

June 6, 1966

the Consent Calendar to put the bill over without prejudice.

Is this an open-ended authorization for eradication of the screw-worm?

Mr. POAGE. Yes, in exactly the same way as hoof and mouth and rinderpest are now. That means the Appropriations Committee could appropriate certain sums from year to year as they deem necessary, but it does not provide any funds whatsoever until such time as the funds are appropriated.

Mr. HALL. Mr. Speaker, it would require an annual appropriation for these funds for foot and mouth disease and rinderpest and screw-worm—if this is added—by the simple process of amendment of the original act?

Mr. POAGE. It would require an annual appropriation, yes.

Mr. HALL. Mr. Speaker, is there any estimate or evidence of good faith that Mexico would match funds with us in an attempt to eliminate this, or at least meet in part the expense of the irradiation of these male screw-worms in order to try to transmute their effectiveness in the future and eliminate the disease, as indeed we have done so well in the southeastern States of the United States?

Mr. POAGE. About 1 month ago there was a meeting in the city of Mexico between a number of American cattlemen and Mexican cattlemen. The Mexican cattlemen said their Government was now ready, and they too were ready, to bear a share of this cost. Frankly, there has been no specific plan worked out for payment. That will take some time, but it cannot be done unless we pass the bill.

Mr. HALL. Does the gentleman have any estimate of what the annual cost or appropriation might be for the first, second, and third year of the program?

Mr. POAGE. It is costing today approximately half a million dollars a year to maintain the quarantine. We think the whole program in Mexico would probably cost approximately a million and a half dollars for the first 2 years.

After that time we could expect to maintain the quarantine for a great deal less than the cost of maintaining it today. We are now maintaining it on about 1,850 miles of line. We could cut down about 150 miles of line and drive if we drove the screw-worm back to the Isthmus of Tehuantepec.

That is the most attractive feature of the whole program, the endeavor to establish a much shorter line than we have had over the years. The Mexican border is long and crooked at the present time. There is a point at which one can maintain a much cheaper line, down on the isthmus.

Mr. HALL. I have one additional question.

As the gentleman knows, and as the members of the committee know, there is no statement by the Department of Agriculture in the committee report. Under the rules of the objectors on both sides of the aisle, this is one of the requirements. Could the gentleman explain whether the Department of Agriculture favors this bill?

Mr. POAGE. The reason there is no report is that this matter came to our

attention after the meeting of the cattlemen of which I spoke in Mexico City. We are acting in the hope that we could get this done before the beginning of the fiscal year. If we do not, there will not be funds to carry on the program.

In that hope, the bill was introduced immediately. In fact, several bills have been introduced, but this bill was reported by the committee. The bill was introduced immediately, and we asked the Department for a report. Instead, they sent Dr. Meyers up to the committee. I have before me the testimony of Dr. Meyers in which he says that the Department has felt it could work out a reasonable arrangement, but did not have time to work up a formal report.

Mr. HALL. Is it important that this be done before the end of fiscal year 1966?

Mr. POAGE. We believe it is quite important. There is only one more Consent Calendar day between now and the end of the fiscal year.

Mr. HALL. Mr. Speaker, under the circumstance of the emergency, and in view of the excellent work which has been done in our Southeastern States to eradicate the screw-worm, considering the explanation of the gentleman, plus having an opportunity to read the report of Dr. Meyers of the Department of Agriculture, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There being no objection, the Clerk read the bill, as follows:

H.R. 14888

Be it enacted by the Senate and House of Representatives of the United of America in Congress assembled, That the first sentence of section 1 of the Act of February 28, 1947 (61 Stat. 7) is amended by inserting "or screw-worm" after the word "rinderpest."

Section 2 of the Act of February 28, 1947 is further amended by adding a new section as follows:

"Sec. 5. In carrying out this Act the Secretary of Agriculture is further authorized to cooperate with other public and private organizations and individuals."

With the following committee amendments:

Page 1, line 6, strike the words "of the" and insert the words "The".

Page 1, line 7, strike the words "adding a new" and insert "amending".

Page 1, line 7, after the word "section" insert "3 to read".

Page 1, line 8, strike "5" and insert "3".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE FEDERAL TORT CLAIMS ACT TO AUTHORIZE INCREASED AGENCY CONSIDERATION OF TORT CLAIMS AGAINST THE GOVERNMENT, AND FOR OTHER PURPOSES

Mr. ASHMORE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13650) to amend the Federal Tort Claims Act to authorize increased agency

consideration of tort claims against the Government, and for other purposes, with the committee amendments printed in the bill.

The Clerk read as follows:

H.R. 13650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That the first paragraph of section 2672 of title 28, United States Code, is amended to read as follows:

"The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: *Provided*, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee."

(b) The second paragraph of section 2672 of title 28, United States Code, is amended to read as follows.

"Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud"

(c) The third paragraph of section 2672 of title 28, United States Code, is amended to read as follows:

"Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter."

Sec. 2. (a) Subsection (a) of section 2675 of title 28, United States Code, is amended to read as follows:

"(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim"

(b) Subsection (b) of section 2675 of title 28, United States Code, is amended by deleting the first sentence thereof

Sec. 3 Section 2677 of title 28, United States Code, is amended to read as follows:

"The Attorney General or his designee may arbitrate, compromise, or settle any claim

cognizable under section 1346(b) of this title, after the commencement of an action thereon."

Sec. 4. The first paragraph of section 2678 of title 28, United States Code, is amended to read as follows:

"No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 25 per centum of any judgment rendered pursuant to section 1346(b) of this title or any settlement made pursuant to section 2677 of this title, or in excess of 20 per centum of any award, compromise, or settlement made pursuant to section 2672 of this title."

Sec. 5. (a) Subsection (b) of section 2679 of title 28, United States Code, is amended to read as follows:

"(b) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property or personal injury or death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim."

(b) Subsection (a) of section 4116 of title 38, United States Code, is amended to read as follows:

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim."

Sec. 6. Section 1302 of the Act of July 27, 1956, as amended (70 Stat. 694, 75 Stat. 416; 31 U.S.C. 724a), is further amended (1) by inserting a comma and the word "awards," after the word "judgments" and before the word "and"; (2) by deleting the word "or" after the number "2414" and inserting in lieu thereof a comma; and (3) by inserting after the number "2517" the phrase ", 2672, or 2677".

Sec. 7. Subsection (b) of section 2401 of title 28, United States Code, is amended to read as follows:

"(b) a tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of claim by the agency to which it was presented."

Sec. 8. The first sentence of section 2671 of title 28, United States Code, is amended to read as follows: "as used in this chapter and sections 1346(b) and 2401(b) of this title, the term 'Federal agency' includes the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States."

Sec. 9. (a) The section heading of section 2672 of title 28, United States Code, is amended to read as follows:

"§ 2672. Administrative adjustment of claims"

(b) The analysis of chapter 171 of title 28, United States Code, immediately preced-

ing section 2671 of such title, is amended by deleting the item

"2672. Administrative adjustment of claims of \$2,500 or less."

and inserting in lieu thereof:

"2672. Administrative adjustment of claims."

Sec. 10. This Act shall apply to claims accruing six months or more after the date of its enactment.

The SPEAKER. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ASHMORE. Mr. Speaker, this bill is one of a series of four forwarded to our committee by executive communication. The bills were introduced in accordance with the recommendations of the Department of Justice.

These four bills have a common purpose, and that purpose is to provide a more fair and equitable treatment for private individuals and claimants when they deal with the Government or are involved in litigation with their Government.

This bill, H.R. 13650, provides for settlement of tort claims under certain considerations.

The Attorney General now, under the present law, may settle any and all claims against the U.S. Government after suit is filed. This bill will give authority to various governmental agencies to settle claims up to \$25,000 before a suit is filed.

These settlements would be made under regulations promulgated by the Attorney General. Above \$25,000 the Attorney General would have to give his actual written authority for a settlement to be made. The object, really, is to settle claims against the U.S. Government fairly expeditiously and prevent unnecessary lawsuits. At the same time, it would expedite not only the claim by the claimant and individual citizen, but it would save him costs and save the Government costs and expense. The overall cost of litigation would probably be eliminated in many, many instances. Therefore, it would serve to benefit both the citizen-claimant and the Government.

Mr. Speaker, I might say briefly that this gives these agencies who make the investigations under the present law and who would continue to make the investigation of these claims, the agency that is familiar with the facts and circumstances, would be granted this authority to settle before suit is filed. It does not mean they would settle every claim, but they could use their judgment based on the facts and circumstances as brought out in the investigation and save the cost of suit and litigation. After the litigation is started, that is, when a suit is filed, the expense of course, increases for all parties. The claimant might be seriously injured or suffering from a loss of his property and in need of money.

Yet existing procedures unduly delay settlement of the claim. His lawyer would naturally expect and receive a larger fee if he had to file suit and then

wait for 6 months or a year and sometimes 2 or 3 years before his suit could come up for trial and then at that late date might still be settled. The Attorney General and the Government agency would also experience increased work and cost and delay if this occurs. This bill will eliminate a great many of these delays and expenses. We believe it is a good bill both for the interest and the welfare of the citizen who might have a claim against his Government and on behalf of the Government as well.

Mr. McCLORY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the gentleman from South Carolina has explained this bill in a very adequate and eloquent way. I just want to add my support of his position. The subcommittee which heard and considered this legislation is the Subcommittee on Claims of the Committee on the Judiciary which considers all of the various private claims filed against the U.S. Government. This measure, it seems to us, will enable claimants who have meritorious claims against the Federal Government to have them disposed of more expeditiously and at the same time to have them reviewed just as thoroughly as they are at the present time. About 80 percent of all of the claims that are brought against the U.S. Government are settled without the case going to trial. This measure, while it, of course, continues to give the right to a person to file suit against the Federal Government, nevertheless provides for a better method of settlement without the necessity of court action.

In order to effect any settlement above \$25,000, the Attorney General would have to give his approval. There are a great many claims these days and the effect of this legislation would be to facilitate their settlement through the use of administrative law procedures. It appeared to us unanimously on the committee to be a very desirable piece of legislation, and I am happy to give my support to the bill.

Mr. McCLORY. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. KUPFERMAN].

Mr. KUPFERMAN. Mr. Speaker, I rise in opposition to only one provision of H.R. 13650. And that is the provision therein which permits each Federal agency involved to adjust or compromise in an amount up to \$25,000, any claim against the United States.

I do not object to the provision that allows an increase in the amount for which there can be a settlement before the commencement of a legal action.

What I am concerned about is the fact that each Federal agency, without any showing of expertise in the field of tort or negligence or similar law, will be allowed to settle in the substantial figure of \$25,000 whatever claims are made.

I submit that \$25,000 is not "petty cash," and that with many claims this can add up to a sizable sum.

If the suggestion is made that each Federal agency can employ competent people to handle the job, it just means a greater Federal payroll. However, it

is contended that the agencies now have the necessary people.

Up until this bill, the Department of Justice has had the obligation of bringing uniformity to the question of settlements. A person hit by a truck operated by the Post Office, or Defense, or Interior Departments, has the same type of claim. We cannot expect each individual department to apply a uniform rule.

To suggest that the Department of Justice exercise the necessary control by setting rules and regulations, is to avoid reality.

If the Department of Justice were not trying to abdicate its responsibility to police these claims against the Government, they would not have suggested this amendment to the Federal Tort Claims Act.

If we are interested in protecting the United States properly against claims and also against a continuing increase in Government personnel, we will vote against H.R. 13650 until the provision which I have discussed is deleted therefrom.

Mr. McCLORY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I take this additional time because I want to point out to the gentleman that the testimony before the committee was to the effect that the existing personnel would process these claims that are settled, and because at the present time this settlement process is already carried on by the various agencies. This measure, if adopted, should provide for greater uniformity, since the settlements will have to be made in accordance with regulations of the Attorney General.

Mr. Speaker, I urge the unanimous support of this legislation.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I am referring to the bill and also to the second sentence on page 3 under the paragraph entitled "Purpose," wherein it states:

Settlements for more than \$25,000 must have the prior written approval of the Attorney General or his designee.

Now, Mr. Speaker, the question presents itself, if the Attorney General should happen to be a liberal, or a relatively weak Attorney General, one who is not thinking of the taxpayers' funds, and if he should certify an amount greater than \$25,000, is there any upward limit to which he could or would not go toward this end?

In other words, could the Attorney General not certify \$250,000 or more, to be the settlement by any given agency in any particular torts claim? If so, is this not a defect in the bill?

Mr. ASHMORE. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from South Carolina.

Mr. ASHMORE. The Attorney General can do that now. He can settle in excess of a \$25,000 claim. He has that authority now.

Mr. HALL. And it does not matter even if it is greater than \$25,000?

Mr. ASHMORE. Yes.

Mr. HALL. With no upper limit?

Mr. ASHMORE. That is correct.

Mr. McCLORY. As I understand it, the Attorney General defends and represents the interests of the United States at the present time, and he would continue to be the one to represent these interests in court. If he wants to settle before trial, but after suit is filed, there is no upper limit at the present time or under this bill. This bill merely requires him to give his approval in the case of any settlement above \$25,000 made before suit is filed.

Mr. HALL. I simply want to make the statement that I think there should be an upper limit on the amount that any one appointed officer of the Federal Government can settle for in a torts claim regardless of how much it is. Because if there is no such limit, then indeed this Congress has again relegated to the executive branch its responsibility.

Mr. ASHMORE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this is really not a marked change I will say to the gentleman from Missouri, of what this Congress has authorized concerning the handling of litigation. The Attorney General is the chief lawyer of the United States. He handles all of these claims when they are litigated. It is his sole responsibility. He is the man who makes the determination as to whether the claim should be settled or not and the larger they are the more he is concerned with it and he must make the decision.

The SPEAKER. The question is, Will the House suspend the rules and pass the bill with amendments.

The question was taken; and (two-thirds having voted in favor thereof), the bill, as amended was passed.

A motion to reconsider was laid on the table.

COLLECTION OF CLAIMS OF THE UNITED STATES

Mr. ASHMORE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13651) to avoid unnecessary litigation by providing for the collection of claims of the United States, and for other purposes, with the committee amendments.

The Clerk read as follows:

H.R. 13651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Claims Collection Act of 1966".

Sec. 2. In this Act—

(a) "agency" means any department, office, commission, board, service, Government corporation, instrumentality, or other establishment or body in either the executive or legislative branch of the Federal Government;

(b) "head of an agency" includes, where applicable, commission, board, or other group of individuals having the decisionmaking responsibility for the agency.

Sec. 3 (a) The head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the

Attorney General and the Comptroller General, shall attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to, his agency.

(b) with respect to such claims of the United States that have not been referred to another agency, including the General Accounting Office, for further collection action and that the compromise of which does not exceed \$5,000, exclusive of interest, the head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, may (1) compromise any such claim, or (2) cause collection action on any such claim to be terminated or suspended where it appears that no person liable on the claim has the present or prospective financial ability to pay any significant sum thereon or that the cost of collecting the claim is likely to exceed the amount of recovery. The Comptroller General or his designee shall have the foregoing authority with respect to claims referred to the General Accounting Office by another agency for further collection action. The head of an agency or his designee shall not exercise the foregoing authority with respect to a claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or a claim based in whole or in part on conduct in violation of the antitrust laws; nor shall the head of an agency, other than the Comptroller General of the United States, have authority to compromise a claim that arises from an exception made by the General Accounting Office in the account of an accountable officer.

(c) A compromise effected pursuant to authority conferred by subsection (b) of this section shall be final and conclusive on the debtor and on all officials, agencies, and courts of the United States, except if procured by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact. No accountable officer shall be liable for any amount paid or for the value of property lost, damaged, or destroyed, where the recovery of such amount or value may not be had because of a compromise with a person primarily responsible under subsection (b).

Sec. 4. Nothing in this Act shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.

Sec. 5. This Act shall become effective on the one hundred and eightieth day following the date of its enactment.

The SPEAKER. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. SPEAKER. The Chair recognizes the gentleman from South Carolina [Mr. ASHMORE].

Mr. ASHMORE. Mr. Speaker, I have a short statement which includes a brief analysis of the bill.

Mr. Speaker, this is another one of the bills which was sent to the Committee on the Judiciary in an executive communication in an effort to provide more expeditiously for claims to be settled and to protect the interests and rights of individual citizens of this country and at the same time provide necessary safeguards for the protection of the interests of the Government.