has not been widely noticed, not widely recognized, as being so integral to the sttaute itself. It's usually thought of as a sort of sugar coating, icing on a cake. It isn't that at all. This section is a speech in favor of a legislative declaration by every state legislature in the country of something that Congress had already done as a matter of Federal policy in the statute establishing the Soil Conservation Service as an agency.

The condition then is described: farm and grazing lands are among the basic assets of the state. The preservation of the lands is necessary to protect health, safety and general welfare of the people of the state. Improper land use practices have caused and are now causing a progressively more serious erosion of the farm and grazing lands of the state by wind and water. Here we come, you see, to concepts that are well known to soil scientists, but poorly understood outside of the area of the soil scientists themselves. The breaking of natural grass, plant and forest cover has interfered with the natural factors of soil stabilization, causing a loosening of soil, exhaustion of humus, and developing a soil condition that favors erosion. The top soil is being blown and washed out of fields and pastures. There has been an accelerated washing of sloping fields. These processes of erosion by wind and water speed up with the removal of absorptive topsoil, causing exposure of less absorptive, and less protective, but more erosive subsoil.

Now, this next is crucial. The failure by any land occupier to conserve the soil and control the erosion upon his lands causes a washing and blowing of soil, of water, from his lands on to other lands, and makes the conservation of soil and the control of erosion of the other lands difficult or impossible. This is the first statement in state law, to my knowledge, of the fact that soil erosion isn't just a matter of every man's right to go to hell in his own way, every man's right to do as he pleases with his own lands. This is calling attention to the fact that what a man does in exercising his right, which no one questions, to do as he pleases on his own lands stops where what he does on his lands doesn't stop with his land itself, but spills over and has an effect, either on adjacent lands, or on other lands that are not adjacent but influenced by the soil and water runoff and blowoff from his lands. That particular statement concludes in subsection "a" of this section, by saying that such washing and blowing of soil and water, from his lands on to other lands, can make the conservation of soil and the control of erosion on other lands certainly more difficult, possibly impossible. Now, this obviously is a forerunner for an exercise of what the lawyers call the police power, which is the power of a legislature to enact laws to protect the general health, safety and general welfare of the people of the state.

Subsection "b" of that section talks about the consequences of erosion. It's a long list, where we have in effect a political speech on the importance of taking action. Again, something that normally you don't dream of putting into a bill. People say, "We get to that when we write the committee report." Or, "we'll get to that when the sponsors of the legislation make their speeches in the legislature." And of course, we will. But there is nothing like taking advantage of this bill itself, to put

it in here. First of all, it strengthens the argument for the constitutionality of what you are doing. Second, it strengthens the argument for substantial appropriations to carry out what you are doing. Thirdly, it invites, it asks for the support of all the population in the state for what you propose to do.

It is the nature of erosion control operations that you always work on a particular man's land, a particular farm, or a particular ranch. Most of the expenditure will go there. You can justifiably and legitimately call upon the land owner to contribute heavily to the cost of doing that work. His land is being improved. Its economic value is being raised for him. Therefore, you can legitimately call upon him to contribute. But this, you see, would justify public contributions beyond what would otherwise be justified. Because you are not just benefiting the land on which the erosion practices are being installed, the particular farm that you are terracing, the particular farm on which you are establishing ditches, and grassing the waterway, you are doing much more than that. You are preventing damage to highways, you are reducing the dangers of floods, promoting the stabilization of entire watersheds. So we have silting and sedimentation of stream channels, reservoirs, dams, harbors, loss of soil material in dust storms, piling up of soil on lower slopes and its deposit over alluvial planes. The reduction of productivity or outright ruin of rich bottom lands, by overwash of poor subsoil material. Deterioration of soil and its fertility. Deterioration of crops. Declining acre yields. Loss of soil and water, which causes the destruction of food and cover for wildlife. (Another state interest is here brought into it.) Blowing and washing of soil into streams. Sediment, the problem of sedimentation, which silts over spawning beds, destroys water plants, diminishes the food supply of fish. Diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, causes crop failures. An increase in the speed and volume of rainfall runoff, which increases floods, bringing suffering, disease and death. Impoverishment of the families attempting to farm the lands. Damage to roads, highways, railways, farm buildings and other property from floods and dust storms. Losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming and grazing.

By this time, two things had been, hopefully, very firmly established. The right to demand substantial financial contributions from all the governments involved, Federal, state and local. They all have an interest in it. They are all being damaged by erosion. They all will benefit from erosion control. And other costs of theirs will be reduced. This is a cost that they can legitimately be called upon to undertake.

So then in subsection "c" we go into the appropriate corrective methods. "Land use practices contributing to soil erosion must be discouraged and discontinued. Appropriate conserving land use practices must be adopted." And then we detail the procedures necessary for widespread adoption. "Engineering operations, such as the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, the utilization of strip cropping, lister furrowing, contour cultivation,

contour farming, land irrigation, seeding and planting of waste, sloping, abandoned or eroded lands"--what we came a short time after that, to call submarginal lands--"to water conserving, erosion preventing plants, trees and grasses. Forestation and reforestation. Rotation of crops, soil stabilization with the various kinds of trees and grasses. Retiring runoff by increasing absorption of rainfall. And then, complete retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded."

All of the strands of thought that are outlined in subsections "a," "b," and "c" are brought together in the final subsection "d."

HELMS: One question. By mentioning specifically what we now call measures and practices ...

GLICK: Corrective methods ...

HELMS: You don't know what future technology might bring. Do you limit yourselves in the law by specifically mentioning them?

GLICK: No. We did not think of specifically protecting ourselves by indicating that new technology, the results of further research, may indicate other corrective measures that are needed. That we did not think of and didn't say. There is nothing in the section as drafted that would obstruct the addition of other methods. Some of the phrases are so comprehensive and broad. For example, increasing absorption of rainfall. Then we said, erosion preventing plants, trees and grasses. A great many new varieties of plants, trees and grasses may come to be discovered by later research. And then we say also, "Among the procedures necessary for widespread adoption are...". Which also opens the door to adding others as knowledge develops. Very well, the rest of subsection "d" is a sort of waving of the flag and justification of doing what all of these summarized facts would seem to indicate.

Let's glance together down at subsection three to see whether any of the definitions included there require comment. We are looking through the various definitions and there is only one that I think does need particularly to be commented on. We created a new term, land occupier. Not that either of those two words in that phrase are new words. Normally, statutes of this type speak of landowner or tenant. The owner, the tenant, and the sharecropper are the three types of relationship of man to the land that normally get involved and affected by agricultural programs. But we wanted a term that would include both the owner and the tenant where that's appropriate. Furthermore, there may, in some cases, in a great many cases, particularly in the South at the time, be an owner, a tenant and a sharecropper. Or the tenancy may take the form of sharecropping. There, the owner's obligations are normally limited to and confined to his share of the crop. In turn, the tenant's obligations are normally considered as limited to and defined by his share of the crop, where there is a sharecropping arrangement. But that wouldn't do for this purpose. For this purpose, erosion control practices become the obligation of anybody who conducts operations on the land. When we come

later to conservation ordinances and land use regulations, where the public power to regulate private land use comes into play, there must be no escape or loophole, on the theory, "I may be the owner, but I don't operate the land. It's leased." Or worse yet, "My obligations as an owner are entirely limited to one-tenth of the crop or one-half of the crop, and therefore, you must be careful about your constitutional power to impose costs upon me because I am an owner."

We worked our way through that problem with great care and decided that we needed a term that would include all people who have the legal authority by virtue of their relationship to the particular tract of land, to conduct operations upon it and to receive benefits from the conducting of the operations. We wanted, in other words, all obligations here to extend to a land operator, whether he's an owner, a tenant, a sharecropper or whatever. Hence we used the term land occupier.

It may be worth calling attention to the fact that during the state legislative hearings on adoption of the bill, and subsequently in appropriation hearings, very rarely was any question raised about, "Why the term land occupier. Why do you deal with that?" I do recall the question being put to me in some cases. I was usually content to point out what I've just now said, and then to add that particularly in a district that has adopted a conservation ordinance or a land use regulation, this is necessary in order to set at rest constitutional questions as to the power to enforce a public regulation upon private land use where the user has only a limited interest in the land. But the obligation may run beyond his use, particularly in a year in which more or less expensive operations may need to be introduced.

Then we come to section 4. The bill establishes, in every state that adopted the bill, a state soil conservation committee. The section "a" of section 4 includes a provision which was quite novel, unusual in agricultural legislation. It died a slow but natural death. The provision is that the state soil conservation committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the abovementioned members as a member of the committee. Now, this is Federal-state collaboration with a vengeance. This is the state legislature authorizing the state committee, which is an agency of the state government, to invite the Federal Secretary of Agriculture to designate a man of his own free choice, without any confirmation by anybody, without any U.S. Senate confirmation, to serve as a member of the committee. It doesn't put any limitations upon that member. He would have the same right to vote on all questions that the state soil conservation committee deals with as the state-designated members of the committee, several of whom were very important ex officio members, the director of the state extension service, the director of the state agricultural experiment station. Those two served ex officio. But the United States member was to have equal power, equal significance within the committee.

Now, notice this; and this came up in legislative hearings in various state legislatures as they considered the bill. Does

this mean that the state committee and the governor of the state will have no voice whatever in choosing this member of the committee? There's nothing in the bill requiring confirmation by the U.S. Senate, of course. But there isn't anything in the bill requiring approval by the governor, or by anyone else. Our answer was, "The state has complete control." When a state statute says that the committee may invite the Secretary of Agriculture, they don't have to invite anyone. When they are considering inviting him, there is nothing to prevent them from saying to the Secretary of Agriculture, "We want an understanding about the kind of people you are going to choose. We want to know in advance. We want to be able to turn them down if we want to." I always answered, "It would be unwise to sort of stoke up political storms and political fights where none need exist at all, by spelling out all of this in the statute. The whole thing is taken care of by using the word 'may,' instead of 'shall invite.' Also, it's taken care of by not having the state legislature establish the post to be filled by the Federal Secretary of Agriculture. None of that is done. Instead, the entire authority and power is left with the state by the use of the word 'may.'" This usually satisfied the committees. I don't recall a single instance where this provision was stricken out of the bill. Now, I'm not certain of that. I'm speaking now about what happened 40 years ago. There may have been some states that did strike it out as they adapted the law to their own requirements before making it a statute. I don't recall any. This I do recall. Although most or all of the states retained the provision as is, what gradually happened was that for awhile in nearly all states, the Secretary of Agriculture was invited to designate someone. He very often designated the Soil Conservation Service's state conservationist to serve on the state soil conservation committee, thus greatly strengthening Federal-state cooperation in this area. This was the creation of a position and the appointment of a member in the governing arrangements within the state that would strengthen such federal-state collaboration. In addition to the fact that they both would be providing money to finance every single district.

What gradually happened is that the states became more and more restive about exercising this authority. They stopped asking the Secretary of Agriculture when the term expired, or the member died, retired, or whatever. When the vacancy was created, they didn't ask the Secretary to fill it. My own experience doesn't enable me to tell you what happened after that. You remember I left the Department of Agriculture in 1942. I had next to nothing to do with the soil conservation program or the soil conservation districts during the war while I was with the War Relocation Authority. Thereafter, I went into the State Department and was working on international technical assistance and the Point 4 Program. In late 1953, I left the Federal Government entirely. I went into private law practice in 1955. In 1953 to 1955 I was on the faculty of the University of Chicago, in a committee study of technical assistance in Latin America.

But in 1955, I went back into private law practice. Within a year or 18 months, NACD, the National Association of Conservation Districts, retained me to be

General Counsel of NACD. As a private lawyer in private practice, operating on a retainer basis with NACD, it now became my responsibility to give legal advice to every one of the districts. Almost immediately, the state soil conservation committees came in. As you know, within every state, the districts are organized in a state association of soil conservation districts. The state associations of districts began to send legal questions to the general counsel of NACD. In many cases, individual districts sent legal questions to me in that capacity. That brought in the state committees, because state associations of districts worked in reasonably close collaboration. The collaboration should be stronger, but they've always worked, and still do, in close collaboration with the state committee. That brought me back into the districts program from another door. During that period, this kind of a question never was referred to me. I wasn't acutely aware of it. Don Williams and his successors as Chief of Soil Conservation Service would know from their own experience why that particular provision of the law died a natural death.

We made it possible for it to have an easy burial, by the very use of the word "may" instead of "shall". Looking back on it however, I still don't think that was an error. I don't think it was a mistake on M.L. Wilson's part. He made the decision to use "may" instead of "shall." He foresaw, as a matter of fact, that the whole provision would probably be killed routinely by nearly every state legislature if we said "shall" instead of "may." He said, "I'm not certain that the country is ready for that kind of an intimate marriage of personnel appointments between the Federal and state government." He said, "The only instance of that kind that I know does occur is in the Extension Service." That took an Act of Congress. That came later. Namely, that personnel of state agricultural extension services became entitled, on retirement, to certain retirement benefits under the Federal retirement laws and were treated as Federal personnel for certain purposes. That state people would be treated as Federal people definitely required legislation. Only an act of Congress later made that possible.

HELMS: Was it in Mr. Wilson's mind or yours that somebody from SCS would be the logical appointee of the Secretary of Agriculture?

GLICK: I just don't recall. Also, I don't recall whether we discussed that. I also don't recall whether we thought of that as an advantage or a disadvantage. I'm not sure. Certainly I didn't foresee that the state conservationist of SCS would be a logical man for the state people to think of to invite under this provision.

HELMS: While you're talking about that, I'm not even sure they had come up with the term state coordinators yet.

GLICK: Ah, state conservationists? Yes.

HELMS: I'm not even sure you had the ...

GLICK: Basis for thinking about it.

HELMS: ...thinking about it.

GLICK: I have no recollection whatever that we gave any thought to that. Any federal person could be made a member

of a state committee. I'm trying hard to recall conversations of a long time ago. I made no notes about it. I'm not sure I saw then how important this might turn out to be. It just seemed to us a way of improving the operations of the state soil conservation committee.

Now, you may recall that in my speech in New Orleans, which dealt with means of strengthening future operations of soil conservation districts, I called attention to the importance of strengthening collaboration between the state soil conservation committees and the state associations of districts. I made that a parallel to another recommendation in the same speech, namely, the desirability of having the state committee and state association assist districts and counties in drawing up long-term contracts that would provide for close collaboration between the counties and the districts.

Returning now to what Section 4 of the bill provides, it deals with the details of the procedures and operations of the state committee. One point in subsection (b) that I need to call attention to. M.L. pointed out that within the states, and in the state extension services in particular, they are very sensitive about having state level personnel direct or control the operations of local government units. The state extension services deal directly with the counties and appoint county agents to head the work of agricultural extension within each county. But the relationships there are very sensitive. The counties are sensitive, but even more so, the state extension services are sensitive about that.

We provided, therefore, in Subsection (d) of that section for the duties and powers to be carried out by the state Soil Conservation Committee. The draft bill first authorized each such committee to offer appropriate assistance to the supervisors of districts, and then to keep the supervisors of each of the districts informed about the work of the others and to facilitate an interchange of advice and experience. Then subsection 3 says this, "to coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation." The significance of that language is, of course, that it is an express limitation on the power of the state committee to influence and control what the local soil conservation districts do. Soil conservation districts are to be independent local governmental units. Even their own state committee in the same state may coordinate the programs only through advice and consultation. It must be done on a voluntary basis in other words. Without the limitation to "so far as this may be done by advice and consultation," the power to coordinate a program obviously would include the power to direct the doing of something or the nondoing of something. The only way you can coordinate a and b is to require each to do something or to prohibit one or both from doing something. Also, the use of the words, "so far as this may be done," is about as strong a way as the English language permits of saying, "We don't mean that you may go beyond this. You may coordinate only so far as this may be done by advice and consultation." Without calling attention to it, a reader could fail to see the full significance of what lay behind that.

Next, there is spelled out elaborately in section 5 the procedure for creating soil conservation districts. This has to be, of course, elaborately spelled out. This is a very important step that a state takes. There are various kinds of what the political scientists call, special districts; "special" meaning that they are not general units of government. Even the soil conservation district is what a political scientist calls a special district, because it doesn't have the general powers of local government within certain stated boundaries or purposes. Instead it's a district only for a specific purpose, in this case, erosion control and soil and water conservation. So the procedure had to be very carefully spelled out.

The major important provision here in connection with the creation is the requirement that the proposed establishment of a soil conservation district be submitted to a local referendum. All land occupiers may vote. This we knew was going to be extremely sensitive and it's one of the reasons for using "land occupier," instead of owner. The power to determine whether or not you establish a soil conservation district is obviously going to very importantly affect the rights of landownership. Every man who owns land that is about to be incorporated within a soil conservation district knows, or ought to be able to foresee, that he is going to have to come to terms somehow with the supervisors of that district. If all they do is offer him a contract between a landowner and the district, he can just say, "Thank you, no. I'm not interested." If all they want to do is offer him assistance, he may accept the assistance and then indicate the limits on what they may do in granting that assistance. But the statutes also provide for conservation ordinances and public regulation of private land use. Who then is entitled to a vote in the referendum on whether a district should come into being? Obviously, not only the owner, he may be an absentee landowner. The tenant may be far more the important operator. The tenant may actually have a larger financial interest at stake than the owner. For the owner it's the market value of the particular acres. For the tenant it's the cost of all of the equipment and machinery and credit for annual operations, etcetera. Who then is to vote? You can't write a statute in such a way that a man could give himself more voting authority and power on whether or not a district should come into being, by merely leasing some of his lands, or dividing it up into 20 parcels.

HELMS: Can a man vote in two district elections: as an owner in one, and he's renting land in another?

GLICK: Yes. Because they involve different lands. Well, there is a legal point here that is worth mentioning but not stressing, since yours is not a legal study. The referendum is not made binding upon the state committee. See the last few lines on page 8 of the standard act. After the hearing and referendum, the committee may determine that there is no need for a soil conservation district to function in the territory considered in the hearing. It may make and record such determination and deny the petition. The denial remains in effect for at least six months. Then, if it determines that there is a need, that's when it holds the referendum and the referendum isn't binding upon the state committee.

Because they may decide that this referendum passed by a vote of fifty and a half to forty-nine and a half, and therefore, opposition to the district is as great as support for the district. It's not likely to be able to function effectively. The state committee may then refuse to establish that particular district on the basis of that referendum. It may wait until public opinion in the area, the need for erosion control, the eagerness to have Federal financial aid in carrying on erosion control operations, is great enough to persuade a working majority, a substantial majority.

HELMS: But why not come up with a figure two-thirds?

GLICK: That is the alternative frequently used. I don't recall definitely now. I have to be careful as I go, not to influence history by my own preferences as we go. I don't recall that we specifically discussed that. I can imagine that we thought that a two-thirds majority or a three-fourths majority or a 60-percent majority is a more mechanical thing, less controllable. People with knowledge of the facts, as they may exist at the time, have less control than this procedure gives them. But that's the kind of thing that I think would have appealed to M.L. This may very well have been our reason for that. I do know that one of the things that importantly influenced me was the question of constitutionality. I wasn't certain of how far we could go. Remember, this was way back in 1935, 1936. I wasn't certain how far we could go in providing for binding local referenda on questions of governmental power of this kind. And from what I know now from the subsequent course of judicial decisions, I don't think that would have been a constitutional problem. The referendum could have been made conclusive and I think the courts would have sustained it just as well.

HELMS: But there was a question that it might be taking too much of the state's power away to let the local unit decide entirely on their own?

GLICK: No, you see, it's the state committee that would be establishing the district.

HELMS: But that's the .....

GLICK: Ah yes, that's the landowner. Too much of a delegation of legislative power to those eligible to vote in the particular referendum. I think the courts would sustain that, as of today. And I'm not too sure that this loomed very large either in M.L.'s mind or mine at the time we were considering what the bill should say. You will notice that in subsection (e), after the referendum, again provision was made, "If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination, the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed dis-

trict, probable expense of operations, and such other economic and social factors, as may be relevant to such determination." There was no delegation of legislative powers to the voters in the district.

We have the next important point, in subsection (f). Again, relatively novel. The bill says, once the district is established, the state conservation committee shall appoint two supervisors to act with three supervisors elected as provided hereinafter as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic upon the taking of the following proceedings. Many of the states, when they came to consider the recommended standard act, shied away from having three elected supervisors. Some shied away from having the two appointed supervisors. In some of the states now, all of the supervisors are appointed; in other states, all of them are elected. M.L. felt strongly that an important administrative problem is here involved. It's not just a matter of, you can do it one way, or you can do it another way, whichever the legislature likes. These supervisors of the district, if they are to serve their primary function of representing the actual landowners most affected, and being locally elected, are therefore, obviously able to speak for the people who vote for them. They will later have to stand for reelection and, therefore, they will have to answer to the people in the district. That we felt was very important.

Let me back up a minute. So far, the bill would take care of making the supervisors adequately representative of local opinion, local preference. These are highly technical operations that the district will be carrying out. The average farmer knows a great deal about farming. He doesn't necessarily have a great deal of information about terracing. He knows a good deal presumably about strip cropping and contour furrowing. But he knows much less about flood control over an entire watershed area. Two supervisors, a minority, you notice, could be outvoted by the other three supervisors on any question that comes before the district. Certainly M.L.'s reason for wanting two of them appointed is he assumed that the natural result would be those two would be selected because of their expertise in erosion control. At the state committee, he assumed they would discuss this with the extension service. They would know people who live there, own lands in the district, or operate lands in the district, or are close to the district, who do know the kind of technical facts that ought to be brought to the attention of a board of supervisors of a district.

This problem of having elected officers be truly politically representative, and at the same time administratively competent, continuously arises. This is why some Senators are so much better than others. Some Senators and Congressmen and county officers and district officers, are excellent in both respects. They know the job to be done and can give a certain amount of relevant experience and expertise to the decisions to be made. At the same time, they can legitimately and effectively know and represent political views, just as every Senator and Congressman frequently has to face this question. "My own personal view," he may tell himself on this particular vote, or this particular appropriation, "is

such and such. My constituents don't feel that way." Where there is a division of opinion among the constituents, in most cases, that's not much of a problem for the elected representative. He has the freedom to decide because he'll have as much support as opposition among his constituents. When a Senator Fulbright of Arkansas votes on a civil rights question, he may be very much in favor of extending civil rights, as Senator Fulbright was. But he knew that his Arkansas constituents didn't go anywhere near that far. Quite aside from the narrow, purely political question of political survival, a principled Senator, such as I believe Senator Fulbright to have been, would recognize that a Senator as well as a Congressman must represent his constituents. He's not supposed to be slavishly dependent upon their view. Senator Norris of Nebraska, for example, had such personal strength and power and prestige and respect from his constituents that he would frequently vote in the knowledge that a majority of his constituents wanted him to vote the other way. But they would recognize that we haven't elected a man who is supposed to be our rubber stamp. We want him to help us, to help educate us. He was given that kind of freedom. There was another Senator, equally strong in that respect, in New England. Who was it? I think he walked with a limp. Yes, Senator Aiken of Vermont is a very good example in New England. It's a better example, because it doesn't deal with a regional representation problem, such as a southern Senator faced with civil rights issues. Senator Aiken of Vermont had such prestige in his state and such strong respect of his constituents that he could frequently and did frequently stump his state on issues of war and peace. The Vietnam War came into that consideration, I believe. He would stump his state. He could "stump it" by making one speech, explain why he felt as he did feel, and say, "Now, I urge you to reconsider if you feel opposed to what I am about to do. But I feel I must vote this way." Aiken could do it and Norris could do it. Senator Jackson of Washington does it on armaments questions very frequently as just now on the MX issue. But not very many Senators and Congressmen could do so.

It was part of this that lay behind the decision that districts would be greatly strengthened, while not interfering with local democratic control of the supervisors' action, by having the three elected supervisors, if two men could be chosen by the appointing process in order to bring in expertise as well as local opinion representation.

The next points that we want to discuss here are sections 8 and 9. Sections 8 and 9 of the standard act deal with the powers of districts and supervisors. They deal with two categories of power. The first we might call the project powers. Those are defined in section 8. Next are the regulatory powers. Those are defined in section 9 and related subsequent sections. I think this would be a good place to stop. We'll begin with the powers of districts, I would suggest, in our next meeting.

June 9, 1983

HELMS: This is June 9, and we are going to continue with our interview with Mr. Philip Glick on the conservation districts act.

GLICK: Section 8 has a number of Subsections. I'm going to go into each subsection and then restate as briefly as I can what powers are conferred upon district supervisors, subsection by subsection. First, the districts are authorized to do research. The bill gives power to conduct surveys, investigations and research concerning the causes of erosion and the ways to control erosion. This subsection strangely enough created a rather major problem.

Mr. Wilson was aware that the Office of Experimental Stations was skittish about duplication of research by agriculture agents at the three levels, Federal, state and local. To introduce a new group of districts covering the entire country with an independent power to carry on research on erosion and erosion control would be a sensitive issue in each one of the state legislatures and in each state in relations with the Office of Experiment Stations. So he conducted some pretty careful discussions within the department, within the Office of Experiment Stations, primarily, and also in the Secretary's office. That led to an express provision in Subsection 1, that reads: "...provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program, except in cooperation with the government of this state, or any of its agencies, or with the United States or any of its agencies." That's the end of the quotation.

As usual, and as a matter of fact, what seemed at the time to be a lot of excitement and delay over a more or less routine provision turned out actually to be a very important provision. It was very beneficial that we did have this in the bill. In most of the hearings, as I recall, in the various state legislatures, this became an issue during the hearings on the bill. It was fortunate that people were able to say, we've anticipated that problem. Let us look particularly at subsection 1 of section 8. That was taken care of.

The next subsection authorizes all districts to conduct demonstration projects within the district. You remember that at the time that this bill was being drafted and the first few years after its enactment in the earliest states, SCS was still doing most of its work in the country by operating demonstration projects. It was inevitable that the talk about establishing a new district would create the question about what kind of demonstration projects are they to have, how are they to relate to demonstration projects by Federal agencies, etcetera?

In subsection 3, "the districts are authorized to carry out preventive and control measures within the district, including but not limited to...". Then there is a rather detailed list of the various kinds of things that the districts may carry out in their erosion control program. Next, they are authorized to enter into cooperative agreements with any agency that also carries out erosion control and prevention operations, whether federal, state or local, and with private agencies. Next, they are authorized to acquire by purchase, exchange, lease, gift, grant, any property or to obtain interest in property. The Congress had always been very, very sensitive, and still is, about any Federal land acquisition in states or localities. This too had to be carefully

girded around with the protections and precautions spelled out in subsection 5.

In subsection 6 we have a brief subsection but a very important one. This is in effect the heart of the project operations. It authorizes every district to make available to land occupiers within the district agricultural and engineering machinery and equipment, fertilizer, seed, seedlings and other materials or equipment that are needed to assist the land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion. We will be talking a little bit later about how the districts were to be able to finance their activities and whether they should be given the taxing power in order to have revenues with which to carry on their activities. This is important. In drafting the bill, we already knew when we reached this section we were not going to authorize the districts to levy taxes. Where then were the districts to obtain the large amounts of machinery, equipment, fertilizer, seeds, etcetera, necessary to enable them to help land occupiers control erosion. One major source, we knew, would have to be the Federal Government's Soil Conservation Service. Each district had to have authority to obtain this material from a Federal Government agency and then to use it for erosion control work in cooperation with the landowners.

In subsection 7, the districts are authorized to maintain such structures as are necessary for this. We had in mind very small dams, terraces, windbreak areas, etcetera.

In subsection 8 the districts are authorized to develop comprehensive plans for the conservation of soil resources and the control of erosion. Again, "which plans shall specify in such detail as may be possible, the procedures, performances and avoidances necessary or desirable for the effectuation of the plans, including engineering operations, methods of cultivation, growing of vegetation," etcetera.

In subsection 9 we have what we thought of at the time as a very important project power. I'm not sufficiently familiar with how this actually worked out in practice. I don't know whether these powers were used to a great extent. subsection 9 authorizes the districts to take over by purchase, lease or otherwise, and to administer any soil conservation, erosion control, or erosion prevention project located within its boundaries, to manage such projects as an agent of a Federal agency or of a state agency, to accept donations, gifts and contribution in money, services, materials, from any federal or state agency, and to use or expend such monies in carrying out its operations. Subsection 10 is....

HELMS: I might interrupt.

GLICK: Yes.

HELMS: On some of the land utilization projects, particularly in the Great Plains, the districts ended up doing the leasing of those for cattle raising.

GLICK: That's right. And the districts in those states, would, of course, find the powers in subsection 9 very convenient for that kind of an operation. Subsection

10 authorizes the districts to sue and be sued.

There's a very important Subsection 11. It provides that as the condition to extending any benefits under the act, or to performing work under the act on any lands, the supervisors may require contributions in money, services, materials, or otherwise, to any operations conferring benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon. On this subsection 11 there developed the very significant pattern of operations used by districts. That is the contract or agreement between the district and individual landowners or occupiers. This is a very significant form of administrative procedure and not very much used, as a matter of fact, ordinarily, in agricultural legislation. Normally, an agricultural agency gives assistance or it regulates what public or private land occupiers may or may not do. But here, provision is made for a contract to be negotiated and signed between a district and any and all of its land occupiers to carry out mutually agreed upon plans and operations on the particular lands.

These, then, are the project powers of a district spelled out in section 8. Many district supervisors, in fact, don't know how broad are the powers that their state statute confers upon them. Many useful activities are not initiated by districts, because the supervisors don't know that they have the power to do so without going back to the legislature for an amendment to their statute. At staff meetings of the Soil Conservation Service, state conservation agencies, Federal and state extension agencies, etcetera, I have frequently urged the introduction of training programs that would assist district supervisors in reading and studying their own enabling act so that they would be encouraged by the sheer knowledge of the powers that their legislature has given them to carry them out and to extend and broaden their activities and thereby increase their effectiveness and success. So much for the project powers.

HELMS: May I ask one other question before we move on?

GLICK: Yes.

HELMS: Just in case I would perhaps forget it; subsection 11 refers to such agreements or covenants as to the permanent use. Is that something that concerned the state legislatures, the permanent use?

GLICK: That was in the standard act that was recommended to all the state legislatures. I don't recall that this ever gave any trouble to any state legislature as it was considering adopting the act. I don't recall that any state amended or deleted this particular provision. Although it speaks of permanent use, and therefore has connotations of a heavy governmental hand, nevertheless this was something that they could require the landowner to agree to as a condition of accepting assistance. All the landowner had to do, if he thought the provision was burdensome, was to refuse to accept the assistance.

The sections on conservation ordinances I am going to go over more quickly,

because they have not been widely used. I think it's worthwhile to discuss that point a little. Otherwise, I will seem to be going over hastily things that appear to be very, very important.

In the United States, as everybody knows, our traditions are against governmental regulation of private land use. We've always resisted that. We were an agricultural nation when the Federal Constitution was adopted and when our governmental traditions first were organized and formulated. Farmers don't like to be regulated. Really, nobody does. But in general we have learned as citizens to understand that some things need to be prohibited, some things need to be encouraged, and some things need to be permitted only under certain conditions. All of this together constitutes what we call public regulation of private activities.

As a matter of fact, the first problem that arose, and M.L. Wilson and I discussed this at some length in a number of meetings between ourselves, was, "What shall we call these things?" I suggested calling them "land use regulations." M.L. said, "Regulation is a prickly term. Can't we choose some other term than that?" We thought about that, and then we developed the alternative phrase, "conservation ordinances." We decided that we would refer to them as conservation ordinances throughout. The word ordinance is widely understood and instantly it reminds the hearer that this is something that is going to be adopted by a local governmental unit. If it's adopted by the Federal Government or a state, it's called a statute. It's only when it's something adopted by a city or a county that it's called an ordinance. So the word ordinance is palatable.

Similarly, the word conservation is pleasant. Whereas, even the word erosion control raises, in the subconscious mind, business about the public land and regulation, etcetera. We were on the verge at one point of excluding the use of the words "land use regulation" from the bill entirely and speaking only of conservation ordinances. Then at one point, we came up against this counter argument. We said, "There is such a thing as showing that you are very, very nervous about what you are talking about. Then you evoke opposition that might not ever have developed otherwise. After all, "conservation ordinance;" what does that do but regulate land use? Well, if we excessively avoid what would otherwise from the context appear a natural use of the word, people will ask, "What the hell are they afraid of? What are they hiding?" We would perhaps exaggerate the issue and invite misunderstanding.

We finally hit on this. We said, "We'll start out by calling the section, 'Adoption of Land Use Regulations.'" We go on first to authorize the supervisors of the district to formulate the land use regulations. Then we say, "The supervisors shall not have authority to enact such land use regulations into law until after ...," and we carefully provide for notice, and a number of public hearings, and then provide that the proposed regulations shall be embodied in a proposed ordinance. Then we provide for an extensive public education program concerning the proposed ordinances and what they will contain. We require also a local public referendum in every district on the

conservation ordinance that is proposed for adoption. No district is then given power to adopt such a conservation ordinance until a majority of the land occupiers of the district vote in favor of it. Even after a majority of the land occupiers of the district have voted favorably in a referendum, the bill goes on to provide that the supervisors must then reexamine the question of the desirability and need for the proposed conservation ordinance, and then determine whether or not to put the ordinance into effect. Why? Well, it occurred to us that there may be a very small turnout of voters, of land occupiers, voting in the referendum on the proposed ordinance. Therefore, the results of the referendum may not at all be indicative of the attitudes and the level of information on the part of the occupiers throughout the district. Furthermore, suppose the ordinance is approved by 51 percent of the voters in the referendum. This again would indicate that there has not yet been an adequate public education program on this subject. Perhaps it would be wiser in such a case, especially if all that's available is a 51 percent favorable vote of a very small percentage of the total number of land occupiers, to postpone the questioned bill.

M.L. always had a strong sensitivity to public opinion, to the moods and attitudes and wishes of the farmers and ranchers with whom the Federal government and the state governments would be working. Remember, he was the first county agent in Montana. He was an important county agent leader in Montana and earlier in Iowa. He was very much attuned to the county agent, to the individual farmer and the individual rancher. He saw things from their point of view. He never lost or broke that contact, merely by the fact that he came to the Department of Agriculture, worked in the Agricultural Adjustment Administration, then became an Assistant Secretary of Agriculture, which he was at the time we were considering this proposed bill. He later went on, of course, to become Undersecretary of Agriculture, and still laterbecame Director of Agricultural Extension, until he retired.

The sheer adoption of land use regulations is thus carefully prescribed and circumscribed in section 9. What a conservation ordinance may contain is carefully spelled out in five subsections. Provisions are made for the enforcement of regulations and the performance of work under the regulations by the supervisors. Now notice, provisions for enforcing the regulation, and then provisions for performance of the work by the supervisors themselves. Why? We thought, first of all, no statute makes sense if it doesn't provide for enforcement of any regulations that it authorizes. But M.L. visualized an effort by anywhere from 1,000 to 3,000 soil conservation districts trying to enforce land use regulations. If you have to enforce them, you have to be able to go into court to enforce them. You have to be able to impose penalties.

He shuddered away from the picture that all of this created. He said, "You can't put all these people in jail. You can't fine them." In the depth of the depression any public fines on farmers sounded quite horrendous. These provisions, he felt, were important. At the same time, they were not likely to be enacted by state legislatures if they got the same mental picture that he got about the

spread of public regulation of private land use throughout the country. He said that putting people in prison and fining them, even if the courts decide that they have to do it because of the importance of erosion control, isn't going to solve the problem. The lands will continue eroding even though the fines are paid. Subsection 11 provides for this. Where the supervisors of any district shall find that the provisions prescribed in an ordinance are not being observed on particular lands, and those particular lands are key lands, in the sense that failure to control erosion on those lands will interfere with erosion control on adjacent lands--the lands may be, for example, at the heads of hills, or the topography is such that certain lands are crucial--they are the lands of the first priority for extending public funds in an effort to control erosion. They may be the very lands that the occupier will be unwilling to cooperate with the district on. So, provision is made in section 11, that the supervisors may go to court and ask the court, not to penalize the land occupier, but to authorize the supervisors to go on the land and do the work directly themselves. Then the supervisors may recover the costs of the work that they have done with interest at the rate of 5 percent per annum from the occupier of such lands.

M.L. felt confident that if the county agent can explain to the land occupier. "You see, you know that we are not going to enforce this kind of provision all over the country, but only on key lands, the ones that have to be brought under control if the program is to succeed at all." As for those lands, the districts will want to go into court. So then they can say to the occupiers of those key lands, "You have nothing to gain by refusing to cooperate. Your refusal endangers not only yourself. You have a right to go to hell your own way, but you don't have a right to drag your neighbors to hell when they want to get the work done. Your lands are in just such a situation where if you don't cooperate you will be forcing your neighbors, the district supervisors, to go on your lands, do the work and collect the costs from you. And that will cost you much more than if you do the work yourself."

So this provision was written in with that in mind, as something that would be available to the county agent and the district supervisors when they talked to farmers. What I have always thought was very significant about the state soil conservation district laws, are the elaborate ways in which the law tries to anticipate problems of administration, problems of public acceptance, problems of public education, and to facilitate education, facilitate obtaining of willing consent from landowners, resorting to compulsion and penalties only as a last resource. Again, I think it would be highly educational in public administration if supervisors would study these sections of the act.

We then provide for the establishment of boards of adjustment. This is an idea adopted from zoning ordinances. Everybody is familiar with zoning ordinances in cities and counties. By this time, in the 1930s, everybody had learned that zoning ordinances are very, very useful and valuable. Yes, you have to comply with a zoning ordinance anytime you want to build a house, but in the long run, it's beneficial. It protects the areas that are

zoned. It benefits the landowners more than it throws burdens upon them. They were quite acceptable. But from the zoning ordinances we learned in turn that ordinances, like statutes, have to be written in general terms, because you are dealing with a great mass of different kinds of lands. An ordinance can therefore become very unreasonable in practice unless it's tailor-made to fit the particular situations.

Well, how do you tailor-make an ordinance? Well, the zoning people had developed from experience that you can establish a board of adjustment for anyone who finds that a zoning ordinance is absurd when applied to their land—it may suit most of the land, but on his land there are special circumstances and special adjustments are required. Therefore, boards of adjustment are provided for in every single zoning ordinance in the country. I think that's a safe generalization. I know of no zoning ordinance, I've never run into one that didn't have a state or local board of adjustment to appeal to. The board of adjustment is then authorized to authorize such modifications in the application of the particular regulation in the zoning ordinance as will make it suit the particular lands. If an alternative way of reaching the desired result is available for these particular lands, that can be authorized as a substitution for the generalized power otherwise contained in the zoning ordinance. That's why the number of pages devoted to land use regulations and conservation ordinances, runs in print from page 18 through page 25. Seven solid pages of law.

Well, that had an unfortunate effect. People glancing through the bill would say, "Well, look what a very large part of this bill is devoted to land use regulation. This must be the real reason for this statute. This must be the real secret behind the interest of the Soil Conservation Service and the Extension Service in asking for this new legislation." As it turned out, this was a bone of serious contention in every state legislature where the bill was introduced. The hearings, therefore, always show many pages devoted to the analysis and discussion of this issue. The Department of Agriculture had to train the people in the Soil Conservation Service, and offer many recommendations to the state extension services, on how to explain and how to justify this section. I'm happy to be able to report that after going through all this kind of a legislative tangle, state after state after state, 33 of the then 48 states, retained these provisions on land use regulations in the law that they adopted for their particular state, which is a triumph of public recognition of the need for this kind of public activity in the interest of erosion control.

Although 33 states did retain the provisions for land use regulations, a number of the states in effect took one step forward and one step back. They increased the proportion of votes that have to be cast in favor of the proposed ordinance in the referendum. Some states require a 90 percent vote in favor of the regulation. It's almost impossible to get 90 percent of the vote in favor of anything, even in favor of mother love. Too, that was a way of pacifying the Federal Government that asked for these provisions to be included in the law, and yet making it almost certain that no conser-

vation ordinances are going to be adopted in this state. And I think there are as many as six or seven certainly, maybe more, that require anywhere from two-thirds to 90 percent favorable votes in the referendum on a proposed conservation ordinance.

That led, of course, to another question. Suppose the state drops the provision for land use regulations. Will SCS, nevertheless, cooperate with the districts in that state in order to carry on the project powers? There were two strong schools of thought. M.L. never wanted to give up on including this in the bill. He said, "This is very important. I believe it can be sold in the sense of being explained so that the opponents will understand it and favor it. We ought not to give up without trying, but what do we do in a state where they have adopted the law? They are organizing districts. Districts are ready to carry on the project powers. Shall SCS refuse to cooperate?" The natural answer that he arrived at was, "We'll cross that bridge when we come to it. Let's by all means retain these provisions. Let's alert everybody to the need for a strong public education program, strong, intelligent, sensitive administration of these statutes. And then we will decide."

That's about the way it worked out. The project powers turned out to be extremely useful and effective. I have read a number of articles dealing generally with public regulation of private land use that tend to make exceptions for land use regulations of this type, not always singling out soil conservation district conservation ordinances, but nevertheless the regulations of this type. They are usually hedged around sufficiently so that they are not unreasonable either in content or in administration. But then what happened is that SCS never had enough money to make assistance available to every land occupier in a district who came asking for a conservation contract. The state legislatures in appropriating money to help finance the districts rarely appropriated generously money for these purposes.

HELMS: You are not just referring to the salary of the individual technician, but money to put into the work?

GLICK: Yes. Money to make available to the districts to cooperate with land-occupiers. The districts therefore found that in any one year, after they had already signed contracts to use all the money available to them for helping land occupiers control erosion, they still had a backlog of farmers and ranchers who were asking for help in carrying on erosion control operations on their land. The districts had to tell them, "We've used up all our funds. You are high on the list. As we get more money, or as we complete operations, the costly part of the operations, on a number of lands, we will be able to add new farms to our work program. Then you'll come on." This psychological situation developed. You don't have a favorable environment for asking farmers to vote land use regulations to deal with the recalcitrant farmer, when you are not even able to help all those who are anything but recalcitrant, who are continually knocking on the door and saying, "Look, I'm ready. I'm doing all I can, I need help." And the districts have to ask them to wait. You didn't have a congenial environment for regula-

tions.

HELMS: You are saying had there been more money available to do the work, there would have been more of an attitude of using this where needed?

GLICK: Precisely. In a few states they did reach the point where they were pretty well meeting the need for cooperating with farmers who were ready to cooperate. Yet there were lands where the farmers were not ready to cooperate, but those were key lands and badly needed erosion control.

At the high point of activity in connection with conservation ordinances, I think such ordinances were adopted in as many as 10 or 11 states. Even today as we speak, conservation ordinances are in effect in some four or five states. But in the main, considering the fact that we now have the districts law operating in 50 states, these land use regulations or conservation ordinance provisions have been only a small part of the total erosion control effort in the country, for the reasons that we have already discussed adequately.

We have covered the powers of the districts and I suggest we go into your questions. If your questions don't raise some of the other points on which I have made notes, I'll tell you about them.

HELMS: Appointed members among the district supervisors. It didn't really work out that way in most places, did it?

GLICK: No, it didn't, although again, this varies greatly from state to state and even varies greatly from year to year and certainly from decade to decade. I don't know today, although I think SCS knows, how many states have appointed members of their boards of supervisors in the various districts. Many state conservation agencies who were coordinating the work of the districts, and many of the boards of supervisors themselves wanted all of the supervisors to be elected, rather than three elected and two appointed by the state commission. In a number of states, I have the impression that it's somewhere in the neighborhood of 15 to 20 out of the 50, they dropped the provision for appointed supervisors. I think that's an unfortunate mistake. Erosion control is after all a technical subject. Much is known by the professionals that is not known to the average farmer or rancher. If a state commission has power to name two supervisors on every district, farmers still have majority control. Three of the five supervisors have to be elected. Any ideas proposed by the professionals that the three don't like will be voted down in any meeting of the board of supervisors. We think the democratic controls are adequately safeguarded by provision for election of three of the five supervisors. Not having these appointed supervisors has provided, generally, a weaker level of administration by supervisors than could have been obtained. This is a personal opinion.

HELMS: Did any of the state acts make any useful additions to the standard act, any improvements?

GLICK: Yes. I recall specifically that this was true in Iowa and Wisconsin. SCS can give you the names of a number of other states where this is true. A num-

ber of states strengthened the act by spelling out additional activities. Wind blowing was a special problem in many areas. Local flooding was a serious problem in others. Such provisions were therefore offered in those states.

HELMS: Were there people around who wanted a more national land use planning effort rather than this local democracy type thing?

GLICK: Yes, yes. You've touched a very important point and I don't recall that we've discussed it. M.L. Wilson was very much aware that he had a major selling job to do within the Department of Agriculture on this notion of his that the Federal Government should encourage the states to take over the major responsibility in erosion control and to provide for the organization of local districts to carry out these operations. In particular, he expected strong opposition from SCS itself. Hugh Bennett, the chief of the Soil Conservation Service at the time, had a national reputation as an expert and prophet in the area of erosion control and soil conservation. The SCS staff had the general reputation of being the largest and most capable group of technical experts on problems of erosion control in the entire country. They were already authorized and responsible under the act of Congress establishing SCS to plan for and carry out necessary erosion control operations all over the country. The argument was, "Why disrupt all this? Why suddenly talk about delegation from the Federal Government to the states and localities in this particular area? Aren't we going to weaken the quality of the erosion control effort?"

Anticipating all of this difficulty didn't change M.L. Wilson's opinion that it was very much necessary to make this kind of a move. His problem was, "Is there anything we can do in our proposal itself, before we publish it, that will soften the opposition or will help the opposition join us?" He made mental notes that he must carefully talk to the Secretary of Agriculture, to the Agricultural Extension Service in Washington, to the state extension agencies throughout the country and explain why it was wise to do this. You remember I said at the very beginning that M.L. began by saying no Federal agency in Washington is going to be able to carry out the detailed kinds of operations necessary all over the country to control erosion all over the country. He felt that this is not the kind of a program which can be centralized in Washington and be effectively carried out. After all, you couldn't just adopt a lot of regulations. A Federal agency can draft regulations, publish them, and try to enforce them. But is this the way to obtain erosion control in 3,000 counties in the United States? So he felt that this kind of delegation was important. But he anticipated that the other argument would be made, and it was made.

Should we not talk, then, about what happened after M.L. Wilson was satisfied on the kind of bill that he had drafted. He recognized that he was going to get nowhere until Secretary Wallace had made this a part of his own program as Secretary of Agriculture. If M.L. Wilson had found that Secretary Wallace was opposed to this idea or wanted to retain it under his supervision and the supervision of the Soil Conservation Service, he would have dropped the idea right then

and there. He had great respect for Secretary Wallace. They were almost lifelong friends. They knew each other's minds and abilities very, very strongly.

M.L. wanted to help Secretary Wallace. He wanted to help Hugh Bennett. If he could persuade them that he was right, fine and dandy. But if they weren't convinced that he was right, then he certainly was not a man who would ever have undertaken to engineer it without their consent and happy approval. I don't know how many times M.L. Wilson talked to Secretary Wallace, but over a period of weeks, and then later months, I became aware that he had drawn up a list of the offices in the Department of Agriculture who were important on this kind of an agricultural policy issue. Secretary Wallace himself; Paul Appleby, who was Secretary Wallace's principal assistant in the actual day-by-day administration of the Department; Hugh Bennett, Chief of the Soil Conservation Service; Walter Lowdermilk; and others who were working with Hugh Bennett in SCS; the Federal Director of Extension Work; the Federal Director of the Office of Experiment Stations, Milton Eisenhower, who was the Director of Information, then, and a very imaginative, intelligent, knowledgeable man about agriculture, and a man who approached these things conservatively. He had been in the Department of Agriculture for a very long time. He was himself a lifelong Republican. These New Deal Democrats could learn a great deal from him and felt that they had a great deal to teach him. But he was an influential person. He was on M.L. Wilson's list among the people who had to be sold on the idea.

Gradually and slowly, M.L. tried to persuade them of his views. M.L. believed that important social ideas cannot spring suddenly upon the people who will be affected by them and win early acceptance. He felt you have to drop seeds. This is his favorite terminology. You plant seeds. You nurture them. You water them. And you wait for them to grow. People have to get used to thinking about new ideas before they can be relied upon to take action to carry out those ideas.

At a certain stage, M.L. told me that we needed a meeting. It would probably turn out to be a series of meetings which Secretary Wallace would preside over. We would bring in a large number of the policy makers, and policy influencers in the Department. And I recall the first meeting. I think there were some 30 people there.

HELMS: About what time?

GLICK: This would have been in late 1935 or very early in 1936. As I recall, in addition to the people that I have already mentioned, Howard Tolley, who was then in the Agricultural Adjustment Administration, and a long time collaborator with M.L. Wilson on agricultural programs of various kinds, in the original domestic allotment plan, was another of the very key, influential people who were consulted and considered.

At the very first meeting, Secretary Wallace personally presided over it. When the question period came, Secretary Wallace said he had a question. He said, "How are these districts going to be financed? Are they going to have the tax

power?" I explained what I think I have already covered here: had the districts been given the power to tax the farmers and ranchers in their districts in order to have money enough to carry out erosion control operations, it is unlikely that state legislatures would have been willing to enact it at all. In the depth of the depression, with farm lands already in the opinion of most experts too heavily taxed, Secretary Wallace and the department wouldn't be about to recommend new tax powers by the soil conservation districts. The method of finance, we said, was that SCS should have authority and appropriations large enough to enable it to give assistance to the districts, unreimbursed assistance, that is. Do the districts need technicians? Let SCS make available people employed by the SCS, assigned to work in the district offices, to work directly with the district supervisors, paid by SCS, but carrying out the orders of the district supervisors. Do they need machinery and equipment? Terracing machinery and other equipment to carry out these operations? Yes. Well, let SCS have the authority in this Federal appropriation to make gifts of this kind of machinery, equipment, seedlings, fertilizer, etcetera, to the districts. Then let the district supervisors, having now acquired title by gift to this machinery and equipment, use that in their operations.

In effect what M.L. was saying was, let the financing come by Congressional appropriations to SCS and to other Federal agencies. Let SCS and the other Federal agencies make this available, not by writing checks, but by making the actual people and the actual machinery and equipment available to the districts. Turn over to the districts what they would otherwise buy with the money that they would raise by taxation. Let the districts be responsible for administering the use of these resources in their district programs. You may remember that in the printed pamphlet on the standard act there is a long footnote on page 29, footnote 12. It says that the standard act contemplates that funds to finance the operations of the districts will be secured in two ways--by appropriations made available to the districts out of funds in the State treasury, annual appropriations; and secondly, by funds, properties and services made available to the districts by the United States, through the Soil Conservation Service or through any other agencies. The footnote goes on to explain why it was very strongly felt by the drafters of the act that it would be unwise to give power to the districts to levy property taxes, and also unwise to give power to the districts to borrow money by selling bonds. Bonds would have to be paid, principal and interest, out of property taxation. That's merely a way of postponing the evil day, but no way of solving the problem. This turned out to be not only a major question in Secretary Wallace's mind, but also a major question in the minds of all of the States.

In the course of thinking on this problem of sources of money to the districts, M.L. formulated the policy that the Federal Government should be looked to to provide most of what might be called the actual operating funds, the money to pay technicians' salaries, and the money to buy equipment, machinery and materials. But that the State government should be primarily responsible for the money

needed by each district as immediate administrative expenses. Every district would have to rent an office and buy some automobiles for its technicians. It would need telephones and secretaries and stationery and what not. Just as a county has to finance its operation, just as a city has to finance its operations, every district is going to have to finance its operations. M.L. drew that line in his mind. He said, "Let the States provide the administrative costs. Let the Federal Government provide most of the money needed by the districts for operating costs."

Well, that inevitably raised this question. Should assistance by SCS to the districts be made conditional upon appropriations by the State legislature to give administrative funds to the districts? A strong case can be made each way. But finally what prevailed was this view, which M.L. Wilson came to accept, which Secretary Wallace felt strongly about, and which Hugh Bennett in particular felt very strongly about. He said, "This requirement that the State by merely adopting the law start looking for a regular, new substantial appropriation that it would have to make to finance every district that is established in the state under its law, will make state legislatures reluctant to adopt the act at all." "The main argument," said M.L., "that we have for persuading the states to adopt this legislation and persuading the districts to carry on these operations, is that we can subsidize it. We can give them financial help in these depression years."

The difficulties that the New Deal administration in Washington had in getting its various statutes enacted, after the first 100 days and their excitement had subsided, were very strongly in the minds of M.L. and everybody else in the Department who was working with him. It was decided not to write that in as a condition in the bill. There isn't anything in the act that does do that. This has been one of the major problems that the districts have suffered from ever since. Many states were not generous in providing administrative expense money for the districts. It's reasonably obvious that the states felt the Federal government very much wants this program. They are already providing millions of dollars every year to carry on the program. They are providing nearly all of the operating money. Well, the administrative expense money is a small part of the total cost; let the Federal Government add this. Why shouldn't they? Why should they draw this line here?

M.L. felt that if the Federal Government provides all the administrative expense money, as well as the operating funds, there isn't enough of a strong link of the program to the policy-makers at the state levels to make them feel that they are the fathers of their state erosion control act and that they are entitled to the credit as erosion is controlled. The major contribution the states <u>can</u> make is the administrative expense money. So M.L. felt that this is a case where we had no alternative but to stand firm. Gradually, he felt, the states will take over more and more of the obligation to provide money, and the districts will become satisfied that they cannot get their local rent and telephone bills paid by Uncle Sam. They normally go to the state legislature for such administrative expense funds. They will gradually take it

over. This has remained policy to this day. Many of the districts in many of the states are not adequately financed. Many districts don't have their own offices. They share an office with the county agent or they share an office with a state conservation agency. For a long time, they shared office with the chief SCS person working locally.

That was certainly undesirable because it tended to have people speak of this as a Soil Conservation Service district rather than the soil conservation district. It tended to obscure and retard the development of independence by the districts and local responsibility by the district supervisors for making the districts successful. Gradually, however, this problem is being very greatly eased. SCS has always published monthly summaries of the monies made available by states, counties and other local agencies to help finance district operations. These have grown very substantially.

HELMS: Was there anything else about this particular meeting?

GLICK: Well, aside from the major question of financing and how to encourage adequate financing, the questions really dealt with the inevitable question, why this provision, why that provision, what thinking lay behind this? Have you considered this? Have you considered that?

Shortly after this meeting, M.L. told me that Hugh Bennett was not only in agreement with this, but he was growing increasingly enthusiastic. And Hugh Bennett volunteered to M.L. a statement, an insight, that was very prophetic. Bennett said, "We're having increasing difficulty in getting increased appropriations to SCS for establishing additional demonstration projects." He said, "It will be much easier to get appropriations for SCS to assist state agencies and local districts in carrying on operations. Every single Congressman will be thinking of the erosion control program in his particular state. Every Senator will be thinking of the work to be done in his particular state. Therefore, we will be able to appeal not only to their broad national patriotism and their awareness of national problems, but to the local interests particularly in the case of the Congressman, to the local interest they have, which goes way down to the county level even below the Congressional district." And he said, "This will be a powerful force. Perhaps in this way we can actually get monies on the level that this country ought to be spending for erosion control."

And M.L., I remember, told me at one stage happily, "I think we've now moved this difficult problem to the place where the energies of the Soil Conservation Service and its people in all of the states are churning on this problem. They are beginning to think that we need state legislation to broaden the program. What kind of state legislation do we need and should we have?" And, he said, "This is what I am really trying to do. I was trying to generate a set of ideas that would call for a massive delegation by the Federal Government, of authority and power, to the states and localities."

I'd like to take a minute or two to dwell on this. People say that Federal programs never terminate. You start one of

them and they go on forever. The bureaucracy digs in its heels, etcetera. I know few instances that are as clear and as strong an illustration of the fact that where authority really needs to be delegated, from the nature of the problem, the Federal government, Federal bureaucrats, Federal bureau chiefs can be trusted to recognize and to move the laboring oar in getting movement toward such delegation.

It was right for Hugh Bennett to take some 8 to 10 months to mull over the whole idea of the proposed standard act and the proposed soil conservation districts. He was responsible, and we were asking him to make a decision that he and his own people could not do this without the help of state and local legislation. He had to be absolutely sure that he wasn't running away from his responsibility; that he wasn't making a mistake; that he wasn't creating a monster that wouldn't be subject to reason, wouldn't be collaborative, and wouldn't be cooperative. Therefore, there is certainly no valid criticism of him for taking months to make up his mind. On the contrary, he is entitled, I think, to far more praise than he has been personally given for rising to this responsibility when he became aware of it fully, and for making the decision that we cannot do this from Washington. We have to go to the state legislatures. We have to go to the farmers and ranchers and ask them to organize districts under these new state laws. We need a delegation of authority from Washington to the state capitals and to the local units.

HELMS: What about the legal opinion in the back of the pamphlet on the standard act?

GLICK: I drafted a proposed opinion of the Solicitor of the Department of Agriculture on constitutionality of the Standard State Soil Conservation Districts Law. This is an appropriate place for me to point out that although I have had to use the personal pronoun "I" so often, on legal questions, I wasn't the only lawyer in the Department of Agriculture to work on this. I had two able assistants, Sigmund Timberg and Albert Cotton. They were both lawyers on the staff of the Solicitor. They had been assigned to work with me. We three at that time were a small unit in the Solicitor's Office, called the Land Policy Division. Later we were to grow, of course, as the number of legal questions reaching the Solicitor under the state district laws grew. But during the two years that were spent on the drafting of the Standard Act, I had only two lawyers to assist me; and we three did it. A great many of the provisions in the districts law, were first suggested either by Sigmund Timberg or Albert Cotton. It would be tedious, and after 40 years it's very difficult, for me to recall exactly who first thought, for example, of the board of adjustment.

At every stage when you are drafting a bill, almost every sentence raises questions of legal propriety and constitutionality. Habits of simplification in attributing credit for various work, has resulted in the fact that people in the department sometimes say, "the districts' law--M.L. Wilson and Philip Glick." In the case of M.L. Wilson, it's true. A single attribution is the most accurate attribution in his case. He was the

father of the policy. He was the father of the entire spirit and content of the districts' law. But I wasn't the father of all the legal provisions at all. I did my share, I hope; but I was enormously helped by both Sigmund Timberg and Albert Cotton. The entire opinion has been published as an appendix. The abstract of the opinion itself runs to a full printed page of small print. That's page 31 in the pamphlet on the districts' law. The opinion, itself, runs from page 32 to 64, half of the pamphlet.

We had to research, you see, not only the Federal constitutional questions, but every state constitution. The state constitutions, of course, differ greatly. I don't want to take more time on this, because I don't think most of your readers will be interested in going into such detail. But the legal opinion did cover the major legal problems. The power of the state under the police power to provide for the prevention and control of erosion, and the scope of the police power. There we tried to find cases from every one of the 48 states. Every state legislature would say, "Well, what about us? What court cases can you cite from our state?" We couldn't find, on every legal problem, a decision in every one of the 48 states. But this was explained at great length with detail of citation, because we were dealing with legal questions that would come from 48 state legislatures and not just from the Congress. The next major question is, are the appropriations authorized in the standard act for "a public purpose?" That is, the appropriations by state legislatures; are they for a public purpose? Under the constitution, neither the state legislature nor the Federal Congress may spend tax monies except for public purposes. Certainly appropriations for these statutory purposes have to be considered public purposes. Soil erosion control is a public purpose.

The next question discussed is, do the state legislatures have the power to provide for the organization of soil conservation districts as new governmental subdivisions of the state? Next, are the procedures specified for organizing the districts constitutionally valid under the constitution of this particular state? Next, are the procedures specified for adopting and enforcing conservation ordinances, land use regulations, are they constitutional under the constitution of the particular state? Next, the constitutionality of section 12, providing for Boards of Adjustment. Next, does the title of the standard act explain its purpose? All state constitutions require of state statutes that the subject be adequately expressed in the title of the act.

HELMS: For each of these questions, you searched state constitutions and court cases?

GLICK: In each of the 48 states. This kind of detailed state legal research no one lawyer could have possibly carried out by himself. The great bulk of that particular research burden again fell upon Sigmund Timberg and Albert Cotton. However, because of my own personal responsibility in connection with all of this operation, I had to satisfy myself that the memoranda and opinions I received from Sigmund Timberg and Albert Cotton were sound. This was a 32-page printed opinion, probably the longest opinion that Mastin G. White ever issued

as Solicitor of the Department of Agriculture during his tenure. We three, Timberg, Cotton and Glick, spent a great many hours on this kind of legal research. Well, that brings us finally then to the problem of winning the consent of the state extension services.

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GLICK: We've already talked about how M.L. went about explaining the entire project to Secretary Wallace. We've also talked about the results of presenting these ideas to Hugh Bennett. The next major task, M.L. said, was to build on the tentative conversations that he had held from time to time over the preceding two years with individual directors of agricultural extension in different states. He knew that without the support of the state extension services, any such program as this wouldn't be able to get off the ground. At the same time, he felt that the best way to proceed was not simply to lay an abstract idea before a meeting of all of the extension directors at a single nationwide meeting, but rather to think through all of the major problems, formulate his own tentative recommendations and suggestions, and then lay that before the extension directors individually and in group sessions. That's what led him to the drafting of what has come to be known as the Standard State Soil Conservation Districts Law. Now, he felt, with the Secretary's blessing, he could more formally talk to the various state extension services.

During the last six or eight months of my further work with M.L. in drafting the law, he submitted draft provisions to them, always, I think, in individual sessions with individual directors. M.L. was a great one for the one-on-one approach in selling any new or complicated idea. It enabled him to determine the reactions of the particular person and benefit from that man's suggestions, answer that man's questions, deal with that man's hesitations and difficulties and obstacles. By the time we had a draft law, a draft bill satisfactory to M.L. and satisfactory to Secretary Wallace, he had something he felt confident about discussing concretely with the individual extension directors. His glow increased in successive meetings with me as he kept telling me that he was having more success than he had anticipated in working with the state extension directors. He said that one problem that every single extension director immediately raised was, "Why do you need new soil conservation districts. Why not a draft state bill that would authorize the counties of the particular state to add programs on erosion control to their ongoing county work?" This idea was ex-plored very carefully by M.L with the various extension directors since all of them were interested in the idea. I have already summarized in some detail the pros and cons of what really became three alternatives, in my article in the Journal of Soil and Water Conservation for March and April of 1967. And I don't see much point in taking up time to go over those again. They are in that article.

In essence, the conversations between M.L. and state extension directors explored three alternatives. One, legislation that would give additional powers in soil conservation and erosion control to the counties. Secondly, one that would

give these additional powers to other special agencies state by state. In a number of states there are irrigation districts, and in others there are conservancy districts. There are a great variety of agricultural districts that the political scientists refer to as special districts, "special" because they do not have general governmental power over the local area. And the third alternative was to establish new soil conservation districts. Well, these three alternatives and the pros and cons for each of them are discussed in that article which is entitled "The Coming Transformation of the Soil Conservation District."

What M.L. and the individual directors who were enthusiastic about the bill more or less concluded was that the bill should be open-ended. It would be a bill authorizing soil conversation districts, but the bill should contain such broad provisions for cooperation among counties and soil conservation districts, that if the legislation were adopted, it wouldn't necessarily decide against the counties, and pro the soil conservation district. Instead it would establish another entity, specifically responsible for erosion control within soil conservation districts but provide for the greatest degree of cooperation and collaboration between counties and districts.

That led to the next natural question. What are to be the boundaries of these new soil conservation districts? As a result of these conversations with the state extension directors, they agreed the bill should provide that the boundaries of the district should be proposed in a petition to establish the district and that the state committee, would have the authority to define the boundaries of the proposed district. The state committee could then decide that the boundaries should be precisely along county lines. That's one alternative. Or they should be along watershed lines, which could be less or more than the area of a single county. Or it could be any combination of these, so that the role of the counties, the role of the districts and the definition of the boundaries of the soil conservation districts would all be open-ended as a result of adoption of the law.

Many extension directors pointed out to M.L. that he was in a sense loading the dice. If you weren't going to give major responsibilities to the new soil conservation districts, why establish them at all? If you ask the states to establish new soil conservation districts, obviously you are going to look to them to be a major, if not the major, local cooperating entity in these programs. And M.L. said, "Yes, perhaps so. The counties, however, are already here. They already have these powers. The legislature is frequently amending the powers of counties to broaden them and can readily enough do so. Frequently, they do it merely in an appropriation act, when they give additional money for particular activities to the counties and that becomes part of the organic act of the counties."

This is essentially where they left the problem. The legislation would make it possible for experience to decide the role of the counties, the role of the new soil conservation districts, and the role of other Federal and state conservation agencies in the entire effort to control soil erosion. After the soil conservation district laws were adopted fairly widely,

what actually developed is that in some states, although the law as adopted in that state didn't specifically say so, there was an understanding, sort of a part of the informal legislative history of the bill, that the districts would be established along county boundary lines. We have some states in which all the districts are coterminous in boundaries with the counties within which they operate. There are states, in which some of the districts are coterminous with counties, county boundaries, and others cut across them in various ways. There are some states in which there is no external, obvious formal limitation of the districts to county areas at all. Nevertheless, whenever a district is located anywhere, every acre within a district is bound to be an acre within a county somewhere. That's the nature of these 3,000 counties in the United States. Their inherent legislative and executive jurisdiction as counties extends to every piece of land within their boundaries, urban as well as rural, but certainly to all rural areas.

M.L., as a matter of fact, was frequently unhappy with the emphasis upon county boundaries in connection with the organization of districts. Not as a matter of jurisdiction. I've never known anybody with less emphasis on bureaucratic jurisdiction, or whose turf it is, than M.L. Rather, his concern was this. County boundary lines are not defined by reference to erosion areas, or natural watersheds, or subwatersheds. They are political boundaries. But M.L. felt that the really most effective way to carry on erosion control and soil and water conservation is to operate on the basis of natural watersheds.

M.L. knew that some watersheds are so very large that they include several states. But M.L. was thinking about what sometimes are referred to as subwatersheds, but which are, more accurately in hydrological terms, independent local watersheds. Independent because so carved by nature. Their boundaries frequently change with the course of riverflow. But they are separate watersheds. M.L. hoped that most of the districts would have their boundaries coterminous with such watersheds. But he also emphasized that there was nothing to prevent several districts, whose lands together constituted a watershed, from collaborating intimately. Then, all you would have done was to have brought in more people into the governing process. That's all to the good.

In time, people began to feel that this is an argument about unrealities, It's purely theoretical or even semantic. In practice, since what we want to do is to promote intimate cooperation between districts and counties, between districts and watershed agencies, districts and other special districts of the state, districts and state conservation agencies, districts and Federal conservation agencies; not alone SCS, but also the Forest Service and the National Park Service, the Reclamation Service, the Bureau of Indian Affairs--since all of these will be collaborating intimately, the precise boundaries of any one of these units become a matter of relative insignificance. That's how it was more or less left. I've also discussed this particular issue of ideal and practical boundaries in the article on "The Coming Transformation."

HELMS: What was your impression of how many of the directors agreed? Was Wilson, later on, somewhat surprised at some of the opposition that popped up, from not all but some of these extension services?

GLICK: I asked M.L. that question, and he chuckled the famous M.L. chuckle, and said, "In the area of cooperation between USDA and the state extension services, few things are formalized. Few things ever get embodied explicitly in documents that a lawyer would call sufficient to define what has been decided upon and what road map has been established. We talk about a subject until we feel that everybody had a chance to get what's on his chest off of it and has planted ideas in other people's minds. Then we just go about doing it and we let things develop as they will. Agricultural activities," he said, "are always wild flowers. We've plowed the soil by talking together. And we stimulate the growth by our own conversations as we meet. But beyond that we don't have things written down."

He said, "I couldn't tell you now how many state extension directors will support this bill, if it ever gets introduced into a state legislature, and how many will oppose it." He said, "You will probably never know, in any one state, the exact position of the extension service on the particular question. If they testify, then you can draw pretty firm conclusions from their testimony. But even then you'll have to be as much a prophet as a reader to be able to know what their position is from reading their testimony."

He said, "I do not anticipate die-hard opposition anywhere. I do not anticipate, equally, a strong assertive leadership from any of the state extension services. I think they will sort of lie back, and they'll say, 'Well, M.L.'s got this idea, Secretary Wallace has this idea, they are going to ask the state legislature. We'll have our chance to talk to the legislative committees and to the legislature. Let's see how things develop and then we'll know.' " He said, "It's the only answer I can give to your question." And I said, "Well, that's not a bad answer, M.L. You're not saying that you definitely feel that there is so much opposition at the state level that there is no point in going forward."

He said, "Oh, no. Very definitely they expect the Department of Agriculture to come forward. In fact," he said, "the cover of whatever pamphlet we issue as the recommended text of a soil conservation district law must say, 'We have prepared this at the request of a number of the state extension services.' " And he said, "That's completely true. These ideas weren't just born in my mind while I was trying to fall asleep one night. In my talks with the state extension directors, in their complaints to me about the problems of erosion control and the inadequacies of Federal assistance to them in dealing with these problems, came the ideas that you and I have been talking about." And as a matter of fact, you recall that the pamphlet issued under the title, "A Standard State Soil Conservation District's Law," contains this statement, "Prepared at the suggestion of representatives of a number of states." In effect we discharged our responsibility to recognize the collaboration of our partners.

This was and is therefore a mutual

pamphlet, not just a sole initiative by the Department of Agriculture. Now, as we moved into the arena of transferring this to the state level for further consideration, we found that a few state extension directors, and I would mention one in particular, the then state extension director of the State of Missouri, were adamantly opposed to this whole idea. They said, "Say what you will, this will be simply Federal intervention in the area of erosion control. And we have that subject well under control and we don't need any new state law and we certainly don't need any new local units. The state agencies and the counties of this state," said the director in Missouri and the directors in several other states, "can handle this problem adequately." And they said so in a number of cases in the state legislative hearings. Actually, in effect, the state legislatures over a period of 10 years voted one by one on this question as on all other questions raised by the proposed adoption of the state law. Every one of the 48 state legislatures that considered the recommended law adopted it. Later, when Alaska and Hawaii joined the Union, the legislatures in those two states adopted it. The legislatures in every one of the territories, Puerto Rico, the Virgin Islands, adopted the statute. Today, state legislation along the lines of the standard act is law in every political jurisdiction of the United States of America.

Now we were ready to begin the state action. The question became, how do we get it all started. And I don't know where the answer came from, it doesn't matter. But somehow there developed an awareness that this kind of a program, this kind of a broad, breathtaking, new recommendation to all of the states in the Union, ought to begin with the President of the United States. So M.L. and I jointly drafted a letter for the President's signature. It went to Secretary Wallace. He sent it to Paul Appleby. They sent it to several other people of the Department, and M.L. never told me who the others were. But a number of people recommended it and then Secretary Wallace had the Standard Act printed up in this pamphlet, in early 1936.

He brought a number of copies of the pamphlet and his proposed presidential letter to President Roosevelt and laid it on his desk, and talked to the President at some length. In later meetings, M.L. told me, "This is under consideration in the White House and I keep talking to President Roosevelt about it at every chance I get. And Secretary Wallace, I understand from him, does the same thing." Then at a later stage, M.L. told me, "The President has turned over the proposed legislation to Benjamin Cohen." You remember that Ben Cohen and Tommy Corcoran were the two men to whom President Roosevelt frequently turned to check on the adequacy of or to draft, ab initio, the legislation of the New Deal. My first conversation with Ben Cohen about the proposed district law came after the President had already issued the recommended statute to the 48 governors. Well, Ben Cohen obviously told the President that this was suitable for clearance. I've already discussed the very lengthy, comprehensive legal opinion that the Solicitor of the Department of Agriculture, Mastin G. White, had issued on the proposed Standard Act. That's also included in the printed pamphlet.

HELMS: What did Cohen tell you when you finally talked about it?

GLICK: He said that he thought that this was good legal thinking. Then began a process that extended over a full 10-year period. M.L., from time to time, would ask me to go to a particular state, always at the request of the state conservationist of SCS, and in several cases, at the request of a state extension director, in order to meet with them and talk about it.

The most extensive and elaborate such discussion came at the invitation of a state extension director in Iowa. Dean Buchanan was then the state director. He asked me to come to Ames and stay several days. He called in several faculty members, including particularly Theodore Schultz of the Economics Department, who later transferred to the University of Chicago, and is now Chairman of the Department of Economics of the University of Chicago, Emeritus, having retired some years ago. Those conversations at Ames, Iowa, were very thorough, very exhaustive. M.L. told me, "If Dean Buchanan turns thumbs down on this bill, it's dead in Iowa. If it dies in Iowa, it will be a seriously wounded creature in all of the agricultural states. As a matter of fact," he said, "I don't know whether the bill would be able to recover from that severe a blow." But he said, "We'll cross that bridge when we come to it." After a number of days of joint discussions with Dean Buchanan, Ted Schultz, and their discussions with others, I heard that the bill had been forwarded by the Governor of Iowa to the agricultural committees of the two houses of the Iowa legislature. M.L. said, "That would never have happened without Dean Buchanan's blessing. We started it off well."

The only other state initiation process that I think I ought to take time to mention here is in Texas. Louis Merrill was then State Conservationist of SCS in Texas. He told M.L. that he had talked with the state extension director, with the state experiment station director, with all of the state conservation agencies in Texas. They had talked to a number of the leading members of the Texas legislature. And he said, "We have run into a serious problem here in Texas." A Senator (I think the name was Van Zant, of the Texas Senate) was fearful that the hidden purpose behind the standard act was the control of agricultural production, that it was called conservation, called erosion control, but the real purpose was to tell farmers what and how much to grow of what crops. Merrill wanted the Secretary to send a representative down who would be authorized to speak for the Secretary in explaining what the standard act contained and what impingement it could have on control of agricultural production. Secretary Wallace had asked M.L. to designate someone to go down for that purpose and M.L. designated me. I got Mastin White's permission. I went down to Texas.

I remember a very colorful four-hour session in a court building, somewhere in Texas. Senator Van Zant sat in the middle of the front row. Senator Van Zant, by the way, was completely blind. He had enormous prestige and respect. As I listened to him talk and his questions, I can be excused for saying, I think, I fell in love with the old man. Here was a

man who was tremendously well informed about agriculture in Texas, who was thoroughly and completely devoted to the farmers. He felt that he had seen a menacing danger in the bill that others with less experience might overlook. He wanted to be absolutely assured on that point. Fortunately, he had chosen a criticism that is totally a misconception. I summarized the provisions of the proposed soil conservation districts law. Then I turned to Senator Van Zant. I said, "Sir, if you wanted to establish a Texas agency to control agricultural production within the State of Texas, would you let the decisions of that state agency be completely under the control of such local districts as might later be established without your knowing which they are? Would you let it be influenced by those districts, if the districts only covered half of the state, or ten percent of the state? Isn't the very function of control of agricultural production something, if it's to be done on a state level, that must be centralized in a single state agency?"

Senator Van Zant didn't say yes, and he didn't say no. He just nodded his head and looked up. And I said, "Sir, if the Federal Department of Agriculture is to be involved in this, they couldn't be content just with the establishment of such authority in a centralized agency in the State of Texas. What about Iowa, or Mississippi, or Alabama, Washington, Kansas, and Florida? If agricultural production is to be controlled or even influenced by the Federal government, it would have to be done by a Federal agency. If this was the purpose, Senator Van Zant," I said, "it seems to me that so intelligent and knowledgeable a man as Secretary Wallace would simply have called upon the Agricultural Adjustment Administration to undertake these chores and tasks. This bill calls for the establishment of local soil conservation districts, if people in the proposed district want one, and then calls for a referendum of farmers which may turn down the establishment of the district. Furthermore, it calls for every one of the 48 states to be able to turn it down if they wish. That very fact proves that whatever may be the real purpose and intention of this bill, it is not the control of agricultural production. You just can't do it that way." And I think Senator Van Zant was won at that point. Because then he went into questions about boundaries. One of his major problems was how was the district going to be financed? And then what will be the relationship between district and county if it isn't established on county boundary lines? And so on and so on.

Well, we had a very, very fine time in that session. And immediately after the meeting, when I stepped up to thank Senator Van Zant, and to express my pride that I was able to participate in this state meeting, I felt that he was going to be one of our stalwart agricultural supporters, which he turned out to be. Louis Merrill later told me that Senator Van Zant wielded the laboring oar on adoption of the soil conservation districts law in Texas.

Well, state by state, this came up for discussion in the committees of the legislature, and state by state, it was adopted. In not one single state did the bill get adopted 100 percent in the form recommended by President Roosevelt. Every

single state adapted the bill to local conditions. In some states, they entirely eliminated four very large sections of the bill, those that provided for the adoption of conservation ordinances, also called land use regulations. In a number of states, they provided that the district boundary shall be coterminous with the particular county in which the district was established, which really made it a series of counties with new powers and new names. The adaptations and changes in the laws as the states adopted them became so numerous, and so frequently went to the heart of the program, that the Solicitor of the Department of Agriculture and Hugh Bennett decided jointly that state by state, as the bill was adopted by the legislature and signed by the governor, it would be sent by the state conservationist to Hugh Bennett, by Hugh Bennett to Mastin White.

Mastin White would undertake an analysis of the state law and prepare what came to be called an "adaptation opinion." The opinion was a document that would summarize all the new things put into the law by the state legislature that were not in the standard act, all the things that were in the standard act but were omitted from the law of the particular state, and all the changes made. Now, a lawyer's opinion cannot recommend what ultimate legislative action should be. It can only inform an administrator of how the state law differs from the standard act and let the administrator decide from there. Hugh Bennett, with the help of his own staff, then determined whether SCS would cooperate with the particular state, if they adopted this law. The governor and Secretary of Agriculture and others concerned in the state were then notified.

After about three or four years of this process, SCS made this decision. SCS will cooperate with the districts in any state that adopts what they call a soil conservation districts law. If we in SCS don't like the law, we'll tell the people in the state about it and recommend the changes we think they need. But we will not say to any state, "You have shown this much interest in erosion control in your area, but we will refuse to cooperate with any districts you choose to establish because the legislative provisions are not the ones that we recommended." By this time, SCS felt that this would be unconscionable and impertinent. The soil conservation district laws were obviously different in practically every state. Well, all right, our task is more difficult, but it's still our task. And we are not going to run away from it. We'll go on. We'll cooperate. Furthermore, this was promptly announced.

Some of the political advisors in SCS urged other views. Some said, if this becomes the policy you will throw away your strongest inducement for getting a good law, getting what we think is the best law, what we think is the best that the state can do and ought to be asked and expected to do, in order to have the best possible erosion control statute. But Hugh Bennett and the then director of agricultural extension work in the Department of Agriculture both felt strongly that they were willing to leave this much open within the Department of Agriculture. That is, it may be that a state will adopt a law so bad that we will want to inform that state that SCS will not give financial and technical assistance to

districts in that state. We'll cross that bridge when we come to it. We will not back up from the assertion we have already made in state extension meetings, that what law is adopted is up to the state legislature. What program is carried out in the state is up to the state and the local people. And we in SCS will cooperate with them to help them achieve what they are authorized to achieve.

HELMS: For a time didn't the level of assistance given to districts reflect to what degree their state law complied with the standard law?

GLICK: I think the most accurate answer to that question is "no." During that time the policy was, "We will examine every state statute to see whether we can cooperate with activities under it." During that time there was a somewhat widespread impression that aid should be qualified or modified depending upon the degree of satisfaction that Washington felt with the state law. That may, therefore, have sort of spilled over. I can't know. But it never became the announced policy of the Department to so modify or qualify SCS assistance. The original policy was, we will cooperate only if there are districts with whom we can cooperate. Otherwise, the only obligation of SCS was to administer its demonstration projects.

The policy was never, to my knowledge, issued as a written document. USDA is in continual contact with all the state extension services, through the Federal extension director primarily, but not limited to him. This is the way the Federal/state relations are maintained in the area of agricultural cooperation between Federal and state governments in USDA. No such formal policy ever became adopted. I do not know of a single state that got less assistance under its law as passed than it would have received if it had simply adopted 100 percent the wording of the standard act.

HELMS: Another thing I wanted to ask you about was something about the wind erosion control districts. If I recall what Lee Morgan told me, he was of the opinion that one of the beneficial aspects of that working arrangement was that it was sort of like a matching grant or cost sharing provision. If the district put up something--money, equipment, personnel --then the Federal government through SCS would match that amount. It gave some incentive to the districts to participate more fully.

GLICK: Yes. Both in the legislative process while the committees were considering the proposed bill, and later in the administrative process when the state committees were considering what districts to approve for establishment, the question arose of what the relationship should be between the new soil conservation districts and existing wind erosion districts in Montana and elsewhere, for example, and other special districts. The contents of the laws in these various special district cases greatly influenced the amendments made by the state legislature in drafting their own soil conservation district law. As a matter of fact, we on the legal staff had to study the laws of all of these special districts, because there are some in so many states that we knew that until we understood them, and spelled out the relationships

with them, no state legislature would know whether they need a soil conservation district law, given the fact that they have wind erosion districts, and irrigation districts, and agricultural districts of various kinds with various powers in erosion control.

The legal opinion included in the districts pamphlet discusses the relationships with those state districts, but not separately of course for every one of the 48 states. We found quickly enough that there was no reason to fear that the new soil conservation districts would duplicate or push out the activities of any of the existing special districts, whether it's a wind erosion district, or an irrigation district, or a water conservancy district, or any of the other special districts of a variety of names that existed. We quickly decided this is no problem. The provisions in the standard act which direct the districts to cooperate with all other districts having similar or related powers in the state and which direct the state committee to coordinate and assist the districts in collaborating with other such special districts, were all that was needed in the law to take care of the questions of relationships with those districts.

A next step that needs to be mentioned here is this. Sometime early in the process of adoption of state laws, Congress decided to prohibit the Soil Conservation Service from establishing any new demonstration projects. This would compel SCS to devote all of its resources, both in manpower and in funds and equipment, machinery, materials, exclusively to cooperation with the soil conservation districts.

Well, this had an inevitable effect in stimulating the adoption of soil conservation district laws in every state. Now that Hugh Bennett couldn't establish a demonstration project, by his own determination under Public Law 46, the only way SCS could come into a state to help in erosion control was by cooperating with the soil conservation districts. Therefore, the ball was in the state legislature's corner, in the state governor's corner, and in the state committee's corner. SCS could stand by cheerfully, optimistically, waiting for the state to bring itself into position where it could collaborate with SCS and invite SCS into the state to help. Of course, as you know, every state adopted a law, every state committee invited the Secretary to cooperate. Hugh Bennett received an invitation from every state. He accepted every invitation. The Federal and state agricultural administrators really demonstrated something that I think is, unfortunately, frequently overlooked; they really demonstrated magnificent collaboration and cooperation in dealing with the erosion control problem.

May I step back and point out that it was a magnificently courageous thing for Secretary Wallace and Chief Hugh Bennett to decide, at a time when they almost had a Federal monopoly in the area of erosion control. They could have decided that this was a Federal agency, that the SCS people were an accumulation of the best soil conservation technicians in the whole country. Our salaries are higher than the salaries generally paid in most of the states. We have the cream of the crop. We could make this a Federal program in all of the states. The states will want it, because it means

financial contributions in men, material, equipment. But they didn't make the decision. You know how often political commentators and critics say, "Once you've established a Federal bureau, just try to get them out of the area. They are wedded to that particular turf, and there's no terminating them." Here it was the Federal people that initiated the idea of transferring the responsibility for erosion control and soil conservation in a particular state, one by one, from the Federal government, from SCS, to the states. I think we ought to recognize that.

Second, I've mentioned that there were some ten or a dozen states that opposed adoption of the standard act in their legislatures. Missouri was one of the major holdbacks. Missouri may have been the last of the 48 states to come in, I don't know. This information has been tabulated for the Department of Agriculture and it's already a matter of public record. The Tennessee Valley Authority examined the standard act very carefully and decided they didn't need it and didn't want such legislation in Tennessee or in any of the other states in which TVA is a dominant operating agency. No state within the geographic area of the Tennessee Valley adopted the soil conservation district law for some 7 or 8 years after the President had recommended it to the governors of those states. Then the board of directors of TVA changed their minds. They had, of course, kept the entire problem under observation. The TVA board position originally was, we're doing erosion control throughout our states. This is one of the agricultural responsibilities of TVA under its statutes. We don't need any additional federal or local agencies. Then they changed their minds. Maybe they merely decided they could be more effective working within a pattern that all the other states are using. Maybe they decided for other reasons. We do know, however, that the Board of TVA became supporters of the act and the statutes were adopted.

This Congressional prohibition of further demonstration projects has another great significance. Up to that point, it was only an executive branch decision that erosion control should be carried out by SCS in cooperation with the districts. The executive branch could have modified it or revoked that decision at any time. But suddenly, Congress said: after the effective date of this act (referring to the appropriation act that contained the provision) SCS shall not establish any new demonstration projects. SCS promptly moved, as soon as the district law was established in a particular state, to wind up demonstration projects in that area and turn them over to the district that came into existence. And no new demonstration projects were established.

My last point that I want to make on this subject is this. I want to call attention to the degree to which the districts cooperate with counties and with cities, the degree to which districts cooperate among themselves, the degree to which Federal, state and local governments follow the historic American pattern of collaborating and cooperating--but not pooling their funds, many of them don't have legal authority to do that. They have to retain responsibility for spending the money the Congress or the state legislature has appropriated to them. But they can make a contract with any other

Federal or state or local agency. The pattern of cooperation by contract is now very well established in American agriculture, in American government generally. The common law idea of the contract is one of the great human institutions, developed over the centuries. We are as familiar with it as we are with our religion and our language. We take it for granted. Through such contracts, a district and a county can agree that they will jointly prepare a plan of erosion control and soil conservation activity in the state and that they will jointly modify that plan as needed. They can follow this joint planning with joint financing. The district can undertake financing indirectly in the form providing of personnel, equipment, and supplies. This is simply another way of administering a program, but it still amounts to joint financing. Having jointly planned and jointly financed, they can jointly administer. When a city is undertaking a large amount of construction work and has all kinds of sedimentation and erosion problems at construction sites, or when a city has other kinds of erosion control problems, even erosion control problems on city-owned lands, the city can then come in and it can become a three-way contract, the county, the district and the city, calling for joint planning, financing, and operating. I think this pattern has magnificent promise for the future.

The End