

92<sup>nd</sup> Congress



UNITED STATES

OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 92<sup>nd</sup> CONGRESS  
SECOND SESSION

VOLUME 118—PART 20

JULY 26, 1972 TO AUGUST 3, 1972

(PAGES 25347 TO 26794)

|               |           |           |
|---------------|-----------|-----------|
| Javits        | Muskie    | Sparkman  |
| Jordan, Idaho | Nelson    | Spong     |
| Long          | Pastore   | Stafford  |
| Magnuson      | Pearson   | Stevens   |
| Mathias       | Pell      | Stevenson |
| McClellan     | Percy     | Symington |
| McGovern      | Proxmire  | Talmadge  |
| McIntyre      | Randolph  | Thurmond  |
| Metcalf       | Ribicoff  | Tower     |
| Mondale       | Roth      | Tunney    |
| Montoya       | Schweiker | Williams  |
| Moss          | Smith     | Young     |

ANSWERED "PRESENT"—1

Fong

NOT VOTING—10

|         |              |        |
|---------|--------------|--------|
| Baker   | Church       | Miller |
| Bentsen | Gambrell     | Mundt  |
| Boggs   | Harris       |        |
| Brooke  | Jordan; N.C. |        |

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. HUMPHREY). The question now recurs on amendment proposed by the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. GOLDWATER (when his name called). Present.

Mr. THURMOND (when his name was called). Mr. President, for the reasons I have already stated, I announce present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that if present and voting; the Senator from Georgia (Mr. GAMBRELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) would each vote "yea."

The result was announced—yeas 82, nays 4, as follows:

[No. 326 Leg.]

YEAS—82

|          |                 |               |
|----------|-----------------|---------------|
| Aiken    | Cranston        | Jackson       |
| Allen    | Curtis          | Javits        |
| Allott   | Dole            | Jordan, Idaho |
| Anderson | Dominick        | Kennedy       |
| Bayh     | Eagleton        | Long          |
| Beall    | Eastland        | Magnuson      |
| Bellmon  | Ervin           | Mathias       |
| Bennett  | Fannin          | McClellan     |
| Bible    | Gravel          | McGee         |
| Brock    | Griffin         | McGovern      |
| Burdick  | Gurney          | McIntyre      |
| Byrd     | Hansen          | Metcalf       |
|          | Harry F., Jr.   | Mondale       |
|          | Hart            | Montoya       |
|          | Byrd, Robert C. | Hatfield      |
|          | Cannon          | Moss          |
|          | Case            | Hollings      |
|          | Chiles          | Hruska        |
|          | Cook            | Hughes        |
|          | Cooper          | Humphrey      |
|          | Cotton          | Inouye        |
|          |                 | Packwood      |
|          |                 | Pastore       |
|          |                 | Pearson       |

|           |           |          |
|-----------|-----------|----------|
| Pell      | Scott     | Taft     |
| Percy     | Smith     | Talmadge |
| Proxmire  | Sparkman  | Tower    |
| Randolph  | Spong     | Tunney   |
| Ribicoff  | Stafford  | Weicker  |
| Roth      | Stevens   | Williams |
| Saxbe     | Stevenson | Young    |
| Schweiker | Symington |          |

NAYS—4

|           |           |
|-----------|-----------|
| Buckley   | Mansfield |
| Fulbright | Stennis   |

ANSWERED "PRESENT"—3

Fong Goldwater Thurmond

NOT VOTING—10

|         |              |        |
|---------|--------------|--------|
| Baker   | Church       | Miller |
| Bentsen | Gambrell     | Mundt  |
| Boggs   | Harris       |        |
| Brooke  | Jordan, N.C. |        |

So Mr. HARTKE's amendment was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARTKE and Mr. GRIFFIN moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

I transmit herewith the 1971 Annual Report on the administration of the Radiation Control for Health and Safety Act of 1968 (Public Law 90-602), as prepared by the Secretary of Health, Education, and Welfare.

RICHARD NIXON.

THE WHITE HOUSE, August 1, 1972.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 1, 1972, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 208) authorizing the President to proclaim the third Sunday in October 1972 as "National Shut-In Day."

EQUAL EXPORT OPPORTUNITY ACT

The PRESIDING OFFICER. Under the previous order, the unfinished business will now be temporarily laid aside and the Chair now lays before the Senate S. 3726, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3726) to extend and amend the Export Administration Act of 1969 to af-

ford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. MONDALE. Mr. President, I yield 1 minute to the Senator from Montana.

WHITE EARTH RESERVATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 920, S. 1217.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 1217) to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported with an amendment, on page 1, line 4, after the word "United", strike out "States in the" and insert "States, except all minerals including oil and gas, in the submarginal".

Mr. ALLOTT. Mr. President, I have only a couple of remarks in regard to this bill. This is the second of the so-called "submarginal lands" bills on which hearings were held by the Interior and Insular Affairs Committee, of which I am the ranking minority member. Each bill is for only one tribe.

There are, however, a total of 19 tribes who have been trying for 33 years to obtain legislation donating the "submarginal lands" located near their reservations to them.

The minority members of the committee could not support the first of the two bills, S. 722, and our reasons are set out in the minority views filed in Report No. 92-822 on that bill, last May.

Those minority views show that at least 139 bills have been submitted, including bills in every Congress since 1939, for the purpose of transferring some, or all, of these "submarginal lands" to these tribes.

As explained in our previous minority views—pages 23-25—and in the floor consideration of S. 722, the list of lands which fall in the same category as the land which would be donated by S. 1217, including land near 20 reservations. Congress, in 1956, did make a transfer of some submarginal lands and other lands to the Seminole Indians, but Congress believed the purpose and the surrounding circumstances clearly took the situation out of the category of the remaining 19. That previous discussion pointed out two other instances which might be argued to be a precedent and explains why they were not, and could not be, considered a precedent for these 19 tribes. Thus, no tribe, prior to this Congress, had been given a preference over the others and, of course, it does not appear at this point that the other body intends to move ahead with S. 722. Our minority views delineate the reasons for the failure of

Congress to act on the requests of the 19 tribes and concludes that if Congress is now going to act on behalf of some tribes, then the requests of all the tribes should be considered at the same time.

We believed that the committee had acted in March 1971 to bring this result about, but the full and complete report from the Comptroller General updating his 1962 report in regard to all of the lands sought by all of the tribes, as the committee directed, was not issued. This was allegedly because the Comptroller General was not willing, or able, to do it even though he made the basic 1962 report in 6 months and he had had 14 months to accomplish only an updating of it, from the time the committee ordered it in March 1971, until the time it acted on S. 722, in May 1972. It has now been 16 months.

To try to assure consideration of the requests of the other tribes, after we learned, in May 1972 of the failure of the Comptroller General, all of the minority members of the committee introduced an omnibus bill for all 19 tribes. That bill is S. 3688.

The committee report on S. 1217, before the Senate today, we believe, is misleading in two particular respects. First, that report indicates the committee in March 1971 voted to defer action on the bills for only the two tribes until a request was made to the Comptroller General for an updating of his 1962 report. That statement is inaccurate because the committee did not vote to wait until the request was made but, rather, to defer until the entire updated report was received. There is no question about this as there is no question that the updated report has never been received. The Indians of the other tribes are entitled to know this.

Second, the committee report says the Comptroller General's report of 1962 and his separate report only on this bill, S. 1217, made "no objections" to the transfer of the lands to the Indians.

The 1962 report made many recommendations for different ways of proceeding. The 1971 report makes three other recommendations for substantial amendments to S. 1217. The three recommended amendments can be seen in the sixth paragraph of the GAO report set forth on page 9 of the committee report. One is an amendment to assure that adverse environmental consequences do not result and the Congress should know this.

GAO, as may be seen on page 10 of the committee report, also advised the committee, in effect, that the offset provision in S. 1217 should be removed for the reason it has been ruled to be of no value by the Indian Claims Commission.

The committee accepted none of the GAO recommendations in its 1962 and 1971 reports, but the language of the committee report implies endorsement by the GAO of the bill as introduced and reported. We believe the Congress should be properly advised.

Among other things, failure to provide the true picture could reflect adversely on the other tribes when their requests are considered. Hopefully, those tribes will

not be required to wait another 33 years before the committee acts to consider all of their requests.

Mr. MONDALE. Mr. President, I support S. 1217, a bill to transfer the beneficial interest in federally owned submarginal lands within the White Earth Reservation to the Minnesota Chippewa Tribe.

First, I should like to express my gratitude for the great leadership of the chairman of the Senate Interior Committee (Mr. Jackson) in bringing this measure to the Senate floor.

The lands that would be affected by this bill—approximately 28,700 acres—were originally owned by the Minnesota Chippewa Tribe, but under the allotment acts they passed from Indian ownership. In the 1930's the land was acquired by the Federal Government, with the expectation that it would subsequently be made available for tribal use. This expectation has remained unfulfilled as a result of limitations under the present Federal ownership.

The White Earth Reservation Council adopted a provisional economic development plan on December 2, 1961, which included the use of submarginal and tribal lands. Approval and endorsement of the plan was given by tribal officers in March of 1962, succeeded by the Department of the Interior in August of that year.

This development program would provide employment for reservation inhabitants; it would improve living standards with better housing, health, and welfare facilities; and it would permit more effective utilization of natural resources to afford greater economic growth.

Within the reservation land area there exists a considerable potential for industrial and recreational development. Yet the tribe is hindered under the limitations imposed by revocable permits. As a result, the improvements necessary to make full use of the submarginal land are greatly impaired. Tribal plans for campground development, tourist trade, lakeshore leasing, road construction, as well as individual home construction are limited in each case because of the year-to-year revocable permits.

In 1967, I first introduced legislation to restore the submarginal lands to the Minnesota Chippewa Tribe. Approval of this measure today, would achieve this objective, lift the revocable permit restrictions, and in effect untie the hands of the tribe in implementing the much-needed development plan.

I urge that the Senate swiftly approve S. 1217.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-967), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The basic purpose of this legislation is to transfer 28,700 acres of federally owned submarginal land on the White Earth Reservation in Mahanomen and Becker Counties, Minnesota, to the Minnesota Chippewa Tribe,

with the title to be held in trust by the United States. It also provides protection to any person who may have a vested interest in the land. The bill contains a provision that directs the Indian Claims Commission to determine the extent to which the value of the beneficial interest conveyed should or should not be set off against any claim against the United States determined by the Commission, and all mineral interests in the land are reserved to the United States.

#### BACKGROUND

The lands involved were acquired during the middle 1930's under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief acts. At the White Earth Reservation the purchase price was \$175,664. This land represents a small part of the submarginal land program undertaken by the Federal Government for the benefit of Indians.

In Circular No. 1, issued on June 7, 1934, by the Federal Emergency Relief Administration, to govern the acquisition of submarginal lands, it is stated that the land acquisition program of the Federal Government would be of three major types, the third type being "Demonstration Indian land projects," which would include lands to be purchased primarily for the benefit of Indians. The general objectives of the programs were (1) social and economic advancement of the groups involved, and (2) various conservation activities.

The Indian people at the White Earth Reservation have utilized the land for many years in accordance with the intent of the legislation authorizing its acquisition. They have developed specific social and economic development plans for its further use and believe that beneficial title should be conveyed to them to bring their plans to reality.

S. 1217 was considered in executive session before the full committee on March 31, 1971. The committee agreed that further action on the bill be deferred, pending a request that the Comptroller General of the United States complete an updating of a 1962 General Accounting Office report relating to Indian submarginal lands.

#### COMPTROLLER GENERAL'S REPORT

The chairman of the committee, in a letter dated April 1, 1971, requested the General Accounting Office to provide the committee an updated version of the GAO's 1962 review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs.

The information on federally owned submarginal land on the White Earth Reservation in Minnesota proposed to be held in trust for the Minnesota Chippewa Tribe was transmitted to the committee by the Comptroller General in a report dated October 27, 1971. The Conclusion of this report follows:

If beneficial interest in the submarginal land on the White Earth Reservation is conveyed to the tribe, the revenues now being collected by the Government, except for that portion the Bureau would charge to cover its administrative costs, would accrue to the tribe. Such revenues, in addition to those the tribe already receives through subpermits, could help tribe members advance their social and economic standing, provided they are invested in planning, establishing, and operating enterprises which would employ Indians and have reasonable chances of success.

Neither the original 1962 General Accounting Office report nor the updated version dated October 27, 1971, posed objections to the submarginal lands being transferred to the White Earth Reservation.

#### NATIONAL COUNCIL ON INDIAN OPPORTUNITY

In May 1971, the Cabinet-level National Council on Indian Opportunity, which is chaired by Vice President Agnew, released