Mr. Chairman and members of the Committee:

The Committee has before it the report of this and other Departments favoring the enactment of a bill to create a Public Land Law Review Commission. I think all of us, Committee members, departmental spokesmen, and other witnesses, are sensible of the raw material of history in these proceedings.

The public land laws of the United States, as section 2 of H. R. 8070 and companion bills points out, have developed over a long period of time; that they are not fully correlated is an understatement; their administration is committed to many agencies of the federal government. A review is necessary.

A power proposed to be granted to the commission is not only to study the statutes, but the regulations under the statutes, and the "policies and practices of the Federal agencies charged with administrative jurisdiction" over the lands.

The organism which would be exposed for scrutiny is a complex one, indeed. Certainly there is contemplated something far more significant than a technical review, and skills broader than those of the codifier or the technician will be brought to the task.

Decisions and judgments, choices among values and virtues divergent, but widely supported, will have to be made. Vision or prescience about our country's future will be needed.
As I've said, such a scrutiny will reach into the vitals of our Department, among others. We can expect to be examined on every detail of our administration of the public lands, and to account for the extent to which administration has outstripped legislation.

But the exercise is by no means entirely governmental. Under laws already on the books significant fractions of the private sector of the national economy are supported by operations on "public lands". Consider, for example, how much of the petroleum industry is on the public lands, or (an amendment we suggest would include it in the study) the Outer Continental Shelf; or the softwood lumber harvested from the public domain, national forests or Oregon and California lands; or the livestock industry dependent on federal forage.

The hardrock mining industry is almost exclusively founded on the public land laws. Non-metallics, and leasable minerals, and many mineral values denominated common varieties, are open to exploitation without acquisition of surface title.

Fish, birds, and animals, and the natural environment in which they can still be taken or observed -- these also are dependent upon land still in federal ownership. And around them has already been built an important and growing industry.

Political subdivisions, whose expansion room is in federal land, either for governmental occupancy, industrial or recreational purposes, and state and quasi-governmental or multi-governmental agencies -- port commissions or metropolitan authorities, for example -- have requirements which will be considered and evaluated.
Even agencies seemingly remote from the land management responsibilities given to Interior, Army and Agriculture, may find themselves justifying their entitlement to call upon public lands for their program needs, particularly as that call may inhibit the application of statutes providing for commercial uses of the land.

These are illustrations of the fact that we have passed completely the era in which many of our public land laws were enacted. The occupation of the lower forty-eight states is complete; the lands which still remain in federal ownership are not "vacant". Almost every acre is in some kind of use. The task of stewardship is to accommodate authorized uses, to inhibit unauthorized uses, and to administer the various statutes under which they still may pass out of federal ownership. These functions are denominated, sometimes loosely, as "management". Observers have even said we have entered an era of "intensive management".

For the reason that a substantial fraction of this "management" responsibility is in our Department of the Interior, it seems important to start with a general statement of our attitude. Our formal report is before you, showing that we support the bill, suggesting a couple of non-vital amendments, but that isn't quite the same. Are we grudging in our support, or generous? Will we cooperate willingly or sparingly? Real success of the Commission will require the highest degree of cooperation.

I am confident that we have avoided the bureaucratic natural reaction of opposition. Although the Commission approach could be taken
as criticism of the Department, the premise being that if we'd done our jobs right it wouldn't be necessary, the recognition of joint executive and legislative responsibility for a general reexamination precludes such a narrow view.

"We are fully mindful of and sincerely respect, the constitutional prerogative of the Congress to make rules for the management and disposal of the public lands"

the President told the Chairman of this Committee. This reference of course is to powers of the Congress prescribed in Article IV, section 3, clause 2 of the Constitution of the United States.

The spirit of other parts of the President's letter of January 17, 1963, and its recognition of the dilemmas facing the administrators of the public domain, sets the tone for constructive cooperation.

We can agree at the outset that there will be a responsibility on each side to have ideas -- a philosophy or rationale for past, current or future stewardship decisions.

Section 1 of the bill, which declares the policy of the United States to be that its public lands shall be "(a) retained and managed or (b) disposed of . . .", goes to the heart of the matter. The President's letter to the Chairman acknowledged that there has been, over time, a leaning toward management:

"My predecessors have been acutely aware of the dilemmas facing the Secretaries of Agriculture and Interior as principal administrators of the original public domain. Whenever they have been faced with a reasonable alternative of continued public ownership and management, or disposition, they have generally elected the former. That course has seemed to them, as to my predecessors and now to me, most consistent with the public interest and the trend of congressional policy, given the ex-
panding pressure of population, the generally rising values, and other considerations of similar import. It has, in your phrase, been 'in accordance with the time-honored conservation principle of effecting the maximum good for the maximum number'. Many of the great issues in public land policy have come about as the result of action by progressive-minded Presidents who withdrew land from the effect of the disposition statutes in major segments. On occasion these choices may have seemed to outdistance express statutory policy, but the policies which have governed the choices have been under constant congressional scrutiny."

But that there has been no doctrinaire indisposition toward disposal is demonstrated, among other factors, by the bills, too numerous to mention, to facilitate disposition. Some are on the books, like the Recreation and Public Purposes Act; others are not. But the Commission can go into a full consideration with cooperation from the executive -- in the final implementation the legislative process will be involved.

It may be helpful, in the early stages of consideration of the Commission approach, to examine previous legislative and executive forays into the jungle of public land laws and policy. The area under discussion here has itself been the subject of commission study on at least three major occasions over the past eighty-five years. It may give our discussion historical perspective to comment on those studies and their significance to the present situation.

During his tenure as Secretary of the Interior, Carl Schurz focused the white light of public disclosure on the flagrant, even criminal, abuses against the public domain and the laws governing it. Major Powell's exploration and description of the arid regions had also created doubts as to the adequacy of traditional settlement laws to this new
environment. In 1879, Congress created the Geological Survey -- and in the same act established a Public Land Commission with a broad charter to develop a comprehensive codification of pertinent laws, propose a system of land classification and recommend reforms in the disposal of the public domain.

The Commission had no Congressional representation. It did its job well and in 1880, (less than a year after its creation) submitted a voluminous and highly professional report which was fully responsive to the statutory mandate. Among other things, it urged repeal of the preemption laws and the controversial Timber and Stone Act of 1878.

There followed a decade of intense debate on these issues, but little action on the Commission's proposals for change in the laws. To say that its work was ineffectual is to go too far, however. Some of its reforms were accomplished by executive action under the incoming Cleveland administration. Then, in 1891, the Revision Act repealed the timber culture and preemption and cash sale laws, amended the homestead and desert land acts, and empowered the President to set aside forest reserves. Strangely enough, this 1891 legislative effort is remembered more for laying the cornerstone of the national forest system than for the controversial public land law reforms it accomplished after more than a decade of deep-seated controversy.

With the passage of another twelve years, Theodore Roosevelt was in the White House. As a key element of the conservation programs for
which he achieved lasting fame, and at the urging of its chief architect, Gifford Pinchot, Roosevelt created a Public Lands Commission to investigate "the conditions, operations and effect of the present land laws". This was a purely executive instrumentality, although it did receive legislative sanction in the form of a specific appropriation to support its work. Again, it is impossible to pinpoint any single, comprehensive law adopted to carry out its extensive recommendations. But its report certainly polarized interest and provided a central, authoritative theme for the Roosevelt-Pinchot program, particularly that portion which related to management of forest lands. One clear and lasting result of this commission effort, and one that was undoubtedly not accidental since Pinchot wrote the report, was the statutory transfer in 1905 of all forest reserve lands to the Department of Agriculture's Bureau of Forestry.

Between the Roosevelt era and the Hoover regime there were no comprehensive studies or reports on this subject -- even though that period saw much new and important legislation enacted, such as the Mineral Leasing Act of 1920, the National Parks Act of 1916 and the Weeks Act of 1911. But by 1930, questions of public land policy were again in the forefront. The Hoover-Wilbur solution to range wars and similar disputes was to cede the bulk of the unreserved public domain to the states. In 1929, Hoover created and selected the members of a new Commission on Public Domain to recommend a course of action to accomplish this transfer and to study other related questions of public land
policy. While Congress was consulted on commission membership and provided both an authorization for appropriation and an appropriation for the work, its genesis, again, was executive, not legislative, and the legislature had no representation. With Theodore Roosevelt's Secretary of the Interior, James Garfield, as its chairman, the commission recommended overwhelmingly that the cession policy be enacted into law and that the States be given increased authority over other aspects of Federal land management.

Of all the reports and recommendations made by several public land commissions, this one has the distinction of having been completely rejected, in fact ignored, by the Congress. But it did serve a purpose, and a useful one, by dramatizing the continuing problems of the western public lands and placing before the Congress and the public a possible avenue of escape. When this course was rejected, the way was clear for the establishment of a clear policy of positive management of the public lands so long as they remained in Federal ownership. In this indirect way, the 1930 study paved the way for the Taylor Grazing Act and made it a necessity if economic chaos were to be avoided.

The study commission approach to revision of public land law and policy is therefore not a new one. Past experience might be cited as evidence that it is not a promising device for securing comprehensive solutions. Yet, in every instance, significant advancements have been made toward protection of the public interest in our land heritage. Moreover, each of the past commissions labored in the vortex of contro-
versy over critical issues of the day. In 1879 it was the scandalous abuse of the land laws for private enrichment; in 1903, the Roosevelt crusade for conservation -- and reaction to it -- colored the whole picture; and in 1929-30, the combination of unpoliced controversy over land occupancy and a States' rights philosophy tended to distort objectivity. Many of the old problems remain with us -- still demanding solution. Competing demands for land or its use continue to provide the fuel for controversy. Yet it seems to me that the prospects for constructive and progressive work are much more favorable now than on past occasions -- or than they will be in another decade when population pressures have multiplied the elements of competition.

I do not see this commission as a crusade against evil. Moreover, regardless of its original intent, the Taylor Grazing Act has already modified many of the old conflicts. The immediate task is one of modernization -- not radical revision. We need to resolve already existing conflicts -- not create new ones. In this framework, the emphasis must be studied analysis. I consider the present climate conducive to success in that endeavor.

Finally, I think the subject matter for commission study is particularly suited to this method. It seems to me that the commission approach has failed in those areas where the task assigned was abnormally abstract or complex or novel. To be candid about it, we have too often tossed the hot potatoes to study commissions, charging them with developing precise solutions or comprehensive programs for problems which are beyond the scope
of our time or capabilities. I think that is not the case here. The commission will be composed of persons who have been dealing with the public land laws over a period of years. Many of the problem areas, the conflicts and overlaps, the anachronisms and the abuses, have already been identified. What is needed is concentrated and systematic cataloging of the whole area, detailed analysis and evaluation, and a consensus of experienced judgments as to the course of future policy to meet the needs of an expanding economy in our maturing society. Thus the task has reasonably precise perimeters and is wholly possible of accomplishment within the time period contemplated by the bills.

We have attempted to anticipate the Committee's requirements for data on the history of the public land laws, acreages, and other information. I will be glad to try to answer any questions.