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HEARINGS

BEFORE THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST SESSION

ON

NOMINATION OF CARL L. KLEIN, OF ILLINOIS, TO BE AN
ASSISTANT SECRETARY OF THE INTERIOR

NOMINATION OF MITCHELL MELICH, OF UTAH, TO BE
SOLICITOR OF THE DEPARTMENT OF THE INTERIOR

NOMINATION OF HOLLIS M. DOLE, OF OREGON, TO BE AN
ASSISTANT SECRETARY OF THE INTERIOR

NOMINATION OF LESLIE LLOYD GLASGOW, OF LOUISIANA,
TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE,
DEPARTMENT OF THE INTERIOR

NOMINATION OF PETER A. BOVE, OF VERMONT, TO BE
GOVERNOR OF THE VIRGIN ISLANDS

NOMINATION OF JAMES R. SMITH, OF NEBRASKA, TO BE
AN ASSISTANT SECRETARY OF THE INTERIOR

MARCH 14 AND 18, 1969



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INTERIOR NOMINATIONS

FRIDAY, MARCH 14, 1969

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met at 10:50 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman) presiding.

Present: Senators Jackson, Burdick, McGovern, Nelson, Allott, Jordan of Idaho, and Hansen.

Also present: Senator Boggs.

Staff members present: Jerry T. Verkler, staff director; Stewart French, chief counsel; James Gamble, Roy Whitacre, Porter Ward, Daniel Dreyfus, and Denny M. Miller, professional staff members; and Charles Cook, minority counsel.

The CHAIRMAN. The committee will come to order. We have six nominations pending before the committee, and the Chair would first call on the Senators present to introduce their constituents and make any statement that they deem appropriate.

First, I would like to call on the distinguished Senator from Louisiana, Senator Long.

STATEMENT OF HON. RUSSELL B. LONG, A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator LONG. Thank you very much, Mr. Chairman.

I very much appreciate the opportunity to appear before you and your committee to introduce a distinguished constituent of my State and I appreciate your calling on me at this time so I can go back to my other duties.

Dr. Leslie Glasgow is here—Dr. Glasgow, will you please stand up?—and he will appear before you in his turn for the position of Assistant Secretary of the Interior for Fish and Wildlife, Parks, and Marine Resources.

I think that Dr. Glasgow is about the only—thus far he is about the only—appointee of the Nixon administration from Louisiana, and I don't think they could have picked a better man.

Dr. Glasgow has served with great distinction at Louisiana State University's School of Forestry and Wildlife Management for 20 years. His record of outstanding service at LSU resulted in his selection as director of the Louisiana Wildlife and Fisheries Commission. Because of the tremendous amount of wildlife resources in my State, this position is one of great importance.

Dr. Glasgow's many publications in his field have earned him the enviable reputation as one of the Nation's foremost authorities on wildlife management techniques.

Thus, as an author, educator, scholar, and administrator, Dr. Glasgow has dedicated a lifetime of distinctive service to the preservation and wise utilization of our natural resources.

I think that this committee, at a time when we have a Republican President and Democratic Congress, will be pleased to know Dr. Glasgow made quite a reputation for himself as one who would administer a program and refuse to let politics interfere with it. He has had quite a reputation in that regard in Louisiana, and I am sure he will earn the same type reputation here.

He understands something about our business but, although cooperating with us to the extent that he thinks he can, he is not going to let politics keep him from doing a very fine job in administering the program.

He is not a native of Louisiana. Originally, he was a native of Indiana, and he has degrees from the University of Maine, as well as Texas A. & M. and other institutions, but during the 20 years he has been in Louisiana he has achieved a growing reputation in the field of conservation and wildlife management. I believe you will find, Mr. Chairman and members of the committee, that you will be extremely pleased with the way he will administer his job. I never knew, and I don't know to this day, whether he is a Republican or Democrat, but I do know that the way he has handled the program in Louisiana has been such that it wouldn't really make any difference one way or the other. I think you will be pleased at the way he will handle the program when your committee looks into it.

The CHAIRMAN. Thank you, Senator Long, for a very fine statement regarding the outstanding professional qualifications of Dr. Glasgow.

Senator LONG. I have a statement here about Dr. Glasgow's background and qualifications and also a biographical statement and ask that this be included in the record unless during the course of his appearance and your questions it would appear to be repetitious of something else that is there.

The CHAIRMAN. Right; it will follow your remarks.

Senator LONG. Thank you very much, Mr. Chairman.

The CHAIRMAN. Any questions of Senator Long?

Thank you, Senator Long; we appreciate it very much.

(The documents referred to follow:)

BACKGROUND OF DR. LESLIE L. GLASGOW

Dr. Leslie L. Glasgow, a former professor of wildlife management at Louisiana State University, was named director of the Louisiana Wild Life and Fisheries Commission in August 1966. A native of Portland, Indiana, Dr. Glasgow had been connected with the Louisiana State University school of forestry and wildlife management since 1948. He was named a full professor in 1964.

He received a Bachelor of Science degree in forestry and wildlife management from Purdue University in 1942; a Master of Science degree in Wildlife conservation from the University of Maine in 1948. His Doctorate in game management was awarded by Texas A & M University in 1958.

Because of his dedicated interest in the wise management and use of Louisiana's wildlife resources, the Louisiana Outdoor Writers Association presented Dr. Glasgow with its Outstanding Conservationist Award in 1958. As a member of the National Wildlife Society, he has served in various capacities, including that of chairman of the southeastern region. He was recipient of the Governor's Award for outstanding overall conservation effort from the Louisiana Wildlife Federation in 1967.

Dr. Glasgow is the author of approximately 30 technical publications covering many phases to wildlife and fisheries management. He is considered one of

the country's foremost authorities on waterfowl management, fur animal management, wildlife management techniques; and has completed major research on wetland management, woodcock, snipe, waterfowl management in both marshes and ricelands, and both estuarine and marsh ecological studies.

He is considered the country's leading authority on woodcock and personally has banded more woodcock than any other person. Under his program of woodcock research at Louisiana State University, Dr. Glasgow and his students have banded more woodcock than all other woodcock banding programs in the country combined. He has written many technical papers on woodcock and woodcock management.

Vitally interested in the estuarine studies being conducted at a national level, Dr. Glasgow was among the first in Louisiana to stress the fact that the State was faced with the decision as to steps that must be taken to assure that utilization of the nonrenewable mineral resources along the Louisiana coast must be accomplished with as little harm as humanly possible to the renewable resources such as fisheries and wildlife. With broad vision, he stressed that eventually those non-renewable resources would become exhausted; but that natural and renewable resources would form an important part of the general economy of the State of Louisiana for generations to come. To illustrate this, he has repeatedly emphasized that Louisiana's fisheries alone is valued at \$50 million annually at dockside and in all probability the total value of the commercial fisheries including all phases of processing approaches \$100 million annually.

In addition to the historic fishing industry which pours nearly \$100 million annually into the area's economy, there still remains many unexploited species that could add considerably to present production. Large stocks of tuna, shark and royal red shrimp are known to use the area along the Louisiana coast and numerous species of smaller edible fish suitable for human consumption. Dr. Glasgow has fostered and promoted accelerated marine research along those lines.

In recent years the American people have seen the development of strong conflicts of interest in land use practices. In Louisiana, as elsewhere, modern man with his complex needs, is placing an ever-increasing demand on the productivity of land. As he has intensified his management for goods of known monetary value, he has reduced the ability of certain lands to provide him with many of the wholesome pursuits of recreation that he could formerly take for granted. With the decreasing recreational opportunity available to the general public on private lands there is every indication to support the belief that many of those who seek outdoor recreation in the future may have to depend upon public lands for this purpose. Dr. Glasgow is deeply aware of the role that public lands will play in the future and of the need for protection and preservation of those public lands and marine resources, along with wildlife, for future generations.

Dr. Glasgow is quick to stress that many federal lands are essential to the preservation of certain wildlife populations. The foremost example of this would be the Aransas Wildlife Refuge which has been largely responsible for the preservation and slight increase this year in numbers of the rare whooping crane.

In Louisiana, a portion of the current range of the nearly extinct red wolf is on the 142,000 acre Sabine National Waterfowl Refuge in Cameron Parish (County). This and similar areas are very important in the preservation of suitable protected habitat for the American alligator.

Dr. Glasgow is familiar with these and other problems pertaining to preservation of the Nation's wildlife, marine fisheries and public lands. He has made the study of these resources his life's work and is nationally recognized for those deep-rooted interests and his personal dedication to preservation as well as utilization of them.

BIOGRAPHY OF DR. LESLIE L. GLASGOW

Dr Leslie L. Glasgow, 54, of Baton Rouge, Louisiana has been teaching for the past 20 years in the fields of fisheries, wildlife and forestry.

He was formerly Professor of Wildlife Management at Louisiana State University for 18 years. In 1966 he became Director of the Louisiana Wildlife and Fisheries Commission.

Dr. Glasgow has spent 18 years in research on wildlife wetlands management at the LSU Agricultural Experiment Station, and was formerly a waterfowl biologist in the Indiana Conservation Department. He was winner of the Governor's Award of the Louisiana Wildlife Federation in 1967.

A native of Portland, Jay County, Indiana, he was graduated from Purdue University in wildlife and forestry, obtained his master's degree in wildlife at the University of Maine, and his doctorate in wildlife management at Texas A&M University.

Dr. Glasgow had a graduate teaching assistantship while at the University of Maine, was named the Outstanding Louisiana Conservationist by the State's outdoor writers in 1958, and has been awarded membership in several chapters of the Louisiana Wildlife Federation.

Dr. Glasgow is a former president of the Louisiana Wildlife Biologists Association and the Southeastern Section of the Wildlife Society. He is and has been a member of the American Fisheries Society, the Gulf States Marine Fisheries Commission, the Gulf and Caribbean Fisheries Association, the Southeastern Association of Fish and Game Commission, International Association of Fish and Game Commission, Sigma Xi (National Research Fraternity), Louisiana Stream Pollution Control Commission, Louisiana Forestry Commission, and the Louisiana Tourist Development Commission.

In 1943-1944, Dr. Glasgow was employed as a civilian by the U.S. War Department at Deep River, Connecticut, and during the next two years saw military service with the U.S. Army Air Force.

Dr. Glasgow and his wife, the former Garnet Lucile Confer, are the parents of three sons, Vaughn, 24; Hugh, 21; and Robert 16.

The CHAIRMAN. Senator Bennett.

STATEMENT OF HON. WALLACE F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH

Senator BENNETT. Thank you, Mr. Chairman. It gives me a great deal of pleasure to introduce to you and the other members of the Senate Interior Committee, Mr. Mitchell Melich, of Salt Lake City, who has been appointed by President Nixon to serve as Solicitor for the Department of the Interior.

I have known and admired Mr. Melich for a good many years, and I can recommend him without qualification for this post. He has had wide experience in the use and development of public lands but his interests are not confined to any one region. I have every confidence he will do an excellent job for the Interior Department, the Nation, and his home State of Utah.

Mr. Melich is the son of parents who immigrated from what is now Yugoslavia. He worked in the mines while still in high school in Bingham, worked his way through the University of Utah Law School, became a Utah State Senator at 30, and has been a leading figure in Utah civic affairs ever since.

In 1963-64 he was a representative to my colleague, Representative Sherman P. Lloyd, who, unfortunately, is not able to be with us today.

He served in the State senate from 1943 to 1950 and was Republican candidate for Governor of Utah in the year 1964. This is the only blot on his judgment. That was not the year to be the Republican candidate for anything.

He engaged in general practice of law in Moab, Utah, for many years and served as Grand County attorney and Moab city attorney. He served as consultant for the Atlas Corp., was president of the Uranium Reduction Co., and secretary of the Utex Exploration Co. of Moab from 1955 to 1962, and has served as president of the Utah Mining Association.

He was Republican minority leader in the Utah State senate in 1949, served as a director of the Utah Municipal League from 1945 to 1949,

was a member of the Utah Legislative Council from 1949 to 1954, and a member of the Utah Water and Power Board in 1947, and the Colorado River Commission from 1945 to 1947. He is a member of the Utah State Bar and the American Bar.

He and his charming wife, the former Doris Snyder, have two sons and two daughters. Mrs. Melich is in the audience today, and I would like to ask the permission of the chairman if I may be so bold as to introduce her to the committee.

The CHAIRMAN. Certainly, she comes first.

Senator BENNETT. Mrs. Melich, would you stand up?

The CHAIRMAN. And her daughter.

Senator BENNETT. Their son is here but not the daughter. Would you stand up, please?

Mr. Chairman, it is most gratifying to me and my fellow Utahans to see a longtime friend being tapped for such a responsible post. I recommend him highly for your consideration.

While I have the microphone, Mr. Chairman, I am going to claim a little of the glory for the recommendation of Mr. Hollis Dole, who is before you for confirmation today. While he is not a native of Utah, he was smart enough to come there in 1951 and 1952 to do his graduate work in the Utah School of Mines, and so we can claim a deep interest in two of the people who are before you for confirmation. I express my hope that both of them will be confirmed unanimously.

The CHAIRMAN. Thank you, Senator Bennett.

Senator BENNETT. Thank you very much.

The CHAIRMAN. We appreciate having your fine statement.

Senator BENNETT. May I, just for the record, Mr. Chairman, say that Congressman Laurence Burton is here also to support Mr. Melich's nomination.

The CHAIRMAN. Congressman Burton, we will hear from you now so that your statement will follow Senator Bennett's statement.

Senator BENNETT. Thank you very much, Mr. Chairman.

The CHAIRMAN. We are delighted to welcome to the committee Congressman Burton, who was a very able member of the House Interior Committee in the last Congress. I believe you now have gone on the Appropriations Committee.

Representative BURTON. No, I am staying on Interior, Mr. Chairman.

The CHAIRMAN. We welcome you before the committee this morning and are delighted to have you.

STATEMENT OF HON. LAURENCE J. BURTON, A REPRESENTATIVE IN CONGRESS FROM THE FIRST CONGRESSIONAL DISTRICT OF THE STATE OF UTAH

Representative BURTON. Thank you very much, Mr. Chairman. I appreciate your great courtesy in allowing me to appear before your distinguished committee in support of my valued constituent, Mitchell Melich, who will be, if you advise and consent, Solicitor for the Department of Interior. I think Senator Bennett has pretty well covered Mr. Melich's background and a fourth-term Member of the House cannot very well out talk a fourth-term Member of the Senate so I won't try except to add my personal endorsement for the integrity,

the ability, and the job that I know Mr. Melich will do if your committee agrees to confirm him.

I thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Congressman Burton, for your very fine statement.

Senator BURDICK (presiding). We have with us this morning Senator Boggs. Do you have a statement to make?

Senator BOGGS. Thank you, Mr. Chairman, I don't have any statement to make at this time. I was just here in the course of questioning of some of the nominees.

Senator BURDICK. At this time without objection we will introduce into the record a statement by Hon. Frank E. Moss in regard to the nomination of Mitchell Melich.

(The document referred to follows:)

U.S. SENATE,
Washington, D.C., March 13, 1969.

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

DEAR MR. CHAIRMAN: I had planned to attend the hearings of the Interior Committee when Mitchell Melich and other officers appointed in the Department of the Interior were examined on Thursday, March 13. It is now my understanding that the hearing has been set over until the 14th of March. Therefore, it will be impossible for me to be present. I have made commitments that will take me out of Washington on that day. It would be appreciated, therefore, if this letter could be placed in the record of the hearings because I wish to make a brief statement concerning Mitchell Melich of Utah, who has been nominated to be Solicitor of the Department of the Interior.

I believe that I've known Mitch Melich longer perhaps than any of the Utah Congressional Delegation, since I became acquainted with him as a boy who lived in Bingham Canyon, and who attended Bingham High School while I attended Granite High School. In fact, our first meeting was as high school debaters representing those two high schools, both situated in Salt Lake County, Utah. Mitch and I entered the University of Utah in the same class and continued through that institution to graduation. Consequently, I became acquainted with him early and have known him intimately as a friend for many, many years. He has always been a diligent, honorable, effective student and citizen of our state.

After graduation from the University of Utah Law School, Mitch practiced law in Moab, Utah, and acquired a wide background in mining law, Federal regulation of the public domain, and many other areas on which he will be called to render legal advice to the Secretary of the Interior. He performed many civic functions in Moab, serving as City Attorney of that small town that boomed in the uranium discovery period to a thriving modern city, and serving as County Attorney of Grand County, in which Moab is situated. Mitch became a State Senator and has served on the Board of Regents of the University of Utah. He has had many other civic assignments and was his party's nominee for Governor in 1964. In my opinion, Mitch Melich is well-qualified to be Solicitor of the Department of the Interior. He will render effective service in that position and I am happy to endorse his candidacy.

I'm happy that one who is so well-qualified and one who is so intimately acquainted with the problems of the Department of the Interior and one who is a personal friend has been nominated. I recommend him to my colleagues on the committee.

Sincerely,

FRANK E. MOSS,
U.S. Senator.

The CHAIRMAN. The Chair will state that, of course, the Public Works Committee, which Senator Randolph chairs, has the legislative jurisdiction on all matters relating to water pollution, and the Assistant Secretary for this position is Carl L. Klein, of Illinois.

He also, of course, will have jurisdiction over water research. But it is in connection with the pollution matters that Senator Randolph has a very important interest as chairman of the Public Works Committee, and the Chair would be pleased now to call on the distinguished chairman of the Public Works Committee for his comment.

**STATEMENT OF HON. JENNINGS RANDOLPH, A U.S. SENATOR FROM
THE STATE OF WEST VIRGINIA**

Senator RANDOLPH. Mr. Chairman and gentlemen of the committee, I am grateful to all of you, including, of course, Representative Burton, for providing me the privilege of being present these few minutes to indicate the intense interest of the Committee on Public Works through its full membership, but especially the membership of the Subcommittee on Air and Water Pollution Control of that committee, the subcommittee being headed by our colleague, Senator Muskie, of Maine.

I have discussed with the chairman of the committee a letter which I have addressed to the Secretary of the Interior. It was our thought that without infringement, and the chairman understands that we desire to be most cooperative, we realize the major jurisdiction which he and his committee hold in the matter of, particularly the nomination of Hon. Carl L. Klein, of Illinois, but we had felt it might be appropriate, but I think I can modify that statement to think that it would be perhaps more appropriate if Mr. Klein could return, following today's appearance, before your committee, Mr. Chairman, possibly Tuesday, if your schedule so permits.

The CHAIRMAN. Will the Senator yield?

The Chair will state that it is quite clear that we will not be able to complete the hearings before 2 o'clock. A number of Senators have expressed the wish to listen to the President of the United States, who will be making a very important statement at 12 noon, so the Chair would suggest that we terminate, say, about 11:55 a.m. so that the Senators may have that opportunity. It is then the plan of the Chair to reconvene at 10:30 on Tuesday. It is quite clear obviously that we will not be able to finish the hearing on all the nominations today. In addition, the nomination to the position of Governor of the Virgin Islands will come up at 10:30 on Tuesday and then we will continue with the other nominees.

Senator RANDOLPH. Mr. Chairman, may I be indulged just one further comment. Senator Muskie would have wished to have been here today. I was prepared, Mr. Chairman, to ask certain questions of Mr. Klein, but understanding the problem of time under which you are operating, I will not ask those one or two questions but the questions will be asked at a later appropriate time by the chairman of our Subcommittee on Air and Water Pollution Control, particularly in reference to water quality problems.

The CHAIRMAN. Yes, the Chair will state that Senator Muskie has written to the Chair asking an opportunity to interrogate Mr. Klein on Tuesday. I indicated to Senator Muskie that we would be resuming on Tuesday, and I know Mr. Klein, of course, will be available for that purpose. He understands that.

Senator RANDOLPH. I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Randolph. I appreciate having your statement, and we will be delighted if you can come back on Tuesday or in any event Senator Muskie, the chairman of the subcommittee, will be here.

Senator Hruska.

**STATEMENT OF HON. ROMAN L. HRUSKA, A U.S. SENATOR FROM
THE STATE OF NEBRASKA**

Senator HRUSKA. Mr. Chairman, and members of this illustrious committee, I want to express, first of all, appreciation for being allowed to proceed out of order. I hope, however, that the phrase "out of order" will not apply to the substance of my remarks.

Mr. Chairman, it is a special pleasure at this time for me to recommend for your approval and that of your committee, and later of the Senate, a leader of the Omaha business community, Mr. James R. Smith, who has been nominated to be Assistant Secretary of the Interior for Water and Power Development.

The job of Assistant Secretary for Water and Power is above all a post for a builder. The Bureau of Reclamation and other agencies under his direction are primarily engaged in stimulating the growth of the West through the development of its resources. Jim Smith is just the man for such a job. His whole career has been devoted to the work of fostering economic growth.

He comes to Washington from a position as manager for marketing relations for the Northern Natural Gas Co. of Omaha. Northern Natural is a company which has always taken a deep interest in the total development of all its market areas, and it was Mr. Smith's job to assist in that development throughout the entire seven-State area served by the company. The seven States in which the company operates are Kansas, Nebraska, Iowa, Minnesota, South Dakota, Wisconsin, and Michigan.

Before coming with Northern Natural in 1966, he was associated for many years with another resource-minded organization, the Mississippi Valley Association. From 1953 to 1966 he was on the staff of MVA, and in that position worked hard for the construction of the irrigation projects associated with the Pick-Sloan plan, including the Garrison diversion project in North Dakota, the Oahe-James River project in South Dakota, the Ainsworth project in Nebraska, and continued study and authorization of other projects in these and other States of the Missouri River Basin.

Before coming to Omaha in 1953, he was in chamber of commerce work in South Dakota. South Dakota's loss was Nebraska's gain, but as a matter of fact, even after leaving South Dakota, he continued his interest in and support for South Dakota projects as I have mentioned.

As a member of the Omaha business community, he has been a good neighbor and a good citizen. In terms of civic work, he has been active in our Omaha United Appeal, in the Nebraska Resources Foundation, and also was president of the Omaha Zoological Society, which will fit in nicely with his duties in the Interior Department, since every dam or irrigation project, of course, raises the issue of the potential impact on wildlife.

He once served as legislative assistant to our former colleague, Senator Chan Gurney, of South Dakota, and is a graduate of the University of South Dakota College of Law.

I am pleased to present him to the committee and to endorse his nomination with enthusiasm.

Now, Mr. Chairman, I should like to read a telegram from the Omaha Public Power District, and Consumer Public Power District, and the Platte Valley Public Power and Irrigation District, and I know that this committee is aware of the fact that Nebraska is the only all-public-power State. It is not a Federal-public-power State but it is an all-public-power State, and, therefore, one of the respected members of the American Public Power Association.

The effect of the telegram which is addressed to me and which I should like to submit to the committee for its records is this:

All electric generation, transmission, and distribution in Nebraska is done by public agencies, and the undersigned represent the largest public power districts in the state of Nebraska.

Our organizations have known James R. Smith, the nominee for Assistant Secretary of Interior for water and power, for many years. Mr. Smith has demonstrated ability, integrity, and knowledge in the fields of water and power.

We are confident he will capably carry out the laws and policies of Congress and of the new administration.

Consumers and Platte are members of the American Public Power Association, and the publicized letter of the General Manager of A.P.P.A. regarding Mr. Smith was sent without their approval.

We support confirmation of the appointment of James R. Smith and ask that this telegram be made a part of the record of the hearing of your Committee.

OMAHA PUBLIC POWER DISTRICT.

CONSUMER PUBLIC POWER DISTRICT.

PLATTE VALLEY PUBLIC POWER & IRRIGATION DISTRICT.

I join these bodies, Mr. Chairman, in saying that if he is confirmed, and if he assumes the office for which he has been nominated, his record definitely shows that he will enforce the laws of the Congress, he will execute and administer them properly, with integrity, and with great competence. I offer this telegram for the files.

The CHAIRMAN. Thank you, Senator Hruska. We appreciate very much your statement and your judgment of Mr. Smith in connection with his nomination to be Assistant Secretary of the Interior.

Senator HRUSKA. Thank you very much.

The CHAIRMAN. The Chair notes that the senior Senator from Nebraska is here, Senator Curtis.

Senator CURTIS. Junior Senator.

The CHAIRMAN. You have no objection to a promotion?

STATEMENT OF HON. CARL T. CURTIS, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator CURTIS. Mr. Chairman, I will be very brief and I want to thank you for the opportunity of being here.

I wholeheartedly support James R. Smith for Assistant Secretary of the Interior. He is well qualified. I believe that he will perform the duties in a faithful manner and give appropriate consideration to all those who deal with his office.

Mr. Smith is a lawyer. He has had wide experience in public affairs. He was legislative assistant to Senator Gurney of South Dakota. He has a long record of active interest and work in the field of water

and power. He has served as vice president of the Mississippi Valley Association. For many years he has been identified with natural resources development not only in Nebraska but throughout the Missouri Basin, the Mississippi Valley, and throughout the country.

Mr. Smith is presently employed by a private utility, the Northern Natural Gas Co. of Omaha, Nebr. Nebraska is a public-power State. Mr. Smith has wide support there. At this point I would like to read a telegram that arrived at my office this morning. The senders of the telegram want it placed in the record.

Mr. Chairman, I understand my colleague read the telegram but since there are a few in the room that weren't here, and it is short, I will read it, dated March 13, sent from Columbus, Nebr., addressed to me:

All electric generation, transmission, and distribution in Nebraska is done by public agencies, and the undersigned represent the largest public power districts in the state of Nebraska.

Our organizations have known James R. Smith, the nominee for Assistant Secretary of Interior for Water and Power, for many years. Mr. Smith has demonstrated ability, integrity, and knowledge in the fields of water and power.

We are confident that he will capably carry out the laws and policies of Congress and of the new Administration.

Consumers and Platte are members of the American Public Power Association, and the publicized letter of the general manager of A.P.P.A. regarding Mr. Smith was sent without their approval.

We support confirmation of the appointment of James R. Smith and ask that this telegram be made a part of the record of the hearing of your Committee.

OMAHA PUBLIC POWER DISTRICT.

CONSUMERS PUBLIC POWER DISTRICT.

PLATTE VALLEY PUBLIC POWER & IRRIGATION DISTRICT.

Mr. Chairman, I urge favorable confirmation of Mr. Smith.

Senator BURDICK (presiding). Any questions for the Senator.

Senator ALLOTT. I have none.

Senator CURTIS. Thank you very much.

Senator BURDICK. Are there any other congressional Members here? If not, Mr. Klein, would you approach the bench.

Senator ALLOTT. Mr. Chairman, as you know, Senator Dirksen is otherwise involved this morning, and he asked me to express his regrets at not being able to be here to introduce Mr. Klein of Illinois, who is the designee for Assistant Secretary for Water Pollution Control.

Since Senator Dirksen was not here, I want to say that I welcome Mr. Klein here myself personally. I have had an opportunity to talk with him at some length some 2 or 3 weeks ago, and I am very interested in his statement. I wonder if we could hold the record open for a statement from Senator Dirksen.

Senator BURDICK. So ordered.

(The document referred to follows:)

STATEMENT OF HON. EVERETT MCKINLEY DIRKSEN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

It is a very real pleasure to introduce to the Committee, Mr. Carl L. Klein of Chicago. Mr. Klein is a lawyer, a graduate of DePaul Law School, with a Doctor of Jurisprudence degree.

He has been Ward Committeeman of the 15th Ward in the City of Chicago and was elected three terms to the post of State Representative.

As a member of the Illinois State Legislature Commission on Water Pollution and Water Resources, he has demonstrated extraordinary competence and ex-

pertise in this extremely important field. He has authored the Natural Resources Development Bond Act for Illinois and is acting Chairman of a four-State legislative conference for uniform State laws on water resources.

Mr. Klein is a veteran of World War II and has a distinguished record of civic and church activities and it is a pleasure for me to recommend him to this Committee.

Senator BURDICK. Would any other member of the committee like to make a statement at this time? If not, we will hear from Mr. Klein.

STATEMENT OF CARL L. KLEIN, OF ILLINOIS, NOMINEE TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR WATER QUALITY AND RESEARCH

Mr. KLEIN. Mr. Chairman, I have no prepared statement. I am greatly honored by the confidence imposed in me by the President of the United States because of his designation of me as Assistant Secretary of the Interior for Water Quality and Research.

I look forward to working in the department and to working with this committee and other Members of the Senate and the House. I will be happy to answer any questions that this committee wishes to direct to me.

Senator BURDICK. Senator Nelson.

Senator NELSON. As you know, there are a number of Federal-State conferences on interstate waters, one including a section of the Mississippi River and portions of the Minnesota and St. Croix Rivers in the Minneapolis area. There are a couple of other conferences on the Mississippi. And there is a conference on Lake Michigan and one has been called, as you know, for May 13 on Lake Superior.

My question about those waters that are in conference now is this: As I understand it the standard set for water quality in a number of these conferences is primary, instead of secondary, treatment. I haven't checked in the last few months to see if there has been any change in that. My question is, Would it be your intent in pursuing the administration of the Water Quality Act to continue to upgrade the standard, to require industry and municipalities to upgrade to meet the highest status of the art which currently is secondary treatment and which some day will be tertiary?

Mr. KLEIN. Yes, sir; it would be.

As a matter of fact, I just received a report from the New England group that we expect to have secondary treatment on the Merrimack River as a result of a conference there, and the conference as to Iowa has to do with secondary treatment also.

Senator NELSON. These conferences, of course, did not occur while you were in charge of this program. I am interested in future conferences on interstate waters. Is there any reason at all why the conferences shouldn't always insist on secondary treatment? This is the state of the art across the country today and has been for many years. I don't understand any reason for allowing just primary treatment in any event. Do you?

Mr. KLEIN. The one in Iowa has not yet taken place. It is set for April and that is designed for secondary treatment on the Mississippi and Missouri Rivers because practically every other State has set secondary on their boundary waters.

Senator NELSON. Would it be your policy to establish secondary treatment?

Mr. KLEIN. I may say from what I have seen, and my knowledge thus far is limited because I have not seen the rest of the United States, where we have a great many people we just are going to be forced into the position of secondary treatment or we just cannot live together. It is an inevitable proposition as far as I am concerned.

Senator NELSON. I just have one observation to make and I don't expect you to comment on it because the matter is in conference to start on May 13, and that is Lake Superior. I just want to call one factor to your attention and, as I say, I don't expect you to comment on it now. One of the big issues concerning Lake Superior, which is the third largest body of water in the world in terms of its capacity behind Lakes Baikal and Tanganyika, and which has 10,200 cubic miles of water, incredibly pure and delicate water, is the introduction into a unique body of water such as this of what is claimed to be inert materials. In the Lake Superior case it is taconite tailings from the Reserve Mining Co. being introduced into the lake at the rate of 60,000 tons per day, which adds up every 12 days to the equivalent of all siltation into that lake from the American side every 365 days.

The argument, I suppose, will be made that the tailings are an inert material and, therefore, not a pollutant. I think the question we have got to look at here is if it is an inert material and there are no trace elements polluting it, which I am not sure is the case, we will, it seems to me, have to change the law, because you have a situation here where you can introduce artificial siltation into a lake and fill it up, and still take the position that under the law we didn't pollute it.

So I would hope that you would take a look at that aspect.

We are going to be confronted with that issue and the fight is going to be a big one because you have Republic Steel Corp. and Armco Steel Corp. who own Reserve Mining and indications are that they have no intention of stopping the discharge into that lake. But conservationists across America are concerned about the discharge, and I think it is an issue that your department is going to have to review very carefully.

As I say, I don't expect you to make any comment or judgment about that specific item since it will be before the conference which is to start on May 13, but I did want to call it to your attention.

Mr. KLEIN. Thank you very much. I have heard about it, having backgrounds in northern Wisconsin not very far from Lake Superior, from my friends in Ashland, and I would say this to you, before I move on anything of this import I would ask that a full-scale investigation be made by FWPCA, and a briefing be held in my office before I arrive at any conclusions.

Senator NELSON. I know you are familiar with that part of my State, and with Lake Superior, and I am glad you are because that means that you must appreciate the tremendous value and uniqueness of this body of water.

You do have a problem and I suspect the argument of the mining company is going to be let's study it, and while we study it for a long, long time they continue to pour the taconite tailings until they get through, until they exhaust the resource. This will be the tack.

We do face the question that these are two huge corporations polluting that part of the lake. I think there is provable interstate pollu-

tion—I can see it with my eye as I fly over the area. We are not hesitating to undertake to enforce orders against little municipalities and little industries, and we shouldn't. We should require the municipalities and industry, no matter what their size, to meet the standards. But here is going to be a confrontation with two industries and if the Government backs off this one I wouldn't blame every little polluter all over America from saying "I want to do what Reserve Mining is doing." That is the kind of issue, I think, you face. Thank you.

Mr. KLEIN. Thank you.

Senator BURDICK. Senator Allott.

Senator ALLOTT. Is the Chair going to insert the biographical material?

Senator BURDICK. That is right. Mr. Klein, may I ask you at this time, you have seen this mimeographed sheet on your résumé?

Mr. KLEIN. Yes. The only thing wrong is that the date of birth is May 17 instead of 18. I corrected it on later copies. I don't know whether you have the later copy or the earlier one.

Senator BURDICK. Is that the only correction you made?

Mr. KLEIN. Yes.

Senator BURDICK. With that in mind we will ask unanimous consent that this be included in the record.

Mr. KLEIN. Thank you.

(The document referred to follows:)

BIOGRAPHY OF CARL L. KLEIN

Born: May 17, 1917 at Butternut, Wisconsin (Ashland County). A Chicagoan since 1919.

Education:

Primary: Henderson, 57th & Wolcott, Chicago, Illinois, graduated 1930.

Secondary: Lindblom Technical High School, 61st & Wolcott, Chicago, Illinois, graduated 1934 as salutatorian.

College: Central YMCA College, 19 S. LaSalle St., Chicago, Ill. Bachelor of Arts in history and political science awarded in 1939.

Law School: DePaul University, 25 East Jackson, Chicago, Illinois. Degree of Juris Doctor, June 1942.

Admitted to practice of law in the State of Illinois, September 1942 by Illinois Supreme Court.

Member of Chicago Bar Association, Illinois State Bar Association and Delta Theta Phi Law Fraternity.

Marital status: Married August 23, 1941 to Emma M. Klein of Chicago, Illinois. Two children: Karen Klein, graduate of Eastern Illinois University in Charleston, Illinois, now a teacher in Chicago, Illinois; and Carl L. Klein, Jr., Sophomore at the University of Illinois, Urbana.

Occupation: Lawyer and State Representative of the 27th District, 3rd term. Specialties: Real estate, probate, corporation law. Attorney for Hemlock Federal Savings and Loan Association, Colonial Savings and Loan Association and Lawn Manor Savings and Loan Assoc.

Military service: Went into Military Service in April 1943 with service in counterintelligence corps as enlisted man and also as aviation cadet with the Air Force; commissioned as 2nd Lieutenant in Quartermaster Corps. Service as officer at Fort Devens, Mass. as defense counsel, courtmartial, legal assistance and personal affairs officer. At Fort Lewis, Washington—trial judge advocate, acting staff judge advocate, personal affairs and legal assistance, security and

intelligence officer for the Basic Training Section. Discharged as 1st Lieutenant August, 1946.

Memberships:

Formerly President and Chairman of Board of Directors, Town of Lake Chamber of Commerce.

Past President of Kiwanis Club of the Stock Yards Area and member of Board of Directors.

Hobbies: Fishing and travel.

Public Offices:

Republican Committeeman of 15th Ward of Chicago.

State Representative, 27th District—1964, 1966, 1968.

Chairman—Water Pollution and Water Resources Commission of State of Illinois.

Chairman—House Commission on Water Resources.

Committees: Member: Banks and Savings & Loan; Higher Education.

Senator ALLOTT. I wanted to make the statement, Mr. Chairman, that Senator Cooper, of Kentucky, the ranking minority member of the Public Works Committee, wanted to be here this morning because of his interest not only in the pollution problem but particularly to be here in support of confirmation of Mr. Klein.

He unfortunately cannot be here this morning but he wanted me to make known his interest in this and that, for various reasons, he cannot be here this morning.

I have no question, Mr. Chairman. I wanted to say this one thing, that I think we all feel very strongly the importance of this position, and Mr. Klein's own background should enable him to deal with it intelligently as we all expect him to do. I hope we can give him some guidance and perhaps bring a new thrust forward on the whole question of pollution throughout the entire country. That is all I have.

Senator BURDICK. Senator Jordan.

Senator JORDAN. Thank you, Mr. Chairman.

I too want to welcome you before this committee, Mr. Klein. I think the job you are taking on is one of the most important in the Government today. I am concerned and I know we all are with the fact that we are polluting our streams and our lakes to the point where we wonder if there is a way back. I have in mind beautiful Lake Erie, which is now said to be almost on the point of becoming a dead sea. I know that Lake Erie is a boundary water between the United States and Canada, but the United States does have a good deal of responsibility there and you have responsibility in your Department for some of these matters having to do with Lake Erie. Do you have any ideas now that you would care to put in the record about how you might proceed to the eradication or control of this threat?

Mr. KLEIN. Does the Senator address himself to the Lake Erie problem specifically?

Senator JORDAN. Yes; Lake Erie especially.

Mr. KLEIN. I had a very gratifying meeting yesterday with the group that now comes from Ohio and they have set up a statewide municipal corporation to build all sewage treatment plants throughout the State; they have a hundred million dollars already in general obligation bonds and they have a \$300-million right to issue revenue bonds, and they expect another hundred million with help from the Federal Government and other sources, and they will be setting usage charges throughout Ohio. They expect to put secondary treatment all the way through the State of Ohio with tertiary treatment in 12 of the

larger cities and they expect to get at the Cleveland problem almost immediately.

As far as I am concerned this is marvelous because I think these things should be done on a State level and I am gratified to see the State of Ohio move forward so rapidly on it. And this will be the test that brings us in on the Lake Erie one and if they do this I think we are going to find ourselves with a rejuvenated Lake Erie in the next 2 years. They have a crash program for a 5-year plan.

Senator JORDAN. Most of the greatest rivers of the country need cleaning up. I think perhaps the eastern rivers are the worst offenders, and I am thinking of the Potomac, the Hudson, and the Connecticut, these beautiful eastern rivers where most of the people are concentrated are the ones that get the heaviest use and the greatest abuse. Do you have any ideas about how your agency could cooperate to point the way and show the leadership to try to get a better program going to clean up these beautiful rivers?

Mr. KLEIN. The major item so far as I can see in my agency, and that I have had talks with the agency in the past and recently, is really the treatment of human sewage where, as we get more and more people along the river we are causing our own problems, and we just have to solve it ourselves and I think we are going to have to solve it with better sewage treatment plants.

We have additional problems from runoff of farms, and I don't know of anybody yet who has been able to discover any answer to it on this because the increment from each farm is little by little adding up over a long period of time, and a long stretch of river, and industry I have found is in the main cooperating, although we have had industries from time to time, specific plants, that do not.

It is a continuing process where we have not only large polluters, but a great many small polluters, and it is almost beyond everybody's grasp to be able to do everything all at once. It is just attacking the whole ball of wax and trying to put it together and come out with an answer, and all that I can tell the committee is that I shall do the best I possibly can.

Senator JORDAN. Thank you, that is all.

Senator BURDICK. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman. I don't have any questions that have not been already asked. I do want to join with you and my colleagues in welcoming before the committee this very distinguished citizen. I appreciate the background, the experience that you have, Mr. Klein, and I am confident that you have been well grounded in some of the problems that will be before you, I have had the privilege of visiting personally with you, and I can assure you that Wyoming, along with the other 49 States, has a very real interest in seeing that we take all possible steps to abate the pollution that spoils and contaminates our waters.

I know that you have a great many problems before you, and it is going to be a constant confrontation, I would suspect, with cities and industry in trying to decide what can be done.

I suspect in many cases it is going to be a question of deciding what is possible. We won't be able to achieve overnight the goals that I hope will be yours insofar as long-range objectives are concerned. I just want to say, Mr. Chairman, I appreciate the opportunity to add a word of welcome.

Mr. KLEIN. Thank you.

Senator BURDICK. And I might add, Mr. Klein, that I think you have one of the most responsible jobs in the Government. To go into one of my pet subjects, you have heard from my colleagues about the pollution of the Great Lakes and the rivers, but I am concerned about the putrefaction or the dying of our fresh water lakes in this country. You and I have discussed that.

Mr. KLEIN. Yes, sir.

Senator BURDICK. What are your views on that?

Mr. KLEIN. Senator Burdick, I think in our private conference you and I stood together on this one, and we are worried about our small lakes as well. I still have a cottage on one in northern Wisconsin that I get to when possible, and I think we are both worried about these small lakes, and we had better hold on to every bit of water we can. With a growing population and industry, we are going to need every last bit of it for people in cities, people for recreation and for industry. Everybody is going to need it and we need it for the farms as well.

Senator BURDICK. There are lakes up along the Canadian border in North Dakota on to Michigan that are in territory inhabited by Indians less than a hundred years ago, and now they are dying. It is a sad state of affairs and I certainly hope you will put some emphasis on this program. What do you envision your responsibilities are in water quality under the Water Resources Planning Act?

Mr. KLEIN. I think that the Congress agrees, and your legislative program has set forward the standards that the water has to be, the water degradation that we have had has to be stopped where it has been taking place, and that we have got to get our water back into shape so that it can be used by everybody for practically every attainable purpose, that is allowed in the area that it is in.

We have real problems in the cities, we have problems in the farms, we have problems in the small villages. All of these areas are different, and we have got to make sure that we meet the standards wherever we can, and better them whenever we can do so.

Senator BURDICK. What will be your role with the Water Resources Council and the River Basin Commission?

Mr. KLEIN. I believe that my role there is to offer just as much help as possible to everybody that is concerned, give them technical assistance from among my staff so that they can come up with the best possible answers in each and every case.

Senator BURDICK. What is your estimation of the mission of the Office of Saline Water?

Mr. KLEIN. We have several items there. The big item is that there are many areas of this country and of the world that do not have good potable water, and it is our job first to see to it that we correct this situation and make available potable water in these areas of our country. From the brackish waters of the West and the saline waters of the ocean and the gulfs surrounding our country, potable water must be made available to the many cities that need it, and we have to find ways and means of getting that down to within commercially usable prices. Along the way I imagine that we are going to find other benefits accruing to the people from this Office of Saline Water as was presented by my group here last Tuesday.

Senator BURDICK. How will you deal with the problem relating to better coordination between industry and the various government agencies?

Mr. KLEIN. It has been my policy in Illinois, and will continue here, sir, that when I have a problem relating to industry I will try to sit down with them and work it out first. If we have a problem the only solution I found is to try to find an answer to it.

Senator BURDICK. I just have one last question here. The water quality standards program is still one of the big jobs yet to be completed. What are your views on enforcement of this program?

Mr. KLEIN. I believe that we are going to have to enforce it wherever necessary, and again I go back to the previous proposition that I stated to you: I will try to work this out in personal conferences where necessary in order to get answers and when I can't get answers then you have provided the answer to it and that is an enforcement conference and at that time it will be used as a weapon of last resort, because that is what it is intended for.

Senator BURDICK. The Senator from Wisconsin.

Senator NELSON. Mr. Chairman, pursuing the question you raised here in a specific way, the problem on the interstate waters in general is that most Governors are reluctant to undertake the political fight that is involved, in requesting, under the law, the enforcement conferences because, of course, polluters, of whom we have plenty in our State, don't want these conferences. This was the case on Lake Michigan and on Lake Superior. Former Governor Kerner and I requested the one on Michigan, and I fought for one for 3 years on Lake Superior and no Governor would call it, until Secretary Udall, to his eternal credit, unilaterally called it himself under the law a few days before he left office.

Now, we have the Mississippi River, where the Twin Cities area conference was called by former Governor Rolvaag and former Governor Hearnese. They are entitled to credit for initiating that call but we haven't heard any calls for conferences to cover the rest of the Mississippi, except that there is a limited conference that was called involving the introduction of Dieldrin and other pesticides into the lower Mississippi and a conference was called for Iowa portions. I don't recall how the Iowa conference was initiated but most of the Mississippi River is not in conference. It seems to me that the only way that such a conference would be called in my State is that the Secretary call it. You don't have to prove anything further about the Mississippi. In other words, nobody is going to court and say that there is not interstate pollution. The river is polluted and it is a border river, so under the law the Secretary can initiate the conference. One conference, as I said, is under way on portions of the Mississippi, Minnesota, and St. Croix Rivers in the Minneapolis area, but for the rest of our State from Prescott down on the Mississippi, there is no conference, and the Governors haven't asked for a conference, and I don't know whether they ever will ask for a conference.

The pollution is there, and if we are going to clean up that river there has got to be a conference on every mile of the Mississippi from Prescott, Wis., all the way to the Gulf of Mexico. If these Governors do not ask for conferences, the only way you are going to have them is if the Secretary initiates them.

Are you prepared, recognizing that you can take just judicial notice of the fact that the river is terribly polluted, are you prepared to recommend to the Secretary unless you hear from these Governors shortly, that he initiate conferences for the whole length of the Mississippi? I guess you have to wait a little bit on the Missouri River because that river should be the subject of a conference as well, but in any event are you prepared to make a recommendation that the Secretary proceed on his own unless these Governors call these conferences?

Mr. KLEIN. Senator Nelson, I happen to have sat on the Upper Mississippi River compact and that included your State of Wisconsin, along with Minnesota, Iowa, Illinois, and Missouri and we were working on all problems. Present from every State was not only the waterways engineer but the chief sanitary engineer, and they were working on every problem on the upper Mississippi at that time, and they are still being convened from time to time. I would say to you that—

Senator NELSON. But there is no enforcement, is there?

Mr. KLEIN. No, but all of them have standards for secondary treatment along the Mississippi, both municipal and industry by the end of 1972, which has been satisfactory to FWPCA and the Secretary of the Interior, and the only reason for the Iowa conference, as I understand it, was to bring them into the same category. There are several, as I understand it, exceptions farther down the river, and if these are cleaned up, then, if I may, I would like to report back to you and go over the situation personally with you as to what it is and get your views on it.

Senator NELSON. But have there been any enforcement proceedings under the laws of any of the individual States vis-a-vis polluters, municipal or industrial, of those parts of the Mississippi not in conference?

Mr. KLEIN. Not in the conference—in the five upper States they were proceeding, as I understand it. I do know that Illinois was and I do know we just removed a problem of St. Charles in Missouri, and there are conferences going on today or was it yesterday between Illinois and Missouri to straighten out certain border differences they had. I understand we have certain other problems I have not been brought up to date on. I am trying to catch up with what is going on there. I don't know everything—I have been learning for the last 2 weeks.

Senator NELSON. I wouldn't expect you to be up to date on it. My concern is, you know we have had in my State historically one of the better pollution laws in the country, and it reads very nice, but it has not been enforced very much. We have got orders that are 10 years old. My concern is that it is one thing for the States to make some agreements and it is another thing to issue an order, and it is another matter to, in a timely fashion, enforce the order.

What concerns me is, even if a State goes far under its own laws to issue an order, then, as all of them do traditionally, there is still lots of delay on the enforcement side. The teeth in the interstate conference have been that deadlines have been set. I think whenever the Interior Department has been involved that they have set deadlines and they have pushed, they haven't allowed unnecessary delay. At least this has been the case with the conferences I'm acquainted with. My concern here is if States can delay a long, long time by reaching agreements after a while, and then issuing an order and then a long, long time be-

fore any enforcement proceedings start, I think it is critical that we move on the Mississippi with Federal-State conferences.

I am glad to see the States take the initiative, if they will, but I don't have much confidence in them in this respect because I understand the politics of it.

Anyway you need national water quality standards, you need uniform enforcement. You need to eliminate the possibility that industry can say, as they always do in every State, "if you enforce the law it is going to cost jobs," and so the labor unions get upset and "we are going to move to some other State," and so the State administration sort of doesn't do anything. When the law is uniform across the country there is no place else to move and you eliminate that.

My concern is about pursuing the cleaning up of the Mississippi in the event that good timetable schedules are not being met by the States. I don't want to be unfair to them, I haven't taken a look at this because I was very busy last year, for a year and a half, but I would be very concerned about how vigorously the Department will pursue this matter in the event the States aren't moving expeditiously.

Mr. KLEIN. Senator Nelson, I think that the Congress of the United States in setting down its legislative program has indicated what it wants done and I will follow it through, I assure you of that.

Senator NELSON. Well, I will be happy to take another look at that Mississippi with you because—

Mr. KLEIN. I would appreciate it. I think our five States are doing a pretty good job on that and I don't think they need anything from the Federal Government except some help in getting it done.

Senator NELSON. I hope you are correct.

Senator BURDICK. Does any other member of the committee have any further questions?

Thank you, Mr. Klein. You return again on Tuesday, when the meeting will convene at 10:30, and we will try to get you on as soon as we can.

Mr. KLEIN. I shall be pleased to do so. Thank you.

Senator BURDICK. So at this time the committee will be in recess until 10:30 next Tuesday.

(Whereupon, at 11:50 a.m., the committee was adjourned, to reconvene at 10:30 a.m., Tuesday, March 18, 1969.)

INTERIOR NOMINATIONS

TUESDAY, MARCH 18, 1969

U.S. SENATE,
COMMITTEE OF INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, at 10:45 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman) presiding.

Present: Senators Jackson, Anderson, Moss, Burdick, Gravel, Allott, Jordan of Idaho, Hansen, and Bellmon.

Also present: Senators Aiken, Baker, Prouty, and Muskie.

Staff members present: Jerry T. Verkler, staff director; Stewart French, chief counsel; James H. Gamble, Roy Whitacre, Porter Ward, Daniel Dreyfus, and Denny M. Miller, professional staff members; William J. Van Ness, special counsel; and Charles Cook, minority counsel.

Senator ANDERSON. The committee will come to order.

Senator Aiken, we will hear from you if you are ready.

STATEMENT OF HON. GEORGE D. AIKEN, A U.S. SENATOR FROM THE STATE OF VERMONT

Senator AIKEN. Mr. Chairman, I am happy to be here to introduce to the committee Mr. Peter A. Bove, who has been nominated by President Nixon to be Governor of the Virgin Islands for the interim period between now and the election, the next election, a year from this fall.

Let us say that I have known Peter Bove for about 35 years. I have known him in his work in the States, in the Federal Government, for the State, and I might tell you that he was administrator of—well, Vermont has a State monopoly on liquor, and he was their administrator for some years. Although he was administrator of the State liquor monopoly, he never took a drink. I do not know whether that speaks well for him or not, but, in my book, it speaks very well for him. And, as far as I know, to this day, he still does not drink.

He has probably been better known as a community leader up home. People remember him for his work in his hometown or home city of Rutland, particularly with the underprivileged children of the cities for many, many years.

He ran the *Herald Tribune* fresh air program which sent hundreds of children to Vermont each year from New York City and placed them in homes for the summer.

He is also well known as a baseball organizer. In fact, he organized the Rutland team of the old Northern League and got Jack Berry up there to manage it and, in fact, got all of Connie Mack's old friends

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up there, and while I do not think Rutland ever won a championship, it was not because Pete did not try.

He is a graduate of Holy Cross, himself, and I think he played football there.

His work on the islands has been a continuation of his community work in Vermont. I went there one day, and the first thing I knew he was back in baseball from all directions. It appears that Hank Aaron was down there at the time, and every kid on the island was throwing a baseball.

I also know that Birdie Tebbetts and Elston Howard and many others that I do not know about came down there.

In the early 1940's he pioneered in the work of establishing community quick-freezing outfits and represented a national organization for some time. I do not know how long—2 or 3 years.

His work as comptroller of the islands was good enough so that President Johnson kept him for 15 months after his appointive term of 10 years had expired.

So, in view of all of these things which he has done, the fact that I have known him for so long, I have no hesitation today in recommending him for this nomination.

Senator ANDERSON. I thank the Senator for his remarks.

I think probably we had better take the next speaker here, Congressman Kluczynski.

Senator AIKEN. By the way, Mr. Chairman, I have something more here.

He is kind of moderate, politically, I would say, and I ask, if you print the record of these hearings, that the record include these editorials I have here from the Addison County Independent, March 13, 1969, and the Rutland Daily Herald, March 10, 1969. The Rutland Daily Herald is considered to be one of the most liberal papers in the State. These two editorials will tell you what they think in Vermont now of Peter Bove.

Also I have here an editorial which appeared in the Crucian Journal in the Virgin Islands on March 15 and another one from the Home Journal which appeared in the Virgin Islands on March 16. If you print the record, I would like to have these editorials included in the record.

Senator ANDERSON. Thank you.

Without objection, they will be put in the record.

(The editorials referred to follow:)

[From the Crucian Journal, Mar. 15, 1969]

GOVERNOR PETER BOVE

With all the talk from Continental U.S. of what would happen if a native Virgin Islander were not named as governor, the news of Peter Bove's appointment has been received in these Virgin Islands with about the same amount of enthusiasm as would have been given to the eligible native had he been appointed to our number one position.

With promises of support pouring in from nearly every faction within our community Governor Bove apparently will start his administration with every one apparently willing to support him.

As usual, he is going to have to spend some time in separating the wheat from the chaf. He will soon find out many of these "I promise my support" also means as long as you do what best serves "our" interest. Others will mean as long as you are working for and in the interest of the people of the Virgin Islands, still others will have vested interests to be served before they throw in their support.

We feel that Bove will seek the support of those who will be working for and in the interest of the people of the Virgin Islands regardless of their party affiliations.

As the last appointed Governor of the Virgin Islands, we wish Gov. Bove the best of health and success in carrying out the duties bestowed upon him by the President of the United States.

Once again, Virgin Islanders have proven to the rest of the world that in our islands integration is something we accept as our way of life.

[From the Home Journal, Mar. 16, 1969]

ROADBLOCKS FOR BOVE

The Senate Committee on Interior and Insular Affairs has scheduled hearings Tuesday morning in Washington, D.C. on the nomination of Peter Bove as Governor of the Virgin Islands. It is expected that confirmation by the Senate will follow within a few days.

It is surprising to learn that the supporters of another candidate for the office are working overtime submitting charges against Mr. Bove, most of them anonymous, in the hope of either delaying confirmation or blocking it altogether.

Several Senators have acknowledged receiving derogatory charges against the Governor-designate. They appear to be the product of a fertile imagination, an act of desperation by individuals who are apparently intoxicated with power.

The source of these "poison pen" missives is obvious. It is the same group who, disappointed that President Nixon had decided to name a new governor for the Virgin Islands, flew secretly to the mainland to try to inject the "black power" issue in an attempt to knock Mr. Bove out of contention.

Who stands to gain from a delay in the confirmation of Mr. Bove as Governor of the Virgin Islands? Who stands to gain, if for some reason or other, the Senate withholds confirmation?

Mr. Bove has not taken office and already his administration is being undermined by scheming, power-hungry politicians who, now that they have tasted power, are desperately trying to retain it.

In our American system, the political party which is victorious at the polls enjoys whatever patronage that exists. Democrats were installed in most political jobs in the territory during the eight years of Democratic rule. Now it is the Republicans' turn. Mr. Bove is both deserving and qualified, and confirmation of his nomination should not be long delayed.

The fact that he is white is immaterial to 99 per cent of Virgin Islanders.

[From the Addison County Independent, Mar. 13, 1969]

PETER BOVE BECOMES GOVERNOR

Vermonters who have had occasion to go to the Virgin Islands in the past decade have learned that Peter A. Bove, former Rutland lawyer, was highly regarded by islanders. Even the taxicab drivers admire and respect him and now he is about to achieve the greatest prize, the gubernatorial chair. Peter has been nominated by President Nixon to become governor and will serve until 1971 when the first elected governor will take over.

For 11 years Mr. Bove established an enviable record as U.S. Comptroller of the islands and is credited with saving the government millions of dollars. His personal popularity has never waned and when he was first mentioned for the governorship some months ago he led all the other prospective candidates. He has many supporters and while a weak opposition cried for a black man, hosts of blacks as well as whites wanted Peter to be their first governor.

He was one of the Aiken-Gibson group some 30 years ago and became one of Gov. Gibson's key men. He set up quite a record as State Liquor Control Board Chairman after he was defeated for governor by Lee Emerson in 1950. Then came the appointment as comptroller of the Virgin Islands and while Bove has been kept busy at his job, many Vermonters have stopped by to visit with him when they were in Charlotte Amalie.

It is good that Peter has at long last received his reward. We wish Gov. Peter A. Bove good luck during his term.

[From the Rutland Daily Herald, Mar. 10, 1969]

Governor Peter Bove

Peter A. Bove's appointment as governor of the Virgin Islands is a well deserved honor for the Rutland lawyer who established an enviable record of accomplishment during 11 years as U.S. comptroller of the islands, the federal government watchdog.

Bove will become the islands' last appointive governor. Under the new law an election will be held in 1970 and the first elected governor will take office in 1971 in a move to give the islands greater independence and autonomy. The Rutland man has been quoted as saying that he has no interest in becoming a candidate next year but when he was first mentioned for the appointment in 1968 he wasn't an avowed candidate either.

During the 11 years that the Rutland lawyer served as comptroller the islands more than doubled in population and accumulated a much more complicated array of administrative problems than were ever encountered during their earlier history. Bove was credited with saving the government millions of dollars as a result of the close rein which he kept on the island's financial affairs. At the same time he enjoyed an unusual degree of personal popularity as many visitors from his home state learned at first hand.

One of his supporters in a letter to the St. Croix newspaper noted that he "has the background, the manner, the approach and the professional experience. More than a few times as he has pursued his role as comptroller he cut down the governor. Thank God he was there! This breed of man cannot but be of enormous value to these troubled Virgin Islands."

Bove's extensive government and political experience in Vermont proved to be a highly valuable background for his work in St. Thomas. One of a small group of original Aiken supporters back in the Thirties, he later became one of the key men in the Gibson administration of 1947-50. He had a distinguished record as chairman of the state Liquor Control Board despite a collision with an old political antagonist, former Gov. Lee Emerson of Barton, who had defeated him for governor in the 1950 Republican primary election.

Senator AIKEN. That is about all I have. I have known this man for a long time, and if I did not think he could do the job I would not recommend him.

Senator ANDERSON. Thank you, sir.

We will now hear from Congressman Kluczynski on the nomination of Carl L. Klein. Congressman Kluczynski.

STATEMENT OF HON. JOHN C. KLUCZYNSKI, A REPRESENTATIVE IN CONGRESS FROM THE FIFTH CONGRESSIONAL DISTRICT OF THE STATE OF ILLINOIS

Mr. KLUCZYNSKI. Mr. Chairman, Senators. It is a pleasure for me to be here this morning. I know that you are ready to work on the confirmation of a great man.

I am John C. Kluczynski, a Member of Congress from the Fifth Congressional District of the State of Illinois, and from that great section of the country known as "the Stockyards."

I have known Mr. Carl Klein for some 40 years or more.

Carl Klein was the former Republican Ward Committeeman of the 15th Ward in Chicago, and Carl Klein is also the former State legislator in Illinois—Republican—who has tried everything since last November to get rid of Mr. Kluczynski, after I had served nine terms in this august body and 20 years in the Legislature of Illinois.

I am here to tell you gentlemen that Carl Klein is one of the outstanding legislators in the city of Chicago. He is a civic and fraternal leader, not only in our community and the city of Chicago and the State of Illinois, but Carl Klein, while in his first term in the legisla-

ture, was named the chairman of the Water Pollution Committee. He has done an outstanding job, and I say that he is an authority on water pollution and, as is my good friend the Senator over there, is very much interested in pollution abatement.

And, Senator, we are working on the water pollution bill right now. We are in executive session in the Public Works Committee. I am a member of the Public Works Committee, as many of you Senators know. I was with you in conference, and I am chairman of the Subcommittee on Roads; I am also subcommittee chairman on Urban Affairs and Small Business.

So, I am here to explain to you, to try to tell you what a big man the President has selected for the office, who will run the program of water quality—Carl Klein.

He has appeared before our Committee on Public Works on water pollution many times, and it was his good advice and his testimony that made it easier for us to write up legislation that we are also very much interested in, to do away with water and air pollution.

Gentlemen, I am sorry, but I could talk for hours about this great man, this wonderful selection, and I am sure that the great Senators of this committee are going to confirm this man. I am looking forward to working with him and looking to him for his advice to me as a member of the Public Works Committee.

I have nothing further to say. I can put in a long statement, gentlemen, but I am sure you believe Mr. Kluczynski and know what my recommendation is. He is a great man. I lived with him for a long time. Politically, we did not see eye to eye, but socially we are the greatest of friends.

Thank you, gentlemen. It is nice to be with you.

Senator ANDERSON. Thank you very much, Congressman.

Senator Prouty?

STATEMENT OF HON. WINSTON L. PROUTY, A U.S. SENATOR FROM THE STATE OF VERMONT

Senator PROUTY. Mr. Chairman, I am very happy to join with Senator Aiken in expressing enthusiasm on behalf of the President's nominee for Governor of the Virgin Islands, and I urge approval of his nomination by this committee not because Peter Bove is a long-time friend and fellow Vermonter, but because he is the man best qualified to be the chief executive of the Virgin Islands.

In the 11 years he served as comptroller of the Virgin Islands, Peter Bove was a conscientious watchdog of Federal moneys granted the islands. His perceptive knowledge and administrative ability are reflected in an intimate knowledge of the islands' problems, resulting in an astute administration.

His conscientious service as comptroller came as no surprise to those who have known him during his years of public service. Earlier, he had served the State of Vermont with the same dedication and interest.

It is the welfare of the Virgin Islands which concerns your committee and all of us here today. I am confident that the islands are lacking the kind of development that can best be assured by the confirmation of Mr. Bove. He is a fellow the islanders all feel is worthy of the position. They have written to me urging my support of Peter

Bove as a man of outstanding ability, integrity, dedication to the welfare of the islands and their people. These entreaties have reinforced my belief that he is the man most qualified to be the next Governor of the Virgin Islands.

I respectfully urge this committee to approve Peter Bove's nomination.

Thank you very much.

Senator ANDERSON. Thank you. Did Mr. Dominick come in at the same time as you did, Mr. Klein?

Mr. KLEIN. Yes, he did. Mr. David Dominick, will you sit here [indicating]?

Senator ANDERSON. You may go ahead.

STATEMENT OF CARL L. KLEIN, OF ILLINOIS—Resumed

Mr. KLEIN. Mr. Chairman, I appeared before your committee last Friday, March 14, and was requested at that time that I reappear to finish testifying and answering questions at this time and to bring with me the designate for Commissioner of the Federal Water Pollution Control Administration. I have him here with me now, Mr. David Dominick.

I have no further statement to make, and I will be pleased to answer any questions that this committee wishes to direct to me.

Senator ANDERSON. Do you have any questions to ask, Senator?

Senator MUSKIE. Yes, I do, Mr. Chairman.

Senator ANDERSON. Proceed.

Senator MUSKIE. I am sorry that I was not here last Friday, Mr. Dominick, but there are some questions I have that I would ask, not bearing upon your qualifications, but your appointment as such relating to the statute governing water pollution control, Mr. Klein, of which Mr. Dominick will be administrator.

Will you give us an idea, if you can, as to your whole approach to the problem of water pollution control and the administration of the statutes over which you will have authority?

As you know, since you have been involved in the program in Illinois, we are, I think, at a critical point in the development of our national water pollution control policy.

Since the first of July 1967, the Department has been in the process of evaluating the water quality standards under the act of 1965, and I think, for the most part, the standards have been approved in all but one of the States. I think it is safe to say if it is not one, then two of the States.

Mr. KLEIN. I think you are referring to Kentucky and Iowa. Kansas is the other one, and that will be falling into line immediately or very shortly, I am sure.

Senator MUSKIE. So, in any case, you have the responsibility, first, of completing the job of evaluating the State standards and, secondly, of overseeing the implementation of those standards in the States in carrying out the responsibilities of the Federal Government.

You are going to be engaged in the very delicate area of Federal-State relations, to work out a cooperative venture that, in many ways, is unprecedented.

The statute, as you know, going back to the first Federal statute that was written, recognizes the primary responsibility of the States

in the water pollution control field. But when the 1965 statute was enacted, it was felt by the Congress that the States had not measured up to their primary responsibility at that point.

In the 1965 legislation we had two broad options (1) to replace the primary State responsibility with a primary Federal responsibility or (2) to stiffen the guidelines under which the States would exercise their responsibilities within the Federal budget and your presence assuring that the job was done.

So, I think it is important that you consider at the outset of your administration the nature of the Federal responsibility with respect to the unfinished task of establishing water quality standards.

Some of the State water quality standards were approved with exceptions. What is your view with respect to your authority to resolve those exceptions in a way which will contribute to the overall policy under the act and enhance the quality of our waters?

Mr. KLEIN. Well, we have two pending right now, and Kentucky appears to have met the major standards except for an exception we have therein, and it appears to me, from a review I have done on it, that Kansas will shortly also be accepted. Although we will then have all 50 States as accepting it, we will then have 35 of the States and territories that have exceptions which will need cleaning up.

I think this is a matter of extreme urgency and must be brought to bear at once. As a matter of fact, the first one, a must, will have to do with the State of Iowa, and a conference is set right now for April 8 and April 15 in the State of Iowa, and I am working personally with the Governor's administrative assistant to see whether we can get this finished.

It is my opinion that, when we have an enforcement conference such as this, that every effort should be made to resolve it by negotiation, by sitting down around the table and trying to find out whether or not we can find answers to these problems.

Now, we are going to have to update and get rid of all of these exceptions taken by these 35 States.

I have not yet been ready to implement this, because, as you know, I do not have any real authority as a designate, but I am quite aware of the problems, and this must be done, and must be done immediately, if we are to go ahead.

Senator MUSKIE. Do you anticipate the possibility of direct Federal action to set standards in the excepted areas—and when I say “excepted areas,” I am speaking now not only of geographic areas but policy areas—of States which do not cooperate?

Mr. KLEIN. Yes, sir. This is what this Senate and the House and the President meant when they put in a Federal Water Pollution Control Act and the Clean Streams Act behind it.

They meant that the States are to discharge their responsibilities under the Water Quality Act, and if they fail to do it, then the Federal Government should, without delay, take Federal action under the law.

And, of course, here, we have just two items: First is the enforcement conference, and second, the legal action. And, of course, as you know, under the legal action, it takes 180 days' notice before you can proceed, and, if we get into court, as you and I as lawyers know, this means 2 years or more delay. So I would rather resolve it on the administrative level and get it over and done with, and I think we can find ourselves resolving all of these problems in that way.

Senator MUSKIE. If you are not able to reach agreement in the States as to any excepted areas, you feel, then, that the Federal authority is sufficient to authorize the establishment of direct Federal standards in the excepted areas?

Mr. KLEIN. Yes, it is.

Senator MUSKIE. I wonder if you would want to comment upon the nondegradation policy established by Secretary Udall?

Mr. KLEIN. Yes. The nondegradation policy is part of the law today, and the trouble we are having with it, in my opinion, after looking it over and talking to various individuals who are involved in it, is that it is more a question of polemics than actual enforcement of it. I think what we have to do there is to reduce the items that are generally spoken of as antidegradation statutes to specific items in each State and resolve the specific items one by one or, if we can, more at a time, and thus dispose of the entire antidegradation which, just because of these two words, has resulted in a real argument as between different sections of the country.

Senator MUSKIE. What do you mean by that, with particular reference to rivers and streams?

Mr. KLEIN. Yes, it has to be done by basins, and areas within the basin, to make sure all of these fall properly within the antidegradation meaning, and once we have done this we will have eliminated where we now have misunderstandings as to what antidegradation means. We have to reduce it to specifics.

Senator MUSKIE. As I understand the antidegradation, the objective of it is subject to the qualifications that Secretary Udall wrote into the policy, the objective being to inhibit the lowering of the quality of any stream below its current level, even though the stream is pure and its quality far above any standards established for other streams. In other words, the purpose of antidegradation was to establish a floor below which quality should not be permitted to fall, except as the result of a rational decision, a deliberate decision, after considering the relative values of economic development and industrial growth, that the burden of permitting the reduction below that floor is on the proponents of the reduction and it must be a public-policy decision and a public-interest decision and not a partisan decision or a private-industry decision. That is my interpretation of that antidegradation policy.

Do you see anything inconsistent with it?

Mr. KLEIN. No, I don't see any difference between your understanding of the antidegradation policy and mine.

Senator MUSKIE. The problem that arises, of course, with a number of Senators and Governors who have indicated their concern with the problem, is that these underdeveloped areas of the States or underdeveloped States have a need for economic growth and jobs which they feel may be inconsistent with the objective of the antidegradation policy.

Would you want to comment upon what difficulties you envision out of that apparent dilemma or conflict?

Mr. KLEIN. I think part of this we have resolved—if I may go back to the State of Illinois—in that the permits for new industries must provide that they keep the stream in its present condition. We have already provided that in our Western Reactor and on the Jones-Hennepin and on the Chrysler plant, all of which are major installations.

We have provided that their antipollution facilities are such that they will not bother the present standards set by the State.

I think we will find, as we go along and scientific research gets better, that we are not going to find ourselves in such great difficulty in developing what is now virgin territory.

I think that we are going to find that the industries that are going in there, the new installations, will find it cheaper to put in the antipollution factors right at the beginning rather than try to put them in later as they are trying to do now in the Chicago and Indiana harbor areas where it is tremendously expensive.

Senator MUSKIE. Is it your view that any new industry or plant ought to incorporate the latest technology available for reducing the pollution impact of its effluent?

Mr. KLEIN. Yes, it is.

Senator MUSKIE. You think then that the act does give the Secretary some control over effluent discharge?

Mr. KLEIN. Yes, sir.

Senator MUSKIE. Let us assume a situation in which a State has set water quality standards which leave some margin in the oxygen factor, and if a new industry comes in without any control over its effluent discharges and its effluent discharges do not exceed the assimilative capacity of the oxygen capacity remaining untapped in the river, do you think that that industry ought to be required to incorporate the latest technology available to it?

Mr. KLEIN. I think, Senator Muskier, you will find that industry is going to do this almost automatically. I have found in the last 4 years that industry has been most cooperative. I think, between you and me, that we are going to find most of our trouble with treated human sewage which is getting away from us very fast.

Senator MUSKIE. Assuming industry does not cooperate, do you think the Secretary has authority in that situation?

Mr. KLEIN. Yes, sir; we have.

Senator MUSKIE. I ask these questions deliberately, because, as you know, there have been those who challenge the authority under the effluent act control and the argument is it can only be controlled with respect to the setting of water quality standards. I find the two inseparable. It does not seem to me that you can have effective control of water quality standards unless you can control effluent discharge. Is that your view, also?

Mr. KLEIN. I can't see where you can control the effect without controlling the cause also.

Senator MUSKIE. One of the difficult problems in the present program, as I am sure you fully understand, is the question of financing construction of waste-treatment facilities. As you know, we struggled with this problem last year, without any—well, we thought we had it worked out on the Senate side when we produced a formula, but we did not manage to get it enacted into law.

Do you have any ideas at the moment for dealing with that problem which you plan to recommend to the Secretary and through him to the administration?

Mr. KLEIN. I recall somebody saying that the only way you can cure the green algae is with the green of money, and it was not myself that said it first, but I think it is absolutely pertinent here. If the Federal

Government is going to get into it, they have to come in with some sort of a financing arrangement, and if they can't come up with the money—and you and I know that the budget is pretty well tapped these days—we are going to have to work out some sort of financing arrangement where we can be sure that we will pay back the municipalities and the States that advanced this money in order to get the job done. I do not, at this time, have any specific plan.

Senator MUSKIE. To what extent is this problem of the shortage of funds going to inhibit the program in Illinois?

Mr. KLEIN. Well, we had been hoping that a billion-dollar bond issue would pass last year. It did not. It was short the constitutional standards, although it met the majority standards, and in my instance I thought that about \$500 million of that would go immediately into helping the local communities, because actually the small villages and towns need more help, even, than the big cities which can get financing. But we are going to be held back, I am afraid, a little bit in Illinois because we do not have the State money, and the Federal money also being short is going to hurt, because we have about 180 applications and only 30 are able to be picked up, by Federal help, on a 30-percent level.

Senator MUSKIE. One of the emergent problems of this program is the problem of efficient operation of waste-treatment facilities after the construction is completed. I do not know whether you have gone into that in Illinois.

The act, as you know, requires some assurance to the Secretary before construction grants are approved, but still the Secretary is not given adequate authority to do something about it if the assurance requirement is not met.

I wonder if you have considered this problem and developed any suggestions for the future?

Mr. KLEIN. Yes. There is on the books of Illinois a special statute to provide for operator training. The only trouble is that we ran short of money to continue. The Southern Illinois University has one of the most advanced sewage-treatment plants in the State and possibly in the country, although it is not up to the plant at Lake Tahoe.

Senator MUSKIE. What can we do at the Federal level to make sure that the States meet their responsibilities?

Mr. KLEIN. I have gone over the new bill that is coming out of the House Public Works Committee, and Representative Kramer has a new section in there with which I concur most wholeheartedly, and Mr. Kluczynski asked me some questions about it before he went back to their executive session.

I concurred with what was in there, and I also think that we need to do some training, because there is a wastage of Federal funds due to it not being handled properly.

Senator MUSKIE. You see the Federal authority as being adequate to meet this problem, as well?

Mr. KLEIN. Yes, sir, on everything except the financing end of it.

Senator MUSKIE. Because of the Santa Barbara incident, we have another question, I think, involving the question of water quality standard.

Do you think that the Secretary has the responsibility to establish and enforce water quality standards along our shores?

Mr. KLEIN. Yes.

Senator MUSKIE. Beyond the 3-mile limit?

Mr. KLEIN. Yes.

Senator MUSKIE. Should those standards relate to the standards established by the States for pure coastal waters, or should they be standards established directly by the Secretary?

Mr. KLEIN. I think they should be established by the Secretary, but whenever possible they should be keyed into the State standards. And in Santa Barbara, we are working right now with the State of California to make sure that the standards are exactly identical along that coastline.

Senator MUSKIE. Should those standards be recommended by the Federal Water Pollution Control Administration, by the U.S. Geological Survey, or some other body?

Mr. KLEIN. Well, in this case the Federal Water Pollution Control Administration, and the Assistant Secretary and several other people interested in water quality, all sat down and worked it out together with the Under Secretary and the Secretary as to what should be done in that matter.

Senator MUSKIE. With respect to your relationship as Assistant Secretary of the Interior to FWPCA, do you feel that you have adequate operational control under FWPCA?

Mr. KLEIN. Yes.

Senator MUSKIE. Do you intend to exercise it?

Mr. KLEIN. Yes, sir.

Senator MUSKIE. I would like to ask you about the secondary-treatment policy under the water quality standards which were laid down by Secretary Udall. Are you in agreement with that policy?

Mr. KLEIN. Yes, sir. As a matter of fact, this is the only way all of us are going to be able to live together in the crowded areas of the country, by secondary treatment. Otherwise, the fellow downstream is going to wind up with the wrong water.

Senator MUSKIE. It has been suggested that in the light of the shortage of funds we might be better off using those funds to establish primary-treatment plants more than secondary-treatment plants, designing the plants, of course, to convert to secondary treatment when money is available. Have you considered that possibility?

Mr. KLEIN. I do not think you are going to be able to get at the root of the problem by accepting the primary treatment. I think the thing to do is to accept the secondary at this time.

As you know, if you put in the primary now and the secondary later, the cost is not twice as much, it is about two and a half times as much, and it is just false economy to put in primary and later go to secondary. You might as well go to both at once and get it over with, and this is our finding.

A regional director from Boston was in on the Merrimac River plan and now offers a secondary-treatment plan for all of that area.

Senator MUSKIE. Do you have any impression at all of the staffing of FWPCA, its adequacy, its capabilities that you wish to comment on at this time?

Mr. KLEIN. I am not prepared to comment on it now, except I think that one of the things that Mr. Dominick and I have discussed is that there may be too much in the administrative end of it and not enough in the enforcement end. So it may need some transfers in order to properly get the job done.

Senator MUSKIE. Well, as you will recall, the problem was in the FWPCA transfer, with respect to retaining the Public Health officers who operated the program. Has that transition problem been worked out, do you think, satisfactorily?

Mr. KLEIN. From what I know, I think that most of the problems arising out of the transfer have been properly solved, Senator Muskie.

Senator MUSKIE. Do you contemplate making any recommendations with respect to the civil service staff?

Mr. KLEIN. No, sir.

Senator MUSKIE. Mr. Chairman, I thank you very much for giving me this opportunity to discuss these questions with Mr. Klein. I am reassured by what he has said this morning that he is committed to the objectives of this program and intends to press forward totally, and that there is no disagreement visible this morning at least with the policies that have already been set in motion.

I thank you very much, Mr. Klein.

Mr. KLEIN. Thank you, Senator Muskie.

Senator ANDERSON. Are there any additional questions at this time, or any comments from any of the Senators who want to be heard?

Senator Allott?

Senator ALLOTT. Mr. Chairman, I was detained at another meeting and I just want to say that I am very happy to see Mr. Klein here.

I had a long talk with him, and I found, through his experience in this field, some considerable familiarity with our standards, and I think we are fortunate to have a man with his background and qualifications willing to undertake what we all know is going to be a very important part of our problems in this country in the coming years. I am happy to have you here, Mr. Klein.

Mr. KLEIN. Thank you, Senator Allott.

Senator ANDERSON. Senator Metcalf?

Senator METCALF. No questions.

Senator ANDERSON. Senator Burdick?

Senator BURDICK. Mr. Chairman, since Friday one question came to mind resulting from a letter by a constituent.

What is your conception of the wilderness program?

Mr. KLEIN. That does not fall into my category, Senator Burdick, but I think I made it plain that I come from northern Wisconsin, that I like the wilderness, and where I am I would like to keep it. The forces of progress are always here and where we have a force of progress there is going to be changes, and everything has to be taken in its own context in order to work things out.

Senator BURDICK. No further questions.

Senator ANDERSON. What did you mean by that?

Are you for or against the wilderness program?

Mr. KLEIN. It would depend upon the specific program, Senator Anderson.

Senator JORDAN. No questions.

Senator PROUTY. No questions.

Senator ANDERSON. Apparently, there are no more questions; so, I will dismiss you, Mr. Klein.

Mr. Bove, would you go ahead with your statement? Suppose you give us your background and what you have done and why you think you should be Governor?

STATEMENT OF PETER A. BOVE, NOMINEE TO BE GOVERNOR OF THE VIRGIN ISLANDS

Mr. BOVE. I graduated from Holy Cross in 1929 and went to St. John's University Law School and graduated in 1934.

I went back to Vermont to practice law and became engaged in many activities.

I was the chairman of the Vermont Liquor Control Board, president of the National Association of Alcoholic Beverage Associations—that is a monopoly system of 18 States.

I am a past president of the Rutland County Bar Association.

I was secretary of civil and military affairs under Governor Gibson, and was engaged in many community activities, such as being the chairman of the New York Herald Tribune fresh air fund. I was also active in community things like baseball—also football—and I had some part in developing the freeze-locker industry for some years.

Then, I went down to the Virgin Islands in 1957, where I have been comptroller up to last September 21.

The CHAIRMAN. So, you have been living in the Virgin Islands since you became comptroller?

Mr. BOVE. That is right.

The CHAIRMAN. Is this—of course, for the record—a fulltime job?

Mr. BOVE. It was, sir.

The CHAIRMAN. That is all I have right at this point except to insert your biographical sketch at this point.

(The date referred to follows:)

BIOGRAPHY OF PETER A. BOVE

Born: Rutland, Vermont—September 21, 1906.

Party affiliation: Republican.

Education: Graduate of St. Peter's Parochial School, Rutland; graduate of Rutland High School in 1925; graduate of Holy Cross College in 1929, PHB; graduate of St. John's Law School in 1934.

Positions: City attorney, Rutland, Vermont (elective) 1939-40; secretary of civil and military affairs of the State of Vermont, January 8, 1947 to May 15, 1947 and reappointed November 15, 1948 to June 7, 1949; chairman, Vermont State Liquor Control Board, May 1947 to July 11, 1951; member parole board 1947-49; member of the joint committee of States on alcoholic beverage control; president of the National Alcoholic Beverage Control Association through 1952 (organization comprises 17 monopoly States.); lawyer; appointed Comptroller of the Virgin Islands by President Eisenhower and served in that capacity for a little over 11 years resigning in September of 1968. Department of Interior Meritorious Award, September 1967.

Activities: Coached football at West Rutland High School and helped at Rutland High School 1 year. Helped organize the Northern League Baseball League. President of the Rutland Royals and vice president of the Northern League. Past president of the Rutland County College Alumni Association of Catholic Colleges. Past president of the Rutland County Bar Association. Member of the executive board of the Green Mountain Council of Boy Scouts. Chairman of the New York Herald Tribune fresh air fund for Vermont for 11 years.

Married: June Lounsbury, April 15, 1967.

Current address: Box 1459, Christiansted, St. Croix, Virgin Islands.

Senator Anderson, do you have any questions?

Senator ANDERSON. There has been some discussion about the United States buying the British Virgin Islands.

Mr. BOVE. I do not know much about it, except in the past there have been some articles in the newspapers about it, and I have been so close

to the American Virgin Islands that it is probably logical to be taken into the orbit of the American Virgin Islands. I do not know if there has been any definite plan to take them over or any negotiations concerning it. That, I would not know.

Senator ANDERSON. How about statehood in the Virgin Islands?

Mr. BOVE. I did not hear you, sir.

Senator ANDERSON. Is there a statehood party down there?

Mr. BOVE. No; no party.

Senator ANDERSON. Only in Puerto Rico?

Mr. BOVE. In Puerto Rico.

Senator ANDERSON. That is all.

The CHAIRMAN. Your term of office, of course, expires next year?

Mr. BOVE. That is right.

The CHAIRMAN. You serve until the new Governor is elected and qualified, I believe, under the law we passed?

Mr. BOVE. That is right.

The CHAIRMAN. Senator Allott?

Senator ALLOTT. I think I have no questions.

I have known Mr. Bove for some time, since he went down there, and he has a very outstanding record as comptroller. I would hope that in this interim period, considering your confirmation here, Mr. Bove, that we would be able to move the Virgin Islands along in a direction which would make it completely responsive to what is needed by the people there.

Many of us feel that, perhaps justifiably, this has not been done, and, without going into the specifics of the matter, I can only say that I hope that you do everything as Governor to move the Virgin Islands along toward a responsible position and a self-supporting position, one in which not so many people would be on the Government payroll as they are down there now, and that we could take care of a few other matters of that sort so that we could turn the government over to the new Governor in a much more viable situation than it is at present.

That is all I have.

Senator BURDICK. Mr. Bove, we have visited on that subject a bit. There is just one area I would like to discuss with you a minute.

What is your concept, or what is your idea, of what should be done, if anything, about the offshore workers?

As I understand it, about half of the working force is from other islands, and that the work force constitutes about 25 percent of the population, being not native born there and not native born in this country.

Do you foresee any problems in the immediate future or in the future with regard to these offshore workers?

Mr. BOVE. I think the biggest problem confronting us in that particular area at present is that we have to begin to look at it in a different perspective and treat them as first-class American citizens, because they are in there by necessity, and they comprise a majority of our work force. I think they should have all of the privileges that American citizens have.

I hope that we can do something positive in the way of getting them better housing and seeing that their children go to school and that they have the things that go with first-class citizenship, because it is a big problem, and it has to be solved.

Senator BURDICK. What is the basis for citizenship?

As I understand, the worker comes in on a temporary permit which becomes a permanent permit and then they stay there.

Mr. BOVE. I do not know the details, but they have what they call a green card after 5 years. Is that right?

The regular procedure, of course, is to get their card renewed every 6 months. And that is kind of an awkward position, of course, and some, after a certain length of time, get a green card which permits them to stay, and they become permanent residents once they qualify for that green card.

And, then, the Senator tells me, 3 years after that they can apply for American citizenship.

Senator BURDICK. Do you know how many—

Mr. BOVE. How many aliens we have?

Senator BURDICK. How many of the workers are American citizens?

Mr. BOVE. Senator Doward says quite a few, but I do not have the figures.

Senator BURDICK. When you say, "Give them American citizenship," you mean give it to the workers?

Mr. BOVE. Yes.

Senator BURDICK. The offshore workers are still coming in from other islands, are they not?

Mr. BOVE. Oh, yes. We have about, altogether, I would say close to 17,000.

Senator BURDICK. And they happen to be the poorest housed of all the workers in the islands, is that right?

Mr. BOVE. I do not think in the overall picture it is completely satisfactory, no; and I think that is a step that we must take to see that they have good housing.

Senator BURDICK. What is your recommendation for good housing?

Mr. BOVE. Well, I do not know just at this point what I would do, but I think it is one of the high priorities that we must look into and take some positive action, regardless of the cost. I think we have got to do that.

Senator BURDICK. What other problems do you foresee arising in the islands besides the offshore worker situation?

Mr. BOVE. Well, having been comptroller for 11 years, I think I was in a pretty fortunate position to see some of the things that I think need correcting, and I think that if we will just take a look at the reports that we have made and try to correct whatever deficiencies we have and improve in those areas, we will have come a long way.

Of course, I have some positive ideas. One of the things I would like to see created down there is a tax department, unto itself, and in keeping with what Senator Allott says. I think we ought to get the maximum mileage out of that, and we cannot get that until we have a tax division. We have recommended that several times in our reports. And that is not with the idea of what some people have in mind, of getting income, but it is the idea of covering the entire islands so that every body who ought to pay a tax pays one.

Senator BURDICK. What taxes are collected in the islands now?

Mr. BOVE. You mean the amount?

Senator BURDICK. What type of taxes are collected?

Mr. BOVE. Well, income tax, gross receipt tax, excise tax, a form of real estate tax, of course. All are part of our tax structure. Of course,

the income tax, as you know, is a taxable application where we keep the money down there.

Senator BURDICK. In other words, all of that money stays in the islands?

Mr. BOVE. Yes; that is right.

Senator BURDICK. How are these other taxes handled now? Who handles them?

Mr. BOVE. They are handled in the department of finance. They have the control over it, and they have been bogged down for years. Not having a complete administrative staff has been one of their troubles.

Senator BURDICK. Would it help to create another department with a different staff than the one you have?

Mr. BOVE. I think, if you have a separate department for a thing of that kind, you would get, if I may use the words, "maximum mileage" out of it. And you could probably bring in the help that you need to man that department, and, in the overall, I think that would be the best way, to bring them in and pay the islands off.

It would pay a good many dividends, because I do not think we have scratched the surface yet.

Senator BURDICK. That is all I have.

The CHAIRMAN. Senator Allott?

Senator ALLOTT. Mr. Bove, I do have some specific questions.

There are some 16,000 alien workers in the Virgin Islands, if my recollection is correct. This is almost equal to the number of registered voters in the Virgin Islands.

There are, of course, some estimates as to the number of illegal aliens in the Virgin Islands, which runs as high as 2,000 to 3,000. The question of nonnationals or aliens is a most perplexing problem. It has been on my mind for a long time. It is my understanding that this group is increasing at a rate of about 15 to 20 percent a year.

Now, while all of this has been going on, I am satisfied to note that the Federal agencies here in Washington simply have not assumed a coherent intragovernmental policy to deal with the problem as it exists, and these include the Departments of the Interior, Labor, HEW, State, Justice—including Immigration and Naturalization Service—and certain aspects of the Office of Economic Opportunity.

It seems to me, however, that the Federal Government has been pulling in all directions on this issue.

My question is this: Do you have any specific ideas or plans to deal specifically with this problem, as Governor of the Virgin Islands, to try to bring this issue into focus on the local level and try to take immediate steps to ameliorate the situation? I am talking not only about the illegal aliens, but I am also talking about the some 16,000 alien workers in the Virgin Islands.

Mr. BOVE. I don't know whether you could do it or not, but it would seem to me if we had a more positive hand in the situation and the screening of them, if it were possible for the government to enter into more specific and more authoritative action, maybe together with Immigration, we probably could work this thing out much better than it is being worked out now.

As it is, I think most of it stays with the Department of Immigration, which I do not think has a staff to cover what confronts them, particularly with the aliens that come in illegally. I think it is going

to require a lot of study, but I think it has to be met head on, and we can't postpone it any longer.

Senator ALLOTT. Of course, in that particular place, all a person needs is a very small boat to be able to come into the Virgin Islands, American Virgin Islands, as an alien. But I personally feel that this great influx of alien workers is indicative and reflective of a much more serious problem than the Virgin Islands—that is, much more serious than is shown just by the figures.

The control of additional personnel for the Immigration authorities would be part of it, but perhaps part of these people who are now working for the Government of the Virgin Islands could supplant part of these alien workers who are coming in there and drawing American money.

Do you think there is any virtue in that?

Mr. BOVE. Yes, there is.

Senator ALLOTT. Do you have a view as to why the number of alien workers in the Virgin Islands is so high?

Mr. BOVE. Well, in the first place, we have a tremendous load on the government payroll and that leaves us with many openings that have to be filled with people other than the local people, and then there has been such a population explosion and such a boom in the business end of it, probably the rapidity with which these things have happened has not given the people in charge down there the opportunity to separate the men from the boys, so to speak, so that we could come up with a firm, positive position in order to synchronize these things in their proper perspectives. I think that is going to require a great deal of thought. However, if we tackle the problem head-on, we might be able to work out a partial solution to it at least.

Senator ALLOTT. Do I understand you to say that the economic explosion and population explosion there have been so great, that there simply are not enough people—even considering the releasing of a few governmental employees—to take care of the level of business activities in the Virgin Islands?

Would you say that that was a fair statement?

Mr. BOVE. I would say so.

Senator ALLOTT. Is that your reason for making this statement?

Mr. BOVE. Yes.

Senator ALLOTT. Then, if they have this great explosion down there in business or economic activity, would it not indicate that there is no justification for constantly increasing support from the Federal Government for the local government of the Virgin Islands?

Mr. BOVE. I would hope that we will soon see the day when the islands can become self-sufficient, because of all of these activities.

Senator ALLOTT. I have in my hands here a booklet entitled "Aliens in the United States Virgin Islands, Temporary Workers in a Permanent Economy," and on page 29, it says here that 95 percent of the jobs in construction work, 60 percent of the jobs in service occupations, and 30 percent of the jobs in the manufacture of nondurable goods are bonded aliens.

Now, that is a pretty high percentage, is it not?

Mr. BOVE. It certainly is.

Senator ALLOTT. On the other hand, in 1966, citizens and permanent resident aliens held the vast majority of transportation and communications jobs and 94.1 percent of all government positions.

Do you think these figures are still correct and applicable?

Mr. BOVE. I would not know for sure, but it sounds possible to me.

Senator ALLOTT. Did you know that a special commission was created by the Virgin Islands Legislature on February 5, 1969, to consider the overall labor market in the islands with emphasis on the noncitizen's role in the supply and demand rate, together with a broad study of job opportunities and a study of the health problems, educational services and housing problems which confront the alien labor force in the Virgin Islands?

It is my understanding that a preliminary report might be expected on this within a couple of months.

My specific question would be: How do you expect to work with this commission to deal effectively with this problem?

Mr. BOVE. First, I would want to see the format and know more about it, so that I could move in the right direction. At this point, I could not give you a more direct answer because I do not know enough about that particular commission.

Senator ALLOTT. You do know that the commission is in being?

Mr. BOVE. Yes.

Senator ALLOTT. And that a report is expected before too long?

Mr. BOVE. Yes.

Senator ALLOTT. Now, Mr. Bove—

Mr. BOVE. The Senator tells me that report might be available at the end of March.

Senator ALLOTT. I think we ought to have the Senator's full name in the record, if it is not already in.

Would you put it in, please, Senator?

Mr. DOWARD. I am Senator Augustin Doward, Senator. I am a member of the Virgin Islands Legislature, and I have a prepared statement.

Senator ALLOTT. Just a moment, Senator, and we will get to you.

I have a very unpleasant situation. We have found that certain people in newspapers print certain things about people, and I have before me a column which makes some very strong innuendos, but this is public and I presume that you have a right to make your answer publicly.

I quote from this article which says:

His nominee for Governor of the Virgin Islands, Peter Bove, was investigated by the Interior Department during the Eisenhower Administration for allegedly making "improper advances" to girls in his Comptroller's Office in the Virgin Islands. After the investigation, then-Secretary of the Interior Fred Seaton wrote to the father of one of the girls on July 9, 1959: "There had been weaknesses in the management of the Comptroller's Office. I have every reason to believe that improvements will be made."

Now, the implications of this article, although I do not put much credence in this particular article, are such that no honorable man would want them made without having an opportunity to answer them. So, what are your comments, Mr. Bove?

Mr. BOVE. There is not a bit of truth in it. The unfortunate thing about the situation was that we had to release those girls from work, and I think that brought about this scurrilous thing. We were investigated, and I think that Mr. Seaton found out to his satisfaction there was nothing to it.

Senator METCALF. Mr. Chairman, may I point out that since they quote from a letter from Secretary Seaton, Secretary Seaton is not here, but one of his right-hand men at the time, Mr. Lawson, is in the room, and he knows all about this, and if there is anything further I am sure that Mr. Lawson is willing to tell the whole story of how it came about at that time.

Senator AIKEN. I am not asking for it.

Senator ALLOTT. I will leave that up to the chairman of the committee, but I did feel, in view of this rather scurrilous article having appeared and having been made public, that you, as an individual, have a right to make a public statement about it, which you have just made, and that is the reason I brought it up.

That is all I have, Mr. Chairman.

Senator ANDERSON. Senator Burdick?

Senator BURDICK. During my questioning, it developed that you said the finance committee was understaffed, and, in answer to a question or during colloquy with Senator Allott you said that there was a shortage of staff in regard to the alien workers and that these, too, added to your problems. We have heard statements that the government says there are too many employees. Which is it?

Mr. BOVE. What I mean to say—if I did not make myself clear—is that they do not have the qualified personnel that they need, particularly to carry on the functions of that department. I have talked to the Commissioner of Finance many times, and he seems to have a difficult problem in getting personnel that he feels can do the job and do it well.

Senator BURDICK. Is that true with the department or office that takes care of alien workers, too? I think you said they were understaffed there, too.

Mr. BOVE. In what department?

Senator BURDICK. Whatever department takes care of the aliens.

Mr. BOVE. If it is understaffed, it is understaffed on the basis of quality not quantity.

Senator BURDICK. That is all.

Senator JORDAN. No questions.

Senator HANSEN. I have no questions, Mr. Chairman.

The CHAIRMAN. All right, Senator Doward.

STATEMENT OF AUGUSTIN DOWARD, MEMBER AND MAJORITY CONFERENCE LEADER OF THE VIRGIN ISLANDS LEGISLATURE

Mr. DOWARD. May it please the chairman and members, I have a prepared statement I would like to read for the chairman and members of the committee.

I am delighted to be here in our Nation's Capital and to have this opportunity to offer testimony with regard to the appointment of Mr. Peter Bove as the new Governor of the Virgin Islands.

Mr. Bove served more than 11 years as Comptroller of the Virgin Islands. While serving in this capacity his audit reports of the various departments and agencies of the Government of the Virgin Islands reflected an analytical and comprehensive understanding of the governmental agencies and their particular problems.

Certainly this unique experience obtained during long service as Comptroller should serve Mr. Bove well as a chief executive officer of the Virgin Islands.

While the Legislature of the Virgin Islands did not always agree with the audit reports and recommendations made by Mr. Bove, his objectivity and obvious desire to perform his duties to the best of his ability were always respected. That Mr. Bove's reports always reflected substantial savings and greater efficiency in the operation of the government is readily acknowledged.

I believe Mr. Bove to be an independent thinker and able administrator. He will bring his own ideas and style of leadership to the Governor's office.

We in the legislature realize the importance of a harmonious relationship with the executive branch of the government. While Mr. Bove is a Republican and all the members of the legislature are Democrats, I believe that Mr. Bove has the qualities of personal integrity, objectivity, and the genuine desire to serve the general welfare of the people of the Virgin Islands which will provide for a good working relationship between the Governor and the legislature. I especially emphasize this point because of its obvious importance to the continued economic, governmental, and social development of the Virgin Islands. We have experienced tremendous growth in the Virgin Islands during the last 8 years. And we are confident that our new chief executive officer will continue the programs of progress and prosperity that have been previously initiated.

It is also appropriate to mention in view of certain subtle attacks that have recently been directed at Mr. Bove that we in the Virgin Islands have found Mr. Bove to be a man of strong character and unquestionable integrity. If this were not the case, if I had the slightest doubt, as a member of the legislature I would feel duty-bound to object to this appointment.

It might also be added that the reaction within the Virgin Islands to Mr. Bove's appointment has been extremely favorable.

And, so, gentlemen, I submit to you that, as the nominee for this high office, Mr. Peter Bove is very well qualified by reason of experience, character, and proven ability. I respectfully recommend confirmation of his appointment and, on behalf of the Legislature of the Virgin Islands, I pledge to Mr. Bove as our new Governor active support for all legislative programs and administrative policies that would aid and benefit the people of the Virgin Islands.

The CHAIRMAN. Thank you, sir.

Senator ANDERSON. Mr. Bove, I want to be sure that you have an opportunity to make any statement that you wish to make at this time.

Are you satisfied?

Senator ALLOTT. The question is: Are you completely satisfied with the answers you have now provided to the question I raised by virtue of the newspaper article?

Mr. BOVE. Yes, I am.

The CHAIRMAN. Do you have any statement, yourself, that you would like to add?

Mr. BOVE. No; I have no further statement.

The CHAIRMAN. If there are no further questions, thank you very much, Mr. Bove.

Mr. BOVE. Thank you, gentlemen.

(Thereupon, at 11:55 a.m., the committee recessed until 2 p.m., this same day, at which time consideration will be given to other matters.)

AFTERNOON SESSION

The committee met, pursuant to call, at 2:05 p.m., in room 3110, New Senate Office Building, Senator Clinton P. Anderson, presiding.

Present: Senators Jackson (chairman), Anderson, Burdick, Metcalf, Allott, Jordan of Idaho, Hansen, Bellmon, and Stevens.

Also present: Jerry T. Verkler, staff director; Stewart French, chief counsel, and James Gamble, Roy Whitacre, Porter Ward, Daniel Dreyfus, and Denny M. Miller, professional staff members; William J. Van Ness, special counsel; and Charles Cook, minority counsel.

Senator ANDERSON. Mr. Melich, will you come forward?

Senator Bennett, come right along.

**STATEMENT OF HON. WALLACE F. BENNETT, A U.S. SENATOR
FROM THE STATE OF UTAH**

Senator BENNETT. Mr. Chairman, I had the opportunity a few days ago to introduce Mr. Mitchell Melich to the committee, and time has moved along and he has not as yet had a chance to appear, but I am back again to say that this is the man I introduced on Friday, and I am happy to present him for the position of Solicitor of the Department, to which he has been nominated. Mr. Mitchell Melich of Utah.

Senator ANDERSON. Thank you, Senator.

Mr. Melich.

**STATEMENT OF MITCHELL MELICH, OF UTAH, NOMINEE TO BE
SOLICITOR OF THE INTERIOR DEPARTMENT**

Mr. MELICH. Thank you, Senator Bennett.

Shall I proceed, Senator Anderson?

Senator ANDERSON. Go right ahead. The chairman has a long distance telephone call and he asked me to start the hearing. We will place your biography in the record at this point and then you may proceed.

(The biography referred to follows:)

BIOGRAPHY OF MITCHELL MELICH

Mitchell Melich, 57, of Salt Lake City, was a candidate for Governor of Utah in 1964, a member of the Utah State Senate from 1943 to 1950, and recently on the staff of Representative Sherman P. Lloyd of Utah.

He is a former consultant for Atlas Minerals, Division of Atlas Corporation of Salt Lake City. From 1955 to 1962 he was President of Uranium Reduction Company, operators of one of the nation's largest uranium mills, and Secretary and Director of Utex Exploration Company of Moab, Utah.

Melich, born in Bingham Canyon, Utah, received his LLB degree from the University of Utah in 1934, was admitted to the Utah State Bar the same year and went into private law practice at Moab, Utah, from 1934 to 1955, dealing with matters involving federal lands and mining and corporations law.

Melich was City Attorney of Moab from 1935 to 1951 and County Attorney of Grand County, Utah, in 1941 and 1942.

He is former Republican National Committeeman from Utah and a member of the Utah Legislative Council, Colorado River Commission of Utah, Utah Water and Power Board, University of Utah Board of Regents, Utah Mining Association, Citizen's Advisory Committee on Higher Education, Salt Lake City Committee on Foreign Relations, and a trustee of the Park City Institute for Arts and Sciences.

He is a former Director of the Salt Lake Board of the First Security Bank of Utah and a Director of the Ideal National Insurance Company.

Melich is married to the former Doris Snyder and they are the parents of two sons and two daughters.

Mr. MELICH. Mr. Chairman and other distinguished members of this committee, I feel greatly honored by the President in nominating me for the position of Solicitor for the Department of the Interior. Reading the hearings held before this committee on the nomination of Governor Hickel to be Secretary of Interior has greatly impressed me of the importance of the Interior Department to so many sectors of our country and the impact of the Department on the daily lives of so many of our citizens. I hope that I can effectively contribute toward the betterment of the Department in the position of Solicitor.

Now I am prepared to answer any questions that the Senators ask of me.

Senator ANDERSON. Do you have any additional statement?

Mr. MELICH. That is all that I have. I think my biographical material, Senator Anderson, is before the members of the committee.

Senator ANDERSON. Senator Jordan?

Senator JORDAN. Mr. Chairman, may I say a word about my good friend, Mitch Melich. I have known him 18 or 20 years well and favorably. I am familiar with his career as an attorney in the neighboring State of Utah. I am also familiar with his skills as a fisherman. I have been fishing with him. He practices law in Utah and fishes in Idaho. I feel well acquainted with him and I am convinced that he is well qualified for this job to which he has been designated, and I shall be pleased to vote for him when the time comes to do that.

Thank you.

Senator ANDERSON. Thank you.

Senator Metcalf?

Senator METCALF. Mr. Chairman, I want to congratulate Mr. Melich. I never met him before until he came into my office the other day, but I believe that you have the most inspiring, the most thrilling job in Government. You are going to have an opportunity to pass upon all these laws and regulations of our natural resources, the development of these resources and resource policy, and I have every confidence, from looking at your background, that you are going to do an admirable job.

Sometimes we will be at odds. I have been at odds with every Solicitor at the Interior Department, but I want to assure you of my cooperation in trying to help you do this very important and significant job that you have of administering and preserving our resources in the best interests of the policies with which we are concerned.

Mr. MELICH. Thank you very much, Senator.

Senator ANDERSON. Apparently there are no questions. They are like me. I have known of you for a long time and favorably.

Senator Hansen?

Senator HANSEN. I have no questions, Mr. Chairman.

Senator ANDERSON. We will have a discussion with you later on.

Mr. MELICH. Thank you.

Senator ALLOTT. Mr. Chairman, I have just one comment. I was called out of the room on a phone call just as Mr. Melich took the stand, and I want to say that I am very pleased to see this nomination.

I have talked with him and I have gone over his qualifications, and I will be very happy to support him as the Solicitor for the Department.
 Senator ANDERSON. Mr. Dole.

**STATEMENT OF HOLLIS MATHEWS DOLE, OF OREGON, NOMINEE
 TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR MINERAL
 RESOURCES**

Mr. DOLE. Thank you, Mr. Chairman.

Would you like to have me proceed?

Senator ANDERSON. We will place your biography in the record at this point and you may proceed.

(The biography referred to follows:)

BIOGRAPHY OF HOLLIS MATHEWS DOLE

Residence: Born Paonia, Colorado, September 4, 1914. Moved to Portland, Oregon, 1917, Independence, Oregon, 1920, Grants Pass, Oregon, 1924, Portland, Oregon, 1947. Resides at 2612 N.E. 23rd Avenue, Portland, Oregon 97212. Telephone,

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Education: Grade and high school: Grades 1-5, Independence, Oregon (1920-24); Grades 6-12, Grants Pass, Oregon (1924-31); College: Oregon State University, Corvallis, Oregon 1931-32; 1937-40, BS in geology; 1940-42, MS in geology; minor mining engineering University of California at Los Angeles; 1941, Economic geology, University of Utah, Salt Lake City, Utah; 1951-53, Economic geology.

Military service: U.S. Navy (Naval Reserve); Grade, 1942-1943, Ensign, 1943-1944, Lt. (j.g.), 1944-1945, Lieutenant; Service: Indoctrination, Tucson, Arizona (1942); Memphis Naval Tr. Center (1943); First Marine Air Wing (South Pacific Combat Air Trans.) Solomon Islands (1943-1944); Naval Air Station, Anacostia, Md. (1944); Joint Tactical Air Force, Okinawa (1945); First Marine Air Wing, Zamboanga, P.I. (1945); Naval Reserve—inactive (1946-1949).

Awards: Unit Citation—SCAT; Unit Citation—JTAF; Navy Commendation with medal (Okinawa).

Employment: Bohemia Mines, Cottage Grove, Oregon (1934-35); American Trust Company, Palo Alto, California (1935-37); U.S. Bureau of Mines, Scappoose, Oregon (1942); U.S. Geological Survey, Tucson, Arizona (1946); State of Oregon Department of Geology and Mineral Industries Grants Pass Field Office: Field Geologist (1946-47); Portland Office: Geologist (1947-55); (Educational leave, academic years—1951-52; Acting Director (1955-56); State geologist and Director (1956-present).

Instructor in Geology, Oregon Extension Center (1947-50) Graduate instructor, University of Utah (1951-52); Adjunct professor of geology, Portland State College—no salary (1968-69).

Publications: Articles: "Strategic Minerals and the Stockpile," Mining Congress Journal, American Mining Congress, February 1967.

"Strategic Minerals," Mining Congress Journal, American Mining Congress, February 1964.

"Public Land Withdrawals Threaten Mineral Industry," Mining Engineering, Amer. Inst. Min., Met. & Pet. Engrs., July 1961.

"New Focus on Oregon for Gold, Uranium, Oil," Greater Portland Commerce, Portland Chamber of Commerce, April 1968.

"Oregon's Mineral Industry," Greater Portland Commerce, Portland Chamber of Commerce, January 1967.

Technical publications: Author—"A Description of Oregon Rocks and Minerals," Dept. of Geol. & Min. Ind., Misc. Paper #1, 1950.

Co-author—"Relations of Certain Jurassic and Lower Cretaceous Formations in Southwestern Oregon," Bulletin, Amer. Assoc. of Pet. Geol., vol. 43, no. 12, Dec. 1959.

"Geology of the Central and Northern Parts of the Western Cascade Range in Oregon," U.S. Geol. Survey, Prof. Paper 449, 1964.

Editor—"Gold and Money Session", 1960 Pac. Northwest Metals & Min. Conf., Amer. Inst. of Min., Met. & Pet. Engrs, 1960.

"Proceedings of the Second Gold and Money Session", 1963 Pac. Northwest Metals & Min. Conf., Amer. Inst. of Min., Met. & Pet. Engrs, 1963.

"Proceedings of the Third Gold and Money Session", 1967 Pac. Northwest Metals & Min. Conf., Amer. Inst. of Min., Met. & Pet. Engrs, 1967.

"Andesite Conference Guidebook", Bull. 62, Dept. of Geol. & Min., Ind., and Int. Upper Mantle Project, Scient. Rept. 16-S, 1963.

Technical publications. In print—Several chapters in "Mineral Resources of Oregon", a joint publication of the U.S. Geological Survey and the State of Oregon Dept. of Geol. & Min. Ind. to be published as Dept. Bull. 63, 1969.

"Regional Mineral Resources" in "The Mineral Industry: Problems in Resource Management", Univ. of Wash. Press, College of Public Affairs, 1969.

Government documents: Testimony presented to U.S. House and Senate Interior Committees and printed in hearings on Chrome—April 19, 1956; March 28, 1958; June 26, 1959—Gold—May 6, 1966.

Testimony before Tariff Commission on quicksilver—February 20, 1962. Interstate Oil Compact Commission, General reporter for Oregon, Legal reporter for Oregon.

Membership and offices in societies and organizations: Professional: American Institute of Mining, Metallurgical & Petroleum Engrs. (1941-65); American Association of Petroleum Geologists; Association of American State Geologists (Secretary-Treasurer 1968); Sigma Xi; Oregon Academy of Science.

Other Public Lands Committee of American Mining Congress; Gold and Silver Committee of American Mining Congress; Public Lands Committee of Interstate Oil Compact Commission; Oregon and California Advisory Board to Director of Bur. of Land Management; Governor's Committee on Oceanography; Oregon Geographic Names Board; Executive Committee of Oregon Assoc. of State Fiscal & Admin. Officers; Chairman, Gold and Money Session, Pacific Northwest Metals & Minerals Conference (1963 and 1967); Northwest Mining Association, Idaho Mining Association.

Listed in: Who's Who, American Men of Science.

Family: Married September 29, 1942. Wife: Ruth Josephine (Mitchell) Dole; Born October 15, 1915, Squaw Creek Ranger Sta., Okanogan County, Wash. Grants Pass High School, Class '33, Oregon State University, Class '38, high school teacher, La Grande, Oreg., '38-'40, home economist, Clark County PUD, Longview, Wash., '41-'42, air traffic controller, CAA, Seattle & Yakima, Wash., '42-'44, home maker '44 to present, active in Panhellenic Council of Portland (past President, member of Board); Oregon Symphony Society.

Children: Michael Hollis Dole, Born Mar. 16, 1945, Portland, Oregon, Alameda Grade School, Grant High School, Harvard University, class of '67, VISTA in Washington, D.C. & Maryland, 1967-1969. Now a private in the Army at Fort Lewis, Wash.

Stephen Eric Dole, Born April 17, 1949, Portland, Oregon, Alameda Grade School, Grant High School, Oregon State University, class of '72, Oregon National Guard.

Senator JORDAN. Mr. Chairman, may I have the privilege of speaking now for Senator Hatfield, who finds it impossible to be here today? May I say a few words of introduction?

Senator ANDERSON. You surely can.

Senator JORDAN. Senator Hatfield would have said:

STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM THE STATE OF OREGON

It is my pleasure to submit this introductory statement supporting the nomination of Mr. Hollis Mathews Dole for the position of Assistant Secretary of the Interior for Mineral Resources.

Mr. Dole was born in Senator Allott's State of Colorado in 1914, but moved as a small child to Oregon where he has lived in Independence, Grants Pass, and Portland. He attended Oregon State University in Corvallis, receiving a bachelor's degree in geology in 1940 and a master's degree 2 years later. He also took graduate courses in economic geology at UCLA and the University of Utah. During World War II

he served as a naval officer with overseas duty in the Solomon Islands and in Okinawa.

Mr. Dole also had civilian government service with the U.S. Bureau of Mines in Scappoose, Oreg., and with the U.S. Geological Survey in Tucson, Ariz. However, the bulk of his professional career has been spent with the State of Oregon Department of Geology and Mineral Industries. He served first at the Grants Pass field office 1946-47, and then at the Portland office 1947-55. In 1956 he was named State geologist and director, Oregon Department of Geology and Mineral Industries.

When I became Governor of Oregon in 1959 it was my pleasure to have him reappointed to these positions, which he has held up to the present time.

During this period, Mr. Dole established for himself the reputation of an expert in the field of geology and mineral resources. His long list of articles in mining journals and his technical papers presented at geological and mining conferences attest to this fact. Last year he began serving on a part-time basis as adjunct professor of geology at Portland State College. On several occasions he also has given testimony before congressional committees, including this Senate committee.

He is a member of many technical societies and organizations and has served on standing or advisory committees of the American Mining Congress, the Oil Compact Commission, the Bureau of Land Management, and the Western Governors Conference.

Mr. Dole did an outstanding job in establishing regulations governing offshore exploratory oil drilling off the Oregon Coast. The resulting body of administrative rules is regarded as a model by sportsmen, conservationists of natural resources, and oil companies alike.

I have known Hollis Dole for many years and I can state from personal experience that he has left a fine record of achievement in Oregon. The Department of the Interior is indeed fortunate to have this man nominated for service as Assistant Secretary for Mineral Resources. I strongly endorse his nomination.

Senator ANDERSON. Thank you very much.

Senator ALLOTT?

Senator ALLOTT. I have nothing, Mr. Chairman, except that I want to welcome you here, Mr. Dole. In looking through your résumé, I see that there were two of us who were on Zamboanga in 1945. We are probably the only two in the room. That makes you doubly welcome here.

Mr. DOLE. Thank you so much.

Senator ANDERSON. Senator Metcalf?

Senator METCALF. Thank you, Mr. Chairman.

Mr. Dole, I am impressed by the biography and biographical material that you have submitted. I am also impressed by the statement that Senator Hatfield, for whom I have very high regard, has presented in your behalf. However, when I was a Member of the House of Representatives we had a case out in Oregon called the *Al Sarena* case. Are you familiar with that case?

Mr. DOLE. When I was a student at college I helped map the *Al Sarena* property.

Senator METCALF. Did you have anything to do with the *Al Sarena* case when they located a mining claim?

Mr. DOLE. No, I did not.

Senator METCALF. Did you know anything about it when you were in the Bureau of Mines in Oregon at that time?

Mr. DOLE. No. During the time the *Al Sarena* case was up, Senator, I was with, I believe, the Department of Geology and Mineral Industries, the State Department.

Senator METCALF. Did you have anything to do with the declaration, with the finding that there were minerals at the Al Sarena location?

Mr. DOLE. No, sir; I did not.

Senator METCALF. As a member of the State bureau of mines, did you make an objection that there was no location of minerals?

Mr. DOLE. I believe at that time, Senator, I—wasn't that in about 1946 or 1947, in that area?

Senator METCALF. It may well be. I am just going back. I can remember—

Senator ANDERSON. It was later than that.

Senator METCALF. It was after. It was during Secretary McKay's career.

Mr. DOLE. I know that I was not the director of the department at that time.

Senator METCALF. I was in the House of Representatives and I came to the House of Representatives in 1952.

Senator ALLOTT. It was after—may I interject?

Senator METCALF. Surely.

Senator ALLOTT. I do not trust my memory entirely but my recollection is this was 1952 to 1954.

Senator METCALF. Let us put it in that period. Where were you then?

Mr. DOLE. During 1952 to 1954 I was a staff geologist on the State department of geology mineral industries' staff in Portland.

Senator METCALF. As I recall the *Al Sarena* case, somebody sent down to some southern geologist who had never made any findings of that sort, and they threw the mineral ore in the river, but they never mined a pound of ore but they cleared off several hundreds of thousands of dollars' worth of timber on it. Did you have anything to do with that, or could you have made an objection to that?

Mr. DOLE. I not only did not have anything to do with it, but I was not then at the policy level within the department. I was a working geologist with the department.

Senator METCALF. I think that is all I have, Mr. Chairman.

Senator JORDAN. Mr. Chairman, I only want to add my personal endorsement to that of Senator Hatfield. I have known Mr. Dole for some time too as a neighbor. I know him well and know him favorably, and I shall be pleased to vote for his confirmation.

Senator ANDERSON. Senator Hansen?

Senator HANSEN. I have no questions, Mr. Chairman.

Senator METCALF. I have one other question.

Senator ANDERSON. Go ahead.

Senator METCALF. I have a couple of more questions. I have had a very great deal of interest, Mr. Dole, in this marketability for so-called common varieties. We have, for instance, in Montana some of the finest building stone in America. There is not any building stone in this country that will compete with it unless it is imported from Germany, something of like quality.

Yet there is no permission to locate on these building stones because of a rule about common variety. People who have located and made substantial investments have found that their investments are taken away by a leasing policy. Do you have any ideas, concepts about the marketability standards on the common variety of building stones and so forth?

MR. DOLE. Senator, this is within the Department of Interior's Division of Mineral Resources. I am not certain that we would have any influence within this particular area. I would imagine that your marketability standards would be more in the Solicitor's area.

Personally I do have, and have had, and have expressed them in the past, views on marketability. This is a very difficult subject, and as it applies to the metalliferous ores, if you had to rely upon marketability as the markets would fluctuate you would have problems maintaining your mining claims.

As far as it goes in regard to building stone and that type of material, I think that you just about have to judge each case on its own merits.

Senator METCALF. We have had a failure, of course, of people in the Department of the Interior in judging each case on its own merits. It would seem to me that they have tried to adopt a general rule, and have gone into some of these very special cases, where even in this building some of the building stone of rare and unique qualifications and quality have emanated from some of these areas where they have just said, "Well, it is not subject to location. It is subject to leasing rather than one of these special things that we feel should be located."

Senator Gruening, in his subcommittee, held hearings on this question but we were unable to get some ideas from the Department of Interior. They continue to proceed on the basis of the lease of minerals and many people who made good faith locations both in Montana and in other States by the way have lost investments, have lost basic rights to which they felt that they were entitled, and I hope that you will look into this.

MR. DOLE. I certainly will.

Senator METCALF. I have one more question. I know all over the West we have developed the West by means of mining locations. Secretary Udall has suggested and advocated the repeal of the Mining Law of 1872, and the substitution of the Leasing Act, so that we would lease all minerals just as we lease coal and oil and minerals of that sort.

Do you have any ideas on that?

MR. DOLE. Well, once again, Senator, I would imagine the bulk of this would be carried within the Secretary of Interior's department by the Solicitor, but once again also I have personal views on the 1872 mining law. I think it has worked very well, and I think that a large part of our mineral wealth and mineral development has come about because of the 1872 mining law.

I do believe though that there is not such a thing as a law going on forever that cannot see some change and some improvement, and so I certainly would be open to any ideas on changes in it, and would definitely look into it.

Senator METCALF. I am sure that you will find that many of the members of this committee would agree with you that the development of the West, especially the mining industry of the West, has been de-

pendent upon the mining law of 1872, and it may be that in changing times and changing conditions it would warrant modifications, but certainly we would like to have somebody who is friendly to the old law, and the development that we have had under that law. We would have to have good cause for modification of that important piece of legislation.

We are all concerned with this oil slick off the coast of Santa Barbara and, when I interrogated Secretary Hickel, I talked about offshore drilling in Bristol Bay in Alaska. As part of this administration and part of this geological survey and so forth, you will be called upon to suggest legislation to take care of drilling on the Outer Continental Shelf. Are you prepared to have Federal legislation in that area?

MR. DOLE. Certainly if they are out on Federal lands this would come under the Mineral Resources Division, and I would be pleased to advise the Secretary to look into this at the very utmost to see that there would be a very minimum if not complete absence of this, because I agree with you that this type of thing must come to a big screaming halt.

Senator METCALF. We have a no man's land right now. Certainly we must work together to cure it, and to prevent future occurrences such as happened at Santa Barbara.

MR. DOLE. I would certainly agree with you.

Senator METCALF. Thank you very much.

Thank you, Mr. Chairman.

Senator ANDERSON. Are there further questions?

Senator Allott?

Senator ALLOTT. Mr. Chairman, in general, I must concur in some of the things that the distinguished Senator from Montana has said with respect to mineral leasing.

I never could quite understand why Secretary Udall, after 8 years in office, suddenly changed his mind and came up with this last-minute gasp, about changing the whole mineral pattern—from exploration and location to leasing—but certainly it is something that this committee and the committee in the House is going to have to deal with if anything is done.

I have been very much interested myself, as you know, Mr. Dole, in the establishment of a national mineral policy. It would be my hope that you would acquaint yourself with the bill that I have introduced in this Congress, S. 719, and in previous Congresses, with the idea that we might take, finally, some action for the establishment of a real minerals policy in this country, and hopefully, to take our entire minerals industry out of the doldrums that it has been in for several years.

I am informed, Mr. Dole, that the chairman of the full committee, who is also chairman of the Legislative Oversight Subcommittee of this committee, whose membership includes the chairman, Senator Anderson, and myself, are planning to have an informal meeting soon—I believe March 27 is the tentative date—for an informal discussion of the Outer Continental Shelf Lands Act. I thought I would inform you of that so that you also could be prepared to come up with Secretary Hickel and discuss the matter with the committee.

Senator ANDERSON. Thank you, Mr. Dole. Those are all the questions we have to ask of you. I note that you have a prepared statement. I will direct that it appear, in full, in the record at this point.

Mr. DOLE. Thank you, gentlemen.

(The statement referred to follows:)

STATEMENT OF HON. HOLLIS DOLE

Thank you Mr. Chairman. I have no prepared statement as such, but I would like to open with a few general remarks.

I come before you as one who has devoted a sizable proportion of his life to the opportunities and problems surrounding the development of mineral resources. This has been a rewarding career for it has been our mineral wealth that has led not only to the development of vigorous regional economies but also to a dynamic National economy and to a fortunate degree of National security. I do not believe we can afford to lose sight of these basic facts.

In my position as Assistant Secretary, I would have the responsibility of maintaining a constant review and analysis of the Nation's present and projected position with respect to the mineral resources on which our economy so largely depends. It will be my responsibility to advise the Secretary of the Interior on minerals programs and policies to assure that full information is before him to be weighed with other factors in arriving at major decisions. Many of the other factors to be considered in such decisions would of course be outside the area of my personal responsibility.

During the past fifteen years as a State Geologist I have worked with various public and private organizations—State, regional and National—concerned with mineral understanding and development. Now it is my desire to work with these groups from the leading minerals position in the Federal Government.

If there is any single theme or thesis that threads throughout my professional career on that should be underscored in my biographical sketch which you have before you, it is the sustained emphasis that I have given to the advance and deliberate search for problem areas before they become acute.

It is going to take a lot of work on my part to learn the broad scope of the various bureaus reporting to the mineral resource Assistant Secretary, but I feel that I have the capacity to do so. Further, I believe that I can contribute to the effort of the Department for I have been looking at these issues through the other end of the telescope for many years. This I believe is good background for the job I hope to undertake.

I will be happy to answer any questions you or the members of your Committee might have.

Senator ANDERSON. The next nomination we will consider is that of Dr. Leslie Glasgow, to be Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources. Dr. Glasgow.

We have a letter from Senator Eastland on your nomination, Dr. Glasgow.

Dr. GLASGOW. I did not know that. Of course, I am very pleased with it.

(The letter referred to follows:)

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 13, 1969.

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

DEAR SENATOR JACKSON: It is a genuine pleasure for me to endorse the nomination of Dr. Leslie L. Glasgow to the important post of Assistant Secretary of the Interior for Fish and Wildlife and Parks.

Dr. Glasgow's qualifications are solidly based on an impressive educational background which includes a degree in Forestry and Wildlife Management from Purdue University, a Master's degree in Wildlife Conservation from the University of Maine, and a Doctorate in Game Management from Texas A & M University.

His capabilities are clearly reflected in his professional performance. Dr. Glasgow enjoys national recognition in his field as an authority in management techniques, as a leading researcher and by reason of his authorship of technical publications.

During his tenure at Louisiana State University the quality of his work in wildlife and forestry advanced him from Assistant Professor to Associate Professor to Full Professor.

His dedication to the cause of conservation and his proven ability as a leader resulted in his selection as Director of the Louisiana Wildlife and Fisheries Commission. In this position, Dr. Glasgow successfully discharged the responsibility for the proper and productive management of the endless variety of resources found in thousands of acres of Louisiana's coastal waters, wetlands, marshes and public lands.

Dr. Leslie Glasgow is a scholar, an educator and a conservationist who has made a life's work of the preservation and utilization of our natural resources. I am convinced that he will serve our nation well. I commend him to the Committee and respectfully urge early and favorable consideration of his nomination.

I am grateful for your attention to this vitally important matter.

With personal regards,

Sincerely,

JAMES O. EASTLAND, *U.S. Senator.*

Senator ANDERSON. Dr. Glasgow, you go right ahead.

STATEMENT OF DR. LESLIE L. GLASGOW, OF LOUISIANA, NOMINEE TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR FISH AND WILDLIFE

Dr. GLASGOW. I have submitted a financial statement and also my biographical data. I do have biographical data here that I will read if you would like. If not I will be glad to skip it.

Senator ANDERSON. Go ahead and read it.

Dr. GLASGOW. First of all I would like to say that I am honored to be here and honored to have been nominated for the position of Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources.

I have a rural background. I was graduated from Purdue University in wildlife and forestry, took my master's in wildlife and fisheries at the University of Maine and was awarded my doctorate in wildlife management at Texas A. & M. University. My minor at Texas A. & M. was in range management. I completed the marine zoology courses at the LSU coastal marine laboratory.

I taught for 18 years in the field of fisheries, wildlife, and forestry in the College of Agriculture at Louisiana State University. I spent 18 years in research of wildlife wetlands management for the LSU agricultural experiment station. In 1966 I was appointed director of the Louisiana State Wildlife and Fisheries Commission.

I served as chairman of the State stream pollution control commission, as a member of the State forestry commission, as a member of the International Association of Fish and Game Commissioners, and as a member of the Southeastern Association of Fish and Game Commissioners.

I have been involved in wildlife and fisheries activities for many years; serving on many local, State and national committees. I served as president of the southeastern section—15-State organization—of the Wildlife Society. I belong to several professional and honorary natural resource organizations.

I was awarded the "Outstanding Conservationist" award by the Louisiana Outdoor Writers Association in 1958 and the "Governor's Award" by the Louisiana Wildlife Federation for overall outstanding conservation work in 1967.

I am married and the father of three sons.

(The biographical sketch referred to follows:)

BIOGRAPHY DR. LESLIE L. GLASGOW

Dr. Leslie L. Glasgow, 54, of Baton Rouge, Louisiana, has been teaching for the past 20 years in the fields of fisheries, wildlife and forestry.

He was formerly Professor of Wildlife Management at Louisiana State University for 18 years. In 1966 he became Director of the Louisiana Wildlife and Fisheries Commission.

Dr. Glasgow has spent 18 years in research on wildlife wetlands management at the LSU Agricultural Experiment Station, and was formerly a waterfowl biologist in the Indiana Conservation Department. He was winner of the Governor's Award of the Louisiana Wildlife Federation in 1967.

A native of Portland, Jay County, Indiana, he was graduated from Purdue University in wildlife and forestry, obtained his master's degree in wildlife at the University of Maine, and his doctorate in wildlife management at Texas A&M University.

Dr. Glasgow had a graduate teaching assistantship while at the University of Maine, was named the Outstanding Louisiana Conservationist by the State's outdoor writers in 1958, and has been awarded membership in several chapters of the Louisiana Wildlife Federation.

Dr. Glasgow is a former president of the Louisiana Wildlife Biologists Association and the Southeastern Section of the Wildlife Society. He is and has been a member of the American Fisheries Society, the Gulf States Marine Fisheries Commission, the Gulf and Caribbean Fisheries Association, the Southeastern Association of Fish and Game Commission, International Association of Fish and Game Commission, Sigma Xi (National Research Fraternity) Louisiana Stream Pollution Control Commission, Louisiana Forestry Commission, and the Louisiana Tourist Development Commission.

In 1943-1944, Dr. Glasgow was employed as a civilian by the U.S. War Department at Deep River, Connecticut, and during the next two years saw military service with the U.S. Army Air Force.

Dr. Glasgow and his wife, the former Garnet Lucile Confer, are the parents of three sons, Vaughn, 24; Hugh, 21; and Robert, 16.

Senator BURDICK. Senator Allott?

Senator ALLOTT. I would just like to say one thing, Dr. Glasgow. Long before I ever met you, I remember that the Fish and Game Commission of Colorado recommended you as one of the most qualified and able men in this whole area. After looking over your career and your experience, I think you are a man who is eminently qualified to handle this job. Certainly, I am happy to see you here, and I think you will do an excellent job.

Dr. GLASGOW. Thank you.

Senator BURDICK. Senator Metcalf?

Senator METCALF. Mr. Chairman, I too am delighted that Dr. Glasgow is going to be in charge of this very important area. Dr. Glasgow, the Government of the United States recently extended its jurisdiction over fishery resources in the oceans to the 12-mile limit. This act which Congress passed provided protection to our fishing and marine resources, but some of these benefits under the act are very limited.

It would seem to me that in view of the expansion that we have as a result of the enactment of this extension, and within the limited resources that are developed, some administrative decisions should

be made. Do you have any idea of how we are going to protect our marine and fishing population in that area?

Dr. GLASGOW. There are several compacts, fisheries agreements with different fisheries resources in the different areas of the different coastlines, and I would certainly enforce these agreements. The major consideration, of course, is production of a fish population that can be harvested, protection of that population, so that fisheries agreements have to be reached by the people who are fishing there, and these compacts that we have are designed partly for that.

We also have to do everything we can to improve the market for our own fishermen. We have a tremendous amount of imports coming in. We also will have to have some sort of a program of subsidy for the boatowner and builder.

Senator METCALF. Dr. Glasgow, I come from a landlocked State. I do not think anybody in Montana is a commercial fisherman in either ocean, so I can be completely objective, as can my friends from Colorado, Idaho, and so forth, on these questions. When we extended the limit 9 more miles, to 12 miles, we did not completely resolve a good many of the questions between the States and the Federal Government, and I know that as an expert you have some ideas on that. Do you have any ideas how these controversies can be resolved?

Dr. GLASGOW. That is between the State and the Federal Government?

Senator METCALF. Yes.

Dr. GLASGOW. Yes. As director of wildlife and fisheries commission in Louisiana, I handled commercial fisheries there, and in nearly every case where a problem came up, if you were able to get the people involved together, and you had good communication among the people, you were able to resolve the problem, and I think that, of course, would be the first step, to get everyone involved in conference, and I think most problems can be ironed out there.

Senator METCALF. I think that perhaps with your experience and background, you are an admirable choice to start the administration of this new program.

I serve on the Migratory Bird Conservation Commission. The Secretary of the Interior is the Chairman of that Commission. It will be your duty to advise him as to his conduct largely in activities of the Commission.

Dr. GLASGOW. Yes.

Senator METCALF. We are going to have a meeting of the Commission I think at the end of the month. I think we have six or seven, and I am not sure, I just looked through the agenda, but every single one of the items that we have is to increase the amount that we have allocated for some of these wildlife refuges. Not a single new revenue is on the board.

We have over the years adopted a program for the purchase of refuges and then we have seen constant acceleration of the prices of refuge land.

We have legislation to borrow some money against the fund. We have never had complete funding under the legislation. But to achieve the objectives of the duck stamp bill and the wildlife conservation bill, we would have to have some aggressive support from the Department of Interior, so that we won't have a continued troop of these every time we increase the amount.

Do you have any ideas or new ideas as to how we should approach this objective of achieving protection of the nesting and the propagating and the hunting lands within the United States?

Dr. GLASGOW. This certainly is an important item, because we are going to do all we can to maintain our waterfowl population, and it is necessary to purchase breeding grounds whenever possible, and I certainly would do everything I could to step up the purchase of these wetland areas. I would have to investigate further to see if there are new approaches that we might take.

Senator METCALF. I wish you would look into it, because we are buying today some of the most desired waterfowl land in the United States. With this increase in recreation, especially boating, hunting and fishing in these areas has created a special demand for this land. If we do not move forward rapidly, it not only will be lost forever but it is going to cost a formidable amount of money for the people to achieve the objectives that we had originally for the lands.

Dr. GLASGOW. I certainly share the concern that you do that this is urgent and we should move as rapidly as we can.

Senator METCALF. I will be delighted to work with you in any way possible on that. Montana, of course, has Glacier National Park, and while Wyoming has most of the Yellowstone National Park, we have three of the five principal interests in the State of Montana. Not only are Montanans interested in that national park but we are interested in the whole national park system.

I was out in Yellowstone last summer, not as long as I would like to have been, but I was there and saw tent pegs in the Black Tops. The overcrowding of the national parks I think is a major concern to every one of us on this committee. We created these parks and we feel that they are there for all the people to enjoy and yet the enjoyment is not quite up to the quality it should be because of the overcrowding of roads, camp grounds and so forth.

Do you have any ideas as to what you are going to do about taking care of increased needs of national parks and recreation areas of the country?

Dr. GLASGOW. I have been in these camp grounds. I am a camper and I have been in those that are overcrowded, and I certainly think that we should do everything we can to alleviate the situation.

I think that it is a case of where additional finances are going to have to be provided. There is land for development. It is a matter of manpower and finances to get it developed.

Senator METCALF. I would hope that you would urge Secretary Hickel to ask the Bureau of the Budget and the Congress for the additional financing necessary, and I am sure that you will find every member of this committee friendly to the development of our national park system.

Dr. GLASGOW. I will.

Senator METCALF. Thank you.

Dr. GLASGOW. I will be glad to.

Senator METCALF. Thank you, Mr. Glasgow.

Senator BURDICK. Senator Jordan?

Senator JORDAN. Thank you, Mr. Chairman.

Dr. Glasgow, although I have had the pleasure of meeting you only recently, your professional competence is widely known and respected. The fish and wildlife people in my own State commend you highly

as do all others with whom I have been in contact. I am pleased to welcome you before the committee, and I shall be pleased to vote for your confirmation.

I want to thank you personally for the courtesy of two calls to my office when we had good visits covering a wide range of subjects having to do with the area in which you will be working in the Department of Interior.

Dr. GLASGOW. Thank you, Senator.

Senator BURDICK. Senator Anderson?

Senator ANDERSON. I just want to have a word or two about the preservation of the wilderness. I am quite sure you are familiar with wildernesses.

The Wilderness Act gave the Department of the Interior only 10 years to provide the Congress with recommendations as to suitability of national parks. We are running behind thus far. Would you try to help us along on this?

Dr. GLASGOW. I am a firm believer in the fact that we should have some wilderness areas, and I will do all I can to assist in establishment of those in the areas where we do not have too great a conflict.

Senator ANDERSON. The Forest Service has some of these.

Dr. GLASGOW. The Forest Service has some land, national refuge people have land that would be suitable for additional wilderness sites.

Senator ANDERSON. That is all I have.

Senator BURDICK. Senator Hansen?

Senator HANSEN. I have no questions, Mr. Chairman. I too would like to welcome Dr. Glasgow, to take note of his established and recognized competence, and to say that I shall vote for his confirmation.

Dr. GLASGOW. Thank you very much.

Senator BURDICK. Senator Bellmon?

Senator BELLMON. Mr. Chairman.

Dr. Glasgow, I am a private landowner, and when I heard Senator Metcalf's comments about how crowded our parks have become, I am reminded that there is also pressure on those of us who are on private lands and who make these lands available to urban dwellers for hunting, fishing, or camping and who also feel quite a lot of pressure. In the area where I live, the number of "No Trespassing," "Keep Out," "No Hunting and No Fishing" signs seem to be increasing every year.

It seems to me that our country is faced with two choices here. Either we provide a lot of public funds to buy up private lands and set these areas aside just for recreational purposes, or we begin to work out a system of cooperating with the private landowners so that they will be more inclined to open up these lands to people who are seeking outdoor recreational facilities.

Have you in your work in Louisiana or anywhere else had any experience, any successful experience, in resolving some of the conflicts between private landowners and hunters and fishermen and campers?

Dr. GLASGOW. I have had considerable experience in Louisiana. Most of the land in private ownership other than that belonging to large forestry companies is going into private leasing, in which the landowner leases his land to hunting clubs, and it creates problems by doing this because you exclude the public. But at the same time that landowner has an income, and I am sure this is going to grow, and

the management of wildlife resources by private landowners will become much more profitable, so that in the future you are going to see a great deal of private industry in the recreation field that we do not now have.

Senator BELLMON. The problem with those arrangements is that the ordinary rank and file citizen does not have the resources to enter into such a lease arrangement, and therefore he is not able to find a place.

Dr. GLASGOW. This is a major problem that is created, and I think that then we have to do all we can from a public standpoint to provide recreation facilities for him.

Senator BELLMON. But it seems to me that in your position you could perhaps work out an arrangement whereby the land could remain in private ownership and be useful for a multipurpose, either ranching, agriculture, and recreation, without the landowner feeling compelled to enter into a lease arrangement with some sportsmen's club.

Dr. GLASGOW. There is a third arrangement which we have not mentioned and that is leasing of the land and leaving it up to public use, and this is growing.

Senator BELLMON. Leasing the land to the—

Dr. GLASGOW. To a State wildlife and fisheries commission where they, in turn, then manage it and it is open to the public.

Senator BELLMON. Do you agree with this sort of an arrangement?

Dr. GLASGOW. Yes. We are considering this arrangement in Louisiana at the present time.

Senator BELLMON. I am a little concerned about seeing the Federal Government take title to more land, take this land out of the hands of private ownership, take it off the local tax rolls and take it out of agricultural production and use it for the single purpose of recreation when it is my conviction that it can be used for both purposes, that it can produce food and recreational benefits as well. I hope that in your position you would make an effort to see if we cannot develop this approach which you have mentioned.

Dr. GLASGOW. I will.

Senator BELLMON. I would like to say that I will be happy to support your nomination and vote for your confirmation.

Dr. GLASGOW. Thank you.

Senator BURDICK. Dr. Glasgow, I am impressed with your résumé also, and apropos of what has been said by Senator Metcalf and Senator Bellmon about the wetland versus the farming situation, I want to advise you that in North Dakota we have come to a happy meeting of the minds.

As you know, the farmers like to drain lands and the sportsmen like to keep the marshy areas open, so there is a conflict. Recently the Farmers Union, the Farmers Bureau, and the NFO, the Soil Conservation Service and sportsmen groups, the Wildlife Federation, all of them got together in harmonious agreement to support a water bank plan.

Under the water bank plan, it would be a use that the farmers would give to the public for the land, in exchange for payments similar to the agricultural program known as CAP. What do you think about an arrangement like that?

Dr. GLASGOW. I think it is very good. I am not familiar with all the details. I do know a little about the overall program, and I think it is an excellent thing.

Senator BURDICK. And if the delegation in North Dakota, which is united on this concept, introduces a bill, could we have your support on it?

Dr. GLASGOW. I would certainly discuss this very carefully with the staff, and I would think at this time that you would have.

Senator BURDICK. You understand this is not for North Dakota. This is for all lands similarly situated where they have the nesting areas and the wet lands and so forth.

Dr. GLASGOW. Yes. Your State is heavily involved.

Senator BURDICK. It seems to me it is a very workable solution. Thank you, unless there are other questions from members of the committee?

Dr. GLASGOW. Thank you.

Mr. Chairman, Senator Long gave me an introduction the other day, and that was some time ago. I would like for that to be inserted in the record.

Senator BURDICK. His remarks appear at the beginning of these hearings.

The next witness will be Mr. Jim Smith. Mr. Smith, I have a biographical résumé of your background. Have you seen it?

STATEMENT OF JAMES R. SMITH, OF NEBRASKA, TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR WATER AND POWER DEVELOPMENT

Mr. SMITH. Yes, sir.

Senator BURDICK. Is it correct?

Mr. SMITH. It is correct.

Senator BURDICK. If there are no corrections you would like to make in it, therefore, at this time it will be made a part of the record.

(The biographical sketch referred to follows:)

BIOGRAPHY OF JAMES R. SMITH

James R. Smith, 51 of Omaha, has been nominated by the President as Assistant Secretary for Water and Power in the Department of the Interior.

Smith comes to Washington from a position as manager for marketing relations for Northern Natural Gas Company of Omaha. He has been active in water and land resource development for 25 years, particularly during 10 years spent as vice president of the Mississippi Valley Association.

He was an original leader in fostering the Missouri Basin development program while he lived in South Dakota in the 1940s and he was active in reclamation projects associated with the Pick-Sloan Plan, including the Garrison Project in North Dakota, the Oahe Project in South Dakota and others.

His activities in wildlife conservation include work as president of the Omaha Zoological Society.

A native of Sioux Falls, S. D., Smith formerly served as a legislative assistant to former Senator Chan Gurney of South Dakota. He is graduate of the University of South Dakota College of Law.

Senator BURDICK. Do you have a statement you would like to make?

Mr. SMITH. I do not have a prepared statement except to say that I am deeply honored to be appointed to this high position to serve my country and will do the best job I possibly can. I am grateful to be

before this committee and to give you an opportunity to ask me any question which you might consider appropriate.

Senator BURDICK. Senator Anderson?

Senator ANDERSON. I see he is from Sioux Falls, S. Dak. Are there any questions you have as to the administrative work?

Mr. SMITH. I do not believe so, sir.

Senator BURDICK. Senator Allott?

Senator ALLOTT. Mr. Chairman, I want to welcome Mr. Smith here. He has had a long period of association and work in connection with the reclamation program in the Missouri Valley, and I am happy to see him here. I understand, and I was absent the other day, being before another committee, that Senators Hruska, Mundt, and Curtis appeared here to introduce him at that time. I believe that is correct, is it not?

Mr. SMITH. Yes, sir.

Senator ALLOTT. I just wanted the record to show this.

Now I have two questions, Mr. Smith, that I ask you, not on my own behalf but on behalf of Senator Fannin from Arizona, who could not be here today. The first question is this: "The Colorado River Basin Project Act, which authorizes the central Arizona project, directs the Secretary of the Interior to recommend the most feasible plan for supplying the power requirements for the central Arizona project including the purchase of entitlement to electric plant capacity. Do you have any objections to the United States purchasing an entitlement to generating transmission capacity from thermal electric plants and transmission lines constructed by non-Federal interests to supply the central Arizona project pumping loads?"

Mr. SMITH. My specific knowledge of the central Arizona project and its authorization is limited but I understand that that provision was incorporated into authorization. I can see no reason why I should object.

Senator ALLOTT. The point of this, of course, is that this is an unusual situation, the central Arizona project, whereby the United States purchases entitlement to generating and transmission capacity on lines constructed by non-Federal interests to supply that project.

As I understand your answer, you have no objections to this, but I do not know whether you said that you treated this as a special case or not, because the history of the act I believe is that this is a special case, and was treated as such.

Mr. SMITH. I did not say that I considered it a special case, but I do understand that it is a unique situation in the case of this particular authorization.

Senator ALLOTT. Now the second question posed by Senator Fannin is as follows: "This act requires the Secretary of Interior to submit his recommended plan to Congress to meet power needs not later than September 30, 1969. If you are confirmed are you willing to give the completion of this plan sufficient priority to meet this statutory date?"

Mr. SMITH. Yes, sir.

Senator ALLOTT. Thank you, Mr. Smith.

That is all I have. I would be happy to support you.

The CHAIRMAN. Senator Anderson?

Senator ANDERSON. No questions.

The CHAIRMAN. Senator Burdick?

Senator BURDICK. Mr. Smith, it is good to see you again.

Mr. SMITH. Thank you, Senator.

Senator BURDICK. You appeared before us quite often during the Garrison hearings and I think you are well acquainted with our area in North Dakota. I have a few questions here that have been submitted.

Mr. SMITH. I am practically an adopted son of North Dakota, since that is where my wife is from.

Senator BURDICK. Is that right? Where?

Mr. SMITH. Powers Lake.

Senator BURDICK. Do you favor the continued studies and development of the Missouri River operations in order to utilize fully the ultimate in electric power development, recreation, irrigation, and flood control?

Mr. SMITH. Yes, sir.

Senator BURDICK. In other words, those multipurposes you are all for?

Mr. SMITH. Yes, sir, I am strongly in favor of the multipurpose concept in water resources development.

Senator BURDICK. What is your interpretation of the O'Mahoney-Millikin amendment to the Flood Control Act of 1944?

Mr. SMITH. I recall the O'Mahoney-Millikin amendment which in substance says that the use of water for navigation of waters arising west of the 98th meridian shall be only such as does not interfere with certain beneficial consumptive uses of water. I cannot remember them all but I think they are stock water, mining, irrigation, municipal and industrial, not necessarily in that order. I have not read the amendment for several years, but were I in the position of Assistant Secretary for Water and Power, I would, of course, do my best to enforce it.

Senator BURDICK. Thank you.

The next question: Do you fully support the preference clause in the Flood Control Act?

The CHAIRMAN. The Flood Control Act of 1944, section 4?

Senator BURDICK. Yes.

The CHAIRMAN. That is the preference clause?

Senator BURDICK. That is right.

Mr. SMITH. I support the preference clause wherever it is written into the laws of this land.

Senator BURDICK. There have been some conversation and speculation that because of the organization with which you were formerly connected, that there could be a different point of view. I wanted to make sure that there is a difference between your view and your former employer, if there is any.

Mr. SMITH. I think it goes even a bit further than that, Senator Burdick. In view of the testimony which Secretary Hickel made on his confirmation, my recollection is that he said the preference clause would be studied, and that he would direct his Assistant Secretary for Water and Power to study the preference clause, conferring with all knowledgeable people, which of course I would expect the Secretary to ask me to do and which I would do, including discussing it with this committee.

Senator BURDICK. But since the preference clause is now law, you would support it?

Mr. SMITH. Absolutely, sir, to the best of my ability.

Senator METCALF. Will the Senator yield?

Senator BURDICK. Yes, I will yield.

Senator METCALF. Mr. Smith, according to the record here, and according to the information I have, you have been an employee of the Mississippi Valley Association. You were a director?

Mr. SMITH. Yes, sir.

Senator METCALF. You were a member of the executive committee?

Mr. SMITH. I was elected a member of the executive committee but have never served because there have been no meetings of that body.

Senator METCALF. Now the Mississippi Valley Association, in a report of its Water Resources Committee, said, and this is a quote, "Energy produced at Federal multipurpose dams be sold at the busbar to existing agencies, both public and private, engaged in the production and distribution of electricity in the contiguous area for resale by them to the customers without discrimination or preference."

Do you agree with that statement that was issued by the Mississippi Valley Association of which you were an executive director?

Mr. SMITH. In view of the power marketing agencies of the Federal Government for which I would be responsible, I could not agree.

Senator METCALF. You do not agree, so you did not agree with that statement when it was made, and you were not a party to the formulation of this policy?

Mr. SMITH. No, sir. I do not know when that policy was originally written, but it antedated my becoming an employee.

Senator METCALF. It is dated February 9, 1969. You were elected a director before then, and you were elevated to the executive committee last year, so this is part of the policy that was formulated while you were a member of the executive committee?

Mr. SMITH. It was originally written many years ago. It has been repeated in the platform since that time.

Senator METCALF. Then it was written when you were an employee?

Mr. SMITH. No, sir; prior to that.

Senator METCALF. So it was in existence when you were an employee?

Mr. SMITH. Yes, sir.

Senator METCALF. It was in existence when you were a director?

Mr. SMITH. Yes, sir.

Senator METCALF. It was in existence when you were a member of the executive committee?

Mr. SMITH. On which I have not served.

Senator METCALF. Have you done anything about repeal or repudiation or change of that policy which would destroy the preference clause?

Mr. SMITH. No, I did not.

Senator METCALF. So while you were an employee, while you were a director, and while you were a member of the executive committee on which you did not serve, you have at least tacitly concurred in this program, which would destroy the preference clause for power of the Federal Power Act and the Bureau of Reclamation Act and the other preference clauses upon which the public power bodies have depended?

Mr. SMITH. I suppose you could say that.

Senator METCALF. I have some misgivings, Mr. Chairman, about a person who comes before this committee who has been a part of an

association, an effective and I feel an influential part of an association, that advocated the repeal of a basic power policy of the Federal Government enacted by Congress, carried out by various administrations, both Republican and Democratic, over the years of the administration of our entire power program.

Mr. SMITH. Of course, I have never had to read that in the context of any responsibilities that I might have with the Federal Government.

Senator METCALF. Well, you have read it in the context of responsibilities you have had with regard to programs of the Mississippi Valley, and the Missouri Valley in which you have been very interested, and about which Senator Burdick and I are very greatly concerned.

Mr. SMITH. I belong to a lot of organizations, sir, and I do not agree with all of their policies. I am sure that most of us do.

The CHAIRMAN. Would the Senator yield at that point?

Senator METCALF. Surely I will be glad to yield.

The CHAIRMAN. Will both Senators yield for the moment?

Senator METCALF. Senator Burdick has the floor.

Senator BURDICK. I yield.

The CHAIRMAN. Mr. Smith, let me ask this question: In the event that you are confirmed as Assistant Secretary, would you advocate the repeal of the preference clause or a modification of it?

Mr. SMITH. Unless I disregard the testimony of Secretary Hickel, indicating that a study of the preference clause should be made, I could not give a categorical answer to that, Senator Jackson.

The CHAIRMAN. Well, what do you mean? I am just trying to get your state of mind. The law has been on the books in one form or another since the Reclamation Act of 1902. Teddy Roosevelt was the original author of the preference clause, I believe. It was in his administration, and it has been the law of the land in one form or another since then. I think section 5 of the Flood Control Act of 1944 provided for the marketing of power from the Corps of Engineers dams, and then there are various preference clauses, as you know, that apply in other areas, but basically the thread running through all of them is to give preference and priority to the sale of Government property just as we do in the sale of surplus property to governmental entities. This is the whole philosophy behind it.

I think the important thing here, on trying to give our advice and consent, is your state of mind, and I am interested. I know you have lived with this problem a long time. I am interested whether you are of the disposition at this time to recommend a change in this long-established policy under all administrations, Republican and Democratic alike. This is a fundamental question.

Mr. SMITH. No, sir; I am under no such disposition.

The CHAIRMAN. You have no—

Mr. SMITH. No such disposition—

The CHAIRMAN (continuing). No desire at this time?

Mr. SMITH. No, sir.

The CHAIRMAN. It is not your intention as an individual to recommend a change in the fundamental principles of the various preference and priority clause of the Federal statutes?

Mr. SMITH. No, sir.

The CHAIRMAN. We have, you know, in the Northwest the Bonneville Power Administration, which was created in 1937 for the purpose of marketing Federal power in the Pacific Northwest. It has done an excellent job of supplying low-cost hydroelectric power over a regional transmission grid at postage stamp rates. Now that most of the good hydroelectric sites have been developed, the Bonneville Power Administration has developed a program in cooperation with the non-Federal public and private utilities in our area for the integration of new thermal generating sources into a system to meet the tremendous regional growth in our power demand.

The Bonneville Power Administration would be charged with marketing a major portion of the power produced and with constructing and operating the basic backbone transmission grid needed to carry out this job.

As has been mentioned here before, the 1968 Mississippi Valley Association platform and the 1969 report of the Water Resources Committee of the Mississippi Valley Association support a number of proposed Federal policies which would, if carried out by the Department of Interior, have the effect of either, (1) terminating entirely the activities of BPA, or (2) preventing implementation of the planned cooperative program for a future power supply in the Pacific Northwest. Incidentally, this is a program supported by the private, the public, the municipal, and all the other utilities. We in the Northwest are most concerned that, in your position as Assistant Secretary, you work to support the Bonneville Power Administration in its planning and marketing role in our region.

Based on what you have said here, I take it your answer to this is an unequivocal yes?

Mr. SMITH. Yes, sir.

The CHAIRMAN. You fully support—

Mr. SMITH. Yes, sir.

The CHAIRMAN. The present program, and, it is your state of mind—

Mr. SMITH. To the degree that I know it, I do, but I am not familiar in detail with the Bonneville Power Administration and the power situation in the Pacific Northwest.

The CHAIRMAN. But you are familiar with the basic statutory provisions relating to the Bonneville Power Administration?

Mr. SMITH. Yes, to a limited degree.

The CHAIRMAN. That covers the marketing of the power and the rules under which it is marketed, and the arrangements that exist regarding the interchange and exchange of power among the various utilities in that region so that it operates as an overall power grid made up of the private and the public utilities, and the Federal Government. I am sure you are familiar with that general area.

I take it, based on what you have said here, that it is your honest judgment at this time that you have no intention of recommending a change in the law as an individual member of the Department of Interior's Assistant Secretaryship, should you be confirmed?

Mr. SMITH. No, sir.

The CHAIRMAN. Does the same apply to the supervising of the five marketing agencies of the Department of Interior? You are familiar with the various power marketing agencies that are set up by law in the marketing of power from Federal projects?

Mr. SMITH. Yes, sir.

The CHAIRMAN. What is your attitude on the building of Federal transmission lines to wheel power generated at Federal dams to the preference wholesale customers?

Mr. SMITH. I would say that it would be primarily a matter of economics. Which could be done the most cheaply, protecting the public interest, and the other responsibilities which the Department of the Interior might have.

The CHAIRMAN. You know the typical case arises where the preference customer wants to get the power and the preference clause does not mean anything unless you can move the power from the hydro site to the point at which the customer can receive the power.

We have provided, as you know, Mr. Smith, the approval of contracts to wheel power by other than the Federal Government where a reasonable wheeling rate can be worked out to avoid duplication and so on, but where that kind of agreement cannot be worked out the only lever the Federal Government has obviously is to build the line. The very fact that the Federal Government can build the line makes it possible to enter into some of these wheeling agreements, and you are going to make sure, this is the key thing here, are you going to make sure that there is that bargaining power available to the Federal Government so that in the event that whatever utility may want to wheel it is unwilling to wheel it at a reasonable rate, the Federal Government will go ahead and build the line?

We have approved, authorized, and appropriated funds for a lot of transmission lines with stipulations of this kind.

Mr. SMITH. If the need to move the power were there, if non-Federal entities could not meet the price competitively, and if it were cheaper for the Federal Government to build the transmission line and to amortize its costs, then I would favor the Federal Government building such lines. But if wheeling arrangements based on sound economics were such that it would save Uncle Sam some Federal dollars, I would have to say that all other things being equal I would not favor the Federal Government building such lines.

The CHAIRMAN. Well, the Federal Government, of course, you can argue very well initially will have to put up the money and the Federal Government won't get the money back until whatever the amortization period on transmission lines is. I think it is about 20 years, is it not?—20 or 30 years. So one can argue, you see, in that context, Mr. Smith, that the Federal Government should never build a line because you have to appropriate the money initially.

My point is, and this is the crucial question, what is your policy concerning the preference clause? Congress has to appropriate the funds to build these transmission lines, if a non-Federal entity is unwilling to move the power at rates that are reasonable and which will insure the benefits of the Federal production of power to the preference customers. You see this is the crucial thing. We have gone through this in area after area, and this is where the fight comes. Will you recommend money to build a transmission line if you cannot reach a reasonable and prudent agreement on the movement of the power?

Mr. SMITH. I would have to so recommend, if the need and market were there to move the power.

The CHAIRMAN. This is the \$64 question that we are always up against when we get into these fights.

Senator ANDERSON. I had better warn you to be careful about this testimony. Sometimes they ask you to change the whole program so that you have to be really careful.

The CHAIRMAN. I take it that you would support Federal transmission lines where there is no opportunity to get power wheeled at rates which are reasonable and prudent in carrying out the objectives of giving preference and priority to the preferred customers. The preference clause, Mr. Smith, is meaningless unless you can deliver the power. This is the whole point. It is a fiction unless the power can be delivered.

Mr. SMITH. I am not quite sure I understand exactly the questions you are asking me.

The CHAIRMAN. We have had this problem over and over again, you see.

Mr. SMITH. Yes, sir.

The CHAIRMAN. We build a Federal facility. The power is available to be produced, but the ideological fight comes over the question of making it possible to bring the power from the dam to the eligible and preferred customers as provided for under the law. Now you have to implement the preference clause every time you build a Federal project developing the sale of surplus power. You implement it by moving the power from the dam to the customers that are preferred, you see. It is one and two. It is pretty fundamental.

Now the fight comes over whether or not the non-Federal entity that comes in, the private utility in virtually all cases, is offering to move that power over its lines at a rate which is reasonable, so as to extend the benefits of the low-cost Federal power to the customers entitled to it by law, the preferred customers.

The question I am asking you is very fundamental, very simple. If you are unable to get the private utility to move that power at a reasonable rate, would you be willing to move forward with a request for funds for a Federal transmission line? Or to state it the other way, would you at the outset ask for Federal funds for the transmission line with the understanding, of course, that if a private utility is willing to build the line and deliver the power at a reasonable rate to the preferred customer, then that would be done?

Mr. SMITH. I thought I answered it. If the demonstrable need for the power to be moved were there and if non-Federal entities could not or would not do it.

The CHAIRMAN. They say they are doing it. They will do it but they will do it at a price. This is where the argument comes. They will all want to do it.

Mr. SMITH. There you get to what I would consider my responsibility with regard to the protection of the Federal investment in the generating equipment, the Federal investment in transmission equipment, protection of the Federal dollar and consumer interests. Under those circumstances—

Senator METCALF. Just a minute. Will the Senator yield?

The CHAIRMAN. I yield.

Senator METCALF. There is something else other than the Federal investment in the generating and transmission equipment. There is the preference clause that Senator Jackson is trying to bring home to you. There is not only the wheeling to take care of the Federal

investment, but it is wheeling to preference customers, so that they have the advantage of the preference clause. Now would you take that into consideration too? I mean that is the gist of the question, Mr. Smith.

Mr. SMITH. I would certainly attempt to enforce the law regarding the preference clause.

Senator METCALF. I understand, but Secretary Hickel has said that he is going to refer you to a study, and if you have already made up your mind, as apparently you have in your activity with the Mississippi Valley Association, it does not make any difference what reference he makes, we know what the conclusion you are going to reach is going to be: that is, the destruction of the preference customer, the rural electric cooperatives, the municipalities, the public utility districts in the area of the Missouri and the Columbia Valley and all over the United States.

Mr. SMITH. Oh, no, sir.

Senator METCALF. Well, then, can't you give us an unequivocal answer to Senator Jackson's question?

Senator ALLOTT. Would the Senator yield, since everybody is questioning out of turn here.

Senator METCALF. Surely.

Senator ALLOTT. There is not a man alive——

Senator METCALF. Senator Burdick has the floor.

Senator BURDICK. I will yield.

Senator ALLOTT. There is not a man alive who can give an unequivocal answer to this question because it is far too complicated. I think the chairman of the committee has been trying to point this out, and I will get to it a little bit later, but I think there is another question here.

Senator METCALF. I would like to have this question answered before you get the other question in.

Senator ALLOTT. I am not going to go to the other question. I am going to that in a little while. But I think there is another question involved in your question. It is not just alone as the chairman has suggested a question of wheeling on a reasonable basis. It is also sometimes a question of whether or not power is available from an investment that has been made in a given area at comparable rates, and this question cannot be overturned. I think there are as many views on this as there are people at this table, and we have all been through this, but I do not think that you can give a categorical answer to it.

For example, when we passed Public Law 88-552, which tampered with the preference clause in the Northwest, the Senator from Colorado was the one who upheld the strict responsibility of the preference clause in the 1902 act. So I feel that I am as strong an advocate of the preference clause as anybody at this table. It is just the twist that you put on the other end of it.

The point of it is, as the chairman has made, and he is entirely correct in this, that sometimes in the wheeling or the providing of service from say a reclamation project to a preference customer, in order to deal adequately with people with private power interests, it is necessary to give the Department of Interior the power to construct, or to appropriate money to construct, transmission lines. This is the only way that they can be put in a bargaining position, and this is the point

that the chairman is making. I think he is entirely correct in this. We have done it in the past, and we probably will have to do it again in order to bring these people really to a sensible bargaining position.

Senator BURDICK. I yield back to the Senator from Montana.

The CHAIRMAN. We might go back to the way we started. I think that might be better and then we will give the other side over here a hand.

Senator METCALF. I will be delighted to go into the question, this other question.

The CHAIRMAN. I am going to defer. Why does not Senator Burdick complete?

Senator BURDICK. My questions have been preempted. I yield to Senator Metcalf.

The CHAIRMAN. I intend to go back myself a little later.

Senator BURDICK. Go ahead.

Senator METCALF. I am concerned, Mr. Smith, about reasonable wheeling charges. You are an expert on the Mississippi and the Upper Missouri. Are you familiar with Canyon Ferry Dam?

Mr. SMITH. Only by name, sir.

Senator METCALF. Well, it is a dam on the Upper Missouri, and it is a captive dam. The Montana Power Co. has the transmission lines, and the Montana Power Co. has complete control of the wheeling of all the power from that dam. Even taking into consideration your response to the chairman of the committee regarding getting the Federal Government's money back to take care of amortization charges, and producing reasonable revenue for the Federal Government, the people of the area that should be served by that dam, the preference customers, still do not get the benefit that they are entitled to under the law, because of exorbitant wheeling charges.

Now I suppose that is ancient history, but the point is what are reasonable wheeling charges?

Sometimes wheeling charges are so exorbitant that the preference customers no longer have a chance to benefit from public expenditures intended for their benefit. Now what do you think reasonable wheeling charges are? Let me ask you another question.

Mr. SMITH. Yes, sir.

Senator METCALF. In western Minnesota, companies are paid 3½ mills a kilowatt hour for wheeling, over and above the Bureau of Reclamation wheeling contract of 1 mill. Is that a reasonable wheeling charge?

Mr. SMITH. I do not know enough about the specifics of that situation to say whether it is reasonable or not.

Senator METCALF. I tried to ask you a general question. It seemed to me that you had some difficulty with it, so I was asking you specific questions.

Mr. SMITH. I was trying to define in my own mind, before I answered, what reasonable means. I suppose that I would say competitive with the leverage which the Federal Government might have by threatening the construction of its own lines, in order to secure the best possible bargain which it could secure from those already operating in the area.

Senator METCALF. To take into consideration even the high interest component we have today, and the cost of the construction of the line,

we would look at it as a competitive rate as against the rate that the private power company would charge, is that right?

Mr. SMITH. I suspect so. We are in a highly technical area.

Senator METCALF. The Mississippi Valley Association has made a declaration about these wheeling charges and said that it is opposed to anything, any construction of transmission lines where reasonable wheeling service is available; and it seems to me that when the association with which you were associated for a long time has made that statement, we should have a definition of what reasonable is.

Mr. SMITH. I suspect that after this hearing the Mississippi Valley Association might attempt to define what they mean by the word "reasonable." It was never defined during my association with the organization.

Senator METCALF. And you did not think to question it when you were associated with them?

Mr. SMITH. I doubt that anyone can define it except in relation to specific instances. I do not think I could.

Senator METCALF. Someone did when they asked "that the Government not construct power transmission facilities where reasonable wheeling service is available." Now that is a part of the report of the Water Resources Committee of the Mississippi Valley Association of February 9, 1969. They must have meant something by that, Mr. Smith, and you must have meant something when you said that there should be reasonable wheeling charges, and when they were not reasonable then the Federal Government should have transmission lines. Now what did you mean and what did they mean?

Mr. SMITH. To the best of my knowledge in that organization with which I was formerly associated, that was never even discussed. I think that it was probably considered implicit that "reasonable" means just exactly what reasonable means.

As far as I am personally concerned, I will attempt, if I am confirmed, to interpret "reasonable" in terms of individual specific circumstances which at this moment I have had no opportunity of studying. I have not sat behind that desk, sir.

Senator METCALF. I feel that as a result of our interrogation of Secretary Hickel, and his responses to this committee, that you are going to be the person to make the recommendations to Secretary Hickel and largely set the policy on the preference clause, on recommendations to the Congress as to the continuation of service to the rural electric co-ops, to the public utility districts, to the municipalities under the preference clause. I would certainly like to know the state of mind in which you are going into it, because if you have prejudged this case as would be indicated from the report of the Water Resources Committee of the Mississippi Valley Association, we know that we are in very serious trouble in the Northwest, in the Columbia Valley, and in the Missouri Valley.

Senator Jackson represents the Columbia Valley, but I am fortunate enough to represent two great watersheds, and two great areas that are depending upon your interpretation of this part of the law and what "reasonable" actually means, and I am greatly concerned, Mr. Smith, about just exactly what you think.

Mr. SMITH. Senator, I do not recall that I ever have heard such a learned dissertation on the differing points of view on the preference clause and its interpretations. If I have one feeling right now, it is

that this is something on which I had better get busy and start studying. I can promise you this: I have no predisposition one way or another on this subject, and I will report to the Secretary the results of what I can see now may be a rather complex study.

Senator METCALF. I have been talking on Senator Burdick's time. I have some other questions.

The CHAIRMAN. Why don't we turn to the other side?

Senator METCALF. I think we should return to the regular interrogation and I will get back on another subject.

The CHAIRMAN. The Chair would just like to ask a couple of questions and then I will turn to Senator Jordan. They are for clarification.

In connection with your employment by the Mississippi Valley Association, were you called upon to recommend policy, especially to this question that has been raised about the preference provision?

Mr. SMITH. No, sir.

The CHAIRMAN. So that you were basically a nonpolicymaker. You were a paid officer?

Mr. SMITH. A staff member.

The CHAIRMAN. A staff member of the association?

Mr. SMITH. That is right, sir.

The CHAIRMAN. And you carried out the decisions of policy made by the others?

Mr. SMITH. Yes, sir. It is a rather complicated process incidentally, with many hundreds of people from a wide area involved.

The CHAIRMAN. I just want to find out whether you were involved in policymaking or just carrying out policy already set. In other words, were you recommending policy or making policy?

Mr. SMITH. No, sir.

The CHAIRMAN. This was done by what, the board of directors?

Mr. SMITH. It was done by the water resources committee, which in turn reported to the resolutions committee, an elected group of about 100 as I recall, which in turn was ultimately voted on by the membership. The board of directors was more of an administrative group that operated with regard to budget and so forth more than operating in the fields of policy, which was and is handled by the members at large and the resolutions committee, which is elected from all over the United States.

The CHAIRMAN. But as far as your duties were concerned, they were to carry out policy?

Mr. SMITH. My duty was to work as a staff member to implement the policies.

The CHAIRMAN. That is what I mean.

Mr. SMITH. Determined by the organization, right.

The CHAIRMAN. You were not called upon to recommend policy?

Mr. SMITH. No, sir.

The CHAIRMAN. You were called upon from time-to-time to implement or carry out a policy made by others?

Mr. SMITH. That is right, sir.

The CHAIRMAN. One other question. You made some reference here a short time ago about a study being underway or undertaken in the Department on the preference clause. Could you just elaborate on that?

Mr. SMITH. Only by indirection, since I read Secretary Hickel's testimony when he was before this committee for confirmation, wherein he said that he would direct the Assistant Secretary for Water and Power to study and to report back to him and to talk to knowledgeable people about the preference clause. There has been no such direction given to me yet, although I suspect that if I am confirmed such directions won't be very long in coming.

The CHAIRMAN. But you have not had any discussions about this question of a study of the preference clause up to this time. All you know about it is what you read in the record in connection with the Secretary's confirmations?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Senator Jordan?

Senator JORDAN. Thank you, Mr. Chairman.

Mr. Smith, I do not propose to try and confuse you any more, but I suspect that you are going to run into a lot of different arrangements in various river basins over the country, with which you will be involved. I know in the Pacific Northwest the preference clause is well established by law, by custom, and by usage, and it is no longer a matter of contention. But the preference clause arises primarily from the disposition of power from the Federal hydroelectric projects. Comes now the proposition in the Pacific Northwest when all economically feasible hydroelectric projects have been pretty well developed.

We have a unique arrangement in the Pacific Northwest in that we have the Northwest Power Pool, and the various members of this Northwest Power Pool encompass the Federal Government, municipalities, county public utility districts, private power utilities, and they combine together in the Northwest Power Pool because it is mutually advantageous for them to do it.

They share the advantages of a water supply diversity, of a load diversity. They share the advantages of a common reserve to meet the load growth, so that there is a tremendous bonus to be divided by getting along together, and they do get along very well together in the Columbia Basin.

We are at this point now in the Columbia Basin when future projects will probably be joint ventures between all of the members of the Northwest Power Pool, when the Federal Government will be one of the parties in a joint venture, when possibly the utility districts, public utility districts of Washington County might be a member of the joint venture, when the city of Tacoma or the city of Seattle municipal powerplants or the city of Eugene or the city of Idaho Falls might be other members of such a joint venture, and likewise the private utilities in the area might be members of such a joint venture.

I just would want the record to show that in such instances the preference clause would not be applicable because of the diverse participation by various public and private agencies. I just hope that the preference clause would not be interpreted here to carry over into that kind of an arrangement, because I think that the disposition of the power under those circumstances would be by stipulation among the parties themselves. Would you care to comment on that? I am not trying to confuse you. I just want to say what is reasonable in

one area as a wheeling rate might be entirely different in another and I think you should be wary of trying to put your own definition on what is a reasonable rate until you know of all of the circumstances involved.

Mr. SMITH. I can only say that I agree with you completely.

I am a westerner, too, although I am not from the Pacific Northwest. But I have very strong feelings that it is going to take the best efforts of the public and private sector, the municipalities, the public utilities districts and everybody else, for us to really develop the West and to keep it the viable part of the economy of this Nation which it should be.

Senator JORDAN. And there is such a tremendous bonus to be divided among them by getting along together rather than by perpetuating this squall about public and private power.

Mr. SMITH. Yes, sir.

Senator JORDAN. Thank you.

The CHAIRMAN. Senator Hansen? I am trying to level this thing off a little bit here.

Senator HANSEN. I do not know where I fit in the scales, Mr. Chairman, but I thank you for the recognition anyhow.

The CHAIRMAN. Well, you are pretty powerful on the scales. My colleagues to the right on the Democratic side asked quite a few questions, and the Chair has interceded with some questions, so I think—

Senator METCALF. I will have some more questions so I am delighted to have Senator Hansen proceed.

The CHAIRMAN. I am anticipating that.

Senator HANSEN. Mr. Smith, the distinguished Senator from Montana has spoken about his State, its representations and his keen interest in two major river basins. This is equally true with reference to my State of Wyoming. As a matter of fact I think that we are probably unique in that waters drain from our State of Wyoming to the north, to the east, to the south, and to the west. We are on the head of the creek, so to speak, of certain of the important tributaries of the Missouri and the Colorado. We have water flowing into the Great Salt Lake, and into the Columbia.

We were one of the last areas on some of these streams to be developed agriculturally because of the elevations that characterize most of Wyoming, and because of the short growing season we have. It is understandable and entirely reasonable that the parts of the country with long growing seasons, with lower elevations, with greater opportunity for diversity in agriculture would have been developed ahead of us.

It is also true that, because certain portions of Wyoming are or were relatively inaccessible, settlers did not come into those certain sections of Wyoming until relatively recent times.

Consequently we are somewhat behind some of the other States in the development of the potential that we have in Wyoming, and I might add parenthetically that more and more we are becoming a veritable storehouse of natural resources. We are one of the most important States in the production of uranium. We have by far and away the most important production of any State. The production of these important resources, calcium carbonates, soda ashes which are

manufactured in the East now are moving West, and are finding as their major source of supply the petroleum deposits in southwestern Wyoming.

We have a lot of oil production. We rank very high among all of the States in coal resources, and we have some important low-grade iron ore deposits in Wyoming, along with a very considerable amount of oil shale.

So when we talk about the development of Wyoming, we are not thinking exclusively of trying to develop the agricultural potential of our State, but of trying to make the best use of all of these resources. When I say of all of these resources, I certainly do include and recognize the contribution that Wyoming makes toward the full recreation potential of this country, and in that respect we have much to offer.

But as we think about developing these resources, it is obvious instantly to anyone who has pondered it for a moment what the key to all of it is.

I am sure that the Representatives in the Halls of Congress from the State of Wyoming have recognized what an important role water will play in the development of all of these resources, and I think I can say that the votes on various matters down through the years, by the various Representatives both in the Senate and the House, have reflected that view. It is also important to note that, without regard to politics, they voted pretty much alike. That that was the situation just last year, when we were considering the central Arizona project.

I guess we have the unique and some may say dubious distinction of casting some of the few votes that were cast against that bill. Both Senator McGee and I voted against the bill.

I am concerned about the attitude of the division that you will head up in the Department of the Interior. Being charged with the water and power development for the Department, I would like to find out what your attitude will be. It was implied by some people in the Interior Department last year that, because we have not seen fit to support the other States in some of the recent bills before the Congress, and particularly the central Arizona project bill, Wyoming might experience quite a drought insofar as any Federal concern being registered on our request for consideration by the Government of our projects—projects that we consider to be important; that we consider to be good; that we consider to be feasible; and which we would hope would receive the endorsement of the Department so that we could get on with the job of developing the full potential of the resources we have in Wyoming.

I just counted up some of the projects which are proposed in Wyoming. There are some 15, and at the present time we have four reclamation bills before the Congress.

My question to you is: Will you be disposed to judge each of these projects and each of these proposed projects on its merits, with no regard to what might be read into the legislative history of Wyoming's support or the withholding of support of projects that may have been before the Congress in the past?

MR. SMITH. You have my word, sir, that there will never be any project with which I have anything to do that will not be judged on its merits insofar as recommendations to the Congress. I can state that flatly. I could not live with my conscience were I to do anything else.

Senator HANSEN. I appreciate that in the final analysis the decision will not be yours to make, but I certainly appreciate your unequivocal answer that each of these projects will be judged on its own merits, and that your recommendations will be based on this judgment and not on Wyoming's votes on past legislation.

Mr. SMITH. Yes, sir.

Senator HANSEN. I have no further questions, Mr. Chairman. Thank you.

The CHAIRMAN. Senator Metcalf?

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

Mr. Smith, the staff has called my attention to the hearings on the confirmation of Secretary Hickel. Apparently I was the one who asked the question about the preference clause. I was asking the question about the preference clause as to REA cooperatives alone, because I was concerned about continuation of the loans, and I went into that. Secretary Hickel said:

My Assistant Secretary, who will be in charge of this, will come up with recommendations after conferring with all the people of knowledge, including men on the committee.

And I assume that it is that exchange to which you were referring?

Mr. SMITH. Yes, sir.

Senator METCALF. Now, Mr. Smith, is it your understanding that the preference clause means that the delivery of power generated at Federal dams is a preference to these REA co-ops, municipalities, and public utility districts as against the demands of the private power companies? Is that your understanding, sir?

Mr. SMITH. That the sale——

Senator METCALF. That the sale of power, as long as it is available, is a preference——

Mr. SMITH. To public power?

Senator METCALF. Of that sale to public interest groups?

Mr. SMITH. Yes, sir.

Senator METCALF. And preference customers have a prior claim to this power?

Mr. SMITH. Yes.

Senator METCALF. In Senator Curtis' State of Nebraska all of the customers do.

Mr. SMITH. That is right. It is my State, too, sir.

Senator METCALF. But that is your interpretation of the preference clause, isn't it?

Mr. SMITH. Yes, sir.

Senator METCALF. Now, isn't it then a necessary adjunct, a corollary to the preference clause, that there should be a preference as to the wheeling of this power as a part of the Federal transmission system?

Mr. SMITH. Not necessarily. It is the sale of power.

Senator METCALF. I will be glad to yield, if you have any questions.

The CHAIRMAN. No, that is all right. You go right ahead.

Senator METCALF. Isn't that right, it is the sale of power, not the transmission?

The CHAIRMAN. Would you please preside?

Senator METCALF. Yes.

Then if there is no wheeling of power, the preference clause is a dead issue as far as the actual obtaining of power is concerned; is that correct?

Mr. SMITH. I am not sure I understand. I think we are getting in deeper than I am qualified to go.

Senator METCALF. No, we are not getting in deeper. This is why I read to you that proposition that was a part of the report of the Water Resources Committee of the Mississippi Valley Association, that energy produced at Federal multipurpose dams be sold at the busbar to existing agencies, both public and private engaged in the production and distribution of electricity in the contiguous area for resale by them to their customers without discrimination or preference.

The whole point of this situation is that there are REA's, there are municipalities all over America who are entitled to preference power, but they can't get it at the busbar.

Mr. SMITH. I understand that.

Senator METCALF. Now the gist of this whole interrogation is, Do you believe in the preference clause to deliver power to these preference customers by transmission line, if it isn't available, or do you feel that the preference clause is satisfied by sale at the busbar, and then transmission by resale to customers without discrimination or preference? Now that is the gist of the whole problem.

Mr. SMITH. I understand there is some busbar sale by the Federal Government at this time.

Senator METCALF. There are wholesale busbars.

Mr. SMITH. Yes, I understand that. I don't know where. I haven't checked it. The reason that I said I disagree with that is because quite obviously there is a very rather vast Federal transmission system already in existence, and to espouse the sale of electricity only at the busbar I think is completely academic.

Senator METCALF. It is not academic as far as the Missouri Valley is concerned, and it is not academic as far as the Columbia Valley is concerned insofar as I am familiar with it. Now this is a general policy.

Mr. SMITH. Senator, I am not committed to anything in the Mississippi Valley Association platform. I don't work for them any more and haven't for 3 years. You understand that.

Senator METCALF. But what I am trying to say is that (1) there is a preference for sale to these public interest customers, REA cooperatives, municipalities, public power areas, public utility districts; that is the policy of the law. But if it is a sale at the busbar, as you have suggested and as the Mississippi Valley has declared to be a policy, it will be destroyed unless we have transmission systems and wheeling agreements that will protect those preference customers.

Mr. SMITH. I don't disagree with that.

Senator METCALF. If you don't disagree with it, it is the gist of our whole discussion, because an REA in the middle of an area that does not have any Federal transmission lines is helpless to exercise either its preference rights or to get any prior right to Federal power, unless they have some program of either demanding on the part of the Federal Government that there be wheeling agreements, or substituting and appropriating money for separate Federal transmission lines, and that is obvious to you just as it is to anybody else who is familiar with this power problem.

I am not going to belabor the point. I think we are in accord and in agreement that a reasonable sale of power means to carry out the intent of the act, and that is to give an opportunity to provide the

public interest customers, who enjoy a preference right by statute, that preference right as a matter of reality and actual circumstances; isn't that correct, sir?

I don't want to put words into your mouth. I want you to make the statement.

Mr. SMITH. As long as there is reasonableness about the whole process—

Senator METCALF. We have already discussed reasonableness, which is a word that doesn't have any meaning. It doesn't have any meaning to you. It didn't have any meaning apparently to the Mississippi Valley Association, because I had an intensive interrogation as to what it meant, so let's not talk about reasonableness. Let's talk about something else, so we get down to actual facts.

Mr. SMITH. In which instance I will enforce the law to the best of my ability as it relates to the preference clause.

Senator METCALF. I wouldn't ask for any more. You can have any private reservations, and I hope, if you want a change in the law, you will consult with at least the chairman of the committee, and some of the members of this committee, before you send up or recommend that Mr. Hickel send up modifications or revisions. All I want is a declaration that you will enforce the law that has been in existence under the preference clause for all these years.

Mr. SMITH. That is right.

Senator METCALF. I am going to get into an area with which you are a little more familiar, and that is the Missouri Basin. You are familiar with the Missouri Basin Systems Group, are you not?

Mr. SMITH. In general terms, I am.

Senator METCALF. It is a 125-member pool in eight of the Missouri Basin States, and it is composed of cooperatives, generation, transmission, and distribution systems.

Some of them are municipals, some of them are cooperatives, some are Nebraska public power districts, and Bureau of Reclamation regions. All of them, however, are loosely referred to as public power organizations.

Now do you believe that the Bureau of Reclamation should participate and continue to participate in this pool?

Mr. SMITH. I understand the Bureau is now participating in the pool.

Senator METCALF. That is right, it is.

Mr. SMITH. And I further understand that this is an arrangement among Federal and non-Federal interests both to do the best job they can to develop the energy transmission facilities in the area which both you and I live in.

Senator METCALF. Energy transmission, distribution, and generating facilities, yes.

Mr. SMITH. Yes. I am hoping to work with them more closely. In fact, I hope to attend a meeting of that organization and get a full briefing so that I, really, do understand the whole story. As of this moment I think it is fine, and certainly I think the Bureau should continue to work with it.

Senator METCALF. I thank you for that answer, and I wish you would attend these meetings.

Now do you favor the continuation of the Bureau of Reclamation in the Federal power program of marketing power, especially the

Bureau of Reclamation, because that is going to be in your general area?

Mr. SMITH. Yes, sir.

Senator METCALF. You will remember the Mid-Continent Area Power Planners (MAPP) trying to put together a regional power organization without the Bureau of Reclamation. Do you remember that?

Mr. SMITH. Yes; in general terms, sir.

Senator METCALF. Would you approve having a special public power-nonpublic power group come together and exclude the Federal power agency?

Mr. SMITH. Well, that MAPP group, Mid-Continent Area Power Planners, isn't all private power, sir; is it?

Senator METCALF. It was until some of the Senators and some of the Congressmen from those Middle Atlantic States started to talk about including the Bureau of Reclamation, and some of the municipals and some of the public power agencies in this group.

Mr. SMITH. I would hope the MAPP group and—

Senator METCALF. And the others.

Mr. SMITH (continuing). The public groups will get together, because I get right back to a point that I tried to make originally:

It is going to take the best efforts of all of us, public and private, if we are really going to take care of the future growth of our country and our part of the country, Senator.

Senator METCALF. It certainly is going to take all the tact and abilities that you have—

Mr. SMITH. And money and engineering and a lot of other things.

Senator METCALF (continuing). To get the public power people and the private power generation and transmission groups together for the benefit of the wheeling and transmission interests of everybody in that entire area, and that is all we are concerned about, isn't it?

Mr. SMITH. I would be greatly honored if I could have that capability, and I am certainly going to try, sir.

Senator METCALF. I hope you have. I have some questions to ask, if I may, Mr. Chairman.

Senator BURDICK. You may.

Senator METCALF. About two other areas. One is that Senator Moss has asked me to propound some questions. He says:

My State of Utah has a strong stake in the Federal power programs administered by the Assistant Secretary,

Which will be you

In 1961 Secretary Udall issued a memorandum on power policy. He laid out five fundamental principles which formed the foundation of the federal power program under his direction. As Secretary Udall noted, these principles are embraced in acts of Congress dealing with the government's power development activities.

Because we now have a change in administration,

Senator Moss says, and I concur:

I think it is pertinent to ask for your opinion of these five principles and your thoughts as to whether you would support or reject them. The first is federal dams shall, where feasible, include facilities for generating the electric energy."

Mr. SMITH. Federal dams where feasible should include facilities for generating hydroelectric energy? Generally, as a principle, and

following the multiple-purpose concept which I have embraced for a long time, and particularly out in the West, I think it would be wasteful of Federal investment not to use falling water where possible to generate electricity.

Senator METCALF. Thank you very much.

Preference in power sales shall be given to public agencies and cooperatives.

I think we have gone into that rather extensively, so we will refer Senator Moss back to the colloquy before.

Power disposal to be for the particular benefit of domestic and rural consumers.

That goes back to the preference clause, too, except that it points out that domestic and rural consumers rather than industrial shall have prior choice. Would you agree with that?

Mr. SMITH. No; not necessarily, unless that is what the people out there want. If that is the case, generally speaking and maybe certain areas are not interested in industrial growth, but fundamentally I could not agree with it, sir.

Senator METCALF. My own idea is that the preference clause as enacted and as administered over the years, which has given the preference to the rural electric cooperatives, which sometimes in turn sell to industrial loads, and to municipalities, is that correct, and we don't have to make a special program of preference to rural and domestic consumers. Wouldn't you agree with that?

Mr. SMITH. Rural and domestic consumers, those words aren't defined. Domestic meaning within the State?

Senator METCALF. That would probably be. I am reading from Senator Moss' questions. That would be residential consumers, I would assume.

Mr. SMITH. I don't know enough about it to give an intelligent answer.

Senator METCALF. I don't know what he wants. I feel that we have gone over this subject, too.

The fourth principle is:

Power should be sold at the lowest possible rates consistent with sound business principles.

Mr. SMITH. I certainly agree with that.

Senator METCALF. The fifth is:

Power disposals shall be such as to encourage widespread use and to prevent monopolization.

Mr. SMITH. I agree with that in principle, although monopolization is not defined.

Senator METCALF. I think that you should heed the admonition that Senator Anderson passed on to you, because that is very complex, but in general I think we can agree with it. I am not going to interrogate you on that. I suggest that we both are going to talk about power on that question as to monopolization and the sale of power.

I have one more question, Mr. Chairman, if I may be permitted.

In the Flood Control Act of 1962, Congress authorized the development of the multiple-purpose project on the Delaware River. The Delaware flows between New Jersey and Pennsylvania.

The authorized Federal, and I emphasize "authorized," project includes one development of 40,000 to 70,000 kilowatts. This power is sold to preference customers.

Investor-owned power companies, and I call them I O U's, in the area have proposed the deauthorization of the power aspects of the Federal project and the development by the power companies of a large pump storage project.

The REA's and municipally owned system in Pennsylvania and New Jersey within economic transmission distance to the projects would be entitled as preference customers to purchase the output if it is a Federal project. They are now required to pay the I O U's for power purchased at wholesale rates substantially higher than the national average paid by cooperatives.

The whole question is as to the deauthorization of that as a Federal project, and the permission of individual private power companies to come in there and have the benefit of that project and not be required to honor the preference clause.

Is it your plan to insist on the protection of the rights of the REA customers, or would you favor deauthorization of the project?

Mr. SMITH. I know precisely nothing about that project, sir. I could not answer it without undertaking a study of it.

Senator METCALF. I think probably that is the best answer that you can give. I don't see anything in your background or experience to convince me that you should know about it.

I hope you will look into the project, look into it in the light and with reference to the same point of view that we have discussed in our colloquy as to the rights of the preference customers in other areas with which you are familiar and with which you have had experience.

Mr. SMITH. I will look into it, sir.

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

Mr. SMITH. Thank you, Senator.

Senator BURDICK. Senator Allott?

Senator ALLOTT. Thank you, Mr. Chairman. There is just one matter I wanted to refer to.

I referred a while ago to the position of the Senator from Colorado with respect to preference electricity, and I am referring now to Public Law 88-552:

An Act to Guarantee Electric Consumers in the Pacific Northwest First-Call on Electric Energy Generated at Federal Hydroelectric Plants in That Region, And to Guarantee Electric Consumers in Other Regions Reciprocal Priority and for Other Purposes.

Subparagraph (e) defines a non-Federal utility as:

Any utility not owned or controlled by the United States, including any entity (1) which such a utility owns or controls in whole or in part or (2) which is controlled by those controlling such utility or (3) in which such utility is a member.

And then subparagraph (f) goes on to define the energy requirements of any Pacific Northwest customers.

Now, we did in this act, and this was something with which I was not in accord, violate the principle of the preference clause, in my opinion. I don't think there is any question but what we did, because section 3 provides that:

Any contract for the sale or exchange of surplus energy for use outside the Pacific Northwest or as replacement directly or indirectly within the Pacific Northwest for hydroelectric energy delivered for use outside that region by a non-Federal utility shall provide that the Secretary, after giving the purchaser notice not in excess of sixty days, shall not deliver electric energy under such contract when it can reasonably be foreseen that such delivery would impair his

ability to meet either at or after the time of such delivery the energy requirements of any Pacific Northwest customer.

Now, as I see this, this gives even nonpreference customers in the Pacific Northwest a preference over preference customers who are not immediately a part of the Northwest, so I guess the only point I am making is that the preference clause is subject to a lot of interpretation.

It depends upon where you are, but certainly in this instance the preference clause has been limited for the use of the Northwest, which doesn't change my attitude toward the preference clause, which is that it should remain inviolate, I just wanted to make that point.

Senator BURDICK. Senator Jordan?

Senator JORDAN. No; I am through.

Senator BURDICK. I have a question here submitted by Senator Harris, and I will read it as he gave it to me:

A couple years ago the Department of the Interior—in fact, Secretary Udall himself—rejected a proposed electric power contract between eight power companies and the Southwestern Power Administration. It would have permitted feeding the entire output from 11 Federal dams into the company systems and given those companies the exclusive right to provide all the energy for firming up the Federal projects—even if that energy could be obtained much cheaper from other sources. It was turned down because the department said it was inimical to good resource management and contrary to good Federal power marketing policies. The Rural Electric cooperatives of the region are virtually 100 percent opposed. Many of the municipally-owned systems are opposed to the proposed contract as well. If Mr. Smith is asked to approve that contract—which is quite likely—I would like to have his assurance that he will consult closely with the rural electric cooperatives of the Southwestern Power area before acting on that contract.

Would you consult with him?

Mr. SMITH. Would I consult with the REA's in that area?

Senator BURDICK. Yes.

Mr. SMITH. Certainly.

Senator BURDICK (continuing):

Also I would like to have his assurance that he will look favorably on the continuation of a study of power marketing matters in that area—involving Southwestern Power Administration—which was undertaken by a private engineering firm at the direction of the Department of Interior and with the strong support of the rural electric cooperatives.

Could you give that assurance?

Mr. SMITH. I don't know anything about the contract. I don't know anything about the price. I don't know what they are being paid to do. I have had no opportunity to look into it. I most assuredly will do so as soon as possible.

Senator BURDICK. As soon as possible. Apparently the question deals with looking favorably upon a continuation of a study of the power marketing in that area.

Mr. SMITH. Look favorably upon a continuation of the study. In other words, approve its continuation. I would have to look at the study and the contract, and what they are doing, but I can assure Senator Harris that I will look into it, and I will talk to him about it. I am sure that is what he wishes.

Senator BURDICK. Then I have a request from Senator Church to include in the record at this point, without objection, a telegram from the Idaho Cooperative Utilities Association. Without objection, it will be received.

(The telegram referred to follows:)

ATLANTIC CITY, N.J., March 14, 1969.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.:

We fervently implore that in the hearings to affirm James R. Smith as Undersecretary of the Interior today before your committee, you sufficiently establish that as the Undersecretary he does not carry the philosophy as representing the Mississippi Valley Association of which he was an officer. This philosophy would be contrary to all the development in the West that has meant so much to us in the past and for the future.

EDWIN C. SCHLENDER,

Idaho Legislative Representative for Idaho Cooperative Utilities Association.

Senator BURDICK. I have a telegram from Robert Partridge, general manager of the National Rural Electric Cooperative Association, which will be received and printed.

(The telegram referred to follows:)

WASHINGTON, D.C.,
March 13, 1969.

Hon. QUENTIN N. BURDICK,
U.S. Senate,
Washington, D.C.:

We are advised that hearing on confirmation of James R. Smith to be Assistant Secretary of Interior for Water and Power Development is scheduled for March 14. Mr. Smith served on the staff of the Mississippi Valley Association for thirteen years, and is currently a member of the board of directors and executive committee of that association.

The 1968 platform of the Mississippi Valley Association and the February 9, 1969, report of its water resources committee advocate repeal of statutes granting to non-profit cooperatives and municipals preference on the availability of federal power. They also support sale of all such power at Thsbusbar as well as priority for privately owned power companies on all pumped storage hydro sites. The same documents express opposition to federal transmission lines and back non-federal ownership of hydro facilities in federal dams.

In view of the fact that many hundreds of rural electric cooperatives throughout the country depend for their existence on wholesale power generated by federal hydro plants in federal dam and delivered over federal transmission lines, our membership is most apprehensive of and concerned with the possibility that the anti-federal power statements of Mississippi Valley Association will be embodied in the policies of Mr. Smith as Assistant Secretary of the Interior.

We do not believe that President Nixon intends to upset and over-rule fifty years of law and public policy relating to federal water resources development and we respectfully urge that you make certain during the confirmation hearings that Mr. Smith recognizes the underlying public interest which these time tested policies have been designed to serve.

Sincerely

ROBERT D. PARTRIDGE,

General Manager, National Rural Electric Cooperative Association.

Senator BURDICK. I also have a letter from the Oyster Institute of North America, endorsing the nomination of Dr. Glasgow, for inclusion in the record at this point.

(The communication referred to follows:)

OYSTER INSTITUTE OF NORTH AMERICA.
Sayville, Long Island, N.Y., March 17, 1969.

Hon. HENRY M. JACKSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: We endorse the nomination of Dr. Leslie Glasgow and hope you will confirm his appointment. The enclosed biographic sketch is testimony to his competence.

The fisheries of the United States urgently need your continuing interest and support.

Sincerely yours,

Mrs. DAVID H. WALLACE,
Executive Director.

Senator BURDICK. Are there any other matters before the committee?

(No response.)

The meeting is adjourned.

(Whereupon, at 4:25 p.m., the committee was adjourned.)

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