

*U.S. Congress // Congressional Record.*

UNITED STATES



OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93<sup>d</sup> CONGRESS  
SECOND SESSION

VOLUME 120—PART 25

SEPTEMBER 30, 1974 TO OCTOBER 7, 1974

(PAGES 32821 TO 34296)

of farm real estate, which gained \$65 billion in value in that year.

Agriculture's debt to asset ratio, then, is favorable compared to other industries. When we look at the figures closely, however, there are other conclusions to be drawn. For example, only about one-half of the farmers in the U.S. use credit. Many of these, of course, are not what would be considered by any definition commercial farmers. Thus, they account for only a small portion of the agricultural production.

Additionally, of the approximately million farmers who do use credit, we estimate that their debt to asset ratio averages about 35 percent. This figure has been slowly rising over the years.

Another way to look at the use of credit in agriculture is in terms of capital flow. In 1973, \$21.6 billion of capital flow was utilized by these million farmers.

Of this \$21.6 billion, 43 percent, or \$9.3 billion, was debt financed. It should be noted that annual capital flow to agriculture last year was the largest ever recorded and it came in a year when farm income was the highest ever realized. I would also like to point out that the percent of the capital flow that was debt financed—43 percent—was nearly 4 times the level of debt financing that prevailed in the period 1950-54.

There are 4 primary sources of funds available to farmers: (a) increase in debt, (b) capital consumption allowances, (c) net farm income, and (d) nonfarm income. Until the mid-1960's, net farm income was the primary source of funds for farmers and it was not until the 1970's that the percent of annual capital flow realized through debt exceeded 40 percent.

Looking to the future, we can see no let-up in the proportion of capital flow which will be debt financed and there is a distinct possibility that the percent could go even higher, while the part financed from net income will be less. Even assuming a slower rate of inflation in future years and a less rapid increase in land prices, the annual capital flow projections remain about \$20 billion per year.

There appears to be a general agreement that inflation is best halted through increased productivity. If the million farmers who use credit and who produce nearly all of our food are to achieve required additional efficiencies, it is essential, then, that they have access to adequate amounts of credit and at the appropriate time in their production cycle.

Generally speaking, adequate amounts of credit have been available to agriculture in recent years, although there have been adjustments in the percentages of credit supplied by the various credit institutions. In 1973, for example, commercial banks and the institutions of the Farm Credit System—the Federal Land Banks and Production Credit Associations—provided about equal amounts of the annual capital flow for both real estate and non-real estate purposes, 33 per cent for commercial banks and 34 per cent for Farm Credit lenders. Life insurance companies provided about 4 per cent. Individuals and miscellaneous lenders provided 23 per cent of the real estate credit.

The principal changes in the contributions by the groups from 5 years earlier has been increases by commercial banks and Farm Credit Banks and declines by life insurance companies on real estate loans and declines by merchants and dealers in non-real estate credit.

Mr. Chairman, agriculture is recognized among the various industries in the nation as one in which technology, when put into practice, immediately realizes substantial efficiencies. Farm output per hour, for example, has tripled since the 1950-54 period. The number of persons supplied farm products by one farm worker has risen from 25 in 1960 to 52 in 1972.

One of the principal reasons for this gain is directly attributable to the fact that credit has been available to permit farmers to make use of the new advances in technology. In recent years there has been some concern expressed over the fact that the rate of productivity in agriculture, while still advancing, has slowed. And this is true. The curve has flattened out some.

There are a number of reasons for this occurrence. First, we should recognize that some of the easy and fast advances have already taken place. Examples are the exodus of a large labor force, the near total adoption of the use of fertilizer and improved cultural practices.

It appears to me that future gains in productivity in agriculture will be both slower and more difficult to achieve. Reasons include the fact that the best of our tillable land is already in production, the labor force adjustments have been made, new high-yielding varieties of grains are not on the immediate horizon and available plant nutrients are costly and in short supply.

This is not to say that progress won't be made. Of course it will. The American entrepreneurial system of agriculture, backed up by a solid network of government and private research facilities, will continue to make substantial progress. There are still avenues open in which to generate efficiencies.

Mr. Chairman, many think of the United States of America as an industrial nation. And we have a right to be proud of the manufacturing and technological sectors of our economy. But agriculture has been, and continues to be, a vital and influential force in the Nation's economy.

Agriculture, in its truest sense, is a growth industry. Now, as a matter of national policy, American farmers are being called upon to produce even more—to feed this country and other countries of the world.

I am convinced that our agricultural producers are equal to the task. America's agricultural productivity is unparalleled on this earth. But if our farmers are to do the job, they need the tools. They need not only the farm machinery, seed, feed, and fertilizers, but they need the capital. A good deal of that capital, as we have indicated, is in the form of credit.

Capital is the lifeblood of American agriculture. If its flow is cut off or even curtailed, there is no way the economy of the United States can be restored to full health. Adequate credit for agriculture at the lowest possible rates must be given top priority to assure the kind of productivity that will benefit this Nation and its neighbors around the world.

If all lenders do their job in making productive agricultural loans, capital allocation or credit rationing will be unnecessary. So long as the Farm Credit System has competitive access to the Nation's money and capital markets, farmers will have a dependable source of credit at competitive rates. The Farm Credit System cannot and should not be expected to carry the full load of financing agriculture. Other lenders must maintain their commitments to agriculture, for it is only through a united effort that needs can be met.

Mr. Chairman, I appreciate this opportunity to appear before you and express my views on the financing of modern agriculture.

#### THE PARDON OF FORMER PRESIDENT NIXON

Mr. MONDALE. Mr. President, several days ago, a thoughtful column appeared in the Minneapolis Star. Entitled "Measuring the Limits of a Pardon's Force," this article explores the historical debate over the scope and nature of the pardon power in an evaluation of the recent

pardon of former President Nixon. I believe that Austin C. Wehrwein, who authored this column, raised a number of important questions in connection with the pardon power, questions which deserve careful consideration in light of recent events.

Mr. President, I ask unanimous consent that the full text of Mr. Wehrwein's article be printed in the RECORD along with an excerpt from a speech which I delivered at American University that appeared with it in the Star.

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

[From the Minneapolis Star, Sept. 18, 1974]  
MEASURING THE LIMITS OF A PARDON'S FORCE

(By Austin C. Wehrwein)

Richard Nixon owes a debt of gratitude to the British kings against whose system the colonists revolted in 1776 that is as heavy as his debt to President Ford.

It was their kingly power to "wash away the legal stain" with a pardon that the Supreme Court in 1867 wrote into our Constitution, which merely says a president "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

The imported doctrine was that he who held a royal pardon was in the eyes of the law as innocent as if he had never committed the offense.

So when the founding fathers were fashioning the Constitution, Alexander Hamilton drew on the royal rule. Speaking specifically of the power to pardon treason, but giving his words that broad application, he said:

"Humanity and good policy conspire to dictate the benign prerogative of pardoning should be as little (as possible fettered or embarrassed)." The result is that to change it a constitutional amendment is necessary.

A century later in a case called *Ex Parte Garland*, Justice Field without attribution cited Hamilton's key words about the chief executive's absolute pardon power, and was off and running.

"A pardon reaches both the punishment prescribed for the offense and the guilt of the offender," Field said in the 6-to-3 opinion.

"And when the pardon is full, it releases the punishment and blots out the existence of the guilt, so that in the eyes of the law the offender is as innocent as if he had never committed the offense."

"If," the justice continued, "granted before conviction, it prevents any of the penalties and disabilities, consequent upon conviction, from attaching; if granted after conviction, it removes the penalties and disabilities, and restores to him all his civil rights; it makes him, as it were, a new man, and gives him a new credit and capacity."

There is one catch, Field warned: "There is only this limitation. . . . It does not restore offices forfeited, or property or interests vested in others in consequence of the conviction and judgment."

In other words, as the other Watergate defendants well know, Nixon's pardon and his "new man" status don't restore or rescue them.

In dissent, Justice Miller stated the nature of the power a bit less grandiloquently. The pardon power, he said, "relieves the party from all penalties, or in other words, from all the punishment which the law inflicted for his offense."

"But it relieves him from nothing more." Nixon might well ruefully agree were he inclined to cast a pragmatic eye on his fate insofar as public reaction to any washing away of a stain is concerned.

Either way, it is ironic for Nixon perhaps

that one ramification of the Garland rule is that courts hold that a pardon restores a person's competency as a witness. And in an old Ohio case, the state supreme court held that even though a full pardon is obtained by fraud it restores civil rights and privileges.

Who was the Garland whose pardon by the first President Johnson loosened Field's flood of royal rhetoric? A. H. Garland of Little Rock, an eminent attorney who practiced before the Supreme Court prior to the Civil War, was a representative and then a senator in the Confederate Congress.

Johnson in 1865 granted him a postwar "full pardon and amnesty" for any part he had played in the rebellion but conditioned it on a loyalty oath required by the U.S. Congress as the law said he must. The gist of the long oath was that the person taking it swore he had never supported the Confederacy in any way. For Garland that was a true Catch 22 trap.

Garland sought to get out of it by contending the loyalty oath was unconstitutional, or if it was constitutional the pardon released him from taking it. Field for the Supreme Court majority agreed. He held the exclusion that would have prevented Garland from practicing law in and federal court was a bill "of pains and penalties," an unconstitutional bill of attainder and an unacceptable ex post facto law that deprived Garland of a property right (the right to practice law) without due process. Congress, Field said, could prescribe qualifications for vocations, but not in the guise of punishment. Then Field swung into his expansive exposition of the pardon prerogative.

In his dissent, Justice Miller said practicing law was a privilege, not an absolute right, concerning which Congress could prescribe terms for admission, rejection or expulsion of attorneys. Because the oath as a condition for practicing law was not a punishment, the power of the president to pardon has no effect on releasing him from the oath.

A lawyer, he said, "may be saved by the executive pardon from the penitentiary or the gallows, but is not thereby restored to the qualifications which are essential to admission to the bar."

Nixon, of course, has apparently avoided any question about his disbarment by relinquishing his license to practice in New York and California.

But there remains a question about the meaning of the pardon as a tacit accusation. How can he be pardoned if he had never committed "offenses," as the constitutional formula puts it?

Or in Field's expatiation, note that he spoke of the pardon's reaching "every offense known to law" and said it can be exercised at any time after the offense's "commission."

Plainly, to get a pardon, it would seem one must first commit an act that makes a pardon necessary.

[From the Minneapolis Star, Sept. 18, 1974]

#### PARDON POWER SHOULD BE LIMITED

(By Sen. WALTER MONDALE, in a speech at American University)

I reject the notion that it would have been impossible for Richard Nixon to get a fair trial. That suggestion is an affront to the American jury system, to the American system of justice and to the American people.

If we cannot expect equal justice in this case through the judicial system because of Mr. Ford's unfortunate act, I believe we must seriously consider whether the true national interest might not be best served by a continuation of the impeachment process.

I believe we should consider whether a House vote on impeachment followed by a Senate trial might not provide another much-needed means for fully ventilating the Water-

gate facts and Richard Nixon's role. At the very least, we can then prevent Richard Nixon from again holding office in this nation.

One final measure must be given serious consideration in the wake of President Ford's action.

Although the pardon power has its rightful place in our constitutional system, it is one of the few powers that is unchecked. It is not subject to the normal process of checks and balances, found repeatedly throughout our Constitution.

In order to prevent abuse of that power, or use of that power in a questionable manner, I would propose a check on the pardon power. Specifically, I believe that we should consider a constitutional amendment which would allow an exercise of the presidential pardon power to be overridden by a two-thirds vote of both houses of Congress.

Sunday's events represent a sad chapter in American history. We saw the ultimate cover-up and the ultimate injustice.

As we all consider now where we go from here, how we are to put Watergate behind us in an honorable way, and how we are to prevent the results that may well follow from Sunday's events from ever happening again, I believe we will do well to remember the words of former Watergate prosecutor Archibald Cox. Although spoken in another context, they seem particularly relevant today:

"Regardless of the outcome, the value of the proceeding will depend on whether the process is so conducted that the country perceives it as a fair and legitimate measure for restoring the integrity to government."

#### ZOO MANAGEMENT

Mr. THURMOND, Mr. President, recently there have been some serious conflicts between curators of zoos and officials of the Animal and Plant Health Inspection Service, APHIS, of the U.S. Department of Agriculture. Managers of zoos naturally feel that their animal exhibitions provide an increasingly valuable educational and entertainment purpose in our rapidly urbanizing society. They also maintain that properly managed zoological environments offer the best hope of preserving many endangered animal species.

On the other hand, USDA animal health inspection officials are naturally concerned about the possibility of introducing into this country dangerous diseases or pests, which are sometimes found on imported wild animals and birds. They rightly have an obligation to protect our domestic pets and livestock from possible contamination by any imported disease organisms.

Several weeks ago I was glad to be of assistance in arranging a public meeting, at which representatives of APHIS and the Columbia Zoological Park discussed problems and mutual concerns. A number of recommendations for changes in APHIS regulations were presented at this meeting, and I understand that further conferences between zoo management representatives and USDA officials have been planned. I also understand that several bills relating to these matters have been introduced in this session of Congress, and I certainly hope that they will receive thorough study and careful consideration.

Mr. John M. Mehlertens, director of the Columbia Zoological Park in Columbia, S.C., recently sent me several copies of a commentary by John M. Chamberlain,

which pertains to the advisability of Federal management of zoos. Mr. Mehlertens has requested that this thought-provoking column be printed in the CONGRESSIONAL RECORD. I believe that Mr. Chamberlain's remarks deserve wider attention, therefore I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

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

[From the Chicago Tribune]

#### BUREAUCRATIC CAGE FOR ZOOS?

(By John Chamberlain)

There is a move on in Congress to federalize the zoos. Now, really!

The idea, of course, is well meant. But if the wild animals of North America could be interviewed on the subject of the federal government as nursemaid, one would surely be deafened by a hideous concatenation of yelps, screeches, yowls, and barking, all sounding their objections.

The noble Department of the Interior, is supposed to be the keeper of wildlife on public lands. But not so long ago it was planting something called "1080" in explosive cartridges. Topped off with bait, or an appealing scent, the cartridges would be nibbled at by a coyote. The explosive would drive the "1080" down the coyote's throat and he would die in agony.

Livestock owners can make a good case that the coyotes are vermin, but the trouble with "1080" is that it also appealed to kit foxes, bobcats, pumas, and even domesticated dogs. Hoping to find a less indiscriminate killer, Interior has substituted sodium cyanide for "1080." But the kit foxes and pumas are, according to disinterested reports, still dying along with the coyotes.

The Golden Eagle supposedly counts on our Washington nursemaids for survival. But if a rancher shoots a Golden Eagle over his own acres from an airplane on the theory that his calves are endangered, nothing is done about it.

The reason for protecting sheep and cattle from wild predators is economic and is not to be condemned out of hand in a world that is short of protein. But what the history of federal coyote control proves is that Washington is always subject to pressure groups. Only a dictatorship could change that, and who wants a dictatorship? If the zoos of the nation were to be federalized, the humane societies would surely dominate the pressure on whatever zoo bureaucracy happened to be set up by the White House.

Well, what would be wrong about that? Let John Mehlertens, who runs the very successful Columbia Zoological Gardens in Columbia, S.C., tell you what is wrong.

The average save-the-animals American, he says, is a biological illiterate, and his reaction is always emotional. This illiterate deplores it when a cheetah is taken from its native habitat in South Africa, or when an Indian tiger is wrenched from his home in the Indian jungle. But the truth is that, in the not so distant future, the cheetahs and Indian tigers may very well owe their existence to protected zoo breeding banks.

"Habitat destruction," says Mehlertens, "is remorseless everywhere, and in South Africa the cheetah is regard as vermin to be exterminated."

The Mehlertens' statistics are ominous. A few years ago there were 40,000 tigers in India; today the number has dwindled to 1,800. There are more registered Siberian tigers in zoos than in the whole of Siberia. The last wild Balinese tiger was recently shot by a poacher. So the Balinese tiger is extinct simply because nobody had taken a pair out of their native habitat for a West-