AMENDMENT NO. 239

(Purpose: To provide relief to agricultural producers who granted easements to, or owned or operated land condemned by, the Secretary of the Army for flooding losses caused by water retention at the dam site at Lake Redrock, Iowa, to the extent that the actual losses exceed the estimates of the Secretary)

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment to S. 672 that I send to the desk be adopted.

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The clerk will report.

Is there objection?

Mr. BYRD. I have no objection to reporting of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GRASSLEY, proposes an amendment numbered 239.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . RELIEF TO AGRICULTURAL PRODUCERS FOR FLOODING LOSS CAUSED BY DAM ON LAKE REDROCK, IOWA.

(a) ELIGIBILITY.—To be eligible for assistance under this section, an agricultural producer must—

(1)(A) be an owner or operator of land who granted an easement to the Federal Government for flooding losses to the land caused by water retention at the dam site at Lake Redrock, Iowa; or

(B) have been an owner or operator of land that was condemned by the Federal Government because of flooding of the land caused by water retention at the dam site at Lake Redrock, Iowa; and

(2) have incurred losses that exceed the estimates of the Secretary of the Army provided to the producer as part of the granting of the easement or as part of the condemnation.

(b) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Army shall compensate an eligible producer described in subsection (a) for flooding losses to the land of the producer described in subsection (a)(2) in an amount determined by the Federal Crop Insurance Corporation.

(2) REDUCTION.—If the Secretary maintains a water retention rate at the same site at Lake Redrock, Iowa, of—

(A) less than 769 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 10 percent;

(B) not less than 769 feet and not more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 7 percent; and

(C) more than 772 feet, the amount of compensation provided to a producer under paragraph (1) shall be reduced by 3 percent.

(c) CROP YEARS.—This section shall apply to flooding loses to the land of a producer described in subsection (a)(2) that are incurred during the 1997 and subsequent crop years.

Mr. STEVENS. Mr. President, I do ask that we consider this amendment at this time, and I further ask that upon its adoption it be placed in the bill that's just been passed as this action was completed prior to voting upon advancing this bill to third reading.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD addressed the chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Will the distinguished manager of the bill explain why this amendment is being called up following the final action on the bill?

Mr. STEVENS. Mr. President, by mistake this bill was deemed to have been objected to, and upon review after the bill, S. 672, was advanced to third reading, it was determined that the objection had not in fact been placed by the Senator that was purported to have placed an objection. It has been cleared on both sides, and it is matter now of trying to correct it and get this amendment of Senator GRASSLEY back to where it should have been adopted prior to the advancing of this bill to third reading.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska. I have no objection to the action requested.

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

The question is on agreeing to the amendment.

The amendment (No. 239) was agreed to.

Mr. STEVENS. Mr. President, I ask that this bill, S. 672, be postponed and set aside until the House bill arrives and this unanimous consent agreement may be fulfilled.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill has been set aside.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Has a quorum been put in place, Mr. President?

The PRESIDING OFFICER. No quorum call has been placed.

MORNING BUSINESS

Mr. LOTT. Then, Mr. President, I thank my colleagues for their cooperation on the agreement we just reached on S. 4, and I now ask there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BYRD, who will speak on Mother's Day.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. Mr. President, I would like to report to the Senate that the Committee on Rules and Administration is about to embark on a bipartisan investigation into allegations that fraud, irregularities, and other errors, affected the outcome of the 1996 election for U.S. Senator from Louisiana—the first such Senate investigation into vote fraud since the early 1950's.

A review of the basis for this investigation and the developments to date is an obligation I have as chairman.

On November 5, 1996, Ms. MARY LANDRIEU and Mr. Louis ''Woody'' Jenkins competed in a very close election in which Ms. LANDRIEU was declared the victor by Louisiana State officials, by a margin of 5,788 votes out of approximately 1.7 million total votes cast. This margin represented a percentage difference of only 0.34 percent, one of the closest contested elections in U.S. Senate history.

On December 5, 1996, Mr. Jenkins filed a petition with the U.S. Senate asking that the election be overturned because of vote fraud and irregularities which he believed affected the outcome of the election. Along with an amended petition, Mr. Jenkins filed supporting evidence with the Senate on December 17.

Senator LANDRIEU filed a response to the petition on January 17, 1997. On February 7, 1997, Mr. Jenkins then submitted an answer to Senator LANDRIEU's filing.

In accordance with Senate precedent, Ms. LANDRIEU was seated ''without prejudice'' as the Senator from Louisiana on January 7, 1997, with all of the privileges and authority of a U.S. Senator. Majority Leader LOTT quoted former Majority Leader Robert Taft in defining the term ''without prejudice'' when Senator LOTT spoke on the floor on January 7:

[T]he oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest and without prejudice to the right of anyone protesting or asking expulsion from the Senate to proceed.

The U.S. Constitution provides that the Senate is—and I quote from article I, section 5—''the Judge of the Elections, Returns, and Qualifications of its own Members. * * *'' The U.S. Supreme Court has reviewed this Constitutional provision on several occasions and held in the 1928 case of *Reed et al.* v. *The County Comm'rs of Delaware County, Penn.* [277 U.S. 376, 388 (1928)]:

[The Senate] is the judge of elections, returns and qualifications of its members. . . It is fully empowered, and may determine such matters without the aid of the House of Representatives or the Executive or Judicial Department.

In discussing the responsibilities of the Senate, Senator Robert C. BYRD, who has been a member of the Committee on Rules and Administration since 1963, stated on the floor of the Senate on January 15, 1975, as part of the debate on the New Hampshire contested election:

. . . The Constitution of the United States places in this body the responsibility of being the sole judge of the elections, returns, and qualifications of its own members. Article 1, section 5, does not say that the Senate may be the judge; it says the Senate *shall* be the judge.