962 so as to provide that a farm marketing quota on the 1963 crop of wheat shall be applicable to any farm on which acreage of wheat planted exceeds the smaller of 15 acres or the highest number of acres planted to wheat on the farm in calendar years 1959, 1960, 1961, or 1963, (instead of 1959, 1960, or 1961). Approved October 11, 1962 (Public Law 87-801).

25. RICE. S. 3152, to provide for the nutritional enrichment and sanitary packaging of rice prior to its distribution under certain Federal programs, including the national school lunch program. Approved October 11, 1962 (Public Law 87-803).

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tor from the State of Florida, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. HOLLAND thereupon took the chair as Acting President pro tempore.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, I am about to make a unanimous-consent request that the Senate stand in recess until 4 p.m. today, so that it will be possible to have as much business as is available considered at the same time, rather than for the Senate to operate in spurts, as the recent procedure would seem to indicate.

It is the intention of the leadership today to bring up the conference report on the District of Columbia appropriation bill, which I understand has cleared the House of Representatives. It is also the intention to bring up the conference report on the pay bill for the teachers in the District of Columbia; also the conference report on the Highway Act; and, depending on developments, the conference report on the agricultural appropriation bill.

If that is brought up today, I wish to say to the Acting President pro tempore, the distinguished senior Senator from Florida [Mr. HOLLAND], that it is the intention to try to proceed to the consideration of the conference report on the supplemental appropriation bill, as well.

At the present time the public works authorization bill is in conference. I understand that the conferees are meeting this afternoon. What progress will be made remains to be seen.

There will also be the conference report on the public works appropriation bill, which will come up at the conclusion of consideration of the pending business.

To the best of my knowledge, that is the schedule of the remaining measures for the Senate and the House to consider.

RECESS UNTIL 4 P.M.

Mr. MANSFIELD. Mr. President, if no Senator wishes to speak at this time, I ask unanimous consent that the Senate stand in recess until 4 p.m. this afternoon.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, at 1 o'clock and 2 minutes p.m. the Senate took a recess until 4 p.m. on the same day.

The Senate reassembled when called to order by the Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House further insisted upon its disagreement to the amendments of the Senate numbered 2, 19, 44, 47, 48, 49, 50, 51, 52, 53, and 54 to the bill (H.R. 12648) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1447) to amend the District of Columbia Teachers' Salary Act of 1955, as amended, and to provide for the adjustment of annuities paid from the District of Columbia teachers' retirement and annuity fund.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 6371) to amend section 37 of the Internal Revenue Code of 1934 with respect to the limitation on retirement income.

The message further announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H.R. 8517. An act to grant emergency officer's retirement benefits to certain persons who did not qualify therefor because their applications were not submitted before May 25, 1929; and

H.R. 9045. An act to amend the Trading With the Enemy Act, as amended.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 10620) to amend section 213 of the Internal Revenue Code of 1954 to increase the maximum limitations on the amount allowable as a deduction for medical, dental, etc., expenses; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS, Mr. KING of California, Mr. BOGGS, Mr. MASON, and Mr. BYRNES of Wisconsin were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12135) to authorize appropriations for the fiscal years 1964 and 1965 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12276) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1963, and for other purposes; that the House received from its disagreement to the amendments of the Senate numbered 7, 10, 12, 19, 25, 26, and 27 to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 1, 8, 11 to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore:

H.R. 555. An act for the relief of Elmore County, Ala.;

H.R. 1691. An act for the relief of Elaine Veronica Braithwaite and Jessie Bamer;

H.R. 3131. An act for the relief of Richard C. Collins;

H.R. 5260. An act to continue for an additional 3-year period the existing suspensions of the tax on the first domestic processing of coconut oil, palm oil, palm-kernel oil, and fatty acids, salts, combinations, or mixtures thereof;

H.R. 5700. An act to amend the Tariff Act of 1930 to permit the designation of certain contract carriers as carriers of bonded merchandise;

H.R. 6190. An act to amend title 38 of the United States Code to provide for the repair or replacement for veterans of certain prosthetic or other appliances damaged or destroyed as a result of certain accidents;

H.R. 6691. An act to amend title 18, United States Code, sections 871 and 3056, to provide penalties for threats against the successors to the Presidency, to authorize their protection by the Secret Service, and for other purposes;

H.R. 6836. An act to amend the Policemen and Firemen's Retirement and Disability Act;

H.R. 7791. An act to amend title 13 of the United States Code to provide for the collection and publication of foreign commerce and trade statistics, and for other purposes;

H.R. 8140. An act to strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes;

H.R. 8355. An act to authorize executive agencies to grant easements in, over, or upon real property of the United States under the control of such agencies, for for other purposes;

H.R. 8874. An act to authorize certain banks to invest in corporations whose purpose is to provide clerical services for them, and for other purposes;

H.R. 8952. An act to amend the provisions of the Internal Revenue Code of 1954 relating to the conditions under which the special constructive sale price rule is to apply for purposes of certain manufacturers excise taxes and relating to the taxation of life insurance companies, and for other purposes;

H.R. 9285. An act for the relief of Helenita K. Stephenson;

H.R. 9777. An act to amend Private Law 87–197;

H.R. 10002. An act for the relief of civilian employees of the New York Naval Shipyard and the San Francisco Naval Shipyard erroneously in receipt of certain wages due to a misinterpretation of a Navy civilian personnel instruction;

H.R. 10026. An act for the relief of Thomas J. Fitzpatrick and Peter D. Power;

H.R. 10129. An act to amend the act of September 7, 1957, relating to aircraft loan guarantees;

H.R. 10199. An act for the relief of Lester A. Kocher;

H.R. 10423. An act for the relief of Mrs. Dorothy H. Johnson;

H.R. 10541. An act to assist States and communities to carry out intensive vaccination programs designed to protect their populations, particularly all preschool children;

against poliomyelitis, diphtheria, whooping cough, and tetanus;

H.R. 10605. An act for the relief of Joan Rosa Orr;

H.R. 10708. An act to amend section 203 of the Rural Electrification Act of 1936, as amended, with respect to communication service for the transmission of voice, sounds, signals, pictures, writing, or signs of all kinds through the use of electricty;

H.R. 10936. An act to permit the Postmaster General to extend contract mail routes up to 100 miles during the contract term, and for other purposes;

H.R. 11058. An act for the relief of Carl Adams;

H.R. 11578. An act for the relief of Don C. Jensen and Bruce E. Woolner;

H.R. 11899. An act to amend the Federal Property and Administrative Services Act of 1940, as amended, to provide for a Federal telecommunications fund;

H.R. 12313. An act for the relief of Jane Froman, Gypsy Markoff, and Jean Rosen;

H.R. 12402. An act for the relief of Concetta Maria, Rosetta, and Tomasino Mangiaracina;

H.R. 12513. An act to provide for public notice of settlements in patent interferences, and for other purposes; and

H.R. 12599. An act relating to the income tax treatment of terminal railroad corporations and their shareholders, and for other purposes.

RELIEF FOR RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS—CONFERENCE REPORT

Mr. MANSFIELD obtained the floor.

Mr. CHURCH. Mr. President——

Mr. MANSFIELD. I yield briefly to the Senator from Idaho.

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill—S. 3451—to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes. I ask unanimous consent for the present consideration of the report.

The ACTING PRESIDENT pro tempore. The report will be read, for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Oct. 8, 1962, p. 21589, CONGRESSIONAL RECORD.)

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CHURCH. Mr. President, the conference report on S. 3451 is a fair and workable measure to do justice and equity to a number of private American citizens who have relied upon long and well-established custom and precedent in the mining States of our West. The measure I introduced into the Senate on June 20 was based on my personal investigation, study, and knowledge of cases in which men and women, many of them elderly, in Idaho, California, and other States are threatened with the loss of the homes where they have lived all of their lives, into which they have put their lifetime savings, and which in some cases represent their only property. Literally, they have no place to go to live.

The bill I introduced into the Senate was the subject of public hearings and executive agency reports. Based on the hearings and reports, the Committee on Interior and Insular Affairs amended the bill, and the Senate adopted the amendments and the bill on September 6. The House amended the Senate bill to make its provisions conform more closely to the original measure.

I can assure my colleagues in the Senate that the measure agreed upon by the conferees in no way violates the spirit of the bill approved by the Senate and in the judgment of the Senate conferees is a fair and workable measure.

I should like to touch on a few of the points in the conference version of the bill by way of giving assurance to those who will be affected by it and those who will be charged with administering this legislation.

Section 2 of the bill was revised to make the legislation applicable to any person who was a qualified applicant as of the date of enactment of this act rather than as of January 10, 1962. This was done in order that there would be no one unjustly deprived of the opportunity to benefit from this legislation.

In section 3 certain language dealing with consultation with local governments was eliminated because it was believed that even where such government was not directly concerned the consultation would take place.

Section 4 is essentially the same as the Senate bill.

Section 5 also is essentially the same.

The Senate receded from the extensive formula which it spelled out for setting value in order to provide the Secretary of the Interior with full latitude to prescribe by regulation the payment formula in accordance with the many different situations which may confront him.

Section 6 is also essentially unchanged, as is the balance of the bill.

In section 1 of the bill the conferees made certain that the conveyance could include an interest up to and including a fee simple, and this taken together with the language in section 3 forms the basis of my pointing out that the elimination of the last sentence of section 4 of the Senate-passed bill remains intact in purpose. In other words, in the conference version of the bill an interest less than a fee simple may be granted on either withdrawn or nonwithdrawn lands, and the question is left entirely up to the administering agency with the further proviso in section 3 that on withdrawn land consent must be obtained from the agency having jurisdiction over that land or on whose behalf the land has been withdrawn, and this agency shall set forth the terms and conditions appropriate to the situation.

This legislation therefore provides, in the judgment of the Senate conferees, a full kit of legal tools and the discretion, when it is in the public interest, to permit persons residing on mining claims for residential purposes as of the date of enactment of this act to obtain the opportunity to continue to reside upon these lands if they meet the criteria set forth in the legislation.

Mr. President, I move the adoption of the conference report on S. 3451.

The motion was agreed to.

DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1963

Mr. MANSFIELD. Mr. President, it is my understanding that there is at the desk a message having to do with the agricultural appropriations. I ask that the message be laid before the Senate.

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives, announcing its further insistence upon its disagreement to the amendments of the Senate numbered 2, 19, 44, 47, 48, 49, 50, 51, 52, 53, and 54 to the bill (H.R. 12648) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes.

Mr. RUSSELL. Mr. President, I move that the Senate further insist upon its amendments numbered 2, 19, 44, and 47 through 54, and request a further conference with the House on the disagreeing votes thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. RUSSELL, Mr. HAYDEN, Mr. ELLENDER, Mr. YOUNG of North Dakota, and Mr. MUNDT conferees on the part of the Senate at the further conference.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President——

Mr. JOHNSTON. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield to the Senator from South Carolina.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of executive business, for the purpose of consideration of seven postmaster nominations which I am about to report from the Committee on Post Office and Civil Service.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate proceeded to the consideration of executive business.

POSTMASTERS

Mr. JOHNSTON. Mr. President, from the Committee on Post Office and Civil Service I report 7 postmaster nominations which I send to the desk; and I ask unanimous consent for the immediate consideration of the nominations.

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

The legislative clerk read the following nominations of postmasters:

CONNECTICUT

Carmine J. Grote, Chester.

INDIANA

Vaughn L. Kostielnay, Arvilla.
Hiram T. Staples, Greensburg.

House of Representatives

THURSDAY, OCTOBER 11, 1962

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Ephesians 4: 1: *I therefore beseech you that ye walk worthy of the vocation wherewith ye are called.*

Almighty God, we earnestly pray that the holiness of the life and the heroism of the faith of our blessed Lord may daily be given a larger and more welcome place in our minds and hearts and find a richer outflow in Christlike character and conduct.

May we yield ourselves without reservation or restraint to those disciplines whereby we are made ready to know and worthy to receive a more vivid experience of the spiritual realities and a more intimate fellowship with Him whose name is above every name.

Show us how to be rich in that love and those ambitions which never seek their own and in that courage which remains strong and steadfast when the winds are contrary.

Grant that our mental attitudes, and our methods of approach to our difficult problems may all be under the inspiration and guidance of Thy Holy Spirit whose will and ways are fundamental and final, immutable and inescapable.

Hear us in our Saviour's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolutions of the House of the following titles:

H.R. 555. An act for the relief of Elmore County, Ala.;

H. Con. Res. 570. Concurrent resolution expressing the sense of the Congress with respect to the situation in Berlin; and

H. Con. Res. 583. Concurrent resolution to provide for the printing of 185,000 copies of the Constitution of the United States and the amendments thereto.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6371. An act to amend section 37 of the Internal Revenue Code of 1954 with respect to the limitation on retirement income; and

H.R. 9045. An act to amend the Trading With the Enemy Act, as amended.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10620. An act to amend section 213 of the Internal Revenue Code of 1954 to increase the maximum limitations on the amount allowable as a deduction for medical, dental, etc., expenses.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD of Virginia, Mr. KERR, Mr. LONG of Louisiana, Mr. WILLIAMS of Delaware, and Mr. CURTIS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12580) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1963, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 20, 27, and 33.

The message also announced the appointment of Mr. ROBERTSON as a conferee on the bill (H.R. 12276) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1963, and for other purposes."

UNPATENTED MINING CLAIMS

The SPEAKER. The unfinished business is the question on the adoption of the conference report on the bill (S. 3451) to provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

The question is on the adoption of the conference report.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. SAYLOR. Mr. Speaker, on this I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 182, nays 77, not voting 177, as follows:

[Roll No. 290]

YEAS—182

Abernethy	Gonzalez	Natcher
Albert	Granahan	Nix
Alford	Grant	Norrell
Andersen, Minn.	Gray	Nygaard
	Green, Pa.	O'Brien, N.Y.
Ashley	Hagan, Ga.	O'Hara, Ill.
Ashmore	Hagen, Calif.	Olsen
Avery	Halleck	Osmers
Bailey	Halpern	Passman
Baldwin	Hansen	Patman
Barrett	Hardy	Pelly
Bass, Tenn.	Harris	Perkins
Battin	Harrison, Wyo.	Pfost
Beckworth	Healey	Pilcher
Bennett, Fla.	Hechler	Poff
Boggs	Hemphill	Price
Boland	Henderson	Pucinski
Bolling	Herlong	Purcell
Bonner	Holland	Randall
Brooks, Tex.	Horan	Rhodes, Ariz.
Broomfield	Huddleston	Rhodes, Pa.
Burke, Mass.	Ichord, Mo.	Rivers, S.C.
Burleson	Jarman	Roberts, Tex.
Byrne, Pa.	Jennings	Rodino
Cahill	Joelson	Rogers, Fla.
Casey	Johnson, Calif.	Rosenthal
Chelf	Johnson, Md.	Rostenkowski
Chenoweth	Jones, Mo.	Roush
Clark	Karsten	Rutherford
Cohelan	Kearns	St. Germain
Colmer	Keith	Selden
Cook	Kelly	Sikes
Cooley	Keogh	Sisk
Cunningham	Kilgore	Slack
Daddario	King, Calif.	Smith, Iowa
Daniels	Kirwan	Smith, Miss.
Davis, Tenn.	Kitchin	Smith, Va.
Dawson	Kluczynski	Spence
Delaney	Kornegay	Steed
Dent	Landrum	Stephens
Derwinski	Lane	Stubblefield
Dowdy	Lankford	Taylor
Downing	Latta	Thomas
Dulski	Lennon	Thornberry
Dwyer	Lesinski	Toll
Edmondson	Libonati	Trimble
Everett	McFall	Tuck
Fallon	McMillan	Udall, Morris K.
Fascell	Macdonald	Vanik
Feighan	Madden	Waggonner
Finnegan	Mahon	Walter
Fisher	Mailliard	Weaver
Flood	Matthews	Westland
Forrester	Merrow	Whitener
Fountain	Mills	Whitten
Frelinghuysen	Monagan	Wickersham
Garmatz	Montoya	Widnall
Gary	Morris	Willis
Gavin	Multer	Winstead
Giaimo	Murphy	Young
Gilbert	Murray	Zablocki

NAYS—77

Abbitt	Dague	May
Alger	Derounian	Meader
Anderson, Ill.	Dole	Miller, N.Y.
Ashbrook	Dorn	Milliken
Ayres	Ford	Minshall
Bates	Fulton	Moeller
Becker	Goodell	Moore
Beermann	Goodling	Morse
Betts	Griffin	Mosher
Bolton	Gross	Norblad
Bow	Gubser	Ostertag
Bray	Hall	Pike
Broyhill	Hosmer	Pirnie
Bruce	Jensen	Quie
Cannon	Johansen	Ray
Chamberlain	Jonas	Reece
Church	King, N.Y.	Riehlman
Clancy	Knox	Roudebush
Collier	Kunkel	Ryan, N.Y.
Corbett	Langen	St. George
Cramer	Lindsay	Saylor
Curtis, Mo.	Mathias	Schenck

Schneebeli	Taber	Van Pelt
Schweiker	Thomson, Wis.	Wharton
Springer	Tupper	Williams
Stafford	Utt	

NOT VOTING—177

Adair	Garland	O'Konski
Addabbo	Gathings	O'Neill
Alexander	Glenn	Peterson
Andrews	Green, Oreg.	Philbin
Anfuso	Griffiths	Pillion
Arends	Haley	Poage
Aspinall	Harding	Powell
Auchincloss	Harrison, Va.	Rains
Baker	Harsha	Reifel
Baring	Harvey, Ind.	Reuss
Barry	Harvey, Mich.	Riley
Bass, N.H.	Hays	Rivers, Alaska
Belcher	Hébert	Roberts, Ala.
Bell	Hiestand	Robison
Bennett, Mich.	Hoeven	Rogers, Colo.
Berry	Hoffman, Ill.	Rogers, Tex.
Blatnik	Hoffman, Mich.	Rooney
Blitch	Holifield	Roosevelt
Boykin	Hull	Rousselot
Brademas	Inouye	Ryan, Mich.
Breeding	Johnson, Wis.	Santangelo
Brewster	Jones, Ala.	Saund
Bromwell	Judd	Schadeberg
Brown	Karth	Scherer
Buckley	Kastenmeier	Schwengel
Burke, Ky.	Kee	Scott
Byrnes, Wis.	Kilburn	Scranton
Carey	King, Utah	Seely-Brown
Cederberg	Kowalski	Shelley
Celler	Kyl	Sheppard
Chiperfield	Laird	Shipley
Coad	Lipscomb	Short
Conte	Loser	Shriver
Corman	McCulloch	Sibal
Curtin	McDonough	Siler
Curtis, Mass.	McDowell	Smith, Calif.
Davis, James C.	McIntire	Staggers
	McSween	Stratton
Davis, John W.	McVey	Sullivan
Denton	MacGregor	Teague, Calif.
Devine	Mack	Teague, Tex.
Diggs	Magnuson	Thompson, La.
Dingell	Marshall	Thompson, N.J.
Dominick	Martin, Mass.	Thompson, Tex.
Donohue	Martin, Nebr.	Tollefson
Dooley	Mason	Ullman
Doyle	Michel	Van Zandt
Durno	Miller, George P.	Vinson
Elliott		Wallhauser
Ellsworth	Moorehead, Ohio	Watts
Evins		Weis
Farbstein	Moorhead, Pa.	Whalley
Fenton	Morgan	Wilson, Calif.
Findley	Morrison	Wilson, Ind.
Fino	Moss	Wright
Flynt	Moulder	Yates
Fogarty	Nedzi	Younger
Frazier	Nelsen	Zelenko
Friedel	O'Brien, Ill.	
Gallagher	O'Hara, Mich.	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Wallhauser for, with Mr. Wilson of California against.

Mr. Hébert for, with Mr. Rousselot against.

Mr. Baring for, with Mr. Schadeberg against.

Mr. Harding for, with Mr. Kilburn against.

Mr. Rivers of Alaska for, with Mr. Fino against.

Mr. Morgan for, with Mr. Adair against.

Mr. Aspinall for, with Mr. Harsha against.

Mr. Rogers of Colorado for, with Mr. Brown against.

Mr. Ellsworth for, with Mr. Harvey of Indiana against.

Mr. Ullman for, with Mr. Hiestand against.

Mr. Burke of Kentucky for, with Mr. McCulloch against.

Mr. Inouye for, with Mr. Martin of Nebraska against.

Mr. Hull for, with Mr. Teague of California against.

Mr. Staggers for, with Mr. Devine against.

Mr. Magnuson for, with Mr. McIntire against.

Mr. Moorhead of Pennsylvania for, with Mr. Hoffman of Michigan against.

Mr. Short for, with Mr. Barry against.

Mr. Martin of Massachusetts for, with Mr. Garland against.

Mr. Auchincloss for, with Mr. Wilson of Indiana against.

Mr. Sheppard for, with Mr. Younger against.

Mr. Shelley for, with Mr. Smith of California against.

Mr. Miller of California for, with Mr. Laird against.

Mr. Mack for, with Mr. Hoeven against.

Mr. Fogarty for, with Mr. Hoffman of Illinois against.

Mr. Dingell for, with Mr. Harvey of Michigan against.

Mr. Loser for, with Mr. Bell against.

Mr. Thompson of Louisiana for, with Mr. MacGregor against.

Mr. Morrison for, with Mr. McVey against.

Mr. Doyle for, with Mr. Scherer against.

Mr. Sibal for, with Mr. Nelsen against.

Until further notice:

Mr. Haley with Mr. Belcher.

Mr. Evins with Mr. Fenton.

Mr. Denton with Mr. Durno.

Mr. Anfuso with Mr. Dooley.

Mr. Carey with Mr. Garvin.

Mr. Buckley with Mr. Tollefson.

Mr. Farbstein with Mr. Conte.

Mr. Powell with Mr. Bennett of Michigan.

Mr. Rooney with Mr. Anderson of Illinois.

Mr. Corman with Mr. Kyl.

Mr. Kastenmeier with Mr. Glenn.

Mr. John W. Davis with Mr. Judd.

Mr. Nedzi with Mr. O'Konski.

Mr. O'Brien of Illinois with Mr. Michel.

Mr. O'Neill with Mr. Berry of South Dakota.

Mr. Philbin with Mr. Findley.

Mr. Donohue with Mr. Curtin of Pennsylvania.

Mr. Zelenko with Mr. Dominick.

Mr. Wright with Mr. Siler.

Mr. Addabbo with Mr. Van Zandt.

Mr. Breeding with Mr. Scranton.

Mr. Rogers of Texas with Mr. Reifel.

Mr. Holifield with Mr. McDonough.

Mr. Hays with Mr. Bromwell.

Mr. Blatnik with Mr. Cederberg.

Mr. Alexander with Mrs. Weis.

Mr. Scott with Mr. Robison.

Mr. Santangelo with Mr. Chiperfield.

Mr. Stratton with Mr. Moorehead of Ohio.

Mr. Friedel with Mr. Curtis of Massachusetts.

Mr. Gallagher with Mr. Pillion.

Mr. Brewster with Mr. Schwengel.

Mr. Thompson of New Jersey with Mr. Seely-Brown.

Mr. Brademas with Mr. Mason.

Mr. RHODES of Arizona changed his vote from "nay" to "yea."

Mr. BECKER changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1963

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, H.R. 12648, with Senate amendments Nos. 2, 19, 44, and 47 through 54, and further insist upon disagreement to said amendments.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi [Mr. WHITTEN]?

There was no objection.

Mr. WHITTEN. Mr. Speaker, by direction of the Committee on Appropriations I submit a report (Rept. No. 2551) on the joint resolution (H.J. Res. 903) making continuing appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1963, and for other purposes and ask unanimous consent that it may be taken up at any time.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate and other revenues, receipts, and funds, such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1962 by the Department of Agriculture, including the corporations therein, and the Farm Credit Administration, at a rate for operations not in excess of the current rate (amount appropriated or authorized to be expended in fiscal year 1962), together with such amounts as may be necessary to finance additional projects or increased activities of the Department of Agriculture as agreed to by the Senate and House of Representatives at the rate for operations and under the terms, conditions, and provisions contained in H.R. 12648, Eighty-seventh Congress, and additional projects or increased activities included by the Senate and agreed to by the House of Representatives.

The SPEAKER. The joint resolution is referred to the Union Calendar and ordered to be printed.

Is there objection to the request of the gentleman from Mississippi [Mr. WHITTEN] that it be in order to consider the joint resolution at any time?

Mr. BASS of Tennessee. Mr. Speaker, I reserve the right to object.

Mr. WHITTEN. Mr. Speaker, may I say to the gentleman, this is exactly the same bill as passed by the House but is provided in resolution form and it is not expected that it will have to be called up at all.

Mr. BASS of Tennessee. Is this a continuing resolution for the appropriations?

Mr. WHITTEN. It is, and it is merely in reserve. May I say, Mr. Speaker, that I have discussed the bill with the Members on the other side. We anticipate a meeting this afternoon, and it is anticipated that this matter will be resolved. In fact I feel certain we can and will agree.

Mr. BASS of Tennessee. I would like to say to the gentleman I can see absolutely no reason why the conferees on the part of the House and the Senate cannot get together on an appropriation bill in a period of 9 or 10 months. For us to be delayed here for this period of time and then be forced into the necessity of adopting a continuing resolution for an appropriation bill because of conflict between the House and the Senate over a fight that was perpetrated not by the membership but by some long-standing disagreements of individuals, I think it is high time that we got down to work and these conference committees come back with a conference report and get the work of this body finished.

I sincerely believe that the work of this House can be terminated today, and

Public Law 87-851
87th Congress, S. 3451
October 23, 1962

An Act

76 STAT. 1127.

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an interest, up to and including a fee simple, in and to an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of an amount established in accordance with section 5 of this Act.

Occupants of unpatented mining claims. Land conveyances.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

"Qualified officer of the U. S."

SEC. 2. For the purposes of this Act a qualified applicant is a residential occupant-owner, as of the date of enactment of this Act, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962.

"Qualified applicant."

SEC. 3. Where the lands for which application is made under section 1 of this Act have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary.

SEC. 4. (a) If the Secretary of the Interior determines that conveyance of an interest under section 1 of this Act is otherwise justified but the consent required by section 3 of this Act is not given, he may, in accordance with such procedural rules and regulations as he may prescribe, grant the applicant a right to purchase, for residential use, an interest in another tract of land, five acres or less in area, from tracts made available by him for sale under this Act (1) from the unappropriated and unreserved lands of the United States, or (2) from lands subject to classification under section 7 of the Taylor Grazing Act (48 Stat. 1272), as amended (43 U.S.C. 315f). Said right shall not be granted until arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred and shall expire five years from the date on which it was granted unless sooner exercised. The amount to be paid for the interest shall be determined in accordance with section 5 of this Act.

Purchase of substitute lands.

49 Stat. 1976.

(b) Any conveyance of less than a fee made under this Act shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

urchase price. etermination.

SEC. 5. The Secretary of the Interior, prior to any conveyance under this Act, shall determine the fair market value of the interest to be conveyed, exclusive of the value of any improvements placed on the lands involved by the applicant or his predecessors in interest. Said value shall be determined as of the date of appraisal. In establishing the purchase price to be paid by the applicant for the interest, the Secretary shall take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy. In any event the purchase price for any interest conveyed shall not exceed its fair market value nor be less than $5 per acre. The Secretary may, in his discretion, allow payment to be made in installments.

ccupant's iabilities.

SEC. 6. (a) The execution of a conveyance as authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the land in and to which an interest is conveyed.

(b) Except where a mining claim embracing land applied for under this Act by a qualified applicant was located at a time when the land included therein was withdrawn or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing contained in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act. Relief under this section shall be limited to persons who file applications for conveyances pursuant to section 1 of this Act within five years from the date of its enactment.

eservation f mineral ights.

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under the Act of July 31, 1947 (61 Stat. 681), as amended

4 Stat. 572.

(30 U.S.C. 601–604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved for exploration and development purposes, but without the right of surface ingress and egress, and may be leased by the Secretary under the mineral leasing laws.

SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

Disposition of fees, etc.

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

Approved October 23, 1962.

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