Idaho's McClure, Head of Energy Panel, Is a Capitol Hot Potato

By Ward Sinclair
Washington Post Staff Writer

In an institution where trust is the glue that binds, Sen. James A. McClure (R-Idaho) has a problem: some of his senatorial colleagues don't trust him.

McClure's problem became visible on the Senate floor last week when it took him hours to get agreement to begin debate on a revision of federal irrigation law that will benefit big farmers in the West.

At least five "holds" had been placed on the irrigation bill by senators who objected to its being called up for consideration. Part of it was because of substance, part retaliation, part distrust.

Such a personal reaction is unusual in the Senate. Although members routinely disagree on issues, they do so in faith that their points of view and their legislative proposals will get fair hearings.

McClure's difficulties, according to various senators and staff aides, stem from his leadership on the Energy and Natural Resources Committee, of which he became chairman when Republicans took control of the Senate last year.

"He plays games with the committee and tries to be Mr. Nice Guy," said one senator who declined to let his name be used. "But he's a little too slick. You can be the toughest kind of fighter in this place, but you better be honest."

The chairman's style, as well as that of his hard-charging chief counsel, Charles A. Trabandt, is criticized increasingly in private by committee members. Trabandt, a longtime McClure aide, is known derisively as "Senator Trabandt" and "the Prince of Darkness."

McClure, in an interview last week, professed not to know about any incipient mutiny on his committee. "If there are mumblings and grumblings, I haven't heard them," he said. "I can understand why Chuck Trabandt is not well-liked. Some people find him to be too competent."

The latest episode stirring discontent occurred in May when McClure, guiding a nuclear-waste disposal bill to passage on the floor, asked unanimous consent to add several "technical" or clarifying amendments.

On McClure's word that the amendments were not substantive, no one objected and the prosposals were adopted by voice vote. Afterward, it became clear that McClure's "clarifying" language had the effect of knocking out seven states' laws restricting nuclear power-plant construction.

Sen. Patrick J. Leahy (D-Vt.), who is zealous about nuclear safety but is not a member of McClure's committee, was furious. He informed Minority Leader Robert C. Byrd (D-W.Va.) that he would henceforth object to automatic floor action on all Energy Committee bills until he could examine them and determine they contained no ringers.

In a June letter to Byrd, Leahy described McClure's nuclear-waste gambit as "a very serious violation of Senate comity."

Since then, Leahy has delayed action on several committee measures until he determined they were what McClure advertised them to be. Leahy confirmed that he had sent the letter, but indicated he didn't care to discuss it.

McClure said he was unaware of the Leahy letter. He said he had had no indication that the Vermont Democrat was angry about his handling of the nuclear-waste amendments. "I didn't know Senator Leahy was that kind of guy," he said.

McClure insisted that he had misled no one on the amendments. "I regret that people say they were surprised. In my mind, it was a clarification," he said. "Some members hadn't seen that, and maybe they are embarrassed now because of that."

That explanation is off base, said another senator. "If you say you've got a 'technical' amendment, it had better be a technical amendment," he said. "And you better not lie to a fellow senator. . . . This thing is not the subject of a lot of conversation around here, but a look or a glance tells you what's on members' minds."

Leahy was one of the members who blocked McClure's effort to bring up his committee's revised version of the Reclamation Act of 1902, under which federally subsidized irrigation water is provided to farmers in the West.

Others were Sens. William Proxmire (D-Wis.), and James J. Exon (D-Neb.), who objected on grounds of substance. Committee member Dale Bumpers (D-Ark.), who was reportedly bitter over McClure's refusal to hold hearings on a Bumpers bill that would require competitive bidding on all offshore federal oil and gas leases, was also in opposition.

Bumpers removed his objections to the reclamation bill after McClure agreed to allow two hours of floor debate on the Bumpers oil and gas proposal as an amendment to reclamation—even though the two issues are not related.

The Energy Committee, then under Democratic control, held hearings on Bumpers' bill and approved it in late 1980. No Senate action was taken, however, when time ran out on the 96th Congress. McClure, who opposes the bill, has declined to give it a hearing in the 97th Congress.

"We've had hearings before . . . ad nauseum . . . endlessly," McClure said. "Just because Senator Bumpers wants hearings doesn't mean we should have them. It is a question of time. We've got a certain agenda we have to accommodate."

Another hold was put on the reclamation bill by Howard M. Metzenbaum (D-Ohio), the only member who voted against the controversial measure while it was in committee. Metzenbaum was prepared to filibuster the bill on the floor until he could extract from McClure a promise of time to propose amendments.

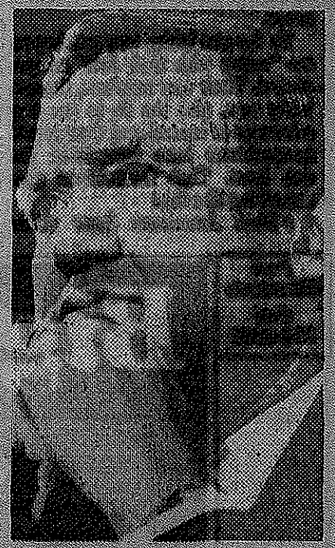
Under the time agreement, when the bill comes up on July 14, Metzenbaum still will be able to filibuster by calling up one amendment after another if he chooses. He declined recently to discuss his plans.

But, according to sources, Metzenbaum is another of the committee members rankling at McClure's chairmanship. Metzenbaum has blocked another committee-approved bill from the floor for several months because of his unhappiness.

That measure involves federal oil-shale leases, which Metzenbaum insists should be granted only on competitive bids. McClure reportedly pushed a different version through the committee when Metzenbaum was absent and could offer no amendments. In retaliation, Metzenbaum is objecting to floor consideration of the bill until he is assured a chance to offer amendments.

A McClure move last year to expedite the appointment of Department of Energy general counsel R. Tenney Johnson, about whom conflict-of-interest questions had been raised, provoked similar steps by Metzenbaum. In that instance, he threatened a filibuster unless McClure agreed to a second day of hearings to get into the conflict questions.

McClure's series of confrontations over committee business led one member to say, "There are four or five senators that all of us on both sides of the aisle are concerned about, and McClure is one of them."



SEN. JAMES A. McCLURE
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LAW/Laura Mansnerus

Patents and Copyrights: Do It Yourself and Save

AN economic crunch apparently makes people more defensive about protecting their property, including words, names and inventions. Patents, copyrights and trademarks, known collectively as intellectual property, have become a growing business for lawyers.

The work comes from corporations, kitchen-table inventors and entrepreneurs naming new businesses, and on the copyright side, from artists, developers of software programs and people who write just about anything. All aim to file applications with the United States Patent and Trademark Office or the Copyright Office.

But much of the work can be accomplished without a lawyer, said David Pressman, a San Francisco

> Even lawyers say some of the work can be done without them.

lawyer and author of "Patent It Yourself" (Nolo Press, 1992). The patent and copyright offices assist applicants, and self-help books can guide the motivated. At the least, consumers who do their homework can monitor their lawyers — "no trivial consideration," in Mr. Pressman's view.

With plenty of business, the lawyers themselves sometimes urge clients to do much of the work — which would cost at least $150 an hour.

"There's a lot you can do to help your attorney," said Eric Marzluf, a partner in the Philadelphia law firm of Caesar, Rivise, Bernstein, Cohen & Pokotilow.

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Patents, which cover new products, manufacturing processes and designs, are the trickiest and costliest of intellectual property rights.

The patent office advises applicants to retain a lawyer. So does the Intellectual Property Owners Association, a lobbying organization in Washington. "The lawyer has tried to foresee knockoffs," said the group's executive director, Herbert C. Wamsley. "Also, patent and trademark office procedures are complicated."

But Mr. Pressman maintains that anyone who can write a detailed description and follow directions can complete an application, whether for a potato peeler or a genetically altered microorganism. As to whether to hire a lawyer, which he estimated would cost $3,000 to $6,000 for the simplest patent application. Mr. Pressman said, "It's a balance of money, competence and time."

Applications can also be handled by patent agents, nonlawyers with technical training who, like lawyers, must register with the Patent and Trademark Office.

Copyright registration is comparatively simple, requiring a short application and a $20 fee. Registration is not even necessary to establish a copyright, which is actually created the moment words are set to paper, but registration can make it easier to prove authorship in court.

A simple, single-author registration can be done without a lawyer, although most will handle it for a modest fee. Mr. Marzluf, for example, says his firm charges about $300.

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One of Mr. Marzluf's artist clients, Frank Bender, sought legal help when several museums expressed interest in his model of a proposed memorial to Holocaust victims. In 30 years as a photographer and sculptor, he had never before considered registering a copyright. "But I wanted to make sure no one could take this one away from me," Mr. Bender said.

He filled out the application, wrote descriptions of the sculpture and gathered slides and photocopies. Mr. Marzluf reviewed the paperwork.

On the complexity scale, trademarks fall between patents and copyrights. As with a patent, registering a business name or logo requires a search for any that look similar; this can be done on computer data bases by the applicant, though a lawyer may do it more efficiently. As with a copyright, the application is simple.

Kate McGrath, author of "Trademark: How to Name a Business and Product" (Nolo Press, 1992), generally advises people to pursue their own applications unless and until they find a conflict with an existing trademark.

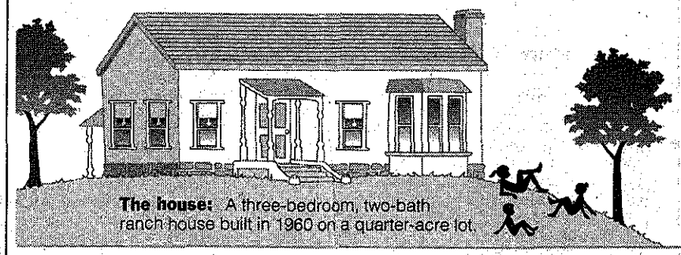
Lawyers' fees for a trademark begin at about $1,000, including the filing fee, Ms. McGrath said. For a patent or trademark search, an individual or small business can also go directly to the same services that law firms use. Some of them "can be a real deal," Ms. McGrath said, although they cannot give any legal advice.

Lawyer or no, she said, it pays to anticipate trademark conflicts. Compared with the cost of litigation, the initial expenditure looks cheap.

HOW THEY DO IT

A Refinanced Mortgage: Long-Term Interest Savings Offset Short-Term Pain

Last winter, when interest rates fell below 8 percent, William and Gabriela Aynat of Milford, Conn., agreed it was time to refinance their mortgage. A $100,000 loan would cover the $91,000 balance on the original mortgage, and provide extra cash for home improvements. They found a bank offering a 15-year, fixed-rate loan at 7.75 percent, and set a date for an appraisal of the house. The appraisal was a shock: The house was worth $21,000 less than the $121,000 the Aynats paid for it in 1986. Because their mortgage balance was now 90 percent of the market value of the house, the Aynats would need mortgage insurance, even for a loan of $90,000. And their new monthly payment of about $1,100, which includes mortgage insurance, would be nearly identical to their old one. Even so, the Aynats decided to refinance. Here's how the new loan will save them about $100,000 in the long run.



The house: A three-bedroom, two-bath ranch house built in 1960 on a quarter-acre lot.

The family:
William and Gabriela Aynat with Nicolette, age 7, Michelle, 10, and Melanie, 3



HOW THE MORTGAGE LOANS COMPARE

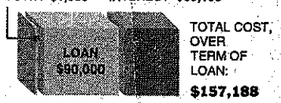
The old mortgage

PURCHASE PRICE: $121,000
DOWN PAYMENT: $25,500
LOAN AMOUNT: $95,500
TERM OF MORTGAGE: 30 years
INTEREST RATE: 10.25%



The new mortgage

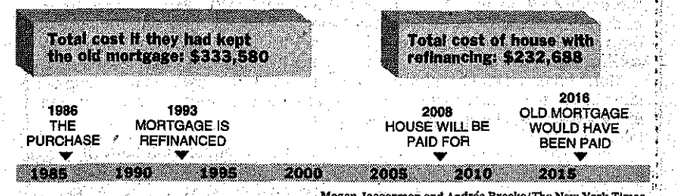
LOAN AMOUNT: $90,000
DOWN PAYMENT: $1,000
TERM OF MORTGAGE: 15 years
INTEREST RATE: 7.75%



LONG-TERM SAVINGS

By refinancing, the Aynats will pay off their loan in 2008, eight years before they would have paid off the old one.

Here is a comparison of the total cost of the house under the old and new mortgages. The new total includes the original $25,500 down payment, about $50,000 in payments made on the old mortgage, and the total cost of the new loan.



Megan Jaegerman and Andrée Brooks/The New York Times

Q & A/Leonard Sloane

Mutual Funds' Foreign Tax

Q *Can I deduct the portion of my mutual fund dividends withheld as foreign taxes on my 1992 tax return?*

CHARLES W. EDWARDS, Princeton, N.J.

A American tax rules generally permit a taxpayer to take either a deduction from gross income or a credit against American taxes for taxes paid to foreign countries. This deduction or credit is referred to as a foreign tax credit.

Besides being able to take the deduction or credit itself, a mutual fund is allowed to pass the credit to its shareholders. "Most funds pass through the credit rather than using it themselves, because the funds which have distributed all of their income to shareholders generally have neither income nor tax against which to apply credit," said David J. Mangefrida Jr., assistant counsel for taxes of the Investment Company Institute.

Disclaiming an Inheritance

Q *What is the meaning of a tax-free disclaimer in connection with an estate?*

A A tax-free disclaimer is an agreement by the beneficiary of all or part of an estate not to accept what he or she was left in a will. If done in conformity with the law and within nine months of the decedent's death, it normally produces no tax.

"The most common reason why people disclaim is to get the property from the estate to another generation without incurring additional taxes," said Ralph M. Engel, a partner of Rosen & Reade, a New York law firm.

A person of substantial means who inherits a large amount from his parent might not need this inheritance; by disclaiming, he lets money go directly to his own children, without having it pass through his estate.

Mr. Engel added that some people also disclaim property to keep it from their creditors. With the money flowing directly to the next generation, the parents are deemed never to have had it and their creditors cannot claim it.

Pension Averaging

Q *How does 5-year or 10-year forward averaging affect my pension?*

A For lump-sum distributions, 5-year and 10-year averaging are alternatives to the more popular I.R.A. rollovers and provide a special tax break. Averaging is not available to everybody, however, and requires payment of the full tax bill in the year the lump sum is received.

"When you average, a part of your lump sum is taxed at the lowest tax bracket, or 15 percent," said Russell Hall, a principal of Towers Perrin, a benefits consulting concern.

This is done by treating the lump sum as your only income, and as if you received it in each of 5 or 10 years, he noted. On the other hand, without averaging, some or all of your distribution is likely to be taxed at a higher bracket.

Five-year averaging can be taken only by those who are at least 59½. Ten-year averaging can be taken only by those born before 1936; it employs the higher pre-1987 tax rates.

Please send questions to Your Money Q & A, The New York Times, 229 West 43d Street, New York 10036, and include your full name, address and telephone number. Questions can be answered only