

SENATE—Thursday, November 13, 1975

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou who art the "Ground of our being," the Strength of our living, the Disposer of our destiny, show us the pattern Thou hast for our Nation. Lead us to a recovery of national purpose that the people of this land may become more completely "one nation under God." While we toil in the things that are material, political, and economic, help us to grow in the things of the spirit. Guide us this day to think clearly, to speak plainly, to act wisely in serving the Nation and advancing Thy kingdom.

Through Him who made known the greatness of the servant. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 12, 1975, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL RULES OF EVIDENCE AND FEDERAL RULES OF CRIMINAL PROCEDURE AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 439, H.R. 9915. This matter has been cleared on both sides.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9915) to make technical amendments to the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and to related provisions of titles 18 and 28 of the United States Code.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. McCLELLAN), I call up an amendment which is at the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 4, line 15, change the period to a semicolon and add the following: "by changing the reference to Rule 4(b)(1) in Rule 9(b)(1) to Rule 4(c)(1); and by changing the reference to Rule 4(c)(1), (2), and (3) in Rule 9(c)(1) to Rule 4(d)(1), (2), and (3)."

Mr. McCLELLAN. Mr. President, this amendment is of a purely technical nature to correct an oversight that occurred when the Congress enacted the

Federal Rules of Criminal Procedure Act of 1975. When that act was passed by the Congress earlier this year, some of the Rules of Criminal Procedure were renumbered. That renumbering necessitated that the internal cross-references in the rules be appropriately modified. The cross-references in rule 9 were apparently overlooked in this process, and my amendment would correct that oversight. The amendment does nothing more than make this technical correction.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Arkansas (Mr. McCLELLAN).

The amendment was agreed to.

Mr. HRUSKA. Mr. President, H.R. 9915 is a noncontroversial bill making certain technical corrections in the two recent landmark enactments of Congress directed at improving judicial proceedings: The Federal Rules of Evidence and the Federal Rules of Criminal Procedure. H.R. 9915 also makes a small technical amendment to certain other provisions of title 18 of the United States Code so that those provisions will refer to the new Rules of Evidence instead of to an older evidence provision which has been replaced. H.R. 9915 makes no substantive changes in the law. It merely perfects these two landmark measures in a necessary and desirable way.

Specifically, H.R. 9915 corrects spelling, grammar, and punctuation in those few places where they may have come through erroneously in the Federal Rules of Evidence; and conforms the table of contents in those rules to the actual rule headings themselves. In some instances those two did not conform.

In addition, H.R. 9915 conforms rule 410 of the Federal Rules of Evidence to the language of rule 11(e)(6) of the very recently enacted amendments to the Federal Rules of Criminal Procedure. Rules 410 and 11(e)(6) deal with precisely the same subject—use in evidence of withdrawn guilty pleas and the like, and related statements. Rule 410 was adopted by Congress as a stopgap until such time as Congress could act on rule 11(e)(6), which it was intended would then supersede rule 410. Rule 410 so stated: That supersession has now occurred, this past July, when Congress enacted rule 11(e)(6). The effect of that enactment was automatically to reduce rule 410 to a dead letter, rule 11(e)(6) now being the rule. H.R. 9915 merely implements this—which is the law regardless of the H.R. 9915—by physically changing the text of rule 410 to read precisely like rule 11(e)(6) so that there can be no confusion of the kind that might prevail if rule 410 were left in its present form, as a dead letter on the books.

In addition, H.R. 9915 causes 18 U.S.C. 3491 and 3492(a), relating to proof of foreign documents in criminal cases, to refer to the Federal Rules of Evidence instead of to the Federal Business Records Act, as at present. This is necessary because the Federal Business Records Act has been repealed by the Federal Rules of Evidence.

Finally, H.R. 9915 strikes out of the amendments to the Federal Rules of Criminal Procedure enacted by Congress this July, some material that referred to a provision on witness lists, which provision had appeared in an earlier version of those amendments but was itself stricken by Congress during the congressional deliberations. While this main witness list provision was stricken, the subsidiary reference to it accidentally was not. The subsidiary reference makes no sense, since it refers to a stricken provision. H.R. 9915 proposes to strike the subsidiary reference, as was intended.

Thus, H.R. 9915 is a necessary and noncontroversial measure having no substantive impact. It merely perfects and effectuates, by a process of technical correction, the intentment of measures previously enacted by Congress. As such, I urge its prompt passage.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THE RUSSIAN WHEAT DEAL

Mr. MANSFIELD. Mr. President, for some time I have been concerned about the wheat deal which the administration reached with the Soviet Union. I have also been concerned about the fact that certain labor organizations take it upon themselves to be the arbiters of foreign policy as to whether or not they will load or unload commodities on ships, in this specific instance, wheat.

Because of this factor, we find that shipments of wheat sold to the Soviet Union were held up for a month or more and because of that the administration entered into negotiations with the Soviet Union in Moscow by means of which shipments instead of being sent this year were relayed over a period of 5 years.

I had urged the administration on a number of occasions not to enter into this kind of a deal because anyone who knows anything about the wheat market would be aware of the effect it would have on prices.

The farmer has been the goat on too many occasions, has received the blame for too many things which were not his fault, and a recognition has not been accorded to him based on the amount of time he puts in working to raise a commodity—wheat, corn, soybeans, or whatever it may be. The result, as in the case of the Soviet grain agreement, is that because of circumstances beyond his control, conditions develop which bring about a depreciation in the price of his product.

As I said, long before this deal was underway, and while the ships were not being loaded with American wheat which had already been sold, I had strongly indicated to the administration my great