STATEMENT BY THE HONORABLE JOHN A. CARVER, JR., ASSISTANT SECRETARY
OF THE INTERIOR FOR PUBLIC LAND MANAGEMENT, BEFORE THE PUBLIC LANDS
SUBCOMMITTEE OF THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
IN CONNECTION WITH H. R. 5498, 88th CONGRESS, FIRST SESSION, MAY 9, 1963

Mr. Chairman and Members of the Committee:

The position of the Department of the Interior with respect
to H. R. 5498 is before the Committee in its formal report. I am
appearing before this Committee in full support of this proposed
legislation. I consider this proposal of extraordinary significance.

There is general recognition in the Congress and elsewhere
that there is a need for a general review and updating of the vast
body of public land laws to recognize the changes that have taken
place in our land estate and the demands upon that estate since
the enactment of the legislation under which we manage and dispose
of the public lands. Lands which were considered of little value
beyond their value for grazing and other extensive use have, through
the years, ripened into higher and more intensive uses. Growth
and shifts of population have created demands for land for residential,
industrial, and commercial purposes where no such demand existed
when most of our existing land disposal authorities were enacted.
The outlook then was toward settlement and agriculture. Thus we
have the various homestead acts and the desert land act as some of
the principal laws under which citizens may obtain tracts of the public
domain. Lands may also be obtained by exchange. There are also some outstanding scrip rights. However, except for the Small Tract Act of 1938 which provides for the lease or sale of tracts not exceeding five acres, there is no general authority to sell lands for private purposes except under the provisions of Section 14 of the Taylor Grazing Act to which this bill addresses itself.

Section 14 provides that the Secretary may sell at public auction isolated tracts of the public domain not to exceed 1,520 acres. It gives a preference right to owners of contiguous lands to buy the offered land at the highest bid price, but at not more than three times the appraised price, for a period of thirty days after the high bid is received. An adjoining owner or entryman may apply to have non-isolated tracts not exceeding 760 acres, the greater part of which is mountainous or too rough for cultivation, offered for sale.

Section 14 of the Taylor Grazing Act is now thirty years old. Doubtless, it was framed primarily in terms of the needs of the owners of ranches which required some protection from loss of integral parts of their operation. Obviously, as I will point out, it contains restrictions that prevent desirable use and development of the public lands and which often lead prospective applicants to resort to oblique means of obtaining land.

For example, there has been in recent years, a demand for tracts of the public domain for industrial purposes, some of which
have been defense oriented. When the need has been for more than
the maximum of 1,520 acres, the applications could not be enter-
tained. Usually the land desired has been part of a larger block
of the public domain, thus not isolated and not subject to sale.
And any sale at public auction is subject to the preference right
of adjoining owners to meet the high bid. The potential purchaser
of a site thus faces formidable, if not impossible, obstacles.
Sometimes they have resorted to the exchange procedure. The alterna-
tive of obtaining a plant site through exchange is at best protracted
and tortuous. All this despite the legitimate needs of the industry,
the benefits to the local community, and the public interest.

I have seen specific examples of the type of situation
described above. I do not have the same kind of evidence as to
the extent to which the limitations of the present public sale law
force seekers of public land to resort to other and equally
anachronistic laws tailored to meet other needs. Here, I have
reference to the homestead, desert land, and other acts which
require certain performance such as use, residence, and cultivation,
as a prerequisite to obtaining patent to the land. The plain fact
is that there are very few of the remaining public domain lands
that are agricultural lands. Yet we have hundreds of applications
filed annually for lands on which the applicants must live and
which they must cultivate before they may obtain patent. A review
of these applications can only lead to the conclusion that many of these applicants, often urbanites, have chosen the homestead or desert land route simply because, seemingly, it was the only avenue opened to them to get some land for whatever purpose they had in mind, not necessarily for agriculture. Because there is so little good agricultural land they face a long hard road to "prove up."

This is particularly true of Alaska where clearing and cultivation pose unique difficulties. Further, the requirement for Departmental supervision over these entries during the extended period allowed for "proving up" leads to disagreements and appeals with the accompanying expense and trouble to the entrymen and the Government. I am also sure that all of you are aware of the use of the mining laws to obtain lands for uses other than for mining.

I mentioned the Small Tract Act as being the only other authority to sell public domain land. That act has limitations other than that the tracts sold must be five acres or less. Generally, the act works well in non-urban areas. Although we check with the appropriate planning and zoning authorities before classifying land for small tract purposes, nevertheless it tends to foster unplanned, unregulated development in the vicinity of urban communities. Since the Federal Government gets not less
than the fair market value of the land, direct sale of tracts to municipalities and others to provide for urban expansion on a planned and regulated basis would seem to be preferable.

It seems to me that there should be a simpler means of meeting the legitimate needs of such land seekers—some device for a quicker transfer.

The amendments which we have proposed provide the flexibility needed to make the public sale provisions of the Taylor Grazing Act a more useful and desirable administrative tool for selective disposal of portions of the public domain when the public interest will be better served by having the particular tracts in private rather than in public ownership. We have proposed an increase in the size of the tracts that may be sold to 5,000 acres. In view of our experience this seems a reasonable limit but we defer to the Congress on what the limit per tract should be. We believe that the preference right given to adjoining owners to purchase at the high bid should not be absolute; rather, that the Secretary should have regulatory authority to establish such preference rights when the circumstances are such that any adjoining owner or user of the offered lands would be unduly injured if he were denied such right. We do not believe, however, that one who acquires adjoining land simply to put himself in a preference right position should
have the absolute preference over a high bidder or an equal preference with other adjoining owners having a longer and more legitimate interest in the public land.

Other proposed amendments are discussed in the Department's report and I will not take the Committee's time to discuss them further here.

I anticipate that the question may be raised whether or not the amendments which we have proposed will not open the public lands to a wholesale disposal program. Permit me to answer that question now. The bill provides that no lands needed for Federal program requirements or the long-range administration of the public lands may be sold. Section (b) specifically lays down guidelines for the Secretary's administration of the proposed legislation. Further, the Secretary must open lands to application before an application may be filed. And, lastly, none of the lands may be sold for less than their fair market value. These conditions seem to me to adequately safeguard against any unconscionable mass disposal of the public lands. However, the Committee may wish to supplement the guidelines suggested.

I am convinced that legislation of this kind will put our administration of the public lands on a much more business-like basis, will eliminate much of the frustration now experienced by applicants seeking title to portions of the public domain lands, and
will foster desirable use and development in both the public and private sectors. I ask for your earnest consideration of this proposal.