

## Proxmire must answer libel charge

THE US Supreme Court last week decided that Senator William Proxmire could not claim Congressional privilege in making derogatory remarks about a scientist's research in press releases and news broadcasts announcing his Golden Fleece award. The award is presented regularly to esoteric-sounding research projects supported by federal funds.

The court also decided that, in claiming libel damages for remarks made by the Senator in presenting such an award, a scientist should not be considered a "public figure" by virtue of having received public funds, and therefore was not required to demonstrate that the remarks had been made with deliberate malice.

The Supreme Court's decision was based on an appeal made by Dr Ronald R Hutchinson of Kalamazoo, Michigan, in connection with a libel suit that he had filed against the Senator following the award of a Golden Fleece to the National Aeronautics and Space Administration for supporting Dr Hutchinson's research on the latent aggression of laboratory monkeys.

Labelling the research as being to study "why monkeys clench their teeth", Mr Proxmire claimed in a speech to the US Senate in 1975 that "the good doctor has made a fortune from his monkeys and in the process made a monkey out of the American taxpayer", a charge he repeated in a newsletter to his constituents and a subsequent radio television interview.

Dr Hutchinson subsequently filed a libel suit, claiming that Mr Proxmire's actions had caused him to be held up to public scorn and resulted in a loss of respect in his profession, as well as "loss of income and ability to earn income in the future".

The suit was rejected by a lower court

partly on the grounds that Dr Hutchinson had become a "public figure" by soliciting government grants and publishing articles in professional journals, which required him to demonstrate "actual malice", and partly because Senator Proxmire claimed legislative privilege in making the remarks.

In last week's decision, however, the Supreme Court stated that, although local newspapers had reported Dr Hutchinson's receipt of research grants, and although he was quoted in the press in reacting to the Golden Fleece award, neither of these was sufficient to make him a "public figure".

"His access [to the media] such as it was, came after the alleged libel and was limited to responding to announcement of the award. Those charged with alleged defamation cannot, by their own conduct, create their own defence by making the claimant a public figure," the court announced.

On the question of legislative privilege, the court ruled that this could not be used by the Senator as a defence, since there was no evidence of past Congressional concern to grant absolute privilege for remarks made outside the legislative chambers, since neither the news-letters nor the press release were "essential to the deliberation of the Senate", and neither was protected as part of the responsibility of members of Congress to inform the public of their activities.

In the light of these decisions, the Supreme Court directed that the case be returned to the Court of Appeals "for further proceedings consistent with this opinion". In a dissenting opinion, Mr Justice Brennan declared that in his opinion "public criticism by legislators of unnecessary governmental spending whatever its form, is a legislative act shielded by the Speech or Debate clause". □

## NASA bets 50-50 on spaceshuttle next summer

OFFICIALS of the US National Aeronautics and Space Administration told a Congressional committee last week that the first orbital flight of the reusable space shuttle is not now likely to take place until next summer at the earliest, and that this may mean at least four satellites scheduled for early shuttle launches will have to seek alternative ways of getting into orbit.

Dr Robert Frosch, the agency's administrator, told the House Science and Technology Committee that technical delays in the development of the shuttle's engines and in fitting its heat-resistant surface tiles meant that there was now only a one-in-five chance of launching the shuttle by the end of the first quarter of 1980, a launch originally planned to have taken place this spring, and a 50-50 chance of a first flight in the second quarter.

"This slip means our first operational flight, which had been planned for

February 1981, will be delayed until September 1981," Dr Frosch said. "This means some of our early users will have to shift to use the backup expendable launch vehicles to get their satellites into orbit." (It also means that it will now be necessary to revise the launch schedule for the European Space Agency's Spacelab, which was due to be launched by Space Shuttle in August 1981).

Among the satellites whose launches will be affected by the new shuttle delays is a geosynchronous operational environment satellite which was planned to be launched by the National Oceanographic and Atmospheric Administration; shifting from a shuttle launch to an expendable launcher could increase the cost from about \$10 million to \$22 million, and the same would apply to two commercial communications satellites that were to have been among the first payloads. □

## New warning on risk from antibiotics in animal feeds

THE US Congress' Office of Technology Assessment reported last week that antibiotic resistance is continuing to increase in the US population, and warned that, although quantitative relationship remains uncertain, the continued use of antibiotics in animal feeds seems to be contributing to this process.

The OTA's warning came in a report on "Drugs in Livestock Feed" prepared at the request of the Congress following the Food and Drug Administration's proposal in 1977 to ban the use of penicillin and sharply restrict the use of two tetracycline drugs in animal feed. According to the industry, sales of antibiotics and similar antibacterial agents added to animal feed exceeded \$180 million last year; and the OTA estimates that the FDA's proposed restrictions could increase retail meat and poultry prices by between 3% and 28% in one year.

However the OTA also says that antibiotics in animal feed contribute to a "growing pool of drug-resistant bacteria", and that physicians are now reporting reduced effectiveness of the drugs in treating disease; and it points out that many of the drugs on which restrictions are proposed could be replaced with alternative drugs that are already approved by the FDA.

It is up to Congress, the agency concludes, to weigh the economic costs of banning the drugs in animal feeds against the health risks of allowing their continued use. "These decisions involve value judgements that cannot be based simply on monetary considerations. And the lack of scientific certainty on the magnitude of both the probable health risks and the attributed increases in meat production makes the formulation of a balance-sheet approach difficult," the OTA report says.

The short-term consequences of a ban on the drugs could be significant, since production might decrease, leading to higher prices. But the OTA says that the long-term consequences are less certain, probably resulting in small decreases or no changes in production and small increase in both consumer prices and overall producer incomes.

Dr Joyce Lashoff, OTA's assistant director for health, emphasised at a press conference last week that the OTA made no specific recommendations about how Congress should act, merely listing a range of options. Giving a personal view, however, she said that she believed the availability of substitutes meant that the economic impact of the regulations proposed by the FDA would not be great enough to offset the potential risk to human health if the use of antibiotics remained unrestricted. □