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Congressional Record

PROCEEDINGS AND DEBATES OF THE 92^d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—Tuesday, November 9, 1971

The House met at 12 o'clock noon.

Rev. Sears F. Riepma, retired, Christ Church Parish, Springfield, Mo., offered the following prayer:

O Thou Infinite and Solemn Spirit before whom the nations rise and pass away, Thou art the Lord of Hosts, Thou art the King of Glory and yet Thou dost listen to the simple prayer of an humble child and not a sparrow falls to the ground but Thou art present at its burial.

Men of old trusted in Thee. To their children the world over of whatever race or class be Thou a pillar of cloud by day lest its garish lights blind them and a pillar of fire by night lest darkness overcame them and they are sore afraid.

Grant to Thy servants in this Chamber of debate, resolution, and decisionmaking a hopeful and quiet mind that they may see clearly, plan spaciouly, and execute courageously.

To us citizens of this land grant an increased will to do justly, to love mercy, and to walk humbly with God.

To that end we pray as the fisherfolk of the yesteryears, "Help us, O God, for our boats are too small and Thine ocean is so large." Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) entitled "An act to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 986. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

CXVII—2517—Part 31

REV. DR. SEARS F. RIEPMA, GUEST
CHAPLAIN FOR TODAY

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Speaker, we are indeed indebted to you and to our Chaplain for the arrangements which brings us our Chaplain of the Day, Rev. Dr. Sears F. Riepma, retired, of the Christ Episcopal Church, in my hometown.

In spite of our actions of yesterday and this Nation's judiciary, he will never address a prayer or supplication "To Whom It May Concern."

Mr. Speaker, he is a personal friend. He is a onetime patient, the pastor emeritus of all "sky pilots" of Missouri, as well as an adviser to those in government. He is an indestructible nonagenarian, the father of a lady lawyer in New York, of a fashion expert and magazine publisher in Richmond, and a lady colonel in the Air Force stationed at Eglin Air Force Base; and a son—Siert—whom most of us know as president of the National Margarine Association, in this city.

Mr. Speaker, the worth of his supplication is apparent to all. But in addition to this, Mr. Speaker, he is a great father, a wonderful family man, and an outstanding community citizen who is still dynamic and outgoing in filling parish pulpits and civic gatherings all over the United States. Our last personal contact was at the combined church-public Easter noonday services in a Springfield theater.

We welcome him to these Chambers today.

DR. THOR HEYERDAHL TESTIFIES BEFORE HOUSE PUBLIC WORKS COMMITTEE ON CONDITION OF OUR OCEANS

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I have just come to the floor of the House today from a meeting of the House Public Works Committee at which the noted anthropologist, Dr. Thor Heyerdahl delivered a very sobering warning to all men of all nations on the conditions of the oceans today.

The oceans, being mankind's first source of oxygen, are in danger of ultimate destruction. I know of nothing more important to man than the contents of Dr. Heyerdahl's remarks today and I ask unanimous consent, Mr. Speak-

er, that they may be included in the appendix of the RECORD.

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

There was no objection.

MAN RIDES BIKE FROM UNIVERSITY TO CAST BALLOT

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MYERS. Mr. Speaker, much has been said about the newly franchised 18-year-old voters. There apparently was much apathy among the 18- to 21-year-olds this year as many did not vote. One young man from Indiana did take this privilege seriously as the enclosed article from the Commercial-News reports. Riding a bicycle more than 50 miles to cast his first ballot displays the kind of dedication to the importance of voting that is refreshing and welcome.

I am especially proud of this young man because he is my nephew.

The article follows:

MAN RIDES BIKE FROM UNIVERSITY TO CAST BALLOT

COVINGTON, IND.—Joe Omahen, 19, of Covington, considered his new voting privilege so important that he took to his bicycle and rode all the way home from Indiana State University to cast his first ballot in the city elections.

Omahen, a sophomore, majoring in art at Indiana State, covered the 50-mile distance in approximately 5 hours, leaving early Friday morning. He voted absentee on Saturday.

Omahen is the son of Mr. and Mrs. Harold Hanley of Covington and also is the nephew of Indiana Seventh District Congressman John Myers.

Omahen hitched a ride back to school on Sunday evening, as his bike was not in condition for the ride back.

PROVIDING FUNDS FOR COMPUTER SERVICES FOR THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 601

Resolved, That during the Ninety-second Congress, the Committee on House Administration is authorized to incur such expenses (not in excess of \$1,500,000) as the committee considers advisable to provide for maintenance and improvement of ongoing computer

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services for the House of Representatives and for the investigation of additional computer services for the House of Representatives, including expenditures for the employment of technical, clerical, and other assistants, for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)), and for the procurement of equipment by contract or otherwise. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof. Not to exceed \$1,000,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditures in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

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

Mr. HALL. Mr. Speaker, reserving the right to object, does the gentleman from New Jersey intend to take time after unanimous consent is given in order to explain the resolution, and its purpose?

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield, I will say to my friend, the gentleman from Missouri, that I do.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, strike out "\$1,000,000" and insert "\$200,000".

The committee amendment was agreed to.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 601, which was reported unanimously out of the Committee on House Administration, comes to the floor after long and careful consideration by the Committee on House Administration and by its subcommittees namely, the subcommittee chaired by our distinguished colleague, the gentleman from Pennsylvania (Mr. DENT), and the

Subcommittee on Accounts, which I have the honor to chair.

This resolution provides funds in the amount of \$1,500,000 to the Committee on House Administration in support of computer activities for the House of Representatives during the final 15 months of the 92d Congress.

Heretofore, Mr. Speaker, computer operations of the House were handled by the Data Processing Office of the Clerk principally in support of several clerical tasks entrusted to his direction. Without being critical of the Clerk or his operations, because he, in my judgment, has done a splendid job, the Committee on House Administration decided some time ago to hire staff to study the computer system and to implement additional developments on it.

Dr. Frank Ryan has come aboard the committee staff, and with the assistance of the Stanford Research Institute and other groups, has done a comprehensive study.

I might point out, Mr. Speaker, that the \$1.5 million represents only approximately \$770,000 more than is currently being spent. The computer which we have available to the House of Representatives is one which has a much greater capacity than is now being used. The House of Representatives is so far behind in modernizing itself with respect to the use of computers that really it is almost an embarrassment. In contrast, most departments of the Federal Government already spend large sums on computers and staff people to operate them.

For instance, House Resolution 601 provides enough money for the House of Representatives to continue renting only one computer and employing the necessary staff to operate it.

I might point out that AID has four computers. The Veterans' Administration has 41 computers and, believe it or not, the Department of Defense has 2,668 computers.

Our computer already handles the House payroll, the Member's allowance report, the Clerk's semiannual report, the office equipment inventory, and the vote history system. Our projections include inventories for the House restaurants so that we can continue to supervise them. Our projections also include computer services for data retrieval and legislative information of various sorts, for mailing lists, for bill status information, and a number of other important uses.

The capability of the computer which we have now is, as I said, much greater than now being used. We estimate that the effective use of the computer which we now have is only 10 percent approximately of its capacity. It is a 360-50 IBM computer. The House is renting it and associated hardware such as magnetic disc storage units currently for \$22,000 a month; in other words, about \$700 a day. Yet, the computer is being used to only 10 percent of its capacity.

The committee determined that it is in the interest of the institution and of

the Members that our present computer be used more effectively. We have a highly sophisticated, well-trained staff available and I am certain that within a very short time all of us would benefit infinitely by the passage of this resolution and subsequent action.

Mr. Speaker, I yield to the distinguished gentleman from Alabama (Mr. DICKINSON) for purposes of debate only.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. I appreciate it very much. Mr. Speaker, I would like to emphasize what the distinguished gentleman from New Jersey has said.

It was said in the committee that none of us has the expertise, training, and background to be able to say that this is what we should do or this is what we should not do when we get into the highly technical field of computers. For this reason, we have assembled as good a professional staff as we possibly could. We have Dr. Ryan and a very competent staff and this is what they have recommended as to how we can get the most for our dollar.

At some point we have to travel on faith and we have to take the advice of our experts whom we have hired to assist us in this field.

As the gentleman just pointed out, we have an obligation to legislate and we are asking to have one computer to assist us here in the House for data retrieval in order to give us the background information and so forth to enable us to pass on legislation setting up the entire spectrum of Government. If you compare our obligations in the House to other areas of Government and look at what we are trying to do and are responsible for, you can really see the need of this bill. We create AID, we fund it, we have oversight, but AID for instance, has four computers that they have already on the line and are using. The Veterans' Administration has 41 computers. Yet, we must oversee and appropriate for the Veterans' Administration.

The Department of Defense has 2,688 computers and we, in turn, must make the decisions as to what the Department of Defense is going to do and what they are going to spend. We must provide for this.

So I think, Mr. Speaker, in all fairness we will be doing ourselves here in the House a disservice if we do not get somewhat modern and if we do not keep abreast of the technology that is available to us. I certainly do support this and I think we in the House are going to fall short of what we should be doing if we do not pass this resolution.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I was really astounded, as I know the gentleman was, by the extent to which the Department of Defense has and uses computers. I might point out that the salaries alone for the operation of those computers total \$715 million.

Mr. DICKINSON. What the gentleman has pointed out is impressive when we consider that we are asking for only \$1.5 million to enable the House to oversee every department of the Government. Without belaboring the point, the record is clear that the equipment is needed, it is justified, and if we do not get it I think we are selling ourselves short.

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

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

Mr. HALL. I appreciate the gentleman's yielding. I wish to associate myself with his remarks and those of my colleague from Alabama, and compliment the Committee on House Administration for bringing this resolution to the floor as speedily as they have; and with as good a report as they have accompanying the resolution, which is in keeping with the Reorganization Act of 1970. I am in strong support of this first long step toward modernizing the House of Representatives. I thank the gentleman.

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

Mr. THOMPSON of New Jersey. I thank the gentleman, and I yield to the distinguished chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. I thank the gentleman. I just want to say that one of the things that has come to my attention in the last couple of days is the fact that the Sergeant at Arms wants some kind of computerized machine with which to do his bookkeeping, and we have found in a preliminary exploration that the machine we now have will do this job. It is a matter of providing a system so it can have simultaneous terminals running instead of the system we have now, which can have only one terminal run at a time, which makes the computer fairly ineffective.

I have instructed the staff to get on a crash basis and get this thing in line with the computer which we are already renting and already paying a pretty healthy sum for and which, as the gentleman from New Jersey has so rightly pointed out, is only being operated usefully about 10 percent of the time.

Mr. THOMPSON of New Jersey. I thank the gentleman.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the resolution just agreed to, and to include extraneous material.

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

There was no objection.

PHOTOGRAPHIC DISPLAY ON CANCER RESEARCH AND TREATMENT

(Mr. DULSKI asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. DULSKI. Mr. Speaker, in room 210 of the Cannon Building, we have arranged a photographic display on cancer research. Very shortly we will be voting for the cancer research legislation. The exhibit that we now have in room 210 has been assembled at my request by the staff of Roswell Park Memorial Institute, Buffalo, N.Y., which, founded in 1898, is the oldest and one of the largest cancer institutes in the world.

I hope that all Members will have an opportunity to visit this exhibit.

Dr. Gerald P. Murphy, the institute director, and other officials will be there to give guidance or answer any questions that anybody cares to ask.

DISMISSING THE ELECTION CONTEST IN THE 38TH CONGRESSIONAL DISTRICT OF THE STATE OF CALIFORNIA

Mr. ABBITT. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 507

Resolved, That the election contest of David A. Tunno, contestant, against Victor V. Veysey, contestee, Thirty-eighth Congressional District of the State of California, be dismissed.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 8629, COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 8629) to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 19, 1971.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

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

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference agreement on H.R. 8629, providing increased manpower for the health professions.

This bill passed the House by an over-

whelming vote on July 1, and passed the Senate similarly on July 14 of this year. The bill was sent to conference on July 19, and the conferees met several times prior to the August recess in an attempt to reach an agreement, but the differences between the two Houses were too large for us to reach agreement prior to the recess.

Immediately upon returning from the recess, the conferees met again at every available opportunity, and we now present to the House a report filed by all the conferees, which in my opinion is a better bill than originally passed by either body.

The House originally passed a 3-year bill with authorizations totaling \$2,764,600,000. The Senate bill was a 5-year program but over the first 3 years of that authorized \$3,354,700,000.

The conferees substitute is a 3-year bill authorizing a total of \$2,890 million for the program set forth in the bill.

All existing programs are continued and expanded. The program of grants for construction of teaching facilities is expanded to include health research facilities, as well as teaching facilities, and also authorizes a new program of loan guarantees and interest subsidies.

Existing law authorizes capitation grants, which have averaged a little over \$500 per student per year. The capitation grant program is revised very substantially, to provide more realistic higher levels of support, with bonuses for schools which graduate students early, and for schools which increase enrollment above certain minimum amounts. The program of special project grants for medical schools in financial distress is continued and broadened, and a new program of health manpower education initiative awards is added to the legislation.

Startup assistance is provided for new schools of medicine as well as assistance to accredited 2-year schools which propose to convert to schools of 3 or 4 years which grant the M.D. degree.

The existing program of loans and of scholarships to students is continued and expanded, with programs for students studying abroad, and a special scholarship program is established for residents of certain low-income areas.

Loan forgiveness features designed to encourage students to practice in shortage areas are strengthened and expanded, and the Emergency Health Personnel Act machinery is beefed up to provide more physicians for rural areas and having a shortage of health professionals.

The program provides for grants for support of training, traineeships, and fellowships in family medicine, as well as a program of grants for support of postgraduate training for physicians and dentists in specialties where there is a very short supply. The bill also authorizes grants for computer technology programs, and grants to encourage full utilization of educational talent for the health professions.

Mr. Speaker, the conference with the Senate was a long and difficult one, but

as I said before, in my opinion we have brought to the House a better bill than passed either of the two bodies.

I urge the adoption of the conference report.

Mr. KYROS. Mr. Speaker, would the gentleman yield for a question?

Mr. STAGGERS. I yield.

Mr. KYROS. There is considerable interest in Maine in the possible establishment of a medical school, or a facility for training health personnel. I would like to clarify the intent of the proposed new section 772(b) of the Health Manpower Act, which authorizes the making of grants and contracts for the planning, development, or establishment of special projects, which can include training programs for health personnel, and programs for cooperative interdisciplinary training.

I wonder if it is intended that a grant may be made under section 772 for the planning of special training programs to be conducted in Maine, or in any other State, under this section?

Mr. STAGGERS. Yes, if the applicant is a medical school.

Mr. KYROS. Section 774(a) of the proposed new law permits the Secretary to make grants or contracts for projects to encourage the establishment or maintenance of programs, to alleviate shortages of health personnel through training such personnel in facilities located in areas designated by the Secretary. Would the gentleman agree with me that this section would authorize grants or contracts to an organization such as a local regional medical program, or other health or educational entity, to plan for the establishment of a medical school or other facility for training health personnel in Maine or any other area having a shortage of health personnel?

Mr. STAGGERS. Yes.

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

Mr. STAGGERS. I yield to the gentleman from Florida, the chairman of the subcommittee.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to urge the adoption of the report of the committee of conference on the differing versions of H.R. 8629, the Health Manpower Training Act of 1971, as passed by the House and the Senate. By far, the major provisions of the House bill were maintained.

Mr. Speaker, this measure extends for 3 years the legislation which expired on June 30, 1971. H.R. 8629 originally was passed by the House on July 1 and the Senate-amended version was passed by that body on July 15. Since that time, the House and Senate conferees met in 10 lengthy sessions in arriving at this conference reported measure. Because this legislation authorizes support which is so vital to health professions schools, it is urgent that the House take swift action in adopting the provisions of the conference report.

I am pleased to note that a large number of the provisions of this bill are from the original House bill and this report

was agreed to by the Senate on October 19, 1971. This measure would give programs of aid to schools of medicine, dentistry, osteopathy, veterinary medicine, optometry, podiatry, and pharmacy, and their students, totaling \$2.9 billion over a 3-year period.

While the conferees may have disagreed on certain methods and approaches to health professions education, they concur in recognizing these schools as a national resource which can only respond to the Nation's critical need for more and new types of health personnel if the Federal Government offers them predictable, stable, and increased support.

This conference-reported bill is aimed at every facet of health professions education. It offers grants for producing new kinds and levels of health care personnel through basic awards to the institution and special project grants for new or innovative approaches to the delivery of health care.

Every effort is made in this bill to encourage health professionals to work in underserved areas, one of the major health problems in the Nation. Scholarships, loan forgiveness, and efforts to attract people from shortage areas are all part of the planned effort to help distribute our health professionals to the areas where they are needed most.

The system of capitation grants to schools, based on their enrollment, is a much more equitable basis of meeting the needs of schools and the incentives for increasing enrollment.

Shortening the curriculum and the mandatory enrollment increases are all part of the plan which has as its goal the elimination of massive shortages of health manpower by the end of this decade.

This measure is the end result of extensive hearings by the Public Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee. The authorization levels in this measure were proposed after careful deliberation and computations using present and projected enrollment figures for future years based on the required enrollment increases called for in the measure adopted by the conference committee. If the planned effort to meet the health manpower needs of the country and to eliminate the critical shortage which we presently face, which was envisioned during the drafting of this legislation is to succeed, then it will require funding at the levels set forth in this measure.

Mr. Speaker, this bill is vital to the health of this Nation. Partial funding will not do. Partial funding means partial good health. The spotlight is today on the Office of Management and Budget and the Congress is waiting. We have heard initial reports that OMB plans to recommend funding of this bill and the Nurse Training Act at a level of 50 percent or less. I can tell the accountants at OMB right now that in my judgment the responsibility of determining the amount of Federal support of the health needs of this Nation is the

responsibility of the Congress and I do not feel that the Congress will stand idly by while OMB manipulates and undercuts this country's health programs. Our Subcommittee on Public Health and Environment has spent months in developing a plan to erase the health personnel shortage in this country by 1978. This plan is based on full funding and we on the subcommittee plan to fight for full funding, and for full health of our citizens.

Mr. Speaker, I urge the adoption of the conference report.

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

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I urge adoption of the conference report. The only thing I would like to point out is when this bill passed the House some time ago, the total appropriation was \$2.76 billion, and the Senate bill was for \$3.35 billion, and as a result of the conference, we have \$2.89 billion, which is much closer to the House bill than to the Senate bill.

Mr. Speaker, I, therefore, urge adoption of the conference report.

Mr. TIERNAN. Mr. Speaker, I rise in support today of the conference report on H.R. 8629, the Comprehensive Health Manpower Training Act of 1971. This landmark legislation is a product of long and detailed hearings in both Chambers and lengthy and arduous conferences as well. I believe that a special word of praise and thanks should go to our colleagues, the distinguished gentleman from West Virginia (Chairman STAGGERS), the distinguished gentleman from Florida (Mr. ROGERS) and the distinguished gentleman from Illinois (Mr. SPRINGER). Along with Senators KENNEDY, PELL, and JAVITS, our colleagues were able to produce a historic piece of legislation. They have labored diligently and purposefully, and we all stand in debt to their perseverance and resolution.

I would like to single out for note, the exceptional work of my congressional colleague from Rhode Island, the junior Senator, Mr. PELL. Senator PELL, chairman of the Senate Subcommittee on Education and a legislator for far-reaching vision and perception, is responsible for establishing a new financial assistance program for the education of medical students. Under his proposal, adopted in the Senate and agreed to in conference, 2-year schools of basic medical science will now be eligible for grants equal to \$50,000 per student enrolled in its first third-year class. The effect of Senator PELL's plan is to encourage the expansion of these limited facilities into full-fledged 4-year medical schools at a time when they are sorely needed.

Hopefully, the State of Rhode Island will now realize its first medical school. Fortunately, Brown University in Providence, R.I., will be a beneficiary of this legislation if it chooses to expand its present 2-year basic medical science school. The need is great not only for the prospective students, but for the well-

being of the Rhode Island community as a whole. With a medical school in our midst, Rhode Island will begin to realize its salutary effect, specifically in the higher quality of medical research, technology, and application that is the experience of other medical school communities.

Finally, this act will now enable us to meet, somewhat, the urgent and critical need of additional professional health personnel. I urge adoption of the conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. KYL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 367]

Alexander	Edwards, La.	Moss
Barrett	Frelinghuysen	Murphy, N.Y.
Bevill	Gallianakis	Nedzi
Blatnik	Gallagher	Patman
Broomfield	Gray	Pelly
Buchanan	Gubser	Purcell
Caffery	Halpern	Rallsback
Celler	Hays	Scheuer
Clark	Hébert	Schwengel
Clawson, Del.	Landgrebe	Stanton,
Clay	Lloyd	J. William
Collins, Tex.	Long, La.	Steed
Conyers	McCloskey	Vigorito
Crane	McFall	Whitten
Derwinski	McKinney	Willson, Bob
Diggs	McMillan	Wright
Dingell	Macdonald,	
Dowdy	Mass.	
Drinan	Metcalfe	

The SPEAKER. On this rollcall 378 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the committee on Rules may have until midnight to file certain privileged reports.

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

There was no objection.

CONFERENCE REPORT ON H.R. 8630, NURSE TRAINING ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 8630) to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses,

and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 19, 1971.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

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

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report on H.R. 8630, a bill providing support for programs designed to increase the supply of nurses in the United States.

The bill passed the House July 1, the Senate July 14, and was sent to conference on July 19.

We conferred with the Senate on health manpower legislation for a considerable period of time before beginning our consideration of this bill. It was necessary to do so, because many of the issues of philosophy as between the two Houses were reflected in each bill, and we needed to resolve these differences first. Once we had completed action on the health manpower bill, the conferees went quite speedily on this bill, since we followed through consistently in this bill in the areas in which decisions had been made earlier. As passed by the House, H.R. 8629 established a 3-year program to increase the supply of nursing manpower at a total cost of \$710 million. The Senate amendment provided a 3-year program, authorizing \$1,113.5 million. The conference substitute is a 3-year program, authorizing \$855.5 million.

The bill provides a continuation of all existing programs of assistance to schools of nursing, together with a new program of startup grants for schools of nursing; a guaranteed loan with interest subsidies program for construction assistance, and revised authority for capitation grants to schools of nursing. The first two of these programs are new, and for all practical purposes the program of capitation grants is new, since notwithstanding the authority in existing law to have such a program, appropriations have never been requested in amounts sufficient to fund this program.

The conference agreement authorizes \$120 million in matching grants to aid in the construction of teaching facilities for the training of nurses, along with the loan guarantees program I had mentioned.

The existing program of project grants is broadened to include a number of new authorities which experience has shown to be desirable, and authorizes a continuation of the existing program of grants for schools in financial distress.

The existing program of traineeships for advanced study is continued at a total authorization of \$66 million, and

the existing programs of loans and scholarships to students are continued and broadened, with additional loan for forgiveness features authorized for nurses who practice in areas having a shortage of nursing manpower.

Mr. Speaker, all the conferees signed the conference report, and we are in agreement that this is an excellent bill and one that should be passed speedily. I urge the adoption of the conference report.

Mr. SPRINGER. Mr. Speaker, I think if the Members will go through this item by item, they will find the authorization in this report is a good compromise with the recommendation of the Senate. We originally started out with \$710 million in our bill, and the Senate had \$1,113,000,000 in its bill. We arrived at a compromise figure of \$855.5 million for the 3-year program. The compromises to a great extent follow those compromises in the Health Manpower Act which we agreed to a few moments ago.

The many compromises all along the line tend to follow the House figures rather than the Senate figures, so we think we did get a good settlement.

The main issue in this bill probably was the size of the capitation grants to be given to nursing schools. The House provided for \$200 per student. The Senate provided \$550 per student. Naturally the conference was limited to a figure of \$550, and we did agree on \$250 per student, which is very close to the original House figure. There are added amounts for bonus payments of \$100 per student for any class which accomplishes extraordinary expansion over and above that required to qualify for capitation payments.

I believe one of the most important features of this bill is that at the present time we have roughly 700,000 nurses in the country and we will increase this number to more than a million 10 years from now, by roughly 1980.

Nurses, like doctors, are encouraged to practice in shortage areas and to increase their skills and ability to train others.

These six features I believe are distinct. Each one of them is an improvement over the present.

It is a substantial amount of money which we are authorizing, but in view of the testimony we had in the subcommittee I believe this amount of money is deserved and it is needed if we want to increase the number of nurses by roughly a quarter million in the next 10 years.

It appeared to me all this was in the public interest, and for this reason I believe the conference report ought to be approved.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I urge approval of this conference report. As stated, it does follow basically the House position.

Mr. Speaker, nurses are among our Nation's most valuable resources. Any casual student of the financing of nursing edu-

cation over the past few years will readily agree that in terms of Federal support, nurses have been at the bottom of the heap. This legislation is designed to correct this inequity and to supply our country with an adequate number of trained nurses by the end of this decade. This is a goal shared in by our subcommittee, the full Committee on Interstate and Foreign Commerce, the House of Representatives, and the other body when we passed our differing versions of H.R. 8630. By passing this legislation this goal can be achieved.

Mr. Speaker, in many ways the Nurse Training Act of 1971 tracks the Health Manpower Act. It provides for special project grants, financial distress grants, institutional support by means of a capitation formula, grants for the establishment of new nurse training programs, traineeships for advanced training, scholarship grants, and other innovative features. Each of these features is essential if our country is to achieve an adequate supply of highly skilled nurses.

Mr. Speaker, what I stated to this body earlier in connection with the necessity of full funding for the health manpower bill holds true with respect to this bill. If we are to fulfill the promises this legislation holds for our nurses and for the good health of this Nation, the Office of Management and Budget must present a request for proper funding in line with the authorizations in this bill.

One point of clarification I would like to make is in the capitation grants section of the Nurse Training Act. The bonus to schools preparing pediatric nurse practitioners, nurse midwives, or family health nurses is meant to be for educational programs in schools of nursing that provide broad preparation leading to baccalaureate as well as to advanced degrees for specialization.

Mr. Speaker, I believe this is a good report. It will significantly advance the cause of good health in this Nation by insuring a more adequate supply of trained nurses. I urge its adoption.

Mr. STAGGERS. Mr. Speaker, I should like to take this opportunity publicly to thank the Subcommittee on Public Health and Environment for the great work it has been doing in this House. The members have been working every week since we have been in session, constantly, and have turned out, I believe, tremendous legislation on behalf of the individual and the national health. I want to extend my thanks to them and also the able and hard-working staff members, who have rendered invaluable service.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the two conference reports considered today.

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

There was no objection.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1971

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10729, with Mr. HUNGATE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through the first section, ending on page 1, line 4 of the bill.

The Clerk will read.

The Clerk read as follows:

AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SECTION 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"SECTION 1. Short title and table of contents.

"(a) Short title.

"(b) Table of contents.

"SEC. 2. Definitions.

"(a) Active ingredient.

"(b) Administrator.

"(c) Adulterated.

"(d) Animal.

"(e) Certified pesticide applicator, etc.

"(1) Certified pesticide applicator.

"(2) Private pesticide applicator.

"(3) Commercial pesticide applicator.

"(f) Defoliant.

"(g) Desiccant.

"(h) Device.

"(i) District court.

"(j) Environment.

"(k) Fungus.

"(l) Imminent hazard.

"(m) Inert ingredient.

"(n) Ingredient statement.

"(o) Insect.

"(p) Label and labeling.

"(1) Label.

"(2) Labeling.

"(q) Misbranded.

"(r) Nematode.

"(s) Person.

"(t) Pest.

"(u) Pesticide.

"(v) Plant regulator.

"(w) Producer and produce.

"(x) Protect health and the environment.

"(y) Registrant.

"(z) Registration.

"(aa) State.

"(bb) Substantial adverse effects on the environment.

"(cc) Weed.

"SEC. 3. Registration of pesticides.

"(a) Requirement.

"(b) Exemptions.

"(c) Procedure for registration.

"(1) Statement required.

"(2) Data in support of registration.

"(3) Time for acting with respect to application.

"(4) Notice of application.

"(5) Approval of registration.

"(6) Denial of registration.

"(d) Classification of pesticides.

"(1) Classification for general use, restricted use, or both.

"(2) Change in classification.

"(e) Products with same formulation and claims.

"(f) Miscellaneous.

"(1) Effect of change of labeling or formulation.

"(2) Registration not a defense.

"(3) Authority to consult other Federal agencies.

"Sec. 4. Use of restricted use pesticide; certified applicators.

"(a) Certification procedure.

"(1) Federal certification.

"(2) State certification.

"(b) State plans.

"Sec. 5. Experimental use permits.

"(a) Issuance.

"(b) Temporary tolerance level.

"(c) Use under permit.

"(d) Studies.

"(e) Revocation.

"Sec. 6. Administrative review; suspension.

"(a) Cancellation after five years.

"(1) Procedure.

"(2) Information.

"(b) Cancellation and change in classification.

"(c) Suspension.

"(1) Order.

"(2) Duration of order.

"(3) Judicial review.

"(d) Public hearings and scientific review.

"(e) Judicial review.

"Sec. 7. Registration of establishments.

"(a) Requirement.

"(b) Registration.

"(c) Information required.

"(d) Confidential records and information.

"Sec. 8. Books and records.

"(a) Requirement.

"(b) Inspection.

"Sec. 9. Inspection of establishments, etc.

"(a) In general.

"(b) Warrants.

"(c) Enforcement.

"(1) Certification of facts to Attorney General.

"(2) Notice not required.

"(3) Warning notices.

"Sec. 10. Protection of trade secrets, etc.

"(a) In general.

"(b) Disclosure.

"Sec. 11. Standards applicable to pesticide applicators.

"(a) In general.

"(b) Separate standards.

"Sec. 12. Unlawful acts.

"(a) In general.

"(b) Exemptions.

"Sec. 13. Stop sale, use, removal, and seizure.

"(a) Stop sale, etc., orders.

"(b) Seizure.

"(c) Disposition after condemnation.

"(d) Court costs, etc.

"Sec. 14. Penalties.

"(a) Civil penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Hearing.

"(4) References to Attorney General.

"(b) Criminal penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Disclosure of information.

"(4) Act of officers, agents, etc.
 "Sec. 15. Indemnities.
 "(a) Requirement.
 "(b) Amount of payment.
 "(1) In general.
 "(2) Special rule.
 "Sec. 16. Administrative procedure; judicial review.
 "(a) Application of Administrative Procedure Act.
 "(b) Judicial review.
 "(c) Jurisdiction of district courts.
 "(d) Notice of judgments.
 "Sec. 17. Imports and exports.
 "(a) Pesticides and devices intended for export.
 "(b) Cancellation notices furnished to foreign governments.
 "(c) Importation of pesticides and devices.
 "(d) Cooperation in international efforts.
 "(e) Regulations.
 "Sec. 18. Exemption of Federal agencies.
 "Sec. 19. Disposal and transportation.
 "(a) Procedures.
 "(b) Advice to Secretary of Transportation.
 "Sec. 20. Research and monitoring.
 "(a) Research.
 "(b) National monitoring plan.
 "(c) Monitoring.
 "Sec. 21. Solicitation of public comments.
 "Sec. 22. Delegation and cooperation.
 "Sec. 23. State cooperation, aid, and training.
 "Sec. 24. Authority of States and political subdivisions.
 "(a) Cooperative agreements.
 "(b) Contracts for training.
 "Sec. 25. Authority of Administrator.
 "(a) Regulations.
 "(b) Exemption of pesticides.
 "(c) Other authority.
 "Sec. 26. Severability.
 "Sec. 27. Authorization for appropriation.
 "SEC. 2. DEFINITIONS.
 "For purposes of this Act—
 "(a) ACTIVE INGREDIENT.—The term 'active ingredient' means—
 "(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;
 "(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;
 "(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and
 "(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.
 "(b) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.
 "(c) ADULTERATED.—The term 'adulterated' applies to any pesticide if:
 "(1) its strength or purity falls below the professed standard or quality as expressed on its labeling under which it is sold;
 "(2) any substance has been substituted wholly or in part for the pesticide; or
 "(3) any valuable constituent of the pesticide has been wholly or in part abstracted.
 "(d) ANIMAL.—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.
 "(e) CERTIFIED PESTICIDE APPLICATOR, ETC.—
 "(1) CERTIFIED PESTICIDE APPLICATOR.—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.
 "(2) PRIVATE PESTICIDE APPLICATOR.—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is

classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) COMMERCIAL PESTICIDE APPLICATOR.—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) DEFOLIANT.—The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) DESICCANT.—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) DEVICE.—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c)(4).

"(i) DISTRICT COURT.—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) ENVIRONMENT.—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) FUNGUS.—The term 'fungus' means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) IMMINENT HAZARD.—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) INERT INGREDIENT.—The term 'inert ingredient' means an ingredient which is not active.

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (ii); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) INSECT.—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for exam-

ple, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) LABEL AND LABELING.—

"(1) LABEL.—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

"(2) LABELING.—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) MISBRANDED.—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

"(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c) (1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant."

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES.

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration;

"(E) the complete formula of the pesticide; and

"(F) a request that the pesticide be classified for general use, for restricted use, or for both.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c) (1) (D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with

the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

(1) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination

that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS.

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS.

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of such notice, the registrant may, within 30 days (A) registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any

such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notices of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6(a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(3) JUDICIAL REVIEW.—Any order of suspension shall be subject to immediate review in any actions by the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. This action may be maintained simultaneously with any administrative review proceeding under section 6.

"(d) SCIENTIFIC REVIEW.—Whenever application for registration is refused or a registration is cancelled or suspended, the registrant within 30 days after service of notice of such action may file a petition requesting that the matter

"(d) PUBLIC HEARING AND SCIENTIFIC REVIEW.—In the event a hearing is requested pursuant to subsection (a) or (d) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpoena to compel testimony from any person. Upon the request of any party or when in the hearing officer's judgment it is necessary or desirable, the hearing officer shall refer to a Committee of the National Academy of Sciences all relevant questions of scientific fact arising in the course of the public hearing. The Committee of the National Academy of Sciences shall report in writing to the officer within 60 days on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this Act. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpoena may be enforced by an appropriate United States District Court in accordance with the principles stated herein

and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either cancelling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS.

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS.

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery,

movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTION OF ESTABLISHMENTS, ETC.

"(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceed-

ings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

"(a) IN GENERAL.—In submitting data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS.

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c) (5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—
 "(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section 8, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or understanding provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner that may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any

pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery

of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than \$1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration

of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration, the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a) (1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a) (1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure), and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any party at interest may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to

enforce, and to prevent and restrain violations of, this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The President by executive order may exempt any Federal Agency from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION.

"(a) PROCEDURES.—The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of

packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his function relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831-835), the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472 H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING.

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS.

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION.

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the authority to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to en-

ter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act or restrict by license or permit the use of a pesticide registered for general use;

"(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) a State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate control.

"SEC. 25. AUTHORITY OF ADMINISTRATOR.

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing, is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other microorganisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after

June 30, 1974, shall be the sums hereafter provided by law."

Mr. POAGE. Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment in the nature of a substitute for section 2.

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 1, strike out line 7 and all that follows down through line 20 on page 58, and insert in lieu thereof the following:

SEC. 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS

"(a) Short Title.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.

"(a) Short title.

"(b) Table of contents.

"Sec. 2. Definitions.

"(a) Active ingredient.

"(b) Administrator.

"(c) Adulterated.

"(d) Animal.

"(e) Certified pesticide applicator, etc.

"(1) Certified pesticide applicator.

"(2) Private pesticide applicator.

"(3) Commercial pesticide applicator.

"(f) Defoliant.

"(g) Desiccant.

"(h) Device.

"(i) District court.

"(j) Environment.

"(k) Fungus.

"(l) Imminent hazard.

"(m) Inert ingredient.

"(n) Ingredient statement.

"(o) Insect.

"(p) Label and labeling.

"(1) Label.

"(2) Labeling.

"(q) Misbranded.

"(r) Nematode.

"(s) Person.

"(t) Pest.

"(u) Pesticide.

"(v) Plant regulator.

"(w) Producer and produce.

"(x) Protect health and the environment.

"(y) Registrant.

"(z) Registration.

"(aa) State.

"(bb) Substantial adverse effects on the environment.

"(cc) Weed.

"Sec. 3. Registration of pesticides.

"(a) Requirement.

"(b) Exemptions.

"(c) Procedure for registration.

"(1) Statement required.

"(2) Data in support of registration.

"(3) Time for acting with respect to application.

"(4) Notice of application.

"(5) Approval of registration.

"(6) Denial of registration.

"(d) Classification of pesticides.

"(1) Classification for general use, restricted use, or both.

"(2) Change in classification.

"(e) Products with same formulation and claims.

"(f) Miscellaneous.

"(1) Effect of change of labeling or formulation.

"(2) Registration not a defense.

"(3) Authority to consult other Federal agencies.

"Sec. 4. Use of restricted use pesticide; certified applicators.

"(a) Certification procedure.

"(1) Federal certification.

"(2) State certification.

"(b) State plans.

"Sec. 5. Experimental use permits.

"(a) Issuance.

"(b) Temporary tolerance level.

"(c) Use under permit.

"(d) Studies.

"(e) Revocation.

"Sec. 6. Administrative review; suspension.

"(a) Cancellation after five years.

"(1) Procedure.

"(2) Information.

"(b) Cancellation and change in classification.

"(c) Suspension.

"(1) Order.

"(2) Duration of order.

"(d) Public hearings.

"(e) Judicial review.

"Sec. 7. Registration of establishments.

"(a) Requirement.

"(b) Registration.

"(c) Information required.

"(d) Confidential records and information.

"Sec. 8. Books and records.

"(a) Requirement.

"(b) Inspection.

"Sec. 9. Inspection of establishments, etc.

"(a) In general.

"(b) Warrants.

"(c) Enforcement.

"(1) Certification of facts to Attorney General.

"(2) Notice not required.

"(3) Warning notices.

"Sec. 10. Protection of trade secrets, etc.

"(a) In general.

"(b) Disclosure.

"Sec. 11. Standards applicable to pesticide applicators.

"(a) In general.

"(b) Separate standards.

"Sec. 12. Unlawful acts.

"(a) In general.

"(b) Exemptions.

"Sec. 13. Stop sale, use, removal, and seizure.

"(a) Stop sale, etc., orders.

"(b) Seizure.

"(c) Disposition after condemnation.

"(d) Court costs, etc.

"Sec. 14. Penalties.

"(a) Civil penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Hearing.

"(4) References to Attorney General.

"(b) Criminal penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Disclosure of information.

"(4) Act of officers, agents, etc.

"Sec. 15. Indemnities.

"(a) Requirement.

"(b) Amount of payment.

"(1) In general.

"(2) Special rule.

"Sec. 16. Administrative procedure; judicial review.

"(a) Application of Administrative Procedure Act.

"(b) Judicial review.

"(c) Jurisdiction of district courts.

"(d) Notice of judgments.

"Sec. 17. Imports and exports.

"(a) Pesticides and devices intended for export.

"(b) Cancellation notices furnished to foreign governments.

- "(c) Importation of pesticides and devices.
- "(d) Cooperation in international efforts.
- "(e) Regulations.
- "Sec. 18. Exemption of Federal agencies.
- "Sec. 19. Disposal and transportation.
- "(a) Procedures.
- "(b) Advice to Secretary of Transportation.
- "Sec. 20. Research and monitoring.
- "(a) Research.
- "(b) National monitoring plan.
- "(c) Monitoring.
- "Sec. 21. Solicitation of public comments.
- "Sec. 22. Delegation and cooperation.
- "Sec. 23. State cooperation, aid, and training.
- "Sec. 24. Authority of States and political subdivisions.
- "(a) Cooperative agreements.
- "(b) Contracts for training.
- "Sec. 25. Authority of Administrator.
- "(a) Regulations.
- "(b) Exemption of pesticides.
- "(c) Other authority.
- "Sec. 26. Severability.
- "Sec. 27. Authorization for appropriations.

"SEC. 2. DEFINITIONS

"For purposes of this Act—

"(a) **ACTIVE INGREDIENT.**—The term 'active ingredient' means—

"(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

"(2) in the case of a plant regulator, an ingredient which through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

"(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

"(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"(b) **ADMINISTRATOR.**—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(c) **ADULTERATED.**—The term 'adulterated' applies to any pesticide if:

"(1) its strength of purity falls below the professed standard or quality as expressed on its labeling under which it is sold;

"(2) any substance has been substituted wholly or in part for the pesticide; or

"(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

"(d) **ANIMAL.**—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

"(e) **CERTIFIED PESTICIDE APPLICATOR, ETC.**—

"(1) **CERTIFIED PESTICIDE APPLICATOR.**—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

"(2) **PRIVATE PESTICIDE APPLICATOR.**—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) **COMMERCIAL PESTICIDE APPLICATOR.**—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) **DEFOLIANT.**—The term 'defoliant'

means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) **DESICCANT.**—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) **DEVICE.**—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c) (4).

"(i) **DISTRICT COURT.**—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) **ENVIRONMENT.**—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) **FUNGUS.**—The term 'fungus' means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) **IMMINENT HAZARD.**—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) **INERT INGREDIENT.**—The term 'inert ingredient' means an ingredient which is not active.

"(n) **INGREDIENT STATEMENT.**—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (i); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) **INSECT.**—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) **LABEL AND LABELING.**—

"(1) **LABEL.**—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

"(2) **LABELING.**—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official

publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) **MISBRANDED.**—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(e) (3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

"(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(B) the pesticide contains any substance

or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES.

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to

deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based;

"(E) the complete formula of the pesticide;

"(F) a request that the pesticide be classified for general use, for restricted use, or for both; and

"(G) any data in the possession, custody, or control of the applicant which may tend to indicate any substantial adverse effects on the environment, or lack of any such effects, which may be caused by such pesticide when used for any intended use.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

"(6) DENIAL OF REGISTRATION.—If the Ad-

ministrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use: *Provided*, That if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses of which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

"(1) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

"(11) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGES IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same

person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that, to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date if its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of his intention and of whether he intends to cancel the registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notices of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6(a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(d) PUBLIC HEARINGS.—In the event a hearing is requested pursuant to subsection (a) or (b) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant

and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpoena to compel testimony from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpoena may be enforced by an appropriate United States District Court in accordance with the principles stated herein and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection

shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTIONS OF ESTABLISHMENTS, ETC.

(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institutions of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

"(a) IN GENERAL.—In submitting data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement re-

quired in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c)(5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—

"(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section 8, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or undertaking provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner that may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and

address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties from which the user does not expect to receive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES

"(a) CIVIL PENALTIES

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than \$1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of

this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES.

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure) and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator, any person adversely affected may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The

commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The Court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter or execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES

"The President by executive order may exempt any Federal Agency from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION

"(a) PROCEDURES.—The Administrator shall after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831-835), the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472 H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING.

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS.

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION.

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING

"(a) COOPERATIVE AGREEMENT.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the author-

ity to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulations does not permit any sale or use prohibited by this Act;

"(b) Such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) A State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate controls.

"SEC. 25. AUTHORITY OF ADMINISTRATOR

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circum-

stance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1974, shall be the sums hereafter provided by law."

Mr. DOW (during the reading). Mr. Chairman, I have sent copies of the amendment to the desk. I ask unanimous consent that the amendment be considered as read and printed in the RECORD, inasmuch as I have made copies available.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOW. Mr. Chairman, I offer an amendment to the bill H.R. 1072 seeking to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

For the convenience of Members this substitute embodies six individual amendments that I am convinced we must adopt in order to perfect this pesticide legislation. It should be easier to perfect the bill by one amendment than by six put individually to this House. In the general debate of this bill before us, I covered the essentials of all the amendments I believe to be necessary. These have the support of at least seven of the national organizations and the International Association of Game, Fish, and Conservation Commissioners which are dedicated to preserving our environment and preventing the excesses in usage of pesticides that becomes more alarming all the time.

For the benefit of those Members who did not hear the general debate, I will summarize the six component amendments that make my substitute different from, and I believe preferable to, the committee bill:

First. The first amendment, on page 17, would strike language permitting pesticide manufacturers to restrict the use of data submitted in support of an application for registration—a procedure that is more restrictive than present law. The objectionable provision would require, in effect, that the environmental protection agency join with manufacturers in restrictive trade and in violation of the Freedom of Information Act outside the bounds of patent protection.

Second. My second amendment, on page 17, adds language requiring the manufacturer to disclose data which tends to prove an environmental effect of lack of effect. The committee bill omits such requirement and leaves the Administrator, believe it or not, to assume the burden of proof in any denial of pesticide application.

Third. The third amendment, on page 19, strikes out a clause new in the committee bill which makes any lack of essentiality irrelevant for denying registration to a pesticide.

Heretofore, the Administrator of the Environmental Protection Agency has developed a doctrine of essentiality, that is, the need for the pesticide in the Agency analysis of applications for registrations. My amendment restores this instrument to his use.

Fourth. The fourth amendment, on page 28, would strike the section requiring the Federal examiner hearing pesticide cases to submit questions of scientific fact to a scientific committee. The provision bottles up questions, delays procedures, excludes the public and was not in the original Administration proposal.

Fifth. My fifth amendment, page 49, would continue the present application of law which allows persons adversely affected to challenge the Administrator's orders in the U.S. Court of Appeals. The new committee bill limits court challenge to manufacturers, and bars States which wish to intervene and other groups who might be vitally concerned. The National Governors Conference has been particularly concerned because this section restricts State intervention.

Sixth. My sixth amendment, page 56, is one that has enlisted support from a number of commissioners of conservation in a number of States. It would strike from the committee bill the new proviso that would bar a State from restricting in its own way the use of pesticides registered for general use. This would gut the laws of such States where such laws are stricter than the Federal registration. I can see no good purpose served by preventing States from running their own affairs in a tidy fashion where they deem it essential.

Accordingly, Mr. Chairman, the Members have an opportunity in supporting this comprehensive amendment to strike from the bill all those legal snares and pitfalls that would trap the Administrator of the Environmental Protection Agency and tie his hands as regards regulation in the public interest. I urge the passage of my amendment as a substitute for the bill.

Mr. HELSTOSKI. Mr. Chairman, I shall address myself to the preemption of State authority authorized by lines 5 and 6 of section 24 of the bill before us this afternoon. In my opinion, this section constitutes a crippling blow to pesticide control programs underway in a number of States, including my own, New Jersey.

The language of these lines "or restrict by license or permit the use of a pesticide registered for general use" sounds harmless enough until we examine its impact on existing State laws. We would also do well to consider this language in the context of the evolution of this legislation from a strong proposal to the weak, watered-down bill before us today.

Under H.R. 10729, in the words of the committee report, "State authority to change Federal labelling and packaging is completely preempted." Also, pesticides classified for "general use" by the Environmental Protection Agency are presumed by the committee bill to be safe and States are prohibited from regulating them more strictly than the Federal Government does.

Mr. Chairman, no one knows which pesticides will be classified by the EPA for "general use" or for "restricted use" or for both. Additionally, the definition upon which such classification is based—"substantial adverse effects on the environment"—is vague and weak. Thus, States may find that a pesticide which EPA classifies for "general use" actually requires stricter regulation. But, under this bill, the States will have their hands tied and may go no further in pesticide regulation than the EPA allows.

On the basis of the Federal Government's past performance in pesticide regulation, many people are skeptical of how tough EPA will be in drawing up its restricted list. In addition, the possibility of dual classification fuzzes the meaning and purpose of the two categories. As noted by the Agricultural Extension Service entomologist at North Carolina State University:

Enforcement of any restrictions on users will be difficult at best, but enforcement of a dual classification at the user level in my opinion will be impossible.

Richard J. Sullivan, commissioner of the New Jersey Department of Environmental Protection, commented:

Pesticides are to be classified as "restricted use" under this bill only if they are acutely toxic or if they may cause substantial adverse effects on the environment. We simply are not always aware of the vast dangers which can be caused by pesticides over the long term, and thus many dangerous substances may be included in the general use category of registration since a clear case of substantial immediate environmental damage will not be apparent. For over 25 years states have restricted such general use pesticides. These restrictions are important because varying crop, soil, or climatic conditions can affect the severity of the environmental impact of pesticides.

Another crucial problem with the preemption of State authority in section 24 is the specific reference to licenses and permits, which the States are forbidden to use on "general use" pesticides.

As a matter of fact, a great many States do use a permit system to control pesticides. According to the National Association of State Departments of Agriculture, 23 States have already taken steps to develop lists of restricted pesticides and to allow their use by permit only.¹

For example, New York State has 15,000 outstanding permits issued to major users of pesticides. New York totally bans several pesticides and sharply restricts some 60 others which are considered to be highly toxic or potential environmental contaminants, according to Henry Diamond, commissioner of the New York Department of Environmental Conservation.

The preemption of State authority in section 24 seems to be clearly aimed at the heart of these strong State programs.

If one examines the history of this bill as it moved through markup in committee, it seems apparent that this gutting of strong State programs is intentional.

¹ Testimony in House Ag. Committee hearing, page 480, by Dr. Charles P. Ellington, Director, Maryland State Board of Agriculture, representing the NASDA.

Initially, the administration proposed in H.R. 4152 a system of classifying pesticides into three categories in order to control their use. Simply stated, the three categories were:

First. General use—for those pesticides which can be used safely by following the label;

Second. Restricted use—those which required some special precautions and could only be applied by an "approved pesticide applicator," who could be anyone who could pass a State test established in cooperation with EPA;

Third. Use by permit only—this would be for pesticides highly dangerous—toxic—to people or hazardous to the environment. These could only be used with written approval of an "approved pest management consultant" who would be a highly qualified specialist. This category would be akin to a prescription system.

During the House hearings, some users and manufacturers objected strongly to the "use by permit" category, and during markup this category was promptly dropped by the committee.

Having thus prevented EPA from setting up a use by permit system, the committee ultimately limited the States' right to do so in section 24. The specific preemption in lines 5 and 6 did not appear in the legislation until the committee reported out the clean bill, H.R. 10729. This preemption had not been in the administration's proposal and, in fact, the administration testified strongly in favor of retention of State authority. During the House committee hearings, John Quarles, General Counsel and Assistant Administrator for Standards and Enforcement of EPA, said:

I would like to emphasize that the States have played a major role in pesticides regulation. To date, 48 states have programs covering the registration and/or use of pesticides. We wish to encourage and not supplant these efforts by providing that States may prohibit the use of a particular pesticide within their jurisdiction even if the pesticide is registered under the Federal authority. States are not precluded from imposing stricter standards or added requirements, but they may not permit any sale or use of a pesticide which is prohibited under the authority of this Act.

Apparently in order to insure that EPA and the States would not use another method of establishing permit systems, the committee report states:

The legislation grants no authority for a third classification nor does it grant any authority to the Administrator to establish by regulation or agreement with a state the position or similar function of a licensed or approved pest management consultant.

By forbidding the States to have pest management consultants, who are the people who give out permits, the committee has further threatened the whole permit concept.

If the language of section 24 of this bill is adopted, then passage of H.R. 10729 will represent a step backward in pesticide regulation for many States. It will punish States which have had the wisdom and courage to set up their own pesticide regulatory programs.

Already, State officials from New Jersey, New York, Massachusetts, Con-

necticut, California, Utah, Missouri, Michigan, Colorado, and Minnesota have expressed opposition to the preemption of State authority authorized by section 24. Officials from other jurisdictions may have done so as well, and, doubtless, many more would do so if all States had the opportunity to review and comment on this language.

Mr. Chairman, lines 5 and 6 of section 24 of this bill must be deleted.

Under unanimous consent I include at this point in the RECORD, several letters and a telegram relevant to section 24.

STATE OF NEW YORK, DEPARTMENT
OF ENVIRONMENTAL CONSERVATION,

Albany, September 30, 1971.

DEAR CONGRESSMAN DOW: It has come to my attention that the House Committee on Agriculture has completed deliberations on HR 10729 (a bill to amend the Federal Insecticide, Fungicide and Rodenticide Act, by Mr. Poage). Indications are that the bill will be reported out in the very near future.

We generally agree with the intent of the legislation and are particularly encouraged by the prospect that it holds out for eventual federal funding to assist in our pesticide control program. However, there is one provision of the bill which could gut the outstanding work New York State is accomplishing to restrict pesticides within the states. Section 24 will undercut our existing, effective pesticide program and preclude needed local authority for all states. I therefore urge HR 10729 be amended to delete Section 24.

In the 1970 session of the Legislature, Governor Rockefeller signed a bill which gave the Department of Environmental Conservation the authority to ban completely or restrict the use of pesticides in New York State. Under this authority the Department held hearings in the fall of 1970 and, following those hearings, promulgated a series of regulations which prohibit entirely the use of such devastating environmental contaminants as DDT, Endrin and BHC. It also restricts sharply the use of some 60 other pesticides which are considered to be highly toxic or potential environmental contaminants.

Our restricted pesticide program now has 15,000 outstanding permits issued to major uses of pesticides. We have found that generally the agricultural and chemical industries are in favor of this program and have cooperated fully since its inception on January 1 of this year.

I believe that Congressional action, which would destroy this outstanding program and replace it with a federal program which might be unsuited to the needs of New York State, would be most unfortunate and an environmental step backwards.

Sincerely,

HENRY L. DIAMOND,
Commissioner.

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,
Trenton, October 7, 1971.

HON. HENRY HELSTOSKI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HELSTOSKI: On September 25 the House Agriculture Committee reported out a bill, HR 10729 which provides for Federal regulation of pesticides. While I have not completely reviewed the bill, one section of it seems to me to be particularly ill-conceived and in need of amendment.

The section I refer to is Section 24 on page 56 of the bill. When the Committee was considering the bill, it accepted an amendment which authorizes the States to regulate the sale or use of any pesticide or

device within the State if such State regulation does not permit a sale or use prohibited by the act. The same amendment also forbids the state to "restrict by license or permit the use of a pesticide registered for general use."

Pesticides are to be classified as "restricted use" under this bill only if they are acutely toxic or if they may cause substantial adverse effects on the environment. We simply are not always aware of the vast dangers which can be caused by pesticides over the long term, and thus many dangerous substances may be included in the general use category of registration since a clear case of substantial immediate environmental damage will not be apparent. For over 25 years states have restricted such general use pesticides. These restrictions are important because varying crop, soil, or climatic conditions can affect the severity of the environmental impact of pesticides.

If this bill is passed as presently drafted it will cripple New Jersey's pesticide regulations, and not allow any state to draw up regulations which fit its own particular needs. I therefore strongly urge that you work to amend HR 10729 by deleting line 5 following the word "act" and all of line 6 on page 56 in Section 24. If so amended the State of New Jersey can continue to exercise the controls needed over pesticides.

Very truly yours,

RICHARD J. SULLIVAN,
Commissioner.

TELEGRAM FROM DANIEL W. LUFKIN TO ALL
CONNECTICUT CONGRESSMEN:

As Connecticut Commissioner of Environmental Protection I request your vigorous opposition to HR 10729 because it removes from Connecticut and other States the power to regulate pesticides more stringently than the Federal Government. The States have primary responsibility for the health of their citizens, and the environmental impact of pest control methods strikes the local community. The States must have the power to have their own standards on pesticides whether or not they exceed the Federal standards. Another objectionable feature is the shifting of the burden of proof to the environmental protection agency to prove "substantial" environmental effects from pesticide use. This is exactly opposite to the way it should be. The manufacturer and user should have the burden to prove the contrary. States fighting to protect their environment should not be undercut by laws such as this.

MR. HARRINGTON. Mr. Chairman, the scientific community, environmental groups, consumer groups, and the general public vividly realize the great need for revision of existing law in the areas of strengthening controls on the uses and users of pesticides. So too must Congress. I, therefore, rise in support of the substitute legislation introduced by Congressman Dow.

It must be acknowledged that the wise use of pesticides have benefited the farmer and the Nation as a whole. It has been estimated, for instance, that without pesticides farmers would suffer a total yearly crop loss of \$20 billion. Additionally, by controlling insect caused diseases such as malaria and typhus, millions of lives have been saved. Intelligent pesticide use has benefited man. However, evidence has proven that there is a drastic decrease in our ability to control the use of pesticides and that the proliferation and increased use of pesticides has resulted in undesirable effects on human health. In 1970 the production of pesti-

cides in the United States totaled 1.03 million pounds. Currently 60,000 chemical products are registered with the Federal Government.

Such extensive use of pesticides with weak controls and potential hazardous effects has caused widespread concern. According to the National Product Safety Commission, 75,000 acute pesticide poisonings occur each year. Eight hundred to 1,000 people die each year and another 80,000 to 90,000 people are injured from pesticide poisonings according to the Food and Drug Administration. DDT presents long-term hazards to the environment. It remains in the air, in the soil, and in the water for 50 years. DDT thus enters the food chain, accumulates in human tissue and has the potential to cause liver damage or possibly even cancer. Because of exposure to pesticides, many species of wildlife are endangered.

In the report by the Committee on Agriculture the need for new control measures and procedures was noted:

Pesticides are valuable to our nation's agricultural production . . . but it is essential to the public health and welfare that they be regulated closely to prevent adverse effects on human life and the environment.

The committee bill, in its attempt to prevent these adverse effects, rewrites the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 which regulates the labeling and sale—but not the use of pesticides in interstate commerce. However, the committee bill fails to provide the sufficient controls or the "close" regulation which it promised to do and announced as its goal. Without such controls we will continue to endanger both human life and the total environment.

The committee bill, in attempting to be a composite of a farmer's bill, a manufacturer's bill, and an environmentalist's bill, becomes in effect, nobody's bill. The primary value that must be given priority is the health of all of the American people, both now and for the future. A substitute bill, H.R. 11169, offered by Representative JOHN G. DOW, reflects this concern for health.

There are several serious weaknesses in H.R. 10729 concerning, first, registration of a pesticide, second, administration and scientific review, third, judicial review, and fourth, the authority of the States. Congressman Dow's substitute bill seeks to correct these failings.

One of the weaknesses of the committee bill concerns the provisions for registration of pesticides. In the committee bill the applicant is given power to classify information—section 3(c)(1)(D)—page 17. The Dow substitute would correct this by striking the data restriction language. Thus the burden of proof is not shifted to the Administrator. The Dow substitute also requires that data in the possession of the applicant which would indicate a substantial adverse effect on the environment or the lack of such an effect should be available to the Administrator of the Environmental Protection Agency. Thus the Administrator would have sufficient information on which to base his decisions.

A second major weakness of H.R. 10729 is under section 6, administrative review,

(c)(3) and (d), scientific review. In the past the referral of questions of a scientific nature has been used as a delaying tactic. It could continue to serve that purpose. However, the Dow substitute eliminates the section on scientific review, thus strengthening the power of the Administrator. The Administrator may seek outside advice for a public hearing when and if he feels this essential need. Delaying manipulations are thus eliminated in the Dow substitute.

A third weakness of the committee bill concerns the sections on judicial review. The committee bill would prevent public-interest law firms and environmental and consumer groups from bringing suits to ban dangerous pesticides and herbicides. The Dow substitute would put back into the judicial review section on page 49 the words "any person adversely affected" which appeared in the original administration bill, H.R. 4152.

A fourth weakness of the committee bill concerns the authority of the States under section 24(a) page 56. States which have stricter requirements than Federal regulations are prohibited from enforcing anything stricter than the Federal regulations for general use pesticides. New York, Michigan, and Wisconsin, among other States, have effective State pesticide programs that could be jeopardized. The Dow substitute changes this to permit States to further regulate general use pesticides.

Four failings of the committee bill have been discussed—although other additional weaknesses exist. These failings are of such magnitude so as to nullify the progress that has been made to protect the health and indeed the survival of the human being. Congressman Dow's substitute bill seeks to correct the failings of the committee bill. It clearly places the value of health and survival of all of us on a top priority level.

I recently signed a letter urging Members of Congress to be present on the floor, to vote for the Dow substitute bill.

I reiterate that statement. We owe the consumer, the farmer, and the American public a decent pesticide control bill. Mr. Dow's bill gives us the opportunity to pay that debt.

Mrs. ABZUG. Mr. Chairman, H.R. 10729 is entitled the "Federal Environmental Pesticide Control Act," but this label is a false one, for it neither controls pesticides nor protects the environment. It should be called the "Federal Pesticide Promotion Act." The act by any name makes no contribution to protecting us from the hazards of pesticide misuse. In fact, it increases the risk of pesticide poisoning. Some of its provisions set environmental protection back at least 10 years.

The pending bill effectively prohibits citizen input into environmental decisionmaking. It limits standing to challenge a decision on pesticide licensing to those whose economic interests are directly affected by the decision, that is, the pesticide manufacturer. The law presently in effect, allows parties "adversely affected" to challenge the validity of pesticide registration. This standing requirement has been interpreted by the courts

as allowing challenge and input by environmental groups. Some major pesticide protection victories in the last decade—including Wellford against Ruckelshaus, Environmental Defense Fund against Ruckelshaus, and EDF against Hardin—have come in lawsuits initiated by environmental groups and other citizens concerned about their health. The pending bill would halt all such input, leaving the Administrator with no point of view but that of industry. It would be inexcusable, in this day of increasing danger from pesticides, for us to narrow the standing criteria.

The bill prohibits the Administrator, when deciding whether to register a pesticide, from consulting toxicity data he has received in connection with the registration of other pesticides. In making a decision on a subject as important as entrance of a pesticide into our environment, he may not even use all the scientific information in his file cabinet. He would be limited to the data that the pesticide manufacturer submits to him, plus whatever data, of a general nature, he happens to have at hand. Existing law, on the other hand, allows the Administrator to use whatever data he has or can obtain. This is indisputably better for the public health, and I could not support a bill which would do what this one does.

The pending bill would put the burden of disallowing a pesticide registration on the Administrator, if he determined that a pesticide was unsafe. That is, he would have to make a determination that the pesticide had a substantial adverse effect on the environment before he could refuse registration. The standard of "substantial adverse effect" is a heavy burden to meet. The burden of proof on this issue should rest not with the Administrator, whose aim is to protect the public, but with the manufacturer, whose aim is to make a pecuniary profit. Under present law, the manufacturer bears the burden of proof. He must show that he has a product that can be used safely within the limits of the instructions on the label. The pending bill would require the administrator to prove nonsafety and I cannot endorse it in that form.

The pending bill prohibits the Administrator from using the criterion of "essentiality" in determining whether a pesticide should be registered. The doctrine of "essentiality" means that the Administrator may consider whether the pesticide is essential—that is, whether other, less toxic pesticides are already available to perform the same function—in determining registration. The essentiality standard has been one of the major victories won by environmentalists' lawsuits. It is crucial in deciding whether or not the environment and the public are to have yet another pesticide. Without the essentiality doctrine, the sole criterion will be the persuasiveness of the pesticide manufacturer in marketing it to the farmer. This, too, is unacceptable.

The bill before us commands the Administrator to keep data relating to toxicity of pesticide products secret until after the decision on registration is made. It also grants the pesticide industry the right to decide what data will or

will not ultimately be available, since it lets the industry decide which portion of its data is to remain secret. The result is that even when the Administrator releases the toxicity data—he cannot release data which the registrant has determined should be secret. Existing law does not give the manufacturer the right to determine what the public should know, but that places that decision under the terms of the Freedom of Information Act. Until recently, some toxicity data has been secreted under the trade secrets exception, that act, but recently, the Environmental Protection Agency has determined that toxicity data does fall within this exception, and that it will be available to the public as an aid in poison protection. The bill before us would overrule that wise decision, and bind the Administrator to shield toxicity data from the public eye on a permanent basis.

The pending bill sets up a balancing test when temporary suspension of a harmful pesticide is considered. The administrator would have to balance the potential injury to the public against the potential benefit. Such a test may be acceptable in a leisurely, full-dress consideration, but not in an emergency.

Further, the bill would indemnify manufacturers whose pesticide is removed from the market because it is unsafe. Do we indemnify a bank robber if we catch him and take away his ill-gotten loot? If not, then why should we indemnify a manufacturer when we catch him with his ill-gotten "loot"?

In all these cases, the pending bill is regressive. It denies protections which the public now enjoys. The public deserves better than this.

We need stronger legislation, not weaker.

We need an administrative procedure which is fully open to public scrutiny and which operates with sufficient speed to protect the public against newly-discovered dangers.

We need legislation which does not give unbridled discretion to the administrator, making him constantly vulnerable to the army of industry lobbyists who infest the halls of Government agencies.

We need legislation which assures the public that it is not the guinea pig in safety experiments for pesticides.

We need a standard for removing dangerous pesticides from the market which protects the public while scientific data is being reviewed in the agency.

We need a category of pesticide use which allows use by license only, as the original administration bill prescribed.

We need stringent qualifications for pesticide applicators.

We will get none of these things with this bill. This bill encourages thoughtless pesticide use. It is riddled with lowered standards, wider discretion, and gaping loopholes.

Pesticides are poisons. They are designed to kill living things. They require the utmost care at all levels, lest they kill the wrong things.

In 1970, the production of pesticides totalled over 1 million pounds. The National Product Safety Commission estimates that there were 75,000 acute pesti-

cide poisonings in that year. The Food and Drug Administration estimates that 800 to 1,000 people die every year from pesticide poisoning and that 80,000 to 90,000 are injured by pesticides, not to mention injuries to wildlife populations and to domestic animals.

Pesticides are useful to man only when they are applied with utmost caution. The bill discourages such application. It promotes the expansion of pesticide use by those who seek short-run gain—the chemical companies who sell pesticides. The bill seeks to obscure the dangers of poisons, minimizing the need for care and judiciousness in their use. We are dealing here with poisons, and this bill increases our chance of being poisoned.

I support the Dow substitute. It erases the clause which would preempt stronger state pesticide legislation. It speeds up agency action by erasing immediate, interim appeal to the district court and automatic appeal to the National Academy of Sciences. It changes the standing requirement for initiating judicial review of agency registration decisions to parties adversely affected, which would allow people other than chemical companies to go into court. It would allow the administrator to use all data in his files when he makes safety decisions.

This substitute makes some contribution toward protecting the public, the farmer, the farmworker, and the consumer, from misuse of economic poisons. I urge its adoption.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in strong support of the amendment in the form of a substitute offered by the gentleman from New York (Mr. Dow). This amendment is a much needed attempt to rectify some of the many faults present in the bill reported by the Agriculture Committee.

As the committee bill presently stands, the Environmental Protection Agency would be virtually powerless to carry out its task of regulating the manufacture, distribution and use of pesticides. For, as drafted by the committee, H.R. 10729 would be no better than the old Federal Insecticide, Fungicide, and Rodenticide Act. In fact, it would provide even weaker protection of the environment and the public than does the present law, while strengthening the hands of the makers and users of harmful chemical poisons.

When we consider that under the present system of controls, it is estimated that 800 to 1,000 people died each year and 10 times that number are acutely poisoned from intake of chemical pesticides, we must strive for more stringent regulations of these potentially harmful products and not accept weaker conditions as provided for in the current bill.

Provisions incorporated in the committee bill such as "no State could impose stricter regulations than those approved at the Federal level" and "the burden of proof of the safety of a chemical falls on the Government, rather than on the company promoting the product" are just two examples of how this bill would in fact promote less control of pesticides rather than the stricter supervision that is needed.

With the Dow amendment, however,

this bill could serve a valuable purpose of strengthening what is now a weak and easily avoided statute. It is agreed by most that the bill's effect on the individual small farmer would not differ if the Dow amendment was accepted. Major effects of the Dow amendment would fall upon the manufacturers of the chemical pesticides. It would make them prove that a new product is safe and useful before it is allowed on the market for public consumption. This is not, in my opinion, too great a burden for the chemical manufacturers to bear in light of the alarming increase in chemical-related poisonings in recent years.

I shall, Mr. Chairman, support the Dow amendment as a constructive alternative to the committee bill and hope that my colleagues will do likewise.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the amendments offered by the gentleman from New York (Mr. Dow).

The committee bill does not correct the current situation regarding the use and control of pesticides. Instead, the bill, as reported by the Agriculture Committee, restricts the authority of the Environmental Protection Agency. In addition, and most objectionable to me, the committee bill severely restricts the authority of the States to take the necessary action to protect its local environment.

The Dow substitute would correct the deficiencies in the committee bill by, first, placing the protection of the environment as a priority coequal to the production of food and fiber and, second, the substitute would permit the States to set higher standards for pesticides than those set by the Environmental Protection Agency.

Often, we witness a Federal law superseding a State law. In California, we are all too familiar with Federal laws and practices that invalidate our State laws—laws designed to meet the special needs of the community.

The Federal Government—the Government of all the States—must consider the problems of Cold Bay, Alaska, or Summit Point, W. Va. In doing so, the Federal Government must enact a law which is acceptable to the people in Alaska as well as West Virginia.

In many instances, the law which would eliminate say—a pollution problem in Los Angeles—might be too stringent for the people in Alaska, a State which may not have our complex problems. Thus, in order to reach a compromise, the Federal laws, in some instances, have not met the requirements of those of us from States such as California.

Instead, Federal laws, such as the Clean Air Act of 1970, have invalidated certain provisions of California's more restrictive laws. In those cases, we have fought to preserve our stronger local laws.

Mr. Chairman, the Federal law must establish a floor. That is to say, California and Alaska must meet certain minimum Federal standards, but if the situation exists, the State and local governments may enact more stringent requirements.

At this point, Mr. Chairman, I would

like to insert a telegram that I received from Mr. Ray Arnett, the director of the California Fish and Game Department:

The Calif. Dept. of Agriculture is opposed to wording in H.R. 10729 under section 24 (a), p. 56 of committee bill which would prevent the State from adopting more restrictive measures than those adopted by the Administrator of EPA as "pesticides classified for general use". Since the Dept. of Fish and Game depends on the regulatory authority of the State Dept. of Agriculture for quick action to control and alleviate pesticide problems involving significant conflicts between pesticides and fish and wildlife, we strongly support the retention of the State's rights concept as recommended by the Calif. Dept. of Agriculture and as reflected in the alternative amendments of Rep. Dow's proposed H.R. 11169.

In 1970, production of pesticides in the United States totaled over 1 billion pounds. The National Product Safety Commission estimates that 75,000 acute pesticide poisonings occur each year. The Food and Drug Administration estimates that 800 to 1,000 people die each year from pesticide poisons.

We know that some persistent pesticides have taken their toll among such wildlife as eagles, pelicans, and falcons.

We know that most of the world's production of DDT ends up in the ocean where it has contaminated fish and, as a result, the FDA has removed those fish from the market.

Mr. Chairman, I favor the substitute amendments which would, first, allow the EPA to stringently control the use of pesticides and, second, allow the more stringent State laws, which are designed to meet the local needs, to remain in effect.

Mr. WOLFF. Mr. Chairman, I rise today in support of an amendment to H.R. 10729, the Federal Environmental Pesticide Control Act of 1971, which is being offered by my distinguished New York colleague (Mr. Dow). I urge my colleagues in the House to give careful consideration to the merits of this amendment and to join with me in supporting this measure.

H.R. 10729, as reported from committee, substantially weakens the straightforward provisions of the present law without offering adequate safeguards in return. For example, the bill will preempt the setting of stronger requirements and safeguards by the individual States. I point to my own State of New York as a case in point.

In addition, the Pesticide Act as it now stands would require the Administrator of the Environmental Protection Agency to prove that a pesticide product is environmentally unsound. The burden of proof to demonstrate that the pesticide will not adversely affect the environment, I think, rightfully belongs with the manufacturer. The amendment before us today would make this necessary change.

This amendment would also remove from the present bill some of the procedural obstacles that could prevent the Environmental Protection Agency from acting most effectively in the public interest, and it would remove the requirement that indemnities be paid to manufacturers, thus encouraging more careful

and thorough product research before a compound is placed on the market.

I think none of us would dispute the importance and the need for careful regulation of pesticides. Time and again we are told of the dangers inherent in these poisons when used improperly. In a larger sense, we are likewise concerned with any substance that has the potential to alter the basic structure of the ecology, and as we hear of wild animals being poisoned to death, of insects growing immune to the effects of the chemicals we use to protect our crops, and of accumulations of the various substances in the human body, we cannot help but wonder what long-term effects these pesticides might have on the environment.

Therefore, I again urge my colleagues to give careful consideration to the provisions contained in this amendment, provisions which would only strengthen and in no way diminish the effectiveness of this legislation, and to join in support of this substitute measure.

Substitute amendment offered by Mr. KYL for the amendment in the nature of a substitute offered by Mr. Dow.

Mr. KYL. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from New York (Mr. Dow).

The Clerk read as follows:

Substitute amendment offered by Mr. KYL for the amendment offered by Mr. Dow: In lieu of the matter proposed in the amendment insert the following:

AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.

"(a) Short title.

"(b) Table of contents.

"Sec. 2. Definitions.

"(a) Active ingredient.

"(b) Administrator.

"(c) Adulterated.

"(d) Animal.

"(e) Certified pesticide applicator, etc.

"(1) Certified pesticide applicator.

"(2) Private pesticide applicator.

"(3) Commercial pesticide applicator.

"(f) Defoliant.

"(g) Desiccant.

"(h) Device.

"(i) District court.

"(j) Environment.

"(k) Fungus.

"(l) Imminent hazard.

"(m) Inert ingredient.

"(n) Ingredient statement.

"(o) Insect.

"(p) Label and labeling.

"(1) Label.

"(2) Labeling.

"(q) Misbranded.

"(r) Nematode.

"(s) Person.

"(t) Pest.

"(u) Pesticide.

"(v) Plant regulator.

"(w) Producer and produce.

"(x) Protect health and the environment.

"(y) Registrant.

"(z) Registration.

"(aa) State.

"(bb) Substantial adverse effects on the environment.

"(cc) Weed.

"Sec. 3. Registration of pesticides.

"(a) Requirement.

"(b) Exemptions.

"(c) Procedure for registration.

"(1) Statement required.

"(2) Data in support of registration.

"(3) Time for acting with respect to application.

"(4) Notice of application.

"(5) Approval of registration.

"(6) Denial of registration.

"(d) Classification of pesticides.

"(1) Classification for general use, restricted use, or both.

"(2) Change in classification.

"(e) Products with same formulation and claims.

"(f) Miscellaneous.

"(1) Effect of change of labeling or formulation.

"(2) Registration not a defense.

"(3) Authority to consult other Federal agencies.

"Sec. 4. Use of restricted use pesticide; certified applicators.

"(a) Certification procedure.

"(1) Federal certification.

"(2) State certification.

"(b) State plans.

"Sec. 5. Experimental use permits.

"(a) Issuance.

"(b) Temporary tolerance level.

"(c) Use under permit.

"(d) Studies.

"(e) Revocation.

"Sec. 6. Administrative review; suspension.

"(a) Cancellation after five years.

"(1) Procedure.

"(2) Information.

"(b) Cancellation and change in classification.

"(c) Suspension.

"(1) Order.

"(2) Duration of order.

"(3) Judicial review.

"(d) Public hearings and scientific review.

"(e) Judicial review.

"Sec. 7. Registration of establishments.

"(a) Requirement.

"(b) Registration.

"(c) Information required.

"(d) Confidential records and information.

"Sec. 8. Books and records.

"(a) Requirement.

"(b) Inspection.

"Sec. 9. Inspection of establishments, etc.

"(a) In general.

"(b) Warrants.

"(c) Enforcement.

"(1) Certification of facts to Attorney General.

"(2) Notice not required.

"(3) Warning notices.

"Sec. 10. Protection of trade secrets, etc.

"(a) In general.

"(b) Disclosure.

"Sec. 11. Standards applicable to pesticide applicators.

"(a) In general.

"(b) Separate standards.

"Sec. 12. Unlawful acts.

"(a) In general.

"(b) Exemptions.

"Sec. 13. Stop sale, use, removal, and seizure.

"(a) Stop sale, etc., orders.

"(b) Seizure.

"(c) Disposition after condemnation.

"(d) Court costs, etc.

"Sec. 14. Penalties.

"(a) Civil penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Hearing.

"(4) References to Attorney General.

"(b) Criminal penalties.

"(1) In general.

"(2) Private pesticide applicator.

"(3) Disclosure of information.

"(4) Act of officers, agents, etc.

"Sec. 15. Indemnities.

- "(a) Requirement.
- "(b) Amount of payment.
- "(1) In general.
- "(2) Special rule.

"Sec. 16. Administrative procedure; judicial review.

"(a) Application of Administrative Procedure Act.

- "(b) Judicial reviews.
- "(c) Jurisdiction of district courts.
- "(d) Notice of judgments.

"Sec. 17. Imports and exports.

"(a) Pesticides and devices intended for export.

"(b) Cancellation notices furnished to foreign governments.

"(c) Importation of pesticides and devices.

- "(d) Cooperation in international efforts.
- "(e) Regulations.

"Sec. 18. Exemption of Federal agencies.

"Sec. 19. Disposal and transportation.

- "(a) Procedures.
- "(b) Advice to Secretary of Transportation.

"Sec. 20. Research and monitoring.

- "(a) Research.
- "(b) National monitoring plan.
- "(c) Monitoring.

"Sec. 21. Solicitation of public comments.

"Sec. 22. Delegation and cooperation.

"Sec. 23. State cooperation, aid, and training.

"Sec. 24. Authority of States and political subdivisions.

- "(a) Cooperative agreements.
- "(b) Contracts for training.

"Sec. 25. Authority of Administrator.

- "(a) Regulations.
- "(b) Exemption of pesticides.
- "(c) Other authority.

"Sec. 26. Severability.

"Sec. 27. Authorization for appropriations.

"SEC. 2. DEFINITIONS

"For purposes of this Act—

"(a) ACTIVE INGREDIENT.—The term 'active ingredient' means—

"(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

"(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

"(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

"(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"(b) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(c) ADULTERATED.—The term 'adulterated' applies to any pesticide if:

"(1) its strength or purity falls below the professed standard or quality as expressed on its labeling under which it is sold;

"(2) Any substance has been substituted wholly or in part for the pesticide; or

"(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

"(d) ANIMAL.—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

"(e) CERTIFIED PESTICIDE APPLICATOR, ETC.—

"(1) CERTIFIED PESTICIDE APPLICATOR.—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

"(2) PRIVATE PESTICIDE APPLICATOR.—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is

classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) COMMERCIAL PESTICIDE APPLICATOR.—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) DEFOLIANT.—The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) DESICCANT.—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) DEVICE.—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organisms on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c)(4).

"(i) DISTRICT COURT.—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) ENVIRONMENT.—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) FUNGUS.—The term 'fungus' means any nonchlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) IMMINENT HAZARD.—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) INERT INGREDIENT.—The term 'inert ingredient' means an ingredient which is not active.

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (ii); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) INSECT.—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied

classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) LABEL AND LABELING.—

"(1) LABEL.—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide, or device or any of its containers or wrappers.

"(2) LABELING.—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) MISBRANDED.—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

"(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life of virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c) (1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant."

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration;

"(E) the complete formula of the pesticide; and

"(F) a request that the pesticide be classified for general use, for restricted use, or for both.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c) (1) (D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs

(1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

"(1) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS.

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for

hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS.

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of such notice, the registrant may, within 30 days (A) registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notices of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6 (a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(3) JUDICIAL REVIEW.—Any order of suspension shall be subject to immediate review in all actions by the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. This action may be maintained simultaneously with any administrative review proceeding under section 6.

"(d) PUBLIC HEARINGS AND SCIENTIFIC REVIEW.—In the event a hearing is requested pursuant to subsection (a) or (d) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpoena to compel testimony from any person. Upon the request of any party or when in the hearing officer's judgment it is necessary or desirable, the hearing officer shall refer to a Committee of the National Academy of Sciences all relevant questions of scientific fact arising in the course of the public hearing. The Committee of the National Academy of Sciences shall report in writing to the officer within 60 days on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this Act. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpoena may be enforced by an appropriate United States District Court in accordance with the principles stated herein and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the

Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS.

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS.

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTION OF ESTABLISHMENTS, ETC.

"(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prose-

cution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

"(a) IN GENERAL.—In submitting this data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS.

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c)(5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—

"(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or undertaking provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the

person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner which may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to re-

ceive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded

against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than \$1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than \$10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES.

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration, the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis

of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a) (1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a) (1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure) and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any party at interest may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENT.—Whenever a can-

cellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The President by executive order may exempt any Federal agencies from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION.

"(a) PROCEDURES.—The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831-835), the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING

"(a) COOPERATIVE AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the authority to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act;

"(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) a State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific

local needs if that State is certified by the Administrator as capable of exercising adequate controls.

"SEC. 25. AUTHORITY OF ADMINISTRATOR

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing, is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91-601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1974, shall be the sums hereafter provided by law."

Mr. KYL (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa? There was no objection.

Mr. KYL. Mr. Chairman, the substitute amendment which I have offered does one thing. It makes one change in the committee bill. That change regards an item on which I am sure most of you have

been receiving a considerable number of communications.

Mr. Chairman, under this bill all pesticides are classified as general use or restrictive chemicals. The committee thought that those which were classified for general use, the Federal Government should preempt because, after all, these are relatively safe chemicals. However, a big problem does not exist in that category.

I think most members of the committee agreed that it really does not make that much difference to accept that one amendment to give the States the right to add some restrictions on general use pesticides, and that is fine. We will accept that one amendment.

But, Mr. Chairman, I want to go back a little bit. I have been in Congress for only 6 terms, but I can say with honesty that I do not recall any instance in which any committee of this House has given more studious, more serious or more complete attention than was given to this bill by the Committee on Agriculture.

We began working on this bill in February. We held exhaustive hearings. We studied and analyzed the reports and journals, analyzed research, and developed an acquaintance with chlorinated hydrocarbons, organophosphorous synthesis, with the dichlorophenory acetic acids, esters and salts.

We studied the buildup of residues in the lipides of fish, and examined the alleged carbonic enzyme anhydrase in raptors and the opposite effect in gallinaceous birds. We studied chemical effects on fucoids.

We looked at the possibilities for alternate controls such as utilization of sex attractants, and hormonal control as well as the gamma treatment.

We labored 6 months and we brought forth a bill, a fresh new committee print, and even then we went back for further review because the Environmental Protection Agency wanted one provision added and the State Department wanted one subtracted, and we did those two things. Then, the committee said that this is a good bill. The Environmental Protection Agency said this is a good bill and the administration said this is a good bill, and I believe that the House will concur that this is a good bill by accepting this one amendment on State regulation of general use pesticides and then turn back the others because this is actually a balanced piece of legislation.

Mr. Chairman, this balance was difficult to obtain. We add a pinch here and take a little away there and the first thing you know we have a bill which has lost the balance which is so essential to this kind of regulatory system. We will accept this one amendment which appears critical to a number of us and which gives the State the right to further restrict the general use pesticides but with the rest of the amendments we cannot agree.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. KYL. Yes, I yield to the gentleman from California.

Mr. TEAGUE of California. If I under-

stand correctly what the gentleman is doing by his substitute is in a different form accepting a proposal similar to what is known as the "Foley amendment" or the "States rights amendment" which would give each and any State which wishes to do so to prescribe more rigid requirements than those laid down by the Federal Government.

Mr. KYL. That is correct.

Mr. TEAGUE of California. It has my full support, and I heartily recommend it to my colleagues.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, of course I cannot speak for the committee as a whole because obviously this matter has come up without any chance of having been discussed by the full committee, but speaking for myself, and I am sure for some of my colleagues on the committee, I would suggest that it seems apparent that this amendment does achieve that which most of the Members would like to achieve. Certainly no harm can come from its adoption. Therefore, as far as I am concerned, I would accept the amendment.

Mr. DOW. Mr. Chairman, will the gentleman yield so that I may interrogate him?

Mr. KYL. I will yield to the gentleman from New York.

Mr. DOW. In other words, let me say that the amendment would go to one of the six amendments that I offered, namely, to enlarge the ability of the States to regulate pesticides of general use in their own area?

Mr. KYL. That is correct.

Mr. DOW. The other five amendments that I detailed in my amendment, or in my substitute, rather, are left out. I then inquire of the gentleman from Iowa are you paying no regard to this concept that I have explained which would give the administrator—

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. KYL was allowed to proceed for 3 additional minutes.)

Mr. KYL. I yield further to the gentleman from New York.

Mr. DOW. In other words, your substitute would ignore the point that I have been making; namely, that the bill contains too many snares and pitfalls for the Administrator to properly administer the bill, and to do so in an efficient and easy manner?

Mr. KYL. If the gentleman will permit me to respond to that, the committee labored on this bill for 6 months. We do not believe—that is, the general membership of this committee does not believe—there are snares and pitfalls. The EPA has approved this bill. The administration has approved this bill. The committee has given overwhelming support to this bill.

In one of his amendment the gentleman says, for instance, that the Administrator of the EPA has the burden of determining whether a pesticide should be used or not. We do not know how he can

interpret the language of the bill in this respect because he strains the language beyond belief. It places the responsibility for whether a pesticide is safe for use on the Administrator. It does not place any burden on the Administrator to prove the pesticide is safe for use. The Administrator has the determination as to whether a pesticide is safe or not. I do not know how the language in the bill could be made more strong. Certainly when we have labored as long as we did on this bill, and when we have reached unanimity of opinion and when we have reached the balance that we have in this legislation, we do not want to destroy the whole piece of legislation by adding something that some Member might want to put in clause 1 on page 10 of the bill.

This is a good bill. The committee approved the bill. The administration approved the bill, and the bill ought to be adopted in the form that it is with the exception of this one amendment which my provision makes clear.

Mr. MIZELL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from North Carolina.

Mr. MIZELL. Mr. Chairman, I thank the gentleman from Iowa for yielding. Also I want to congratulate the gentleman for offering this amendment. Within this legislation there is a Federal-State partnership. I see no reason why a State should not have the right to regulate insecticides. The substitute amendment offered by the gentleman in the well, Mr. KYL, would preserve this authority for the States and make it a better bill.

So, Mr. Chairman, I urge the adoption of the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. GOODLING. Mr. Chairman, I rise in support of the Kyl amendment and in opposition to the Dow amendment.

For the information of the Members, I was responsible for inserting in the committee bill, the section which Mr. KYL now proposes to delete. I still think it is a good section, put in there more or less to protect farmers.

In the interest of harmony, and this entire bill is built around harmony, I have agreed that this section should come out.

In accord with what Mr. KYL said—in 23 years of legislative service, I have never seen a bill, any bill, in any House that has been given as much consideration as this particular bill. It is definitely a compromise bill. There is no individual, no organization, no chemical company, no conservation group and no Commission or board in the Federal Government that receives everything it wanted in this bill, but all are pretty well agreed that this is now a good compromise bill.

I think I can assure the Members of this House, if we accept the Dow amendments, we will have absolutely no bill and then we will have nothing but mass confusion. I support the Kyl amendment and urge the House to vote in favor of the Kyl amendment and vote down the amendments offered by the gentleman from New York (Mr. Dow).

Mr. OBEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 368]

Alexander	Erlenborn	O'Hara
Anderson,	Ford,	Patman
Tenn.	William D.	Pelly
Archer	Fraser	Pepper
Ashley	Frelinghuysen	Pettis
Barrett	Gallagher	Rallsback
Belcher	Gray	Rees
Bevill	Griffiths	Reld, N.Y.
Blanton	Gubser	Riegle
Boggs	Gude	Rodino
Brotzman	Halpern	Ruppe
Brown, Mich.	Hébert	Scheuer
Buchanan	Horton	Schwengel
Carey, N.Y.	Keith	Selberling
Celler	Landgrebe	Smith, Calif.
Clark	Lloyd	Smith, N.Y.
Clawson, Del	Long, La.	Stanton,
Clay	McCloskey	J. William
Collins, Tex.	McDade	Steed
Colmer	McEwen	Steele
Conyers	McFall	Symington
Crane	McKinney	Teague, Tex.
Dellenback	Metcalfe	Thompson, N.J.
Derwinski	Mollohan	Vigorito
Diggs	Monagan	Whitten
Dingell	Morse	Wilson, Bob
Dowdy	Mosher	Wilson,
Dulski	Moss	Charles H.
Eckhardt	Nedzi	
Edwards, La.	Nelsen	

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10729, and finding itself without a quorum, he had directed the roll to be called, when 346 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. EVANS OF COLORADO TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado to the substitute amendment offered by Mr. KYL: Page 47, strike out line 13 and all that follows thereafter through page 48, line 17.

Mr. EVANS of Colorado. Mr. Chairman and Members of the Committee, the indemnity section of the Federal Environmental Pesticide Control Act should be stricken from the bill.

If this section becomes law the U.S. Government will be insuring all manufacturers, wholesalers, retailers, and users of hazardous pesticide products against any loss suffered because a particular pesticide product has been found to constitute an imminent danger to the public or to the environment.

Permission to sell and use a pesticide product should mean only that the particular product has passed the minimum

safety requirements set by the Government. Such permission to sell and use pesticides, however, should not amount to a blanket endorsement of the product or a guarantee to the manufacturer or user of its safety in the future.

If this sound public policy of mere permissive manufacture and use is to be substituted by a policy of complete insurance to all against loss, as is contemplated in the indemnity section of this bill, I believe we should now take a frank look at the consequences.

First. Manufacturers will lose a powerful incentive to test thoroughly in the first instance and will have no reason to continue testing once a product is cleared for the market. Why? Because Uncle Sam will pay for all loss the manufacturer may suffer if further tests disclose the product constitutes an imminent hazard.

Second. As the indemnity section is written producers will gain the profits while the risk of loss is underwritten by the Government. This is certainly not in keeping with the free enterprise system.

Third. The money for indemnities will come out of EPA's budget. Therefore, the reluctance to declare a product an "imminent hazard" will be increased a thousandfold as indemnities in certain circumstances could account for millions of dollars that would have to be added to EPA's budget.

Fourth. Indemnities in this bill are to be paid even if the Government was not at fault or in error in certifying the product initially or negligent in stating a product is an "imminent hazard."

Fifth. This indemnity section would constitute precedence for amending other laws for the purpose of extending this principle of full insurance to all manufacturers of drugs, food additives, cosmetics, flammable fabrics, toys, and so forth—and this list will inevitably be extended in the future as the Government increasingly requires regulation of hazardous products to protect the environment and the consumer.

Sixth. The unlimited scope of the indemnity section of this bill is unprecedented. Congressman FOLEY in his minority report to this bill underscored this point when he stated:

I do not believe that it is wise to undertake so broad and far reaching a policy of indemnity for the imposition of government prohibitions on hazardous substances. I find it particularly difficult to support this section of the bill when the committee rejected what seemed to me to be an imminently reasonable limitation on the amount of pesticides or devices indemnity might be claimed; namely, no more than a twelve month supply.

There may be limited circumstances where Government negligence or error would require the paying of an indemnity, but this is no warrant for the general and open-ended indemnity provision contained in this bill. This section will cost the taxpayers millions of dollars, while in fact leading to less safety for the public and environment. Therefore it must be rejected.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the distinguished chairman.

Mr. POAGE. Mr. Chairman, can the gentleman give us the authority for the statement that this will cost the public millions of dollars? What estimates have you got? What are your figures?

Mr. EVANS of Colorado. We have seen in the last several months products that have been taken from the market in the United States that have been manufactured by various manufacturers. There have been estimates in the newspapers which I cannot vouch for, but which have been emanating from the manufacturers themselves on the cost of withdrawing this product or others and it runs into the hundreds of thousands of dollars.

Mr. POAGE. Can the gentleman name one single pesticide that has been suspended within the last 9 months?

Mr. EVANS of Colorado. No, sir.

Mr. POAGE. I do not think there has been one.

Mr. EVANS of Colorado. No, sir; but looking into the future, and that is what we are doing when we are talking about a policy that is as important as this, we have to understand what the taxpayers are going to be liable for.

We have heard about the recent Stokely case where the Government said that there may have been botulism and required the recall of thousands of cans of beans.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(Mr. EVANS of Colorado asked and was given permission to proceed for 2 additional minutes.)

Mr. EVANS of Colorado. Mr. Chairman, as I understand the situation, the Government declared that there was botulism in a certain batch of, I believe it was, green beans of the Stokely Co. At the request of the Government, Stokely withdrew, I think it was, in excess of 50,000 of these cans or cases. Shortly thereafter the Government admitted that it had not found botulism.

This is a perfect example, I believe, of where the Government is liable and should be liable, and the company can, and I think they should recover, because the Government itself made a mistake. But that is an entirely different situation than what we are talking about here. Pesticides that may be used but which are later found to constitute an imminent danger to persons and to the environment in the situation now before us. I think the distinction can be clearly made. For these reasons I think the section should be stricken from the bill.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I am happy to yield to the gentleman from Indiana.

Mr. MYERS. The gentleman mentioned the Stokely-Van Camp Co. and the botulism threat. The broadcast news media covered the impending threat, it will be recalled, quite extensively. I know I heard it announced a number of times, that a certain brand or a certain number of their output had been recalled. I wonder how many consumers in this country destroyed all of their canned beans only to find out later by reading the

newspapers that it was unnecessary to do so. Does the gentleman know how much time was devoted by the news media to announce that the recall had been canceled? Is the gentleman familiar with that at all?

Mr. EVANS of Colorado. No.

Mr. MYERS. I never heard that the recall of all this material had been canceled until I read it in the newspaper in the last 2 or 3 days.

Mr. EVANS of Colorado. The point which the gentleman has made is illustrative of how, when the Government has been negligent, the damage can be hard to estimate because it goes far beyond the wholesaler who has a certain supply on hand.

Of course, none of us can be held responsible for the news media. I would hope there would be greater emphasis on correcting such mistakes.

Mr. TEAGUE of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. TEAGUE of California. I shall try not to take the 5 minutes. But I think this ought to be put in perspective. We are talking about authorizing indemnification for a manufacturer or a dealer or a farmer who has purchased or has manufactured a pesticide after that pesticide had been authorized and certified by the Federal Government as being safe. I can well imagine one of Mr. Sisk's large growers up in the San Joaquin Valley of California having \$50,000 or \$100,000 invested in a pesticide in his warehouse. He is not negligent. The Government has said itself it is a perfectly safe chemical to use. He has invested his money in it.

I can imagine dealers throughout the country with hundreds of thousands or even millions of dollars invested in pesticides which are in their storehouses. Then the Government comes along and changes its mind. It says, "No, this is not safe"—after perfectly good-faith action by the manufacturer, the dealer, or the farmer.

It seems to me under those circumstances certainly the innocent party should be indemnified.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. PRICE of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. PRICE of Illinois. Mr. Chairman, the pesticide bill reported out by the House Agriculture Committee—H.R. 10729—is out of step with the times. It fails to reflect the deep concern of the American people over the vast quantities of chemicals being poured into the environment every year and the tragic effects of these chemicals. It fails to establish procedures that will properly control the use of pesticides.

It is clear that in the past our Government has not had adequate regulations concerning pesticides to protect health and the environment. But I regret to say that H.R. 10729 does not help the situation. In fact, a number of

provisions in the bill, such as the preemption of States' authority and the limitations on judicial review, are a step backward from present law.

We must face up to the fact that tough regulations are needed to protect not only public health and the environment, but also the farmer. The committee's bill bends over backward to protect the manufacturers' data, to the point where competition is restrained, which will result in higher prices for pesticides for the farmer.

The whole concept of the administration's original proposal has been altered and watered down. Their bill would have classified pesticides in three categories: "general use"—for safe products that anyone could use; "restricted use"—for products that had some risk and could only be applied by a "licensed pesticide applicator" who would be licensed by the State; "use by permit only"—for the very dangerous products which are toxic to humans or severely damaging to the environment. This would have been a prescription type system.

Unfortunately, the committee chose to throw out this "permit" category, thereby weakening the entire concept. Further, the bill allows pesticides to be registered as both general use and restricted use, and as a final blow to the entire concept and workability, the bill forbids the States from continuing their own permit systems. Although the bill says that it is illegal to use a pesticide for a purpose for which it is not registered, as long as dangerous chemicals are available they can be misused and there will be accidents.

We must not forget that we are talking about highly dangerous substances. For example, according to Russell Train, Chairman of the Council on Environmental Quality, last year pesticides were involved in the death of an estimated 200 people in the United States.

There is no exact data on nonlethal poisonings due to pesticides, but in 1969, the latest year for which figures are available, the Poison Control Center in the Food and Drug Administration reported 5,747 cases of accidental ingestion or poisoning due to pesticides. The Center estimates that this probably represents only 10 to 15 percent of the cases which actually occur.

The toxic effects of pesticides on wildlife have also been widely documented.

Therefore, in our efforts to rewrite a major Federal statute we should be responsive to the needs of the public. By adopting the amendments which Mr. Dow is offering we can meet our obligations. I urge my colleagues to vote for the amendments.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, the Federal Environmental Pesticide Control Act of 1971, which we are considering today, has been called regulatory legislation to protect the environment. In reality, the act creates loopholes for those who manufacture and use pesticides. It

fails to make more stringent qualifications for registration. If this bill is passed in its present form, it would be a severe setback for those who are concerned for our environment and the health of our citizens.

There are three serious defects in this bill which will seriously hinder effective regulation of these dangerous chemicals.

First, it excludes the public from the decisionmaking process of pesticide registration and permits. In the past 10 years, the strong support for the public interest in this area has consistently been expressed by environmental and consumer groups in public hearings. This bill, however, would leave the registration process for pesticides solely up to the chemical manufacturer—who has an obvious economic interest—and the Environmental Protection Agency, who has to act as both the public defender and the judge of the entire proceeding. The general public would be denied any opportunity to make an input into registration decisions. I can only see this as a step backward in environmental responsibility.

Second, this bill lowers the standards for protection of public health and the environment and places more emphasis on economic analysis and impact. When we place economic factors ahead of the health hazard factors for people, our priorities need serious reevaluation. In the bill, the Administrator is tempted to favor certain economic benefits to the companies, rather than dealing with indefinite health hazards. Thus pressure is put on the Administrator to register certain pesticides despite speculation about long-range health hazards and damage to the environment that could be caused by the widespread use of that chemical.

Third, and this is the most blatantly regressive feature of the bill, it shifts the "burden of proof" concerning safety from the manufacturer to the Environmental Protection Agency. Under this bill, the Administrator of the Environmental Protection Agency has the duty and the burden of finding out if every chemical that the industry is using is environmentally unsound. With the current production of nearly 60,000 pesticide products and derivatives, this is an unfeasible and ineffective provision.

The bill in its present form is an emaciated piece of legislation that will have little effect in controlling the registration of pesticides. H.R. 10729 substantially weakens strong clear-cut approaches incorporated in the laws of many States.

I would like to see pesticides treated in the same way as prescription drugs, which are controlled over the counter. This bill fails to set up any mechanisms for registration and use, relying on a loosely drawn procedure for licensing applicators, and in effect abolishes existing procedures on the State level.

I support my colleague from New York (Mr. Dow) in his amendment to H.R. 10729 to strengthen this bill.

This amendment will preserve the authority of the States to further restrict the general use of pesticides.

In this amendment, the language of the bill would be changed on the restriction of data submitted in support of an application for registration. This provision would place the "burden of proof" back onto the chemical manufacturers. The amendment would require complete disclosure of data which tends to prove a substantial environmental effect or lack of effect of a pesticide. This is the only way the technological burden of this problem of registration of pesticides could be reasonably accomplished. In this same area, the amendment also would allow consumer and environmental groups to challenge an Administrator's orders or an application for registration.

Many of the pesticides now used are not essential to the agricultural or industrial output of our Nation. The substitute measure would be a major step forward by permitting the Environmental Protection Agency to deny registration of a pesticide on the grounds that its use is not essential.

Unless this bill is strengthened to control the needless use of these environmental poisons, I will have to oppose it.

We have poisoned the land. We have poisoned the water. We are destroying the oceans of the world with runoff pesticides. Soon, unless we bring rational controls to this problem, we will poison ourselves.

Mr. FOLEY. Mr. Chairman, I rise in support of the Evans amendment. I cannot support the indemnity section of the bill as reported. The committee bill requires full indemnity by the Government to all manufacturers, wholesale and retail distributors as well as to farmers and other private users of pesticides whenever a registration is suspended or canceled. The committee refused to accept any limitations on the Government's indemnity obligation. An eminently reasonable amendment was offered in the committee to limit the indemnity obligation to a level no greater than the value of the holder's normal supply—in no case more than a 12-month supply. The committee rejected even this modest limitation so that the bill as reported would indemnify the holder of a canceled pesticide for any amount of stock he might have on hand.

Actually, I believe the danger of economic loss from wasted stocks is grossly exaggerated. First, there is little likelihood that cancellations or suspensions would be numerous or sudden. The rigorous registration process itself will minimize cancellations. Moreover, the time required, even in those limited cases, to conclude administrative action would be more than sufficient to make the risk of economic damage from unused stocks very remote, indeed. The farmer or private user does not typically retain large, long-term stocks of pesticides. Such stocks would probably long be exhausted by the time cancellation was concluded. For the same reasons, I also frankly doubt the gravity of the risk to distributors or even manufacturers.

In any event, the real risk posed by suspension or cancellation to a manufacturer is surely not primarily the supposed unusable inventory of the product. Is it not the loss of the investment

in the more important areas of research, promotion, market development, and all the related interests that a company has in product identification and acceptance? I would be surprised if indemnification of the stocks on hand would be that meaningful in most foreseeable cases.

Why then should we be concerned with the indemnity provision? If the risk of loss is not great why worry about the cost of indemnity? It is not the dollar cost of this provision that worries me. I believe it is a matter of grave concern because its adoption would establish a precedent that is bound to be confusing and troublesome in all those areas in which the Government acts to protect the public health and safety. Food products, cosmetics, drugs, fabrics, toys, automobiles, mechanical devices, aircraft, ships—there is hardly a category of products sold or used in commerce over which the Government does not assume important jurisdiction where there is the need to protect the public health or safety. The means by which the Government extends its protection vary from the moderate and temporary to the punitive and permanent. In extreme cases plants can be closed, products seized, property destroyed—all without compensation.

The committee bill introduces a new and startling principle, that acting in a similar area of jurisdiction to that of food and drug regulation, the Government must automatically and without limit pay indemnity. Negligence or even fault on the part of the manufacturer would not excuse the Government's obligation to pay.

The Government can only buy and buy and buy the products it declares unfit to sell. In the worst cases it may prosecute the manufacturer but at the same time it must indemnify him.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, the language on page 47, section 15, part II of the bill, reads—and this is one of the requirements before anybody can get any indemnity:

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard;

That is for the protection of the public and not of the manufacturer.

Mr. FOLEY. But I suggest to the chairman that the committee bill would establish in its indemnity provisions a remarkable and dangerous precedent—the precedent that, when the Government acts with the highest responsibility to protect the public health and safety, it must indemnify those adversely affected, even when they are negligent or at fault.

If there are cases of severe hardship or compelling equity based on misconduct or fault by the Government or other special circumstances which would appear to need indemnity, Congress is fully competent to make those special judgments or authorize judicial remedy. Bills can be introduced to indemnify, as in the case of bottlers, canners, users of cyclamates, and others.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. COLLIER. Can the gentleman explain, if we are supposed to handle it individually, then why do we have so much difficulty with arranging for passage of individual bills retrospectively?

Mr. FOLEY. I would say if we have difficulty in passing single case indemnification bills, it is probably because the Members may have doubts about a bill's merits and if that is true how can we turn around today and pass a prospective general indemnification that covers unknown situations and obligations.

If individual indemnification bills are difficult to pass when we know all the facts and circumstances, I should think it would be unthinkable that we approve so unrestrained and uncertain an indemnification proposal as that before us today.

The Agriculture Committee was obviously well intended but the consequence of following the committee in this instance will be a result seriously adverse to the formulation of any intelligent and equitable policy in the critical area of public health and safety.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, we have to deal with this bill as it is brought to us on the floor today. They are the ones who will be giving this indemnification. It is a matter of principle. I would be very concerned about an extension of this principle in the case of drugs. Many drugs are lawfully on the market that may be found to be harmful in the future. If we are talking about indemnifying drug companies, for instance, in the case of thalidomide, it would have been necessary to indemnify producers of that drug after it was found to be harmful to health.

Mr. FOLEY. Exactly. If we are to be consistent with the principle established in the committee bill we will be led down not one but many twisted paths in an attempt to reconcile pesticide indemnity policy with the radically different procedures used to protect the public in other areas of commerce. At the very minimum, we should set aside the indemnity provisions of this bill for further consideration until we have had a chance to review its application to this entire area of Government policy, responsibility and procedure in some intelligent and consistent way. If in this most sensitive and critical area of Government policy, namely the safety and health of our citizens and the protection of our natural environment, we establish a questionable, dangerous, and confusing precedent such as the committee indemnity section would do, I believe we have undone any benefit that the early enactment of this bill might provide with its early positive features. The adoption of the Evans amendment and several offered by Mr. Dow are key corrections necessary if this legislation is to be a step forward and not a step backward.

Mr. KYL. Mr. Chairman, I move to

strike the requisite number of words, and I rise in opposition to the Evans amendment.

Mr. Chairman, all this indemnification provision in this bill says is that if the Government, having approved a product for use and having approved it for distribution and having approved the manufacture, if that same Government then on a day certain says, "Thou shalt not any further use this product which we said was all right to use," then the individual who owns some of this product shall be indemnified. It is through the action of the Government in the interest of the public we are protecting, and this Government says we should take that product off the market, there should be indemnification.

Now, there is more involved than that. Actually, under normal circumstances, in the majority of times, the Department undoubtedly would say, "We are investigating product X. Do not manufacture any more of this because we are thinking of taking it off the market. We will approve its use to a certain period, and then we will stop its use."

But we still are not getting to the real heart of the discussion. This bill is not designed to protect manufacturers of chemicals. This bill is not designed to protect farmers. It is designed to protect consumers and the environment.

Why do we say we should indemnify manufacturers or users of those pesticides if taken off the market? This is why. It costs from \$4 million to \$12 million to synthesize any new pesticide for use. That is \$4 million to \$12 million.

If a company on which we have to rely for the development of alternative controls for insects has spent \$4 million to \$12 million, risks losing not only its investment but all of its manufacture, what company in good sense is going to try to develop any new product?

We have tried all kinds of alternatives to chemical uses. We have now all kinds of chemical uses, like chlordane, lindane, methoxychlor, dieldrin, aldrin, toxaphene, and dozens of others.

We do not like those methods as a permanent solution to the control of insects, so this Government is experimenting with alternate controls. Our colleges are experimenting. Our Ag experiment station is working.

But what entity has put the most money into this research? It is the private economy. I know of one laboratory which has spent millions of dollars trying to develop a hormonal control of insects. The control would work only on one specific insect. It would have great specificity. It will not kill any bug you do not want to kill.

Fourteen companies already have stopped putting any money into alternate controls for insects because of the fear of having the product removed from the market, because they might get caught in an untenable situation. They cannot justify that kind of research to their stockholders.

There has to be some provision in this bill which will keep from killing the goose that has to lay the egg of alternative controls. We do not have them. It

is the private companies that are going to have to develop them.

Whether this indemnification becomes a bad thing or a good thing depends entirely on how the administration uses it, and Congress certainly has oversight over it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding. I think the discussion is certainly on the point and brings into better light the very point I am trying to direct attention to; that is, the precedent we are starting here.

The gentleman talks about an expenditure of \$4 million plus for just one product. This could be a fact, surely, but the situation points up what could be applied one hundred times over in the drug industry, where millions and millions of dollars of private enterprise money are spent already in the search for better drugs for Americans. We have not offered this indemnification to them. If we offer it to the pesticide companies, how can we refuse to offer it to the drug companies?

Mr. KYL. The gentleman asks a question to which I shall gladly respond.

When this Government, in the interest of the public generally, takes an action which costs certain individuals money I do not believe it is conscionable not to pay them, any more than it would be conscionable to take a man's property from him for a road or a dam or anything else without compensation. If for the public good the Government takes an action which injures someone there should be a matter of recourse on the part of that individual to recoup the loss which was made possible by the Government action in the interest of the public.

Mr. EVANS of Colorado. I concur.

Mr. KYL. That is not a precedent. We have done that since the beginning.

Mr. EVANS of Colorado. The gentleman says "When the Government takes an action that results in an injury to someone," and I agree with that.

Mr. GOODLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me first say that I trust the applegrowers in the State of Washington were tuned in during the last 10 minutes.

I would like to put this matter in its proper perspective. I happen to know something about fruitgrowing. More than any other branch of farming, probably. When I want to spray tomorrow, I do not wait until this afternoon to buy my insecticide. Most of the insecticides are bought early in the spring and are there in the packinghouse ready to be used when necessary.

I want to say this further—and Mr. KYL has already brought this out—that companies spend millions and millions of dollars to put these pesticides on the market. Not a single one is ever put on the market unless it is first thoroughly tested. I am certain that practically every experiment station in the entire United States does exactly what we do at our experiment station at Arendtsville. Every new pesticide which has to do with fruitgrowing is thoroughly tested by the

people in the Department of Agriculture at the Penn State University. That is done all over the country, not only my people at Arendtsville. Every experiment station gets it. It is thoroughly tested before a request to register goes to EPA. When my fruitgrowers in Pennsylvania and the fruitgrowers in the State of Washington and in every other State buy a pesticide they buy it in good faith. They know that it has been tested probably by their own experiment station and that it has also been cleared by the Federal Government.

If overnight, as has been said, the Federal Government decides that it is a bad pesticide, then who is responsible for that? If we continue to do this sort of thing, sooner or later the chemical companies are simply not going to experiment. As a result, we will have no pesticides.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes. I yield to the gentleman.

Mr. DICKINSON. I would like to ask a question of the gentleman in the well. I am usually in accord with him on every piece of legislation that comes along, but I am confused in this, because we probably have interference on this issue.

Is it your contention that none of the pesticides that have been used in the past were ones that were approved initially but somewhere down the line it was found that they had effects that were not anticipated and were withdrawn from the market? This is a fact, and it has happened in the past, has it not?

Mr. GOODLING. If that does occur, then the Federal Government should be responsible for that loss if the Federal Government cleared it originally.

Mr. DICKINSON. This is not predicated on negligence, as I understand it. If some side effect or injury occurs through a buildup in the system through the use of these materials, such as in the case of DDT, for instance, do you think then that the Federal Government should be in the position of absolutely insuring every effect of a product when it puts its stamp of approval on it even though it cannot be anticipated at the time the Government approves it that this will happen?

Mr. GOODLING. I am not willing to admit that everything the Federal Government does is right in the first place. I am thinking primarily of things of this nature. The latest thing that I think of is the cyclamates coming into the picture. Practically overnight the Food and Drug Administration said that you can no longer use cyclamates. In a warehouse in my own congressional district in Pennsylvania a California company had \$2 or \$3 million worth of canned fruit. To the best of my knowledge, it is still standing there. That fruit was packed in good faith. The right was given by the Food and Drug Administration. I am asking you, is that particular company responsible for something it did in good faith? I do not think so.

Mr. DICKINSON. I think to carry it to its logical conclusion, then, that you are going to make the Federal Government

the absolute insurer of all the food that goes on the store shelves.

If it turns out that some product is possibly dangerous, is the Federal Government going to indemnify every manufacturer? I do not know how far they are going to carry this. However, it seems to me we are going to the extreme on this particular issue.

Mr. GOODLING. I want to carry this one step further.

The gentleman from Iowa (Mr. KYL) talked about biological control. In the State of Washington they have been working on biological controls for codling moths for a good many years. They are still using pesticides. They are going to continue to use them. Probably, biological controls will come into the picture, but they are not in it now very successfully.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from Colorado (Mr. EVANS).

I think it is important that it be made clear just what we are facing here today.

This bill as it came from the committee would prohibit States from enacting stricter regulations for general use pesticides than the Federal Government may eventually provide. That provision is shortsighted and dangerous and unnecessary. The amendment which has been offered by the gentleman from Iowa (Mr. KYL) takes care of that problem.

However, Mr. Chairman, there are a good many other problems to which the Kyl amendment does not address itself but to which the Dow amendment does.

The Kyl amendment, for instances, does not require the manufacturer to prove that his product will not have a substantial adverse effect on the environment. Instead, it places the burden of proof on the Federal Government. Clearly, this puts the monkey on the wrong back.

There is no reason whatsoever to treat chemical manufacturers any differently than drug manufacturers who under the food and drug law must file information to show beyond a reasonable doubt that their drug is safe for public use. Yet, if the amendment of the gentleman from Colorado is not adopted we will be setting up that precise dichotomy. We will be giving it both ways to pesticide manufacturers. What we will be saying, in effect, if this amendment does not pass is the manufacturer will be given an overwhelming advantage in the question of whether or not its pesticide should be approved. Yet, afterward, if new evidence comes to light, in spite of the efforts of the pesticide manufacturers, which shows that that chemical is dangerous, the chemical manufacturer would still be reimbursed for his trouble and expense.

What this means is that the chemical manufacturer will be able to lobby the Environmental Protection Agency like crazy. It will be able to get its chemical registered. Yet, later on, if new evidence comes to light that the chemical is not

acceptable, it will still be paid for their trouble. I think that is wrong.

Mr. Chairman, there are a great many other problems that I think we ought to understand. Under this bill and under the Kyl amendment only those attempting to register pesticides would be able to obtain court review or a decision to register or not to register a pesticide. No such opportunity would be available to those trying to stop registration.

I think in considering the amendment of the gentleman from Colorado we ought to keep that in mind.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Iowa.

Mr. KYL. The gentleman is forgetting, when he talks about the registration of pesticides, the fact that we have laws already on the books. The burden of proof remains with the applicant as under the law with reference to insecticides, fungicides, and rodenticides. The applicant must substantiate the claims of the pesticide and otherwise support the registration. The burden of proof is under the present law and under this proposed legislation it would be the same.

Where is the language that changes that law, may I ask the gentleman?

Mr. OBEY. That is not the way I read the bill.

Mr. KYL. Mr. Chairman, if the gentleman will yield further, the gentleman has not read the law. There is other law besides this act.

Mr. OBEY. I think I have read the law. However, Mr. Chairman, before my time expires, I want to make this statement. There seems to be an understanding around here that the pesticide law somehow will protect the farmer. That just is not so.

I represent some 30,000 farmers in my congressional district which is as rural a district as you will find in the State of Wisconsin. Yet, my farmers know that if we do not provide some kind of reasonable control over pesticides now, the day will come when reason will be out the window and the curtain will be wrung down on all pesticides, good or bad.

I think my farmers are smart enough to know that that is not in their interest. I suggest to you that the amendment being offered by the gentleman from Colorado (Mr. EVANS) is in the interest of the farmers and in the interest of the public. If you do not adopt the amendment what you will do is eliminate any possibility of any economic incentive to insure that whatever pesticides are registered are going to be safe for the public. I think you ought to adopt the amendment offered by the gentleman from Colorado (Mr. EVANS).

Mr. POAGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been the ambition of man since the earliest days to find some ways to get a free lunch. There is no such thing. Somebody has to pay the bill. Now, uncertainty adds to the bill.

If there is a probability that a substantial portion of these pesticides will be found dangerous or unfit for use, and if

that uncertainty is large, it will add substantially to the cost. I do not think it is as large as the gentleman from Colorado thought that it was, because the gentleman could not point and I could not point to any instance this year where there has been any pesticide, the registration of which has been canceled. Therefore, I cannot believe that this thing is going to cost the millions of dollars per year that have been ascribed to it. Also I think the gentleman from Colorado clearly suggested that the only way to know about the future is to judge by the past. Yet neither he nor I can tell you of any such cancellation in the recent past. I do not think there have been any this year, nor do I think that they occur regularly, so I think the amount here involved will be rather small.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, may I ask the distinguished chairman if it is not true that in the last several years several pesticides have been withdrawn from the market?

Mr. POAGE. Over a period of years there have been several pesticides that have been withdrawn, but they have not run into the magnitude suggested by the gentleman.

I think that many of the speakers have recognized that this legislation does not of itself involve many millions of dollars a year, and, therefore, they have succeeded in dragging in the red herring of what somebody else's program was going to cost, what we are going to have to pay to the drug manufacturers or to somebody else.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, then subject to the statement made by the gentleman may I ask why the committee felt it was so important to put indemnification in if it has not been a problem?

Mr. POAGE. Because it is important, and tremendously important to the farmer who has only a few thousand dollars involved. For instance, say he has \$1,000 invested in pesticides. Then the U.S. Government tells him that he cannot use them when the time comes. And if his ability to feed his family depends on the use of that chemical—it becomes tremendously important regardless of the fact that no great amount of money is involved.

The gentleman seems to be concerned only about the manufacturers, whereas the committee was concerned equally with the man who had bought that product and who was relying upon it as a means of making a livelihood for his family in the next year. Likewise we are concerned with the merchant who has stocked the commodity.

As the gentleman from Pennsylvania so well pointed out, pesticides are something that are purchased early in the year. Actually, about one-third of the total of all of the pesticides in use at any one time is in private ownership, and by private ownership I mean the farmers' ownership.

So at least one-third of the total loss

that would be sustained where a pesticide is found to be injurious to the environment would fall not upon the Dow Chemical Co., but would fall upon the farmers all over this country. That is why we are so concerned about these smaller items, because it does not take but a few hundred dollars out of that poor fellow's pocket to break him completely. That is why the committee and I are concerned even though there may not be hundreds of millions of dollars involved.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. The facts are that that person did not buy that pesticide until his Government had assured him that it was safe to use.

Mr. POAGE. That is exactly right. There is no indemnity provided under the terms of this bill for any pesticide except those that have been licensed by the U.S. Government as being something that could be used without danger to man or to his environment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. EVANS of Colorado. Then the principle that you are enunciating here for the protection of the farmer—and I am not against farmers because I have a healthy rural section in my district—is one which would extend to every single person who buys any drug which sometime later on is stricken from the GRAS list as being detrimental to the health of human beings.

Mr. POAGE. I would not confine payments to drugs or to pesticides. But this bill relates only to pesticides. We have gone somewhat far from my discussion. When we started I wanted to call attention to the fact that someone must pay for uncertainty.

What I am trying to say is that those Members of this House who do not want to pay for the mistakes of our Government are following the philosophy that you can have a free lunch and you can have all of these environmental advantages. I am not trying to find fault with them—if I had we would not have brought this bill out.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(Mr. POAGE asked and was given permission to proceed for 5 additional minutes.)

Mr. POAGE. I started out here to point out that what some Members are trying to do is to get a free ride—a free lunch. You cannot have all of these environmental advantages without somebody paying the bill. They cost—they cost lots of money. I am not suggesting that we should not spend the money. I am suggesting that we should take a good look to determine whether the advantages are greater than the costs. I am suggesting there is a cost. Just to make it real plain, I bought a Chevrolet automobile not long ago. It has some straps up here that I have never unbuckled. But I paid for those straps. That was in the cost of the car.

General Motors and Ford are able to

pass these costs on to the consumers—and that is where they go—the purchasers of these automobiles pay for all these safety devices whether they use them or do not use them. But somebody has to pay for these safety devices whether they are used or whether they are not used. In the case of an automobile, it is presumed that if I do not use these shoulder straps that is largely my trouble. In the case of a pesticide, it is presumed that if a wrong pesticide is used that can involve not only the user but it can involve society as a whole. It is to protect society and not the producer that we have brought this bill in. The producer does not need this bill. It is not for his protection—it is for the protection of all society. We believe that is sound or we would not have brought the bill in. We think it is sound to protect society, but we know there is a cost and somebody has to pay that cost and that cost is either going to be paid by the farmers of eastern Colorado or central Texas or somewhere else—or it is going to be paid by society at large—the same society for whose benefit those regulations are imposed—those, in all kindness, on whom you want to impose the burden. The burden is there, and all of your wishes cannot escape the fact that there is a cost involved. We are not trying to shirk the cost. We are simply raising the question of who should pay the cost. The ones for whose protection the cost was levied or somebody who is not involved.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. EVANS of Colorado. I would agree with the gentleman from Texas, the distinguished chairman of the committee—if it was correct, as he alleged a moment ago, that his bill provided for the paying for governmental mistakes. But the committee's bill does not so provide. The committee bill, as it stands provides that the Government is the insurer of any loss—mistake or no—is not that correct?

Mr. POAGE. No, you are not correct.

Mr. EVANS of Colorado. Then show me where in the bill it provides that indemnity occurs only where the Government is at fault.

Mr. POAGE. No, you are not correct—let me answer.

If the gentleman will take his seat, I will answer his questions, but only one at a time.

Mr. EVANS of Colorado. I had just one.

Mr. POAGE. The gentleman asked me if we are not trying to become the insurer. No, we are not trying to become an insurer. We are merely providing that when the U.S. Government acts contrary to its previous decision, whether we call that previous decision a mistake or not, that the Government should pay. It might be a mistake in light of later information. The Government acts the best it can with the information available and decides that a certain pesticide is not harmful to anyone and licenses the use of that pesticide, and in effect says, "This is all right; with the information we now have we think this is good for everybody."

It may be a mistake or a matter of additional information—the mistake may

have been a result of lack of information, or a mistake in issuing this license a year or 6 years ago. The committee did not want to tie the hands of the Government and say, "You cannot protect the public now." So we say, "You can cancel this registration now, even though you have been approving this item for 5 years. The Government did think it was all right, we now think it is wrong." To that extent the Government must have made a mistake. Whether it was a mistake that could have been avoided or whether it was an unavoidable mistake makes no difference. The Government erred—possibly because it did not have adequate information—but the Government erred in every instance where we authorize indemnity. The question is, Who should be liable for injury? The one who erred, even though it was unintentional, or the one who had nothing to do with it and had no power over it? Where in private law—

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. Just a second. The gentleman asked me a question and I want to answer it. If the gentleman will sit down, I will answer it.

Mr. Chairman, I wonder who has the floor?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. POAGE. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

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

Mr. EVANS of Colorado. Mr. Chairman, reserving the right to object, I am anxious to get the chairman's answer. I believe he is being given ample time. I would just hope that if he gets this additional time he will yield to some of us who have questions.

Mr. POAGE. The gentleman asks two complicated questions that take a long time to answer.

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

Mr. COLLIER. Mr. Chairman, reserving the right to object, I merely wish to make this observation because I think it has to be made. The gentleman from Colorado, in drawing a parallel to drugs and pharmaceuticals in terms of pesticides held by a farmer is just not a logical parallel, for the obvious reason that what is involved in one instance is the serious economic problem which the farmer who has a stock would face as compared to an individual holding some drug or pharmaceutical. I contend it is not a logical parallel in terms of what we are really trying to get at in the indemnity provision of the bill.

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Texas for 5 additional minutes.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. TEAGUE of California. Some reference has been made to the fact that we are really providing insurance. If so, it is only in a limited and far-fetched way. We have provided in the bill indemnity for persons suffering losses resulting from a suspension or cancellation of the registration. It has nothing to do with losses they might have suffered because of any damage done by the pesticides through food and fiber to their neighbors or someone down the street.

Furthermore, the amount of indemnity is limited to the amount based on the cost of the pesticide owned by such person immediately before the notice of suspension, except that in no event shall it exceed the fair market value of the pesticide as of that date.

Mr. POAGE. I thank the gentleman. I would come back to the proposition that when we say we are not going to be responsible for the errors of the Government, we must then say that in this whole idea of trying to improve the environment, trying to protect the ecology, all the costs must fall upon those who happen to be in the area at the time. I do not think any of us agree that is sound. I think we all agree that this problem of protecting the environment is something in which the whole of the citizenship of the United States is involved, and the whole of the citizenship of the United States should pay the bill.

I repeat, somebody has to pay the bill.

This committee suggests that it should be those for whose benefit the provision is placed in the bill, and that benefit falls to all of the American citizens. We are simply trying to be fair about this thing and say that everybody who gets the benefit should pay the bill. We do not believe that a few struggling wheat farmers, with their grasshopper problems and drought, ought to have to pay the bill. We do not believe that a few dairymen whose milk happened to get poisoned with some kind of pesticide should pay the losses. On the contrary, this committee brought out and passed some years ago legislation to take care of those dairymen, and now I am much surprised to see their spokesmen appear before this Congress and suggest that since they got theirs, nobody else should get anything. We are trying to treat everybody alike and say that they all share in paying for that from which they all benefit.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, the point has been made that a farmer in good faith, using a pesticide certified good for use by the Federal Government, finds the Federal Government reverses itself, and that farmer should not have to pay for that, and I agree, but I think my friend, the gentleman from Colorado, is bringing up another point, which is that we want the regulatory bodies of the Federal Government to be extremely careful when they issue this registration in the first place.

The idea occurs to me that if this indemnity clause is in the bill, then the bureaucrats will be more careful with what they certify is OK in the first

place, so they do not end up with egg on their faces if they have to withdraw the registration later on, if they find that perhaps there is something poisonous.

Perhaps they will be making doubly sure in the first place, and this will serve the farmer and his economic situation and needs and also the citizen and his concern about the environment.

Mr. POAGE. The committee would agree with that. The gentleman is correct.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, I will say in response that the fellow who has the responsibility to decide to certify has to make the decision to withdraw. That is something else. If we compound that decision with the problem of what it will cost to make that decision, this may discourage him from finding that a certain pesticide should be withdrawn.

Mr. ANDREWS of North Dakota. The fellow who makes the decision to withdraw is the fellow who makes the decision to register in the first place.

Mr. EVANS of Colorado. We have talked about the responsibility of the Government, and I think it is true the Government has a responsibility, but I do not want us to back away from the responsibility of the manufacturer, and I think, if we strike this indemnity section, we call to the attention of the manufacturer that he has responsibility.

Mr. POAGE. The gentleman overlooks the fact that the cost must be passed on to someone, either the public or the producer. Since the public benefits, I think they should pay.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from New York.

Mr. RYAN. Mr. Chairman, the gentleman from North Dakota suggested that one of the objectives of the indemnity clause is to require the Government to exercise greater care in registering pesticides. If so, then that is a strong argument for the Dow amendments which would eliminate the bills' restriction on the use of research data without the applicant's permission and require the submission of any data in the control of the applicant which may tend to indicate any substantial adverse effects on the environment. The doctrine of essentiality should also be continued, as provided in the Dow amendments. I would suggest also that the burden should be on the manufacturer in the first place to establish that the pesticide would not have an adverse environmental effect.

Mr. BERGLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I seek recognition to direct a question to the distinguished chairman of our committee, the gentleman from Texas (Mr. POAGE).

Mr. Chairman, in the summer of last year an unknown quantity of a very devastating chemical, known as Dieldrin, was dumped down a drain and into a stream in my hometown, and killed all the fish for a 15-mile reach down river.

With the passage of an indemnity provision, is it likely that if one of these de-

vastating chemicals were suspended by the Government, because it proved to be harmful to mankind or the environment, and an indemnity were offered, that in all probability the dealer or the farmer would bring that chemical back to a point designated by the EPA to be disposed of in a safe and harmless fashion, rather than to dump it down the river in an irresponsible fashion to do great damage to Americans?

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Texas.

Mr. POAGE. I believe the gentleman's question answers itself. If a man can figure—I believe most farmers can figure, and know most chemical companies can figure—and knows it is going to cost him extra money to dump these condemned products, of course he is not going to dump them. He is going to accept the indemnity, and the commodity will be delivered to the Environmental Agency under the terms of this bill and society will be protected.

Of course, if we are not going to pay an indemnity, if we are going to try to get that loss out of the farmer's hide, he is likely to dump it in any creek he can find.

Mr. BERGLAND. I thank the chairman very much for his explanation.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Iowa.

Mr. KYL. I thank the gentleman for yielding.

The gentleman from New York (Mr. Dow), the gentleman from Wisconsin (Mr. OBEY), and the gentleman from New York (Mr. RYAN) have three times now made the flat statement that the burden of proof in the registration is with the administrator rather than with the manufacturer. This bill we present today is an amendment to current law. We do not change that law. The burden of proof is on the manufacturer. I defy any of these people to show us any language in this bill which changes that law.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I just want to make one observation. When a dealer dumps a pesticide down the drain he is not following directions. If he does not follow directions printed plainly on the label he is not entitled to any indemnity but is subject to a fine.

Mr. ABERNETHY. Mr. Chairman, I move to strike the requisite number of words.

Members of the Committee, those who manufacture the chemicals used today in our households and in American agriculture are good, sensible business people. They have no desire to put on the market a chemical that will kill somebody or injure the health of our citizens.

A few months ago a group from our committee visited the Shell Chemical Co., Research Laboratory in Modesto, Calif. Shell is expending multiplied thou-

sands of dollars at this magnificent research center for the purpose of coming up with chemicals that, at a fair profit to them, will benefit the consumers of this Nation, not the dealers but the consumers. That is the object of their business.

After a few years when they have reached the point where they think a chemical will be safe and good for the public, they apply to the Federal Government for the purpose of registering that chemical and for the purpose of gaining the privilege to market same.

As the gentleman from Iowa (Mr. KYL) just said, the burden is upon the chemical company to prove to the satisfaction of our Government that the chemical is safe; that it can be used in a manner that will benefit mankind or benefit the animal life or bird life or any other form of life it is designed to benefit and not to their damage.

If those who are serving in Government determine that the product is in the best interests of the public and that the burden has been met, then they grant a license authorizing the distribution of the product.

After this chemical has been registered and its use authorized, and it is later determined that it might be or is dangerous, the Government then moves in and orders it taken off the market.

The Government in ordering these people to take their product off the market says, "You have a certain amount on hand, and you will be reimbursed for it." Why should they not be reimbursed? Were they not in lawful possession of it? Did they not manufacture it in a lawful manner? Did they not manufacture it in keeping with the laws of the Nation under which they live? Why should the Government take it away from them and require them to lose their investment even though the Government had theretofore authorized its use? Such would be very unfair.

Did you ever own a piece of land and have the Government come along and condemn a part of it for a public road? If you did, then you know that the Government pays for it. You were in lawful possession of the land. The Government is not obliged, under our system at least, to take the land away from you without just compensation.

If you are in lawful possession of a chemical that my chairman and my friend from Iowa (Mr. KYL) just described to you and the Government requires you to destroy it, then you should be compensated for it.

A further point that my chairman made is this: why does the Government say it is taking it away from you? It is taken, or you are ordered to destroy it, for the benefit of the 200 million people who live in this country. It is for their benefit that it is taken off the market. It is not taken off for the purpose of doing injury to the investor or to the manufacturer or to the farmer. It is done to perform a service to the consumer and the general public.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ABER-

NETHY was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. It is done to perform a service to mankind. In performing a service to mankind our Government has not yet, I hope, reached the low level where it will do serious damage to one who has invested his money in something which his Government has heretofore said he might safely manufacture and market, or use.

Mr. EVANS of Colorado. Will the gentleman yield for a brief observation?

Mr. ABERNETHY. Yes. I am happy to yield to the gentleman.

Mr. EVANS of Colorado. One thing which is overlooked by you and the chairman of the committee and others who oppose my amendment is the fact, where a pesticide is withdrawn, that there has been a mistake made by two people, the manufacturer and the agency.

Mr. ABERNETHY. I will answer. If you are going to put it on that basis, you will completely stop all research in this field.

Do you think that the Shell Chemical Co. in California will continue the operation of that expensive and worthwhile research facility if we put this amendment on their back? With all deference, this amendment would force all companies to discontinue further research and the consumer and the public would be the losers.

I trust the amendment will be defeated.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

(By unanimous consent, Mr. ABERNETHY was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. Mr. Chairman, I have great respect for my friend, the gentleman from Colorado (Mr. EVANS). I can understand his concern. I am going to be frank with you and say that his point also concerned me when we had the bill in committee. It finally got through to me that full compensation should be made for chemicals ordered destroyed under Government order.

Mr. DOW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague from Iowa (Mr. KYL) made a point that we have not convinced the House in regard to the burden of proof; but where they have placed the burden of proof it lies with the Administrator more than it does with the applicant for registration.

I would like to refer the gentleman to page 17 of the bill, and we will just run over it quickly. It lists the data that the applicant is required to file as follows:

The name and address of the applicant.
The name of the pesticide.
A complete copy of the labeling.
A full description of the tests made.

And note the following:

except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration.

Here you see there is a limitation on the ability of the Administrator to handle this situation which does not appear in the present law.

The applicant must also present a complete formula of the pesticide and request that the pesticide be classified for general use, for restricted use, or for both.

But, Mr. Chairman, there is nothing in the bill to require the applicant to meet other needs such as the essentiality of the pesticide or the danger that it might pose.

I propose later on to offer an amendment that will go to these points. I will have one amendment on the essentiality of the pesticide and another one to require the applicant to disclose any adverse effects which may be present in the pesticide insofar as he knows.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. DOW. Yes, I yield to the gentleman from Iowa.

Mr. KYL. Now, the gentleman has again quoted from page 17 of this bill that portion which reads as follows:

except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration.

This has nothing to do with the burden of proof. When a company goes before the Administrator he has to present his whole detailed proof that the product should be certified and registered. All this says is if JOHN KYL goes before the Administrator, having spent a half million dollars to prepare his case, then JOHN DOW cannot go before that same Administrator with another product to be registered and use the material which the first party submitted in support of his registration. That is all.

Mr. DOW. It would be beneficial and helpful when Mr. Dow, the second applicant, comes before the Administrator that the proof of the data supplied by the first applicant would be used. This would contribute to the analysis of the product and to the merits of the product and it would certainly ease the burden on the Administrator to prove adverse effects from the pesticide and it would make it infinitely easier more or less to shift the burden.

I think the gentleman from Iowa has ignored the point I just made; namely, that there should be in the bill another clause which would require the applicant to indicate any substantial adverse effects on the environment, or lack of such effects which may be caused by such pesticides when used for any intended use. This will be presented in a later amendment, and it amplifies the proviso here, and I think it supports my claim that the burden of proof upon the applicant is not sufficient.

The CHAIRMAN. The time of the gentleman has expired.

MOTION OFFERED BY MR. POAGE

Mr. POAGE. Mr. Chairman, we have been discussing other matters than those pertinent to the bill. I believe that all of the Members have discussed this amendment sufficiently, and for that reason, if there are no requests for further discussion, I move that all debate on the

Dow substitute and all substitutes and amendments thereto close.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, the distinguished chairman knows there are several amendments pending here to the substitute amendment offered by the gentleman from Iowa (Mr. KYL). Now, will the motion of the gentleman from Texas foreclose introduction of further amendments to the Kyl substitute?

The CHAIRMAN (Mr. HUNGATE). The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that, if the motion of the gentleman from Texas is agreed to, it will not foreclose the introduction of additional amendments, but they will not be debatable.

Mr. DOW. Mr. Chairman, I object.

The CHAIRMAN. The Chair would ask the gentleman from Texas (Mr. POAGE) whether the gentleman is making a motion or whether the gentleman is asking for unanimous consent?

Mr. POAGE. Mr. Chairman, I move that all debate do now close on the Kyl substitute, and all amendments and substitutes thereto.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, may I have assurances that this does not foreclose the introduction and the debate upon subsequent amendments?

The CHAIRMAN. The Chair will state in response to the parliamentary inquiry of the gentleman from New York that the motion will not foreclose the introduction of amendments, but it would preclude further debate.

The Chair will ask the gentleman from Texas if the gentleman is moving to conclude all debate at the present time.

Mr. POAGE. Mr. Chairman, my motion was to close debate at the present time, because there seemed to be no one who indicated a desire that he wanted to speak further, but if there are those who want to speak further then I would change my motion—

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. POAGE. Certainly I will yield to the gentleman from New York.

Mr. DOW. Mr. Chairman, we have other amendments here, and at the desk, and there is a desire to debate these amendments. Therefore I would certainly strenuously object to any attempt to foreclose debate on those subsequent amendments.

Mr. POAGE. Mr. Chairman, in the hope that we may get to an agreement here, I ask unanimous consent that all debate on the amendment offered by the gentleman from Colorado (Mr. EVANS) and all amendments thereto do now close.

The CHAIRMAN. Is there objection to

the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and the Chairman announced that the Chair was in doubt.

Mr. EVANS of Colorado. Mr. Chairman, I demand tellers.

Tellers were refused.

Mr. EVANS of Colorado. Mr. Chairman, on that I demand a division.

Mr. GERALD R. FORD. Mr. Chairman, I object. The gentleman did not ask for the division timely.

The CHAIRMAN. The Chair has not announced the result of the vote, and the gentleman from Colorado (Mr. EVANS) can demand a division.

The question was taken; and on a division (demanded by Mr. EVANS of Colorado) there were—ayes 28, noes 65.

So the amendment to the substitute amendment was rejected.

Mr. EVANS of Colorado. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. That parliamentary procedure is not in order in Committee of the Whole.

AMENDMENT OFFERED BY MR. BINGHAM TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

Amendment offered by Mr. BINGHAM to the substitute amendment offered by Mr. KYL: On page 47, line 21, strike out "person" and insert "user".

Mr. BINGHAM. Mr. Chairman, if I may have the attention of the chairman of the committee, I would appreciate it.

I have listened attentively to the debate on the amendment offered by the gentleman from Colorado (Mr. EVANS) and it seemed to me that the principal opposition, at least the opposition to that amendment that was most persuasive, was the case made for the farmer who had bought pesticides and who had them in stock and then found that he could not use them because they had been ruled out.

So I have offered this very simple amendment which would protect the farmer but which would not go beyond that.

Mr. Chairman, I do not want to pursue the matter and I do not want to debate it extensively. This amendment would at least meet the argument that the farmer needs protection. The amendment simply substitutes for the word "person" in line 21, on page 47, the word "user".

In other words, any user who owns any quantity of such pesticide would be identified. That, it seems to me, would go a long way toward meeting the objections raised in the Evans amendment.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. RYAN. Mr. Chairman, I commend the gentleman on his amendment. I think it is most useful and is consistent with the law which now indemnifies producers of milk, if milk is taken off the market because of contamination by a registered chemical, to which the chairman referred. The amendment limits indemnification to farmers. It does not blanket in manufacturers who should have the burden themselves of establishing that the product will not adversely affect the environment and should assume the risk.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. KYL. Mr. Chairman, I do not know if the gentleman realizes what he does here.

The original provisions of this act covered more than just the ultimate user of the pesticide. For instance, suppose you have a dealer in your community who has a pesticide which is registered and for which he has paid. He, in turn, intended to sell it to a user who would be eliminated by your substitution of the word "user". It also would not then cover the person who had manufactured the product or who warehoused the product.

Actually, what your amendment does, of course, is to eliminate the main purpose of the amendment which is to provide some incentive for trying to find maximum alternate controls.

I certainly could not accept the amendment at all.

Mr. BINGHAM. I would point out to the gentleman that the case was very eloquently made here by the gentleman from Pennsylvania and the gentleman from Mississippi, I believe, that it was the farmer who was the person who most needed protection because the farmer might go out of business if he lost large amounts invested in pesticides thinking at the time that they were perfectly all right to use and then finding that they are not.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, the farmer has to go not only to his stock, but the farmer has to go to the stocks held in the farming community by a dealer. The thrust of the gentleman's amendment, I am afraid, would be to discourage the local dealer from maintaining stocks of pesticides or herbicides where the farmer could get them when he needed them. So I think the gentleman's amendment would do damage to the farmer by virtue of not encouraging the chemical to be stocked in the area.

Mr. BINGHAM. The case that has been made now for the protection of the dealer was not made earlier. I was trying to meet the appealing case, calling for the protection of the farmer. I yield back the remainder of my time.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. POAGE. This is just some of the same stuff, just an effort to escape responsibility for a change in judgment on the part of the Government. I think that if you take the property of the National City Bank, you owe the National City Bank the value of that property, just the same as if you take the property of Bob Poage, or somebody who has even less property than he. I think we owe an obligation to do right by every citizen of the United States, regardless of his economic status. I cannot believe that it is moral to take the property of the Dow Chemical Co. and immoral to take the property of John Dow. I think that it is clear that this is just an attempt to try to have the Government destroy values without paying for them. It does not make any difference whose hands the property is.

Mr. BRASCO. Mr. Chairman, will the gentleman yield for a question?

Mr. POAGE. I yield the floor.

Mr. BRASCO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. BRASCO. I want to ask a question of the chairman of the committee (Mr. POAGE). I have served on the committee and I know the gentleman today in his approach is trying to present an argument which is fair and equitable, and it does seem fair and equitable. But he confines it to products that are used in the farming area.

I am wondering whether or not the gentleman supports the theory on a broader basis. Very simply, it is this: In my district in New York there was a small company that employed about 75 to 100 people that had been in business making food for the last 50 years.

Some months ago the Pure Food and Drug Administration reversed itself on the question of cyclamates that the company was using in their food products. The ban caused the company to take its products off the market causing substantial loss so that they are now in such bad financial condition that they are on the verge of bankruptcy.

I understand what the gentleman is trying to do, but I am wondering whether or not this equity that he is holding forth to people who use pesticides that are first sponsored by the Government as being safe and then recalled would be applied in a broader fashion to people I have described.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Texas.

Mr. POAGE. I am sorry I did not make myself clear. I attempted to. I think we have to pay the cost. I think the Govern-

ment should pay the cost when the Government is responsible. If the gentleman will offer an amendment to the Food and Drug Act to reimburse or to pay for such losses as he described, I will support it.

Mr. BRASCO. That is what I wanted to know.

Mr. POAGE. Absolutely. I believe in going across the board, and when the Government is responsible for the loss, the Government should pay the bill. The Agriculture Committee does not have jurisdiction over the matters the gentleman is describing. We are trying to treat everybody alike.

Mr. BRASCO. I understand that. I wanted to get the gentleman's opinion on it.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SMITH of Iowa. The gentleman from New York has just indicated that this bill applies only to farmers. I think that idea should be dispelled at this point. As I understand it, this bill applies to a lot of chemicals that are under the housewife's kitchen sink at the present time. If after this bill passes—and I am not speaking in opposition to the bill—a Member happens to carry a couple cockroaches home in his pocket from the House restaurant, they are free to multiply in a crack in the Member's house until one of three things happens: Either he burns the house down, or he secures an applicator's license and applies chemicals now available, or else he hires some commercial exterminator company to spray the cracks. Homeowners will no longer be permitted to use some of the chemicals they are now using to keep cockroaches out of their houses.

We should be aware of what we are doing here. Everybody who applies chemicals which are toxic enough to be called "restricted," would have to have an applicator's license. Perhaps some of these chemicals should not be in general use but the provisions of this bill are not of concern just to farmers. This bill applies to the housewife who has a green thumb or to the housewife who is just trying to keep her house clean. It applies to everybody who uses these chemicals.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I am glad the gentleman makes this comment, because obviously those who are offering these amendments do not understand what is involved. When we talk about pesticides general use and fungicides we are talking about moth balls and chlorox and germicidal floor waxes, the material used in air conditioners to keep the algae content down and so forth.

This bill is not written to protect farmers or manufacturers. It is written to protect the consumers and the environment—in other words, the public.

Mr. SMITH of Iowa. But somehow the people have gotten the idea that the only people who use these chemicals are the farmers. It is not so.

Mr. KYL. And when the farmers use them, it is not because they hate the worms, but because the consumers like to eat apples without worms.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. RARICK TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. RARICK. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. RARICK to the substitute amendment offered by Mr. KYL: Redesignate paragraph (e) as (f) and add a new section (e) as follows:

"(e) IMPORTATION OF AGRICULTURAL PRODUCTS.—Notwithstanding any other provision of law, whenever the use of any pesticide in connection with the producing, processing, or handling of any agricultural commodity is prohibited or limited under any Federal statute, the President shall prohibit importation of such commodity from any country if he determines that—

"(1) such country does not have at least equal restrictions with respect to the use of such pesticide, and

"(2) such commodity is produced in substantial quantities in the continental United States.

The provisions (including penalties and forfeitures) of section 545 of title 18, United States Code, shall apply in enforcing the provisions of this subsection. The President may prescribe rules and regulations to carry out the purposes of this subsection, including but not limited to, provisions for the deferral of the effective date thereof with respect to particular pesticides or agricultural commodities for not more than three years.

Mr. RARICK. Mr. Chairman, this amendment was considered in the Agriculture Committee. In fact, I take no pride in authorship since the amendment is the chairman's language and was in the original bill until deleted by pressures and influences from outside our committee.

What the amendment proposes is simply to remove the threat of another of the double standards so common in our country today; that is to remove a double standard from American agriculture by applying the provisions of the pesticide control bill to agricultural imports by extending some degree of control over foreign farmers as well as those American farmers who can be expected to escape pesticide banning and regulations by moving their food and fiber producing capabilities from our country to foreign nations.

The bill as it now exists provides that the agricultural sector of our country can be handicapped by being banned from the use of some pesticides or limited in the use of restrictive pesticides, regulations which will have a distinct impact

on the food-producing ability of our country as well as food prices and supply.

Yet these same bans and restrictions, as the bill now stands, do not extend to agricultural imports from foreign countries. As the bill presently stands: If we ban or restrict pesticide use only in American agriculture, the chemical companies are still allowed to sell the same banned and prohibited pesticides to foreign countries to be used in food-growing production, which same food can be imported to the United States bearing the banned pesticides prohibited from use in our country.

I feel if we are going to place American agriculture under bans on pesticides or restricted use of chemicals, fairness demands that we apply the same treatment to imported farm commodities, goods, and foodstuffs coming into this country.

If we authorize pesticide bans and controls over U.S. agriculture in the name of safeguarding our environment, only to allow these same pesticides to be brought in on our foodstuffs can it not be said we are defeating the purpose of the bill before us by creating a loophole to the advantage of foreign agriculture?

Those members of the Committee on Agriculture will recall the history behind the deletion of this proposed amendment from the bill. The committee was promised that if this section was removed, it would be later brought up as a separate bill. My feelings are that if we are going to vote pesticide controls on U.S. agriculture today the place for extension of the law to foreign agricultural imports is in the same bill. If there are fears we cannot pass a pesticide bill today which does not discriminate against U.S. farmers, then we are not going to be able to pass a separate bill to protect U.S. consumers from foreign imports tomorrow.

To those who answer all fears of where the bill is going, because of assurances from Mr. Ruckelshaus, the head of EPA, I can but suggest that there is nothing as unassured these days as politics. Next year the seat of Director of the Environmental Protection Agency could well be Mr. Ramsey Clark, or perhaps Ralph Nader, or a militant environmentalist. What is not put in the law today to safeguard our farmers and consumers may have less support in another year.

It is only fair and reasonable that we abolish dual standard by applying the same laws to the foreign imports of food and agricultural commodities that we expect our farmers to operate under in order to protect the environment of the American people.

I recommend that the amendment be adopted.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, if in the form of a bill, would be a good bill. It is word for word what I introduced. I believe I originated the idea, as the gentleman from Louisiana suggested. I offered it separately. Later I offered it as a part of this bill.

The administration bitterly opposes this amendment, just as I am sure the previous administration opposed the idea.

In fact, every State Department seems to oppose everything that would require foreigners take some action that would be comparable to the action we require of our own citizens. What the State Department always believes is that we must give some special treatment to foreigners. It still believes that, and made it rather plain that if we are going to have a pesticide bill we are not going to have this provision in here.

Perhaps they did not convince others that that would be the case. They did convince me. They convinced me that if we want a bill we must keep this provision out. Most Members have been complaining we were not going far enough, rather than we were going too far, but we are trying to pass a bill. We are trying to do the thing we believe the American people want done, to pass a bill that will give some control over these pesticides and still allow some reasonable use of them.

I am convinced that if you put this amendment on this bill, this good provision—and I say it is a good provision and I think it is a sound and a fair provision—but if you put it on here, then I do not think you will have any bill and you will not have achieved anything at all toward helping either the American farmer or the American consumer.

The farmer will get no assurance of the right to use pesticides—no matter how badly they are needed.

So it is with the environmentalists. When they get all of nothing, they will still have exactly nothing if you put this on here, and we all still wind up with nothing.

I think it would be a whole lot better to take something. You have legislation here that will give some reasonable degree of protection to everybody concerned. That is the reason why I am opposing what I think it is a good, sound provision.

Separate and apart from this legislation I am for it. I want the gentleman to know it and I want the State Department to know it. But this is just not the place to put it. I have not noticed any one of those who felt they wanted this kind of a bill coming in here urging this amendment. They do not come in and urge it because they know what it will do to the bill.

Mr. KYL. Will the gentleman yield?

Mr. POAGE. Yes, I yield to the gentleman from Iowa.

Mr. KYL. I want to commend the chairman for the action he is taking here. This is his bill. He wants this bill passed. And yet, because his interest is in getting a good pesticide bill passed, he puts his own feelings in the background and says that the amendment should not be adopted and that we should get on with passing the bill.

Mr. POAGE. I thank the gentleman.

Mr. SISK. Will the gentleman yield to me?

Mr. POAGE. Yes, I yield to the gentleman.

Mr. SISK. I, too, want to commend the chairman.

I want to say that I am a strong sup-

porter of his bill. I believe in the legislation he proposed and which is now proposed by the gentleman from Louisiana. However, I also agree with the chairman's present position that, unfortunately, apparently we cannot pass a good pesticides regulatory bill with this on it. Therefore, I go along with the chairman, although somewhat reluctantly, to oppose this amendment.

I thank the gentleman for yielding.

Mr. TEAGUE of California. Will the gentleman yield to me?

Mr. POAGE. Yes. I yield to the gentleman.

Mr. TEAGUE of California. I, too, support the position that the chairman has taken. In a case where we have any doubt or any question, here is a letter which came from the Assistant Secretary, Mr. Palmby, within the last 2 weeks. He says:

Our opposition is based on the fact that this provision will have a serious impact on our agricultural exports and thus work hardships on our farmers.

Well, that is arguable, but, in any event, I offer that as evidence so that there may be no misunderstanding on the Republican side that this suggestion or this proposed amendment is very much opposed by the administration and, in my opinion, it would undoubtedly work out to a veto of the bill.

Mr. GROSS. Will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. GROSS. I have listened attentively, but I have not yet heard, except for the Department of Agriculture, who is opposed to this amendment. Is it somebody above and beyond the Department of Agriculture?

Mr. POAGE. I am sorry the gentleman did not hear my statement. The State Department is opposed to it.

Mr. GROSS. I would expect the State Department to be opposed to it.

Mr. POAGE. Well, then you have heard who is opposed to it.

Mr. GROSS. I expected the striped pants crowd would. Do they want to import food under circumstances where local producers and distributors are not permitted to sell it to people in this country?

Mr. POAGE. I cannot tell the gentleman the thinking of the State Department, but I think I know something of the practicalities of passing this bill, and I do not think that you can pass the bill if you put this amendment on it.

Mr. GROSS. Will the State Department veto it, or who will?

Mr. POAGE. The President of the United States.

Mr. GROSS. The President of the United States?

Mr. POAGE. That is Mr. Nixon.

I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I thank the chairman for yielding to me.

It is my feeling that this provision, instead of eliminating a double standard, would actually establish one because other countries do not require that our

country have the same pesticide control laws that they do. I think that would be the effect of this amendment. And yet, that is the effect of this amendment.

I would like to cite the commodity of corn as an example and how this might affect our market. About 90 percent of all overseas sales of corn go to countries that would be adversely affected by this amendment. They might not strike back, but there is that possibility.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes of my time, but I must tell you, and the Members of the House, that I very much regret that this section was removed from the bill.

I shall vote for the amendment which has been offered by the gentleman from Louisiana (Mr. RARICK) to replace the section in the bill.

Congress, rightly, should take the leadership in these matters that have to do with the protection of the health of our consumers. We should not kowtow to the feelings and beliefs of the State Department, or the Department of Agriculture, or anyone else, when we see a serious need to protect the human health of the people of this country. The quality standards which we now have as pertain to the effect on the health of the people should apply to the imported foreign food that we purchase and bring into this country. The standards and requirements on the imported food and that food which we produce here in our country as supplied by our domestic producers should be one and the same. There should not be a double standard. I have offered for the advice of the Members of the House additional views covering this subject. It is printed in the report and, rather than taking the time to discuss it in more detail, I trust everyone who is interested in it has already read it, and if you have not read it and are still interested, I hope you will take the time to do so now.

Those views are as follows:

ADDITIONAL VIEWS OF CONGRESSMAN JOHN MELCHER

H.R. 10729, the Federal Insecticide Act of 1971, fails to close a loophole where chemicals on imported foodstuffs are used that may have harmful effects on consumers. We depend on domestic food producers, or livestock, not to use chemicals on their products that science has found to be injurious to the health of consumers. H.R. 10729 continues this requirement for domestic producers, but fails to apply the same safeguard to food products that are imported into the U.S.

With the everwidening use of chemicals in food production, there is increasing need to protect the wholesomeness of dairy, fruit, vegetable, cereal, or meat products by avoiding application of chemicals that would leave residues injurious to health. It is fraudulent to tolerate a double standard between imported and domestic food supplies. Chemical pesticides or herbicides banned for use on domestic food products because their residue would be injurious to consumers, should not be allowed on imported foodstuffs. In most cases, there is no way for the consumer to know which products are imported and which are of domestic origin. But in neither case should we take the chance with the health of our consuming public.

Testimony before the Committee from Food and Drug Administration officials, outlining surveillance for harmful residues was not reassuring. The testing of chemical residues on ready-to-eat meats, poultry, and fish was haphazard and raised doubts as to any effective control on residues, on imported foods. As a result, the Committee approved a section in the bill requiring producers of imported foods to follow the same procedures as we do in this country to avoid contamination with toxic chemicals. (A copy of this section follows my views.) The State Department objected saying it would interfere with good relations with countries that export foods to us. The Department of Agriculture objected, stating it would interfere with agricultural trade. The Environmental Protection Agency, in sympathy with these two Cabinet Departments, also objected. But obviously the health of our consumers should be paramount to the speculation conjured by the two Departments which have little basis for their arguments. Their pale objections based on anemic judgments should not be allowed to jeopardize the health of American consumers. Exporting countries are interested in the health of their own consumers as well as the health of their customers abroad; and when our scientists determine that a chemical leaves a harmful residue in foodstuffs, this fact should be noted and observed by all countries. It is of mutual beneficial interest which is on a level higher than mundane trade policy or profits.

Nevertheless, the pressure applied by the Administration through the State Department and the Department of Agriculture caused the deletion from the bill of what I believe to be a very important section to apply the same standards to imported food products that we apply to domestic supplies.

The argument is made that consumers have adequate protection through the surveillance of the Food and Drug Administration and the Department of Agriculture. That is not the case. Very little sampling is done. I am including at the end of my views tables provided by the Food and Drug Administration and by the Department of Agriculture. Examination of their tables prompts the following conclusions:

(1) In the case of meat, fish and poultry, residues for only 13 pesticide compounds in a very few samples are examined. These are pesticides available in this country, but banned for use in production of these foods or allowed only with strict limitations found to be safe.

(2) The incidence percent and the average parts per million are greater in the imported food samples than from the domestic products. Improvement in the presence and amounts of residues found in domestic food products as compared to imported food products in the years 1967, 1968 and 1969 was much better on the domestic side as compared to the imported products. This argues strongly for the banning or limiting uses of the objectionable pesticides as has been done in the U.S. for our domestic producers with a like extension to all producers in other countries who wish to sell products in this country.

(3) Residue sampling is decreasing. The bulwark of consumer protection continues to be reliance on producer compliance not to use banned or limited use chemicals. Even if sampling were increased a hundredfold, it would still only be spot checks which without compliance by producers on banned chemicals offer little assurance to consumers that an adequate job was being done to guard against harmful residues.

(4) There was very little sampling done in 1970, and rejections of shipments of im-

ported meat because of residues in excess of tolerance levels only totaled 23 for the year. However, imports showed the incidence of benzene hexachloride, DDT, dieldrin, and heptachlor epoxide residues are all on the increase indicating a much more extensive use by the producers of the countries of the imported meat. These chemicals are all banned or require strict limitations on use for livestock in this country.

The only valid conclusion in the face of these facts is that H.R. 10729 can only assure consumers adequate protection from harmful residues from pesticides or herbicides when every means is taken to prevent the use of these chemicals on food products consumed by our people. Not to apply these same standards based on scientific evaluations to imported foods may give us, as our State and Agriculture Departments have implied, an open door trade policy, but it is an open door invitation to abuse imported food

supplies inviting residues that may harm the health of untold numbers of our people. There can be no justification in taking that chance. Decisions to limit chemicals used by our domestic producers are not decisions lightly made but are made after long and careful study and evaluation. The results should not be ignored by any producers anywhere in the world. Their health and our health is at stake. If the House does not include a section such as Section 17(e) in the Committee print or similar protection, H.R. 10729 has a serious, damaging flaw.

JOHN MELCHER,
Member of Congress.

(Committee Print No. 3, dated July 13, 1971, was used by the committee in the preparation of H.R. 10729. Section 17(e) of Committee Print No. 3 is as follows:)

"(e) IMPORTATION OF AGRICULTURAL PRODUCTS.—Notwithstanding any other provision of law, whenever the use of any pesticide in

connection with the producing, processing, or handling of any agricultural commodity is prohibited or limited under any Federal statute, the President shall prohibit importation of such commodity from any country if he determines that—

"(1) such country does not have at least equal restrictions with respect to the use of such pesticide, and

"(2) such commodity is produced in substantial quantities in the continental United States.

The provisions (including penalties and forfeitures) of section 545 of title 18, United States Code, shall apply in enforcing the provisions of this subsection. The President may prescribe rules and regulations to carry out the purpose of this subsection, including but not limited to, provisions for the deferral of the effective date thereof with respect to particular pesticides or agricultural commodities for not more than three years.

PESTICIDE RESIDUES IN MEATS (FAT BASIS); FISCAL YEARS 1965-69 (BEEF, PORK, ETC.)

[Total diet samples—ready-to-eat food, meat, fish, and poultry (roast beef, ground beef, pork chops, chicken, fish filets, eggs, frankfurters, etc.)]

Specific compound	Domestic samples, 12,146		Import samples, ¹ 3,674		Total diet samples (meat, fish, and poultry), 134 composites	
	Incidence percent	Average p.p.m.	Incidence percent	Average p.p.m.	Incidence percent	Average p.p.m.
DDT ²	75.4	0.33	83.9	0.41	88.1	0.182
DDE ²					92.5	.168
TDE ³					80.6	.092
Dieldrin	31.3	.05	46.7	.10	61.9	.026
Heptachlor epoxide ⁴	* 21.6	.02	10.2	.01	53.7	.016
Heptachlor ⁵	9.6	.01	1.1	(⁶)	3.0	(⁶)
Lindane	6.6	.01	12.4	.01	19.4	.006
BHC	* 20.2	.02	* 63.2	.15	50.0	.018
Aldrin	.1	(⁶)	* 1.4	(⁶)	.7	(⁶)
Endrin	.4	(⁶)	1.0	(⁶)	1.5	(⁶)
Methoxychlor	1.8	.01	.6	(⁶)		
Toxaphene	1.4	.01	.1	(⁶)	1.5	.004
MCP	* 11.8	.02	* 45.1	.10	.7	(⁶)

¹ Import samples for fiscal years 1967, 1968, and 1969 only.

² DDT includes DDE and TDE.

³ Heptachlor includes heptachlor epoxide except fiscal year 1967 (domestic samples only).

⁴ Fiscal year 1967 only, 3,098 domestic samples, 1,901 import samples.

⁵ Less than 0.005 p.p.m.

⁶ Less than 0.001 p.p.m.

⁷ Fiscal year 1968 and 1969 only, 4,012 domestic samples and 1,733 import samples.

⁸ Fiscal year 1965, 1966, and 1967 only, 8,134 domestic samples.

Source: Food and Drug Administration.

NUMBER OF SAMPLES

Range (parts per million)	Domestic						Imported			
	1965	1966	1967	1968	1969	Total	1967	1968	1969	Total
Methyl chlorophenoxy acetic acid (MCP):										
None found	3,200	1,614	2,357	0	0	7,171	1,044	0	0	1,044
Trace to 0.10	51	134	621	0	0	806	564	0	0	564
0.11 to 0.50	1	35	90	0	0	126	214	0	0	214
0.51 to 1.00	0	1	15	0	0	16	52	0	0	52
1.01 to 1.50	0	0	6	0	0	6	14	0	0	14
1.51 to 2.00	0	0	2	0	0	2	5	0	0	5
2.01 to 3.00	0	0	3	0	0	3	3	0	0	3
Above 3.00	0	0	4	0	0	4	5	0	0	5
Total	3,252	1,784	3,098	0	0	8,134	1,901	0	0	1,901
Range PPM	Domestic						Imported			
	1965	1966	1967	1968	1969	Total	1968	1969	Total	
Aldrin:										
None found	3,252	1,783	3,098	2,709	1,298	2,140	1,264	484	1,748	
Trace to 0.10	0	0	0	3	1	4	9	13	22	
0.11 to 0.50	0	0	0	1	0	1	1	2	3	
0.51 to 1.00	0	1	0	0	0	1	0	0	0	
1.01 to 1.50	0	0	0	0	0	0	0	0	0	
1.51 to 2.00	0	0	0	0	0	0	0	0	0	
2.01 to 3.00	0	0	0	0	0	0	0	0	0	
Above 3.00	0	0	0	0	0	0	0	0	0	
Total	3,252	1,784	3,098	2,713	1,299	2,146	1,274	499	1,773	
Benzene hexachloride (BHC):										
None found				2,070	1,130	3,200	446	206	652	
Trace to 0.10				576	146	722	370	178	548	
0.11 to 0.50				49	17	66	382	98	480	
0.51 to 1.00				10	3	13	60	14	74	
1.01 to 1.50				4	1	5	11	3	14	
1.51 to 2.00				2	0	2	0	0	0	
2.01 to 3.00				2	1	3	2	0	2	
Above 3.00				0	1	1	3	0	3	
Total				2,713	1,299	4,012	1,274	499	1,773	

Range PPM	Domestic						Imported			
	1965	1966	1967	1968	1969	Total	1967	1968	1969	Total
DDT:										
None found.....	1,148	568	644	472	161	2,993	300	216	76	592
Trace to 0.10.....	1,245	513	925	728	383	3,794	522	365	129	1,016
0.11 to 0.50.....	435	386	1,106	1,080	572	3,579	638	499	201	1,338
0.51 to 1.00.....	203	129	241	253	103	929	236	113	45	394
1.01 to 1.50.....	67	59	76	60	43	305	78	30	24	132
1.51 to 2.00.....	70	38	25	34	13	189	39	22	6	67
2.01 to 3.00.....	41	42	38	37	20	178	50	16	6	72
Above 3.00.....	43	49	43	40	4	179	38	13	12	63
Total.....	3,252	1,784	3,098	2,713	1,299	12,416	1,901	1,274	499	3,674
Dieldrin:										
None found.....	3,220	1,713	1,054	1,561	798	8,346	1,017	636	304	1,957
Trace to 0.10.....	30	50	827	963	434	2,304	481	267	139	887
0.11 to 0.50.....	2	20	1,186	181	63	1,452	368	326	52	744
0.51 to 1.00.....	0	0	13	6	3	22	29	38	4	71
1.01 to 1.50.....	0	1	4	1	0	6	3	4	0	7
1.51 to 2.00.....	0	0	8	1	1	10	3	3	0	6
2.01 to 3.00.....	0	0	2	0	0	2	0	0	0	0
Above 3.00.....	0	0	4	0	0	4	2	0	0	2
Total.....	3,252	1,784	3,098	2,713	1,299	12,416	1,901	1,274	499	3,674
Endrin:										
None found.....	3,248	1,782	3,096	2,692	1,279	12,097	1,886	1,271	481	3,638
Trace to 0.10.....	2	0	1	17	20	40	8	3	17	28
0.11 to 0.50.....	2	2	1	4	0	9	6	0	1	7
0.51 to 1.00.....	0	0	0	0	0	0	1	0	0	1
1.01 to 1.50.....	0	0	0	0	0	0	0	0	0	0
1.51 to 2.00.....	0	0	0	0	0	0	0	0	0	0
2.01 to 3.00.....	0	0	0	0	0	0	0	0	0	0
Above 3.00.....	0	0	0	0	0	0	0	0	0	0
Total.....	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Heptachlor:										
None found.....	3,241	1,709	3,020	1,970	1,044	10,984	1,896	1,243	494	3,633
Trace to 0.10.....	11	50	64	628	213	676	5	13	2	20
0.11 to 0.50.....	0	25	4	109	42	180	0	18	3	21
0.51 to 1.00.....	0	0	0	5	0	5	0	0	0	0
1.01 to 1.50.....	0	0	0	1	0	1	0	0	0	0
1.51 to 2.00.....	0	0	0	0	0	0	0	0	0	0
2.01 to 3.00.....	0	0	0	0	0	0	0	0	0	0
Above 3.00.....	0	0	0	0	0	0	0	0	0	0
Total.....	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Lindane:										
None found.....	3,202	1,680	2,831	2,462	1,171	11,346	1,747	1,091	382	3,220
Trace to 0.10.....	26	56	217	202	106	607	116	144	104	364
0.11 to 0.50.....	15	34	40	43	22	154	29	38	13	80
0.51 to 1.00.....	6	6	5	5	0	22	4	1	0	5
1.01 to 1.50.....	1	3	4	1	0	9	4	0	0	4
1.51 to 2.00.....	0	2	1	0	0	3	1	0	0	1
2.01 to 3.00.....	2	3	0	0	0	5	0	0	0	0
Above 3.00.....	0	0	0	0	0	0	0	0	0	0
Total.....	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Toxaphene:										
None found.....	3,104	1,773	3,093	2,709	1,298	11,977	1,899	1,274	499	3,672
Trace to 0.10.....	56	3	0	0	1	60	0	0	0	0
0.11 to 0.50.....	45	4	2	0	0	51	0	0	0	0
0.51 to 1.00.....	23	3	1	0	0	27	0	0	0	0
1.01 to 1.50.....	5	0	0	0	0	5	0	0	0	0
1.51 to 2.00.....	12	1	0	0	0	13	0	0	0	0
2.01 to 3.00.....	4	0	2	1	0	7	0	0	0	0
Above 3.00.....	3	0	0	3	0	6	2	0	0	2
Total.....	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Heptachlor epoxide:										
None found.....			2,429	0	0	2,429	1,714	1,161	426	3,301
Trace to 0.10.....			600	0	0	600	161	94	60	315
0.11 to 0.50.....			60	0	0	60	26	19	13	58
0.51 to 1.00.....			3	0	0	3	0	0	0	0
1.01 to 1.50.....			2	0	0	2	0	0	0	0
1.51 to 2.00.....			0	0	0	0	0	0	0	0
2.01 to 3.00.....			2	0	0	2	0	0	0	0
Above 3.00.....			2	0	0	2	0	0	0	0
Total.....			3,098	0	0	3,098	1,901	1,274	499	3,674
Methoxychlor:										
None found.....	3,157	1,780	3,076	2,658	1,260	11,931	1,888	1,271	492	3,651
Trace to 0.10.....	46	1	8	6	16	77	8	1	3	12
0.11 to 0.50.....	21	1	9	38	23	92	3	0	3	6
0.51 to 1.00.....	19	0	4	10	0	33	1	2	1	4
1.01 to 1.50.....	4	0	0	0	0	4	1	0	0	1
1.51 to 2.00.....	3	2	0	0	0	5	0	0	0	0
2.01 to 3.00.....	2	0	1	0	0	3	0	0	0	0
Above 3.00.....	0	0	0	1	0	1	0	0	0	0
Total.....	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674

Source: Food and Drug Administration.

PESTICIDE RESIDUES IN IMPORTED MEATS, CALENDAR YEARS 1967-70 (BEEF, PORK, SWINE, SHEEP)

[Number of samples]

Range (parts per million)	1967	1968	1969	1970	Range (parts per million)	1967	1968	1969	1970
DDT					BENZENE HEXACHLORIDE				
Total samples analyzed.....	1,928	1,414	1,033	995	Total samples analyzed.....	1,928	1,414	1,033	995
None found.....	112	23	18	26	None found.....	112	23	18	26
0.01 to 0.10.....	413	266	299	333	0.01 to 0.10.....	540	508	435	523
0.11 to 0.50.....	534	498	438	453	0.11 to 0.50.....	290	423	188	200
0.51 to 1.....	196	116	95	85	0.51 to 1.....	50	77	15	4
1.01 to 1.50.....	86	32	36	14	1.01 to 1.50.....	15	12	4	1
1.51 to 2.....	51	20	9	2	1.51 to 2.....	6	2	1	1
2.01 to 2.50.....	27	9	2	4	2.01 to 2.50.....	4	2	1	1
2.51 to 3.....	19	10	5	5	2.51 to 3.....	1	2	1	1
3.01 to 3.50.....	13	2	3	3	3.01 to 3.50.....	1	1	1	1
3.51 to 4.....	5	5	4	1	3.51 to 4.....	1	1	1	1
4.01 to 4.50.....	6	1	5	1	4.01 to 4.50.....	1	1	1	1
4.51 to 5.....	1	2	1	1	4.51 to 5.....	1	1	1	1
5.01 to 6.....	6	3	3	1	5.01 to 6.....	2	2	2	2
6.01 to 7.....	3	1	1	1	6.01 to 7.....	2	2	2	2
7.01 to 8.....	1	1	2	2	7.01 to 8.....	1	1	1	1
8.01 to 10.....	2	2	2	2	8.01 to 10.....	1	1	1	1
10 to 15.....	2	1	1	1	10 to 15.....	1	1	1	1
15 and over.....	1	1	1	1	15 and over.....	1	1	1	1
Total positives.....	363	961	906	903	Total positives.....	911	1,029	644	728
Violations of total positives.....	7	1	7	2	Violations of total positives.....	173	263	64	68
Total samples in violation.....	302	377	107	77	Total samples in violation.....	302	377	107	77
DIELDRIN					HEPTACHLOR EPOXIDE				
Total samples analyzed.....	1,928	1,414	1,033	995	Total samples analyzed.....	1,928	1,414	1,033	995
None found.....	112	23	18	26	None found.....	112	23	18	26
0.01 to 0.10.....	467	334	411	592	0.01 to 0.10.....	137	127	121	203
0.11 to 0.50.....	370	414	95	42	0.11 to 0.50.....	26	29	28	26
0.51 to 1.....	29	39	5	1	0.51 to 1.....	1	1	1	1
1.01 to 1.50.....	2	4	1	1	1.01 to 1.50.....	1	1	1	1
1.51 to 2.....	3	2	1	1	1.51 to 2.....	1	1	1	1
2.01 to 2.50.....	1	1	1	1	2.01 to 2.50.....	1	1	1	1
2.51 to 3.....	1	1	1	1	2.51 to 3.....	1	1	1	1
3.01 to 3.50.....	1	1	1	1	3.01 to 3.50.....	1	1	1	1
3.51 to 4.....	1	1	1	1	3.51 to 4.....	1	1	1	1
4.01 to 4.50.....	1	1	1	1	4.01 to 4.50.....	1	1	1	1
4.51 to 5.....	1	1	1	1	4.51 to 5.....	1	1	1	1
5.01 to 6.....	1	1	1	1	5.01 to 6.....	1	1	1	1
6.01 to 7.....	1	1	1	1	6.01 to 7.....	1	1	1	1
7.01 to 8.....	1	1	1	1	7.01 to 8.....	1	1	1	1
8.01 to 10.....	1	1	1	1	8.01 to 10.....	1	1	1	1
10.01 to 15.....	1	1	1	1	10.01 to 15.....	1	1	1	1
15.0 and over.....	1	1	1	1	15.0 and over.....	1	1	1	1
Total positives.....	873	793	511	634	Total positives.....	164	157	150	230
Violations of total positives.....	174	193	11	21	Violations of total positives.....	5	2	8	2
Total samples in violation.....	302	377	107	77	Total samples in violation.....	302	377	107	77

Source: U.S. Department of Agriculture.

Mr. DENHOLM. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman.

Mr. DENHOLM. Mr. Chairman, I associate myself with the remarks of the gentleman from Montana and I join in support of the amendment.

I believe that the existing provision of the proposed legislation imposes an obligation on the people of this country that it does not impose on the foreign producers that deliver and trade in our domestic market. Therefore, I join with the gentleman in support of the amendment.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, speaking of a double standard, I would call the attention of the members of the Committee to the exemption which the bill grants for exports in section 17, page 50, where there appears the following language:

Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

Mr. Chairman, when the bill does not require pesticides manufactured for export to be registered and to meet the re-

quirements imposed upon pesticides in our own domestic market, then I ask how can we justify barring the importation of farm commodities which may have been treated abroad with the very substance which has been exported from the United States and is not subject to the bill?

Our concern for health and environmental protection should extend beyond our own shores, and the exemption for exports should be stricken.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. RARICK) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. RARICK) there were—ayes 36, noes 43.

Mr. RARICK. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the substitute amendment was rejected.

Mr. POAGE. Mr. Chairman, again I wonder if we cannot agree upon a time limitation. I note that the Members are getting impatient, and we seemed to be voting down most of these amendments, so I wonder if we might agree that all debate and all amendments to the Dow

amendment in the nature of a substitute and the Kyl substitute amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is the gentleman from Texas making a unanimous-consent request?

Mr. POAGE. I am, Mr. Chairman.

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

Mr. DOW. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. POAGE

Mr. POAGE. Mr. Chairman, I move that all debate on the Dow amendment in the nature of a substitute, the Kyl substitute amendment, and all amendments thereto close in 20 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas (Mr. POAGE).

The motion was agreed to.

Mr. DOW. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, if there is a

rollcall will this come out of the time limitation?

The CHAIRMAN. The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that the motion that was agreed to, that was offered by the gentleman from Texas (Mr. POAGE) was for 20 minutes of debate, and the Chair will advise the gentleman from New York that there will be 20 minutes allotted for debate.

Mr. DOW. I thank the Chairman.

The CHAIRMAN. One hundred twenty-six Members are present, a quorum.

AMENDMENT OFFERED BY MR. KASTENMEIER TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER KYL: On page 17, strike out all that comes after "based" on line 12, strike out lines 13 through 15, and strike out all that precedes the semicolon on line 16.

Mr. KASTENMEIER. Mr. Chairman, if my understanding of committee bill section 3, subparagraph (c)(1)(D) is correct, this provision effectively subverts existing patent laws by extending indefinitely through the registration requirements the rights of exclusive production of a pesticide material. I am aware, of course, that the bill does not intrude directly into existing patent law, but its infringement is effectively accomplished by proposed changes in registration procedures.

Let me explain the situation more fully.

Under existing patent law, an inventor is rewarded for ingenuity and effort by being granted exclusive rights over reproduction of the invention. This protection affords financial returns to the inventor beyond those that would ordinarily accrue in a fully competitive market situation. However, that exclusive reproduction protection is granted for a period of only 17 years. The basic value judgment here is that while an inventor should be financially rewarded for his ingenuity, at some point this special benefit must cease and the competitive forces of a free and open market allowed to operate to bring the invention to users at the lowest possible cost. This reflects the constitutional requirement that patents shall be "for limited times."

In this bill, we have language which I believe would give an unlimited right of exclusive protection for patentable pesticides beyond the usual 17-year period. Section 3 of the bill covers the registration of pesticides and section 3(c) provides procedures for registration, and subparagraph 3(c)(1) specifies the statement required of an applicant. Subparagraph 3(c)(1)(D) provides that if requested by the Administrator, a full description of the tests made and the results upon which the claims are based must be included. This seems clear. Now reading further on page 17, line 12 of the bill, it provides further as an exception that "data submitted in support of an

application shall not, without permission of the applicant, be considered by the Administrator in support of any other application or registration."

This exception, narrowly interpreted, could mean that the original developer of the patented and registered pesticide could foreclose the use of similar test data even after the patent has expired by any later registration.

However, even with a broader interpretation of the language, allowing a later submission of original and separate scientific data demonstrating the efficacy and safety of a registered pesticide material, there are strong economic forces which will prevent such later submissions for registrations. The scientific data required to support an application for registration of a pesticide material are extremely costly to generate. Without the patent protection enjoyed by the original application, it is unlikely that a secondary applicant for registration of the same material would undertake the costly research effort required. Therefore, even with the more generous interpretation of the language in this provision, the patent holder and registrant of a pesticide can effectively prevent market entry of new producers of that pesticide by simply refusing to give permission to the Administrator to use the scientific data already available in registering subsequent applications. With no time limit, this provision could very effectively operate to make the original registrant of a patentable pesticide material the only registrant. The subversion of the statutory 17-year patent protection limit is obvious.

Existing patent laws offer ample protection and financial reward to the developers of new pesticide materials, and I am strongly opposed to language in the committee bill which offers such developers further protection by establishing registration procedures giving exclusive rights of manufacture beyond the 17-year patent law limit.

The CHAIRMAN. Does any Member care to be heard on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. KYL. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Iowa (Mr. KYL) is recognized.

Mr. KYL. Mr. Chairman, the gentleman from Wisconsin and others have tried to make something appear which does not appear, in seeking to amend this provision of the act.

This is what the bill says in effect.

The Government has the right to require any information it wants. All information must be given to the Government so the Government can make a decision.

But if manufacturer "A" asks to register a chemical and another manufacturer, manufacturer "B," comes in and wants to register its own chemical then "B" cannot use the information developed by the first applicant.

The Government gets all the information it needs and the public gets all the information it needs. All the committee language does is to prevent one industry from pirating another industry's secrets. That is all it does.

The CHAIRMAN. Does any Member wish to be heard on the Kastenmeier amendment? If not, the question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL: Page 19, strike out lines 12 and 13.

(By unanimous consent, Mr. RYAN yielded his time to Mr. Dow.)

The CHAIRMAN. The gentleman from New York (Mr. Dow) is recognized.

Mr. DOW. Mr. Chairman, the essentiality of a pesticide is, of course, highly important to establish in this day when every economic poison is suspect. Yet section 3(c)(5), page 19, lines 12 and 13 of the committee's bill, says that the "Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide."

In order to evaluate the impact of this provision, some definition of "essentiality" is a prerequisite. The word itself is part of an administrative procedure used in several agencies and departments, including the EPA, the Departments of Interior, Agriculture, and Health, Education, and Welfare. The policy is used when dealing with certain chemicals that have systematically proven to be persistent in the environment. To date, these chemicals have included benzene, hexachloride, chlordane, lindane, strobane-T, toxaphene, and compounds containing lead and arsenic. The policy prescribes that proposals from manufacturers for uses of these persistent pesticide chemicals include arguments to show the need for the chemicals in use. This need becomes a part of the benefit-cost analysis in whether to permit certain uses of the persistent chemicals.

For an example of its use, authorization for the use of DDT by agencies of the U.N. in the control of malaria would take into consideration arguments relating to the persistence of the chemical as well as consideration of the arguments that DDT is the singularly most effective chemical for fighting malaria on a large scale. This latter argument amounts to an "essentiality" argument.

The problem of duplicate chemicals enter here, and my amendment is not intended to limit them. However, if a poison is proposed for a need already met by an earlier and less harmless chemical, then the lack of essentiality of the new chemical certainly suggests that it should not be approved.

My amendment would eliminate the

waiver of essentiality from the bill. The substitute is a response to an established need. To specifically eliminate need is an arbitrary effort in favor of chemical manufacturers. It ties the hands of agency administrators who have established a workable and important doctrine.

The CHAIRMAN. Does any Member desire to be heard on the amendment?

Mr. McCURE. Mr. Chairman, I wish recognition.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho.

Mr. McCURE. Mr. Chairman, I yield to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, in the first place, the Environmental Protection Agency already has what it calls an essential use doctrine in connection with restricted use pesticides. It in effect does what the gentleman wants to be done, but in a logical fashion. Therefore, this amendment is unnecessary. Furthermore, if we apply this doctrine economywide, the Federal Government would say, "We have a Ford automobile; therefore we do not need a Chevrolet, a Plymouth, a Dodge, or a Chrysler." We could say that in relation to any field in which there is more than one product in competition. We already have what the gentleman desires. To carry it further would make it ludicrous.

Mr. Chairman, the amendment should not be adopted.

The CHAIRMAN. Does any other Member wish to be heard on the amendment? If not, question is on the amendment offered by the gentleman from New York (Mr. Dow), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. DOW. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DOW. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Dow, KYL, POAGE, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 152, noes 221, not voting 58, as follows:

[Roll No. 369]

[Recorded Teller Vote]

AYES—152

Abourezk	Brademas	Daniels, N.J.
Abzug	Brasco	Danielson
Adams	Brown, Ohio	Delaney
Addabbo	Buchanan	Dellums
Anderson, Calif.	Burke, Mass.	Dingell
Annunzio	Burton	Donohue
Ashley	Byrne, Pa.	Dow
Aspin	Carey, N.Y.	Drinan
Badillo	Carney	Dulski
Begich	Celler	du Pont
Bennett	Chisholm	Eckhardt
Blaggi	Collins, Ill.	Edwards, Calif.
Blester	Conte	Ellberg
Bingham	Corman	Fascell
Boland	Cotter	Fish
Bolling	Coughlin	Flood
	Culver	Foley

Ford, William D.	Long, Md.	Reuss
Fraser	McCormack	Riegle
Frey	McDade	Rodino
Fulton, Tenn.	McKay	Roe
Gallagher	Macdonald, Mass.	Roncalio
Gaydos	Madden	Rooney, Pa.
Gialmo	Mazzoli	Rosenthal
Gibbons	Meeds	Rostenkowski
Goldwater	Mikva	Roush
Gonzalez	Miller, Calif.	Roybal
Grasso	Minish	Runnels
Green, Pa.	Mink	Ryan
Griffiths	Mitchell	St Germain
Gude	Monagan	Sarbanes
Hamilton	Moorhead	Saylor
Hanna	Morse	Scheuer
Hansen, Wash.	Mosher	Seiberling
Harrington	Moss	Snyder
Hathaway	Murphy, Ill.	Stanton, James V.
Hawkins	Nedzi	Steele
Hays	Nix	Stokes
Hechler, W. Va.	O'By	Sullivan
Heinz	O'Hara	Symington
Helstoski	O'Konski	Thompson, N.J.
Hicks, Mass.	O'Neill	Tieman
Hicks, Wash.	Patten	Udall
Howard	Pike	Van Deerlin
Jacobs	Podell	Vanik
Karh	Preyer, N.C.	Waldie
Kastenmeier	Price, Ill.	Whalen
Kemp	Pryor, Ark.	Wolf
Kluczynski	Pucinski	Yates
Koch	Rangel	
Kyros	Rees	
Lent	Reid, N.Y.	

NOES—221

Abbitt	Fisher	Mathis, Ga.
Abernethy	Flowers	Matsunaga
Albert	Flynt	Mayne
Anderson, Ill.	Ford, Gerald R.	Melcher
Anderson, Tenn.	Forsythe	Miller, Ohio
Andrews, Ala.	Fountain	Mills, Md.
Andrews, N. Dak.	Frelinghuysen	Mizell
Archer	Frenzel	Mollohan
Ashbrook	Fuqua	Montgomery
Aspinall	Gallifanakis	Morgan
Baker	Gettys	Murphy, N.Y.
Baring	Goodling	Myers
Belcher	Gray	Natcher
Bell	Green, Oreg.	Nelsen
Bergland	Griffin	Nichols
Betts	Gross	Passman
Blanton	Grover	Pepper
Blatnik	Hagan	Perkins
Boggs	Haley	Pettis
Bow	Hall	Peyser
Bray	Hammer-	Pickle
Brinkley	schmidt	Pirnie
Brooks	Hanley	Poage
Broomfield	Hansen, Idaho	Poff
Brotzman	Harsha	Powell
Broyhill, N.C.	Harvey	Price, Tex.
Broyhill, Va.	Henderson	Quile
Burleson, Tex.	Hillis	Quillen
Burleson, Mo.	Hogan	Randall
Byrnes, Wis.	Holifield	Rarick
Byron	Hosmer	Rhodes
Cabell	Hull	Roberts
Caffery	Hungate	Robinson, Va.
Camp	Hunt	Robison, N.Y.
Carter	Hutchinson	Rogers
Casey, Tex.	Ichord	Rooney, N.Y.
Cederberg	Jarman	Rousselot
Chamberlain	Johnson, Calif.	Roy
Clark	Johnson, Pa.	Ruppe
Clausen,	Jonas	Ruth
Don H.	Jones, N.C.	Sandman
Cleveland	Jones, Tenn.	Satterfield
Colmer	Kazen	Scherle
Conable	Keating	Schmitz
Daniel, Va.	Keith	Schneebell
Davis, Ga.	King	Scott
Davis, S.C.	Kyl	Sebelius
de la Garza	Landrum	Shipey
Dellenback	Latta	Shoup
Dennholm	Leggett	Shriver
Dennis	Lennon	Sikes
Dent	Link	Sisk
Dorn	Lujan	Skubitz
Downing	McClure	Slack
Duncan	McCollister	Smith, Iowa
Edmondson	McCulloch	Smith, N.Y.
Edwards, Ala.	McDonald,	Spence
Erlenborn	Mich.	Staggers
Esch	McEwen	Steed
Eshleman	McKevitt	Steiger, Ariz.
Evans, Colo.	McMillan	Steiger, Wis.
Evins, Tenn.	Mahon	Stephens
Findley	Mann	Stratton
	Martin	Stubblefield
	Mathias, Calif.	Stuckey

Talcott	Wampler	Wydler
Taylor	Ware	Wyllie
Teague, Calif.	Whalley	Wyman
Terry	White	Yatron
Thompson, Ga.	Whitehurst	Young, Fla.
Thomson, Wis.	Widnall	Young, Tex.
Thone	Wiggins	Zablocki
Ullman	Williams	Zion
Vander Jagt	Winn	Zwack
Veysey	Wright	
Waggonner	Wyatt	

NOT VOTING—58

Alexander	Dowdy	Mailliard
Arends	Dwyer	Metcalfe
Barrett	Edwards, La.	Michel
Bevill	Garmatz	Mills, Ark.
Blackburn	Gubser	Minshall
Brown, Mich.	Halpern	Patman
Burke, Fla.	Hastings	Pelly
Chappell	Hébert	Purcell
Clancy	Heckler, Mass.	Railsback
Clawson, Del	Horton	Schwengel
Clay	Jones, Ala.	Smith, Calif.
Collier	Kee	Springer
Collins, Tex.	Kuykendall	Stanton, J. William
Conyers	Landgrebe	Teague, Tex.
Crane	Lloyd	Vigorito
Davis, Wis.	Long, La.	Whitten
Derwinski	McClory	Wilson, Bob
Devine	McCloskey	Wilson,
Dickinson	McFall	Charles H.
Diggs	McKinney	

So the amendment to the substitute amendment was rejected.

Mr. NIX. Mr. Chairman, on this vote I voted "no." I wish to be recorded as having voted "aye."

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment offered by Mr. KYL.

The Clerk read as follows:

Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL:

On page 49, line 7, strike out "following a public hearing, any party at interest" and insert in lieu thereof "any person adversely affected", and on page 28, strike out lines 11 through 19.

(By unanimous consent, Mr. BINGHAM yielded his time to Mr. Dow).

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Chairman, this amendment as it applies to page 49 goes to the question of those who may take the Administrator of the Environmental Protection Agency to court.

In the committee the original bill granted that right to any person adversely affected could take the Administrator to court. But in the committee they changed these words to read, "Following a public hearing any party at interest."

Mr. Chairman, "any party at interest" is a very definite restriction. It means that only the manufacturer can take the Administrator to court.

My amendment would revert to the original language reading that "any person adversely affected." That might be a State, if you please, it might be a State that wanted to do it. It would also include all those organizations which are concerned with the condition of our environment and the public good.

Certainly, Mr. Chairman, we ought to revert to that wording.

The CHAIRMAN. Are there any other Members on the list who wish to speak to this amendment?

Mr. CARNEY. Mr. Chairman, I wish to address the Committee on this amendment.

The CHAIRMAN. The gentleman's name is not on the list.

Are there any Members on the list who wish to be heard on this amendment?

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

(By unanimous consent Mr. GOODLING yielded his time to Mr. KYL.)

Mr. KYL. Mr. Chairman, the amendment which is offered here really changes nothing because in the final analysis the Court will decide the question of the designation of "party at interest" as compared to the designation "person adversely affected." Our language does not narrow the scope of judicial review nor does it limit review to registrants, applicants for registration, on the Environmental Protection Agency. This question has been definitely decided by Court decisions establishing a broad concept of standing as in the cases of *Association of Data Processing Service Organizations v. Camp*, 397 U.S. 150 (1970) and *Barlow v. Collins* 397 U.S. 159 (1970), and National Automatic Laundry and Cleaning Council against Shultz.

Mr. Chairman, the amendment should not be adopted because all it does is confuse the issue.

The CHAIRMAN. Are there any other Members whose names are on the list who wish to be heard on this amendment?

If not, the question is on the amendment offered by the gentleman from New York (Mr. Dow) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 64, noes 125.

TELLER VOTE WITH CLERKS

Mr. DOW. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DOW. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Dow, KYL, POAGE, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 167, noes 209, not voting 55, as follows:

[Roll No. 370]

[Recorded Teller Vote]

AYES—167

Abourezk	Bingham	Carey, N.Y.
Abzug	Blatnik	Carney
Adams	Boland	Celler
Addabbo	Bolling	Chisholm
Anderson,	Brademas	Collins, Ill.
Calif.	Brasco	Conte
Annuizio	Broomfield	Corman
Ashley	Brown, Mich.	Cotter
Aspin	Buchanan	Coughlin
Badillo	Burke, Mass.	Culver
Begich	Burton	Daniels, N.J.
Bennett	Byrne, Pa.	Danielson
Blester	Byron	Dellenback

Dellums	Hicks, Mass.	Pryor, Ark.
Dent	Hicks, Wash.	Pucinski
Dingell	Howard	Quie
Donohue	Jacobs	Rangel
Dow	Karth	Rees
Drinan	Kastenmeier	Reid, N.Y.
Dulski	Keating	Reuss
du Pont	Kluczynski	Riegle
Dwyer	Koch	Robison, N.Y.
Eckhardt	Kyros	Rodino
Edwards, Calif.	Lent	Roe
Eilberg	Link	Roncallo
Erlenborn	Long, Md.	Rooney, Pa.
Esch	Lujan	Rosenthal
Fascell	McCormack	Rostenkowski
Fish	McDade	Roush
Flood	Macdonald,	Roybal
Foley	Mass.	Ryan
Forde	Madden	St Germain
William D.	Matsumaga	Sarbanes
Fraser	Meeds	Saylor
Frelinghuysen	Mikva	Scheuer
Frenzel	Minish	Seiberling
Galifianakis	Mink	Shipley
Gallagher	Mitchell	Snyder
Gaydos	Morhead	Stanton,
Gialmo	Morse	James V.
Gonzalez	Mosher	Steele
Grasso	Moss	Steiger, Wis.
Green, Pa.	Murphy, Ill.	Stokes
Griffiths	Murphy, N.Y.	Stratton
Gude	Nedzi	Sullivan
Hamilton	Nix	Symington
Hanley	Obey	Thompson, N.J.
Hanna	O'Hara	Tiernan
Hansen, Wash.	O'Konski	Udall
Harrington	O'Neill	Van Deerlin
Harvey	Patten	Vander Jagt
Hathaway	Perkins	Vanik
Hawkins	Pickle	Waldie
Hays	Pike	Whalen
Hechler, W. Va.	Podell	Wolf
Heinz	Preyer, N.C.	Yates
Helstoski	Price, Ill.	Yatron

NOES—209

Abbott	Evans, Colo.	McCulloch
Abernethy	Evins, Tenn.	McDonald,
Albert	Findley	Mich.
Anderson, Ill.	Fisher	McEwen
Andrews, Ala.	Flowers	McKay
Andrews,	Flynt	McKevitt
N. Dak.	Ford, Gerald R.	McMillan
Archer	Forsythe	Mahon
Ashbrook	Fountain	Mailliard
Aspinall	Frey	Mann
Baring	Fulton, Tenn.	Martin
Belcher	Fuqua	Mathias, Calif.
Bell	Garmatz	Mathis, Ga.
Bergland	Gettys	Mayne
Betts	Gibbons	Mazzoli
Biaggi	Goldwater	Melcher
Blanton	Goodling	Miller, Ohio
Boggs	Gray	Mills, Md.
Bow	Green, Oreg.	Mizell
Bray	Griffin	Mollohan
Brinkley	Gross	Monagan
Brooks	Grover	Montgomery
Brotzman	Hagan	Morgan
Brown, Ohio	Haley	Myers
Broyhill, Va.	Hall	Natcher
Burleson, Tex.	Hammer-	Nelsen
Burison, Mo.	schmidt	Nichols
Byrnes, Wis.	Hansen, Idaho	Passman
Cabell	Harsha	Pepper
Caffery	Henderson	Pettis
Camp	Hillis	Peyster
Carter	Hogan	Pirnie
Casey, Tex.	Holifield	Poage
Cederberg	Hosmer	Poff
Chamberlain	Hull	Powell
Chappell	Hungate	Price, Tex.
Clark	Hunt	Quillen
Clausen,	Hutchinson	Randall
Don H.	Ichord	Rarick
Cleveland	Jarman	Rhodes
Conable	Johnson, Calif.	Roberts
Daniel, Va.	Johnson, Pa.	Robinson, Va.
Davis, Ga.	Jonas	Rogers
Davis, S.C.	Jones, N.C.	Rooney, N.Y.
Davis, Wis.	Jones, Tenn.	Rousselot
de la Garza	Kazen	Roy
Denholm	Kee	Runnels
Dennis	Keith	Ruppe
Devine	Kemp	Ruth
Dickinson	King	Sandman
Dorn	Kyl	Satterfield
Downing	Landrum	Scherle
Duncan	Latta	Schmitz
Edmondson	Leggett	Schneebeli
Edwards, Ala.	Lennon	Scott
Eshleman	McCollister	Sebelius

Shoup	Stuckey	Whitehurst
Shriver	Talcott	Widnall
Sikes	Taylor	Wiggins
Sisk	Teague, Calif.	Williams
Skubitz	Terry	Winn
Slack	Thompson, Ga.	Wright
Smith, Calif.	Thomson, Wis.	Wyatt
Smith, Iowa	Thone	Wydler
Smith, N.Y.	Ullman	Wylie
Spence	Veysey	Wynan
Staggers	Waggonner	Young, Fla.
Steed	Wampler	Young, Tex.
Steiger, Ariz.	Ware	Zablocki
Stephens	Whalley	Zion
Stubblefield	White	Zwach

NOT VOTING—55

Alexander	Diggs	Michel
Anderson,	Dowdy	Miller, Calif.
Tenn.	Edwards, La.	Mills, Ark.
Arends	Gubser	Minshall
Baker	Halpern	Patman
Barrett	Hastings	Pelly
Bevill	Hébert	Purcell
Blackburn	Heckler, Mass.	Rallsback
Broyhill, N.C.	Horton	Schwengel
Burke, Fla.	Jones, Ala.	Springer
Clancy	Kuykendall	Stanton,
Clawson, Del	Landgrebe	J. William
Clay	Lloyd	Teague, Tex.
Collier	Long, La.	Vigorito
Collins, Tex.	McClary	Whitten
Colmer	McCloskey	Wilson, Bob
Conyers	McClure	Wilson,
Crane	McFall	Charles H.
Delaney	McKinney	
Derwinski	Metcalfe	

So the amendment to the substitute amendment was rejected.

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that I may change my vote from "yea" to "nay."

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL: Page 28, line 24, strike out "and scientific review", and page 29, line 10, strike out "Upon", strike out lines 11 through 23, and strike out all that precedes the period on line 24.

Mr. DOW. Mr. Chairman, this amendment would strike out the privilege given in the committee bill to any manufacturer, party to a hearing, on suspension of his product to request referral of the issue to a scientific committee.

This is an example of the manner in which a party to an EPA hearing can complicate and divert the proceedings.

At a point in the testimony before the House Committee on Agriculture, the EPA addressed itself to this point, and to the point that a committee of the National Academy of Sciences—NAS—shall conduct this scientific review. Said EPA:

We strongly believe that such mandatory committee should not be included in the regulatory process on pesticides which the Administrator has the responsibility to administer. We believe our testimony and other statements submitted to the Committee provide strong support for not having a mandatory advisory committee.

The NAS has stated that statutory functions required of it as in FIFRA might tend to erode its independent advisory relation-

ship to Federal Agencies as granted to it in the original Federal charter to the Academy. The NAS has further stated that it believes that participation by the NAS in the regulatory process of controlling the use of pesticides is an inappropriate assignment of a governmental role to a private organization. At the same time, the NAS strongly indicates its willingness to provide scientific assistance and advice to the Administrator of EPA and to assist informally in the provision of appropriate agency advisory committees.

As we have indicated, we strongly oppose any type of mandatory advisory committee in the pesticides regulatory process.

I might add that there is nothing in the legislation to prevent EPA from asking for such scientific aid as it may desire, from any quarter.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Chairman, I rise in opposition to the amendment. I cannot understand the purpose of this amendment which is designed to knock out the provision which was inserted at the insistence of the EPA. What it provides is that a committee of the National Academy of Sciences shall report in writing regarding the matter at issue. It does not preclude the use of any other scientific persons within the United States. It is designed to bring about a more fair and scientific judgment on the application pending.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Chairman, I emphasize this is the language the Environmental Protection Agency wanted in the bill, and the committee came back into special session to include it at the insistence of EPA.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the substitute amendment offered by Mr. KYL.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the substitute amendment offered by Mr. KYL: Page 47, line 21, immediately after "person" insert unless the producer shows that the adverse environmental effects which caused the suspension of the registration were not known and could not with reasonable research or investigation have been known to the producer. If such facts were known, or should have been known to the producer, the United States shall be subrogated to the rights of any purchaser to whom a payment has been made against the producer.

Mr. ECKHARDT. Mr. Chairman, I

would like to have the Members listen to what I have to say. Under the bill as presently drawn, there is an absolute guarantee to the producer of the pesticide that he will not lose money once the United States registers that pesticide. All this amendment says is that the producer cannot recover from the United States for the value of that pesticide in his own hands if he knew or with reasonable research could be expected to have known that the pesticide and a detrimental environmental effect such as to cause it to be withdrawn. It does not deny to the farmer complete recovery where the United States prevents his using pesticides in his hands, and it does not deny to the producer the right to recover from the U.S. Government the value of the pesticide if the producer is innocent, that is, if the producer did not know the environmental effects and could not with reasonable diligence have found out.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. SEIBERLING yielded his time to Mr. ECKHARDT.)

Mr. ECKHARDT. Mr. Chairman, I submit if we do not pass this amendment we are guaranteeing to the producer an absolute governmental guarantee of no loss of funds. It is as if, for instance, the manufacturer of castor oil for infants advertises that it will stop constipation and makes a medicine that induces fatal infant diarrhea, and the medicine in his hands is then paid for by the United States because it is banned for its bad side effects.

We do not guarantee such reparation to anybody else, and I submit we should not guarantee it with regard to environmentally harmful pesticides.

Mr. ABERNETHY. Mr. Chairman, I will take 30 seconds of my time.

This is a rehash of the Evans of Colorado amendment we voted on a few minutes ago. These chemicals are not manufactured except under supervision of the Federal Government and only after the Federal Government has issued an authorization so to do. The amendment ought to be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 82, noes 130.

TELLER VOTE WITH CLERKS

Mr. ECKHARDT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ECKHARDT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerk were ordered and the Chairman appointed as tellers Messrs. ECKHARDT, KYL, TEAGUE of California, and SEIBERLING.

The Committee divided, and the tellers reported that there were—ayes 168, noes 203, not voting 60, as follows:

[Roll No. 371]
[Recorded Teller Vote]

AYES—168

Abourezk	Frenzel	Obey
Abzug	Fulton, Tenn.	O'Hara
Adams	Galifianakis	O'Konski
Anderson, Calif.	Gallagher	O'Neill
Annunzio	Gaydos	Patten
Ashley	Glaimo	Pickle
Aspin	Gibbons	Pike
Badillo	Gonzalez	Podell
Begich	Grasso	Preyer, N.C.
Bennett	Green, Pa.	Price, Ill.
Biester	Griffiths	Pryor, Ark.
Bingham	Gude	Pucinski
Blanton	Hamilton	Rangel
Boland	Hanna	Rees
Bolling	Harrington	Reid, N.Y.
Brademas	Harsha	Reuss
Brasco	Hathaway	Riegle
Buchanan	Hawkins	Robison, N.Y.
Burke, Mass.	Hays	Rodino
Burton	Hechler, W. Va.	Rogers
Byrne, Pa.	Heinz	Roncallo
Carney	Helstoski	Rosenthal
Celler	Hicks, Mass.	Rostenkowski
Chisholm	Howard	Roush
Clark	Jacobs	Roybal
Clausen, Don H.	Karh	Runnels
Cleveland	Kastenmeier	Ruppe
Collins, Ill.	Kazen	Ryan
Conte	Keating	St Germain
Corman	Kluczynski	Sarbanes
Cotter	Koch	Saylor
Coughlin	Kyros	Scheuer
Culver	Lent	Seiberling
Daniels, N.J.	Long, Md.	Shriver
Danielson	Lujan	Snyder
Dellenback	McCormack	Stanton, James V.
Dellums	McEwen	Steele
Denholm	Madden	Stokes
Dent	Mailliard	Symington
Dingell	Matsunaga	Thompson, N.J.
Donohue	Mazzoli	Tiernan
Drinan	Meeds	Udall
Dulski	Metcalfe	Van Deerlin
du Pont	Mikva	Vander Jagt
Dwyer	Miller, Calif.	Vanik
Eckhardt	Minish	Waldie
Edwards, Calif.	Mink	Whalen
Eilberg	Minshall	White
Evans, Colo.	Mollohan	Wilson, Charles H.
Fascell	Monagan	Wolff
Fish	Moorhead	Wright
Foley	Morgan	Wylder
Ford, William D.	Morse	Yates
Fraser	Moss	Yatron
	Murphy, Ill.	Young, Fla.
	Murphy, N.Y.	
	Nedzi	
	Nix	

NOES—203

Abbott	Chappell	Griffin
Abernethy	Colmer	Gross
Addabbo	Daniel, Va.	Grover
Anderson, Ill.	Davis, Ga.	Hagan
Andrews, Ala.	Davis, S.C.	Haley
Andrews, N. Dak.	Davis, Wis.	Hall
Archer	de la Garza	Hammer-
Ashbrook	Delaney	schmidt
Aspinall	Dennis	Hanley
Belcher	Devine	Hansen, Idaho
Bell	Dickinson	Harvey
Bergland	Dorn	Hastings
Betts	Downing	Henderson
Blaggi	Duncan	Hicks, Wash.
Boggs	Edmondson	Hillis
Bow	Edwards, Ala.	Hogan
Bray	Erlenborn	Holifield
Brinkley	Esch	Hosmer
Broomfield	Eshleman	Hull
Brotzman	Evins, Tenn.	Hungate
Brown, Mich.	Findley	Hunt
Brown, Ohio	Fisher	Hutchinson
Broyhill, Va.	Flood	Ichord
Burleson, Tex.	Flowers	Jarman
Burlison, Mo.	Flynt	Johnson, Calif.
Byrnes, Wis.	Forsythe	Johnson, Pa.
Byron	Fountain	Jonas
Cabell	Frelinghuysen	Jones, N.C.
Caffery	Frey	Jones, Tenn.
Camp	Fuqua	Kee
Carey, N.Y.	Garmatz	Keith
Carter	Gettys	King
Casey, Tex.	Goldwater	Kyl
Cederberg	Goodling	Landrum
Chamberlain	Gray	Latta
	Green, Oreg.	Leggett

Lennon	Poff	Steed
McClure	Powell	Steiger, Ariz.
McCullister	Price, Tex.	Stephens
McCulloch	Quie	Stratton
McDade	Quillen	Stubblefield
McDonald,	Randall	Sullivan
Mich.	Rarick	Talcott
McKay	Rhodes	Taylor
McKevitt	Roberts	Teague, Calif.
McMillan	Robinson, Va.	Terry
Mahon	Roe	Thompson, Ga.
Mann	Rooney, N.Y.	Thomson, Wis.
Martin	Rousselot	Thone
Mathias, Calif.	Roy	Ullman
Mathis, Ga.	Ruth	Veysey
Mayne	Sandman	Waggonner
Melcher	Satterfield	Wampler
Miller, Ohio	Scherle	Ware
Mills, Md.	Schmitz	Whalley
Mizell	Schneebell	Whitehurst
Montgomery	Scott	Widnall
Mosher	Sebelius	Wiggins
Myers	Shipley	Williams
Natcher	Shoup	Winn
Nelsen	Sikes	Wyatt
Nichols	Sisk	Wyllie
Passman	Skubitz	Wyman
Pepper	Slack	Young, Tex.
Perkins	Smith, Calif.	Zablocki
Pettis	Smith, Iowa	Zion
Peyser	Smith, N.Y.	Zwack
Pirnie	Spence	
Poage	Staggers	

NOT VOTING—60

Alexander	Derwinski	McKinney
Anderson,	Diggs	Maddison,
Tenn.	Dowdy	Mass.
Arends	Edwards, La.	Michel
Baker	Ford, Gerald R.	Mills, Ark.
Baring	Gubser	Mitchell
Barrett	Halpern	Patman
Bevill	Hansen, Wash.	Pelly
Blackburn	Hébert	Purcell
Blatnik	Heckler, Mass.	Railsback
Brooks	Horton	Rooney, Pa.
Broyhill, N.C.	Jones, Ala.	Schwengel
Burke, Fla.	Kemp	Springer
Clancy	Kuykendall	Stanton
Clawson, Del.	Landgrebe	J. William
Clay	Link	Stuckey
Collier	Lloyd	Teague, Tex.
Collins, Tex.	Long, La.	Vigorito
Conable	McClary	Whitten
Conyers	McCloskey	Wilson, Bob
Crane	McFall	

So the amendment to the substitute amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. SCHMITZ).

(By unanimous consent, Mr. SCHMITZ yielded his time to Mr. KYL.)

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I thank the gentleman from California for yielding me his time, and I take this time to acquaint the House with the vote which will occur on my amendment.

We have now disposed of the other items which were included in the original amendment, and therefore what remains is the substance of my amendment, and that is the amendment on which most Members were most concerned.

Under the bill, pesticides are classified as general- or restricted-use pesticides. In the case of general-use pesticides in the bill, we had preempted the States from acting beyond the Federal law.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

(By unanimous consent, Mr. ANDREWS of North Dakota yielded his time to Mr. KYL.)

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I thank the gentleman for yielding me his time.

My amendment does give to the States the right to impose more strict regulations than are included in the Federal law. I know that this is in accordance with the wishes of most of the Members of the House.

Again I thank the gentlemen for yielding me their time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Chairman, I just want to take this time to make it perfectly clear that the really effective vote is the vote that we are about to take on the Kyl substitute to the Dow amendment. If the Kyl substitute is adopted, as I hope it will be, that will in effect be the passage of the bill. I do not believe there is anything else controversial about it. So I am going to urge the Members of the House to support the Kyl substitute.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 167, noes 56.

So the substitute amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow), as amended.

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 189, noes 41.

So the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

AMENDMENTS TO OTHER ACTS

SEC. 3. The following Acts are amended by striking out the terms "economic poisons" and "an economic poison" wherever they appear and inserting in lieu thereof "pesticides" and "a pesticide" respectively:

(1) The Federal Hazardous Substances Act, as amended (15 U.S.C. 1261 et seq.);

(2) The Poison Prevention Packaging Act, as amended (15 U.S.C. 1471 et seq.); and

(3) The Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.).

EFFECTIVE DATES OF PROVISIONS OF ACT

SEC. 4. (a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, and as otherwise provided by this section, the amendments made by this Act shall take effect at the close of the date of the enactment of this Act, provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superceded by the amendments made by this Act and regulations thereunder: Provided, That all provisions made by these amendments and all regulations thereunder shall be effective within four years after the enactment of this Act.

(c) (1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

(2) After two years but within four years after the enactment of this Act the Administrator shall register and reclassify pesticides registered under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act prior to the effective date of the regulations promulgated under subsection (c) (1).

(3) Any requirements that a pesticide be registered for use only by a certified pesticide applicator shall not be effective until four years from the date of enactment of this Act.

(4) A period of four years from date of enactment shall be provided for certification of pesticide applicators.

(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of pesticide applicators.

(B) Within three years after the enactment of this Act each State desiring to certify pesticide applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

(5) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after final regulations (relating to such penalty) under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, are published in the Federal Register.

(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted.

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to discuss H.R. 10729, the Environmental Pesticide Control Act of 1971.

At the outset, I would like to emphasize that this legislation is the compromise product of environmentalists, farm groups, State and Federal officials, the chemical industry, and the public. It is a sincere effort by the Committee on Agriculture to approach this issue on the basis of reason and sound judgment, rather than emotion and sensationalism. The committee has the responsibility to protect the interests of the farmers, the consumer, and the environment.

In hearings before our committee, some witnesses proposed a virtual ban on all agricultural chemicals. However, without pesticides to control disease-spreading insects and other defoliating pests, food supplies could be substantially reduced, both in quantity and quality, and food costs could soar as much as 300 percent.

Without pesticides, our annual harvest of grains such as corn and rice, and fruits and vegetables would be reduced an estimated 20 to 30 percent. Commercial fertilizers add an estimated 20 percent to crop production.

I would like to briefly mention two points. First, I want to emphasize the committee's intent in section 11:

No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

Too many times a well-intentioned Congress has passed restrictive and regulatory legislation which has resulted in unrealistic and burdensome demands on the individual citizen.

Worse, regulations without regard to local situations and subject to enforcement and penalty have created situations where the effect of a well-intentioned law created more problems than the problem it was enacted to solve. Put in another way, realistic pesticide control will not come about by placing unnecessary recordkeeping requirements and restrictions on the farmer or individual citizen.

Second, I want to express the resolve of the committee in the establishment of standards for licensing or certifying private applicators. Prior experience and expertise must be given every consideration and requirements for the licensing or certification of new applicants must be reduced to an absolute minimum. In this environmental effort, let us recognize the farmer has been a pioneer in soil stewardship and we should utilize his practical experience and common sense, rather than create unrealistic and unnecessary restrictions.

I feel that H.R. 10729 with these qualifications is a reasonable approach for controlling the harmful effects of essential pesticides without destroying the benefits. I am hopeful that the administration of this legislation will allow us to protect our environment while balancing the necessary and lawful use of pesticides to satisfy farmer and consumer interests.

Mr. McKINNEY. Mr. Chairman, with the publication of Rachel Carson's book, "Silent Spring" and the subsequent scientific verification of the dangers of indiscriminate pesticide use, it would have seemed incumbent upon Congress to develop an effective Pesticide Control Act. H.R. 10729, in my judgment, fails to meet the criteria which such a program demands. My opposition to this bill rests in four areas.

First, by preempting individual States from enacting tougher regulations on "general use" pesticides, this bill negates the excellent initiatives displayed by States like New York. Section 24 of H.R. 10729, by posting overall Federal standards, fails to recognize that particular needs created by local conditions such as climate, pest population, and population density are best handled by State and local agencies.

Second, the committee bill by classifying pesticides in two categories, "general use" and "restricted use" eliminates a third category proposed by the Nixon administration, "use by permit only,"

which would have established more effective control over the use of especially dangerous pesticides.

Third, a major change effected by H.R. 10729 is the shifting of the burden of proof. Under current Federal Insecticide, Fungicide, and Rodenticide Act regulations, the manufacturer has the duty to prove that his product meets EPA standards. If H.R. 10729 becomes law, just the reverse will occur. The EPA will have the burden of finding out if the product is environmentally unsound. Such a shift in my judgment is inconsistent with reasonable Federal regulatory practices and is wholly unacceptable.

Fourth, under H.R. 10729 the Administrator of the Environmental Protection Agency is required to indemnify registrants whose registrations are suspended or canceled because of action taken to prevent imminent hazards. The amount of payment is not limited in time and is based on the cost of the pesticide before it was removed from the market. While I recognize that a manufacturer in good faith can produce and market a product which might later prove harmful, I fail to understand how the Agriculture Committee wrote an open-ended indemnity clause into H.R. 10729. A much sounder approach would have placed a time limitation on any indemnities.

The Dow amendment to H.R. 10729 displays a far more suitable approach to pesticide control and has my support.

Mr. RARICK. Mr. Chairman, I did not vote to favorably report the pesticide control bill when it left the committee. Nothing transpiring since has changed my views that the provisions of H.R. 10729 delegates such overwhelming powers to the office of the Administrator of the Environmental Protection Agency that if arbitrarily applied they would constitute a threat to the food producing ability of the American people. Perhaps typical of the power and control herein being given to the Environmental Protection Agency was a problem discussed by the mainland sugarcane producers today at lunch. They feel that this same Environmental Protection Agency may ban all open field burning, including cane burning under the Federal Clean Air Act. Such a ruling would so greatly handicap the farmer in harvesting his cane by increased labor costs that the U.S. cane farmer would be put out of business. The result would be the creation of a monopoly in the hands of foreign sugar producers. I do not disagree with the announced purpose of this legislation, "to protect the public health and welfare and the environment through the improved regulation of pesticides."

My opposition rather goes to the unnecessary creation of another Federal bureaucracy and increased centralization of governmental control over the food and fiber needed to feed and clothe the American people. No one can explain the full thrust of the powers herein granted and no one should doubt that EPA would be given the potential for absolute control of food production in the United States. Control of food by a powerful centralized government has long been considered a threat to the people

because he who has the power to control the food can most effectively control the people. Nowhere in the purpose of this bill is the farmer or the food requirements of the American people protected or given any consideration. The entire purpose of the bill is for control of the farmers and protection of ecologists.

Today's farmer already faces tremendous odds—not in supplying our people with an abundance of food stuffs; he has done a superb job in this field—but rather in staying in business, making a profit while using the most advanced machinery and agricultural chemicals that science can devise. The farmer's principal battle centers around the labor shortage—not that labor does not exist, but that people will not work at farmer's wages or they feel that farm labor is beneath their status. In the absence of farm labor our food production has been maintained through the use of increased mechanization and agricultural chemicals, pesticides, herbicides, and defoliates. Only in this way has American agriculture been able to keep the supermarket shelves stocked and our food storehouses full. We are one of the few countries in the world able to feed its own people and have enough left over to sell, if not give, to the socialist countries where governmental interference has denied the farmers the incentive or the ability to feed their own people.

Perhaps this is the cause of the problem we face from the emotional hysteria of the ecologists and environmentalists who do not seek a reasonable balance between continuing our food production capabilities and any dangers to our environment. Some seek immediate solutions by bans and prohibitions because they have never known what it is to go to the grocery store or the supermarket and find the shelves bare or not offering multiple choices of food from which to select. In the United States we have raised several generations of city dwellers who are so accustomed to an abundance of readily available food that they take for granted that the supply is limitless and that the grocers produce the food in the back room.

H.R. 10729 if passed today may well become a law. If so, it will remain a law until the trials and tribulations of future generations repeal it. Passage of this law certainly gives the Agency something to grow on in the way of guidelines and the usual bureaucratic expansion. In extreme hands, the position of Administrator of EPA could be arbitrarily used to all but tie the hands of American farmers and, in the name of curbing pollution and preserving ecology, produce a food shortage; or, under severe leadership, a famine in the United States. Under such conditions the slogans of some environmentalists clamoring for population control and living room would be rapidly brought into focus. Those of us who sat in on the extended hearings given this bill should remember the calloused disregard expressed by some scientists toward the human population which they felt was the problem anyway.

The present Director of EPA is personally known to some and there appears little fear of misuse of his authority. But

nothing is as susceptible to change as politics itself, and I wonder if the lack of present concern would continue under a new administration when a Ralph Nader or perhaps a Ramsey Clark or some other militant environmentalist were named Director. This bill grants such extensive powers that theoretically the director of EPA could stop the majority of the American people from taking a bath if he suddenly decided that fluoridated water was harmful and banned its use.

Enactment of the pesticide control bill can only result in further collectivization of American agriculture. The small farmer being denied the use of some agricultural chemicals and facing the additional expense of restricted chemicals can not be expected to operate at a loss. They can be expected to be taken over by bigger farmers doing business on a large scale operation.

Consider, for example, that section 14 under penalties states that any private pesticide applicator who violates any provision of this act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation may be assessed a civil penalty by the Administrator of not more than \$1,000 for each offense. This is a civil penalty assessed by the Administrator—not by a judge or a court—and this is in addition to the penalty of a \$1,000 and/or 30 days in jail under the criminal section.

Another astounding provision of this bill is the complete exclusion of imported foreign agricultural products from the effects of the Pesticide Control Act. In other words, pesticides and chemicals banned from use or given restricted use in the United States, will continue to be manufactured here and exported to foreign nations whose farmers, including Americans who have transferred their farming operations to foreign soil, can use the banned and restricted pesticides on agricultural commodities and then import the food into the United States for our domestic markets. What a double standard this establishes, to give foreign farmers even an additional advantage over the American farmer.

One need not be a genius to reasonably conclude that the long-range effect of this bill will be to deagriculturalize the United States and make our people dependent upon foreign imports for food.

Those on the floor will recall that I had earlier offered an amendment to the bill which would have provided for applying the same pesticide control standards to foreign agricultural imports as those under which U.S. farmers would be expected to operate. Tragically for our farmers and consumers, the amendment failed and this double standard of discrimination against U.S. farmers remains. This, despite the deniable fact that if imported foreign agricultural products have been treated with banned chemicals, any residue could be expected to constitute the same threat to our environment as would have been experienced by domestically grown food using the same chemicals.

I find no quarrel with the announced intent of the bill, but I do question the necessity of creating a new powerful bu-

reaucracy and the tremendous authority which would here be made law.

Like the overwhelming number of our farmers, I am a conservationist and was one long before this bill was envisioned or many of our ecologists found it profitable to worry about the dangers civilized man has inflicted on nature. But, I feel any solution can only come through balance—reasoned discipline and intelligent limitations. I am firmly convinced that the American people have the intelligence and the ability to control every ecological threat on the local and State level by use of the laws now on the books. In the final analysis, people, and not laws, will conserve the environment. Most people are pollution conscious today, and they are entitled to a chance to solve their problems with reason and moderation rather than being forced to submit to more controls under a centralized bureaucrat.

I cannot support the bill merely to satisfy someone else's commitments, nor am I satisfied that passage of this bill is progress merely because it creates another gigantic bureaucracy to be turned loose over the lives and liberties of the American people.

Time will prove my reservations on this bill justified, and my opposition to another Federal control bill as well founded. I must cast my people's vote against the bill.

Mr. HANNA. Mr. Chairman, on June 18, 1970, I addressed the House on H.R. 10729 seaweed, the natural fertilizer. I pointed out that seaweed, a natural product of the sea, merits increased attention and use because of its nonpollutant qualities. I am, therefore, particularly pleased to note the language in the committee report on page 15, item 6, entitled "Seaweed and Other Organic Materials." I commend the great Agriculture Committee for giving its careful attention to this matter, and I sincerely trust that the Administrator of the EPA will carry out the clear legislative intent expressed in the report.

Mr. MIZELL. Mr. Chairman, I rise at this time to add my support for the Environmental Pesticide Control Act now being considered.

This bill is the product of months of investigation by the Committee on Agriculture, on which I am privileged to serve, and I believe it provides a thorough, far-reaching and effective system for the control of the manufacture, distribution, and use of pesticides.

While providing for the protection of our environment, the bill also recognizes the need for farmers and ranchers to provide the public with safe, reasonably priced foods and fiber, and the necessity for protecting public health against pests of all kinds.

The key provisions of this bill are:

The establishment of a coordinated Federal-State administrative system to control the application of pesticides, with the Federal Government setting nationwide program standards and the States certifying and supervising pesticide applications;

Expanded research and monitoring to find new and better methods and materials for controlling pests; and

Revision of administrative procedures for pesticide registration, cancellation, or suspension.

The Environmental Pesticide Control Act represents a major advance in the protection of our environment while balancing the necessary and lawful use of pesticides for agricultural needs, public health, and animal disease control.

Considering the complicated nature of this legislation, I believe a good job has been done in striking that balance. We have tried at every step to protect the small farmer from unrealistic regulations or cumbersome paperwork, and I believe we have been as successful as possible under these circumstances.

The farmer is more interested in preserving a quality environment than most people realize. His family eats the food he grows, and he can certainly be counted on to adhere to the responsible controls this legislation provides.

It is the purpose and the promise of this bill to insure a continuing good food supply while protecting our environment, and I urge my colleagues to join with me in voting for this valuable legislation.

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

Mr. DOW. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. DOW. Mr. Chairman, I am not going to take any time. I am delighted to have a vote of confidence from across the aisle. I will say this, that for my part I am going to vote against this bill because it is not adequate. It is no better than the present law as it stands. Therefore, I advise all of my colleagues to vote against it. There may be a motion to recommit, and I would certainly vote in favor of such a motion.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, pursuant to House Resolution 626, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONTE. In its present form I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the bill H.R. 10729 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. DOW. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

Two hundred forty-nine Members are present, a quorum.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 289, nays 90, not voting 51, as follows:

[Roll No. 372]

YEAS—289

Abbitt	Daniel, Va.	Hall
Abernethy	Daniels, N.J.	Hamilton
Addabbo	Davis, Ga.	Hammer-
Anderson, Ill.	Davis, S.C.	schmidt
Anderson,	Davis, Wis.	Hanley
Tenn.	de la Garza	Hanna
Andrews, Ala.	Delaney	Hansen, Idaho
Andrews,	Dellenback	Hansen, Wash.
N. Dak.	Dennis	Harsha
Annunzio	Dent	Harvey
Archer	Devine	Hastings
Ashbrook	Dickinson	Hathaway
Aspinall	Dorn	Hays
Baring	Downing	Heinz
Belcher	Duncan	Henderson
Bell	du Pont	Hicks, Mass.
Bennett	Dwyer	Hicks, Wash.
Bergland	Edmondson	Hillis
Betts	Edwards, Ala.	Hogan
Bieber	Eilberg	Holifield
Blanton	Erlenborn	Hosmer
Blatnik	Esch	Hull
Boggs	Eshleman	Hungate
Bow	Evans, Colo.	Hunt
Brasco	Evins, Tenn.	Hutchinson
Bray	Fascell	Ichord
Brooks	Findley	Jacobs
Broomfield	Fish	Jarman
Brotzman	Fisher	Johnson, Calif.
Brown, Mich.	Flood	Johnson, Pa.
Brown, Ohio	Flowers	Jonas
Broyhill, Va.	Flynt	Jones, N.C.
Buchanan	Forsythe	Jones, Tenn.
Burleson, Tex.	Fountain	Kazen
Burlison, Mo.	Frelinghuysen	Keating
Byrne, Pa.	Frenzel	Kee
Byrnes, Wis.	Frey	Keith
Byron	Fulton, Tenn.	King
Cabell	Fuqua	Kluczynski
Caffery	Galifanakis	Kyl
Camp	Gallagher	Kyros
Carney	Garmatz	Landrums
Carter	Gaydos	Latta
Casey, Tex.	Gettys	Leggett
Cederberg	Gibbons	Lennon
Celler	Goldwater	Lent
Chamberlain	Gonzalez	Long, Md.
Chappell	Goodling	Lujan
Clark	Gray	McClure
Clausen,	Green, Oreg.	McCollister
Don H.	Griffin	McCulloch
Cleveland	Griffiths	McDade
Collins, Ill.	Gross	McDonald,
Colmer	Grover	Mich.
Cotter	Hagan	McEwen
Coughlin	Haley	McKay

McKevitt	Preyer, N.C.	Stanton,
McMillan	Price, Ill.	James V.
Macdonald,	Price, Tex.	Steed
Mass.	Pryor, Ark.	Steiger, Ariz.
Madden	Pucinski	Steiger, Wis.
Mahon	Quile	Stephens
Mailliard	Quillen	Stratton
Mann	Randall	Stubblefield
Martin	Rhodes	Sullivan
Mathias, Calif.	Roberts	Symington
Matsunaga	Robinson, Va.	Talcott
Mayne	Robison, N.Y.	Taylor
Mazzoli	Rogers	Teague, Calif.
Miller, Calif.	Roncallo	Terry
Miller, Ohio	Rooney, N.Y.	Thompson, Ga.
Mills, Md.	Rooney, Pa.	Thomson, Wis.
Mizell	Rostenkowski	Thone
Mollohan	Roush	Ullman
Monagan	Rousselot	Vander Jagt
Montgomery	Roy	Veysey
Morgan	Ruppe	Waggonner
Mosher	Ruth	Wampler
Murphy, Ill.	Sandman	Ware
Murphy, N.Y.	Satterfield	Whalen
Myers	Saylor	Whalley
Natcher	Scherle	White
Nelsen	Schmitt	Whitehurst
Nichols	Schneebeli	Widnall
Nix	Scott	Wiggins
O'Konski	Sebellus	Williams
O'Neill	Shipley	Winn
Passman	Shoup	Wright
Patten	Shriver	Wyatt
Pepper	Sikes	Wylder
Perkins	Sisk	Wyllie
Pettis	Skubitz	Wyman
Peysner	Slack	Yatron
Pickle	Smith, Calif.	Young, Fla.
Pike	Smith, Iowa	Young, Tex.
Pirnie	Smith, N.Y.	Zablocki
Poage	Snyder	Zion
Poff	Spence	Zwach
Powell	Staggers	

NAYS—90—

Abourezk	Eckhardt	Obey
Abzug	Edwards, Calif.	O'Hara
Adams	Foley	Podell
Anderson,	Ford,	Rangel
Calif.	William D.	Rarick
Ashley	Fraser	Rees
Aspin	Gialmo	Reid, N.Y.
Badillo	Grasso	Reuss
Begich	Green, Pa.	Riegle
Blaggi	Gude	Rodino
Bingham	Harrington	Roe
Boland	Hawkins	Rosenthal
Boiling	Hechler, W. Va.	Roybal
Brademas	Helstoski	Runnels
Brinkley	Howard	Ryan
Burke, Mass.	Karth	St Germain
Burton	Kastenmeier	Sarbanes
Carey, N.Y.	Koch	Scheuer
Chisholm	McCormack	Seiberling
Clay	Mathis, Ga.	Steele
Conte	Meeds	Stokes
Corman	Melcher	Thompson, N.J.
Culver	Metcalfe	Tiernan
Danielson	Mikva	Udall
Dellums	Minish	Van Deerlin
Denholm	Mink	Vanik
Dingell	Mitchell	Waldie
Donohue	Moorhead	Wilson,
Dow	Morse	Charles H.
Drinan	Moss	Wolf
Dulski	Nedzi	Yates

NOT VOTING—51

Alexander	Edwards, La.	Michel
Arends	Ford, Gerald R.	Mills, Ark.
Baker	Gubser	Minshall
Barrett	Halpern	Patman
Bevill	Hébert	Pelly
Blackburn	Heckler, Mass.	Purcell
Broyhill, N.C.	Horton	Rallsback
Burke, Fla.	Jones, Ala.	Schwengel
Clancy	Kemp	Springer
Clawson, Del	Kuykendall	Stanton,
Collier	Landgrebe	J. William
Collins, Tex.	Link	Stuckey
Conable	Lloyd	Teague, Tex.
Conyers	Long, La.	Vigorito
Crane	McClary	Whitten
Derwinski	McCloskey	Wilson, Bob
Diggs	McFall	
Dowdy	McKinney	

So the bill was passed

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.
Mr. Barrett with Mr. Diggs.

Mr. Vigorito with Mr. Conyers.
Mr. Dowdy with Mr. Baker.
Mr. McFall with Mr. Michel.
Mr. Purcell with Mr. Pelly.
Mr. Whitten with Mr. Springer.
Mr. Teague of Texas with Mr. Horton.
Mr. Stuckey with Mr. Collins of Texas.
Mr. Jones of Alabama with Mr. Clancy.
Mr. Bevill with Mr. Gubser.
Mr. Alexander with Mr. Rallsback.
Mr. Link with Mr. Clawson.
Mr. Mills of Arkansas with Mr. Arends.
Mr. Patman with Mr. Bob Wilson.
Mrs. Heckler of Massachusetts with Mr. Minshall.

Mr. Broyhill of North Carolina with Mr. Lloyd.

Mr. Crane with Mr. Kemp.
Mr. Kuykendall with Mr. McClary.
Mr. McKinney with Mr. J. William Stanton.
Mr. Landgrebe with Mr. Blackburn.
Mr. Derwinski with Mr. Halpern.
Mr. McCloskey with Mr. Burke of Florida.
Mr. Collier with Mr. Conable.

Mr. ASHLEY changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the legislation and the amendments thereto that we have just considered.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2559. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans.

PROVIDING FOR CONSIDERATION OF H.R. 9212, BLACK LUNG BENEFITS

Mr. BOLLING. Mr. Speaker, I call up House Resolution 658 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 658

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and

the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH). Pending that I yield myself such time as I may consume.

Mr. Speaker, the bill that would be made in order by this 1-hour open rule is controversial. I know of no great controversy over the rule.

Mr. Speaker, I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I strongly support this resolution, and also express the hope that the bill will receive overwhelming support in the House. The bill will furnish much-needed clarification of certain provisions of the Federal Coal Mine Health and Safety Act which cover benefits for pneumoconiosis. Even so, there are other im-

provements which are needed in the bill and when the occasion arises I intend to offer two amendments to the committee bill, as follows:

AMENDMENT A TO H.R. 9212, AS REPORTED, OFFERED BY MR. HECHLER OF WEST VIRGINIA

Page 1, line 3, insert "(1)" after "That (a)".

Page 2, after line 14, insert the following new paragraph:

(2) Section 412(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) If an individual's benefits would be increased under clause (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use

and benefit of such dependent; and any payment made under this clause, if otherwise valid under this title, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment."

AMENDMENT B TO H.R. 9212, AS REPORTED, OFFERED BY MR. HECHLER OF WEST VIRGINIA

Page 7, after line 11, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(f) The third sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: "Provided, That where a deceased miner had been employed in a mine for ten or more years and there are no available medical records that reasonably establish the cause of death, determination as to entitlement of his widow shall take account of information obtained from any persons who had a close relationship to him during his life."

Mr. Speaker, I also include a table which indicates the status of black lung applications and payments through October 22, 1971:

BLACK LUNG STATISTICS (CUMULATED TO OCT. 22, 1971)

	National	Kentucky	Pennsylvania	West Virginia	4th Congressional District		National	Kentucky	Pennsylvania	West Virginia	4th Congressional District
Claims filed.....	331,203	35,994	104,780	62,937	10,390	Denials.....	157,429	22,791	31,131	32,325	6,710
Claims processed.....	309,377	33,525	98,774	58,811	9,709	Miners.....	120,559	18,968	20,578	26,096	5,432
Claims paid.....	151,948	10,734	67,643	26,486	2,999	Widows.....	36,870	3,823	10,553	6,229	1,278
Miners.....	84,238	6,154	36,551	16,137	1,971	Percentage figures:					
Widows.....	67,710	4,580	31,092	10,349	1,028	Claims allowed:					
Additional dependents paid.....	88,263	9,132	30,033	21,414	2,996	Miners.....	39.5	23.4	62.1	37	26.7
Total beneficiaries paid (miners, widows and dependents).....	231,812	19,338	93,068	46,695	5,895	Widows.....	65	54.8	75	62.7	44.6
Total monthly payment amount ¹	\$26,864	\$1,987	\$11,326	\$5,042	\$584	Overall.....	48.1	31.3	67.6	44.2	30.9
Total cumulative payment amount ¹	\$437,137	\$33,567	\$190,620	\$85,413	\$10,436	Claims denied:					
						Miners.....	60.5	76.6	37.9	63	73.3
						Widows.....	35	45.2	25	37.3	55.4
						Overall.....	51.9	68.8	32.4	55.8	69.1

¹ Rounded to nearest thousandth.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 658 does provide an open rule with 1 hour of consideration of the bill H.R. 9212. As I understand it, the purpose of the bill is to extend to a new class of beneficiaries—orphans whose father died of pneumoconiosis—the Federal cash benefits payments provide for by the Federal Coal Mine Health and Safety Act. Further, the bill provides that no cash-benefit recipient under the act shall have his social security payments reduced because of his receipt of such benefits, and prohibits the use of chest X-rays as the sole basis for a denial of claim for disability due to pneumoconiosis. Finally, the bill postpones for a 2-year period, until 1975, the time when the States and mine operators will be required to assume the responsibility for future cash benefit payments under the program created by the act.

The bill extends for 2 years the existing program for payment of black lung benefits by the Federal Government. Under the act, in 1973 and thereafter, the burden of making payments to disabled miners and their dependents was to be borne by the States and mine operators. Most States are not moving quickly enough to have their own programs operational by the end of next year. The bill postpones until 1975 this responsibility.

Cost estimates for the 5-year period 1972-77 are as follows:

Payments to orphans.....	\$5,500,000
Payment of claims now denied solely on X-ray evidence.....	50,000,000
Extend Federal payment responsibility.....	646,000,000
Total.....	701,500,000

No departmental letters are contained in the report. I understand the administration opposes the bill, except for the provisions making orphans eligible for benefits.

Mr. QUIE and six other members have filed minority views. They support the benefits for orphans but oppose the remainder of the bill.

As stated by the gentleman from Missouri, I know of no objection to the rule, though there is some objection to the bill itself.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ERLBORN).

(Mr. ERLBORN asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. ERLBORN. Mr. Speaker, I do not oppose this rule. I am happy that the bill is now out on the floor under a rule where amendments will be in order, rather than the procedure that was attempted before to try to pass it under suspension of the rules where amendments are not in order.

As the gentleman from California has stated, a portion of this bill is not opposed by this administration. The De-

partment of Health, Education, and Welfare, Social Security Administration, has made it clear that they support the principle of the extension of benefits to the so-called double orphans. However, as far as eliminating the use of the X-ray as a diagnostic tool in the denial of claims, the administration does oppose this provision. I have put matters in the record concerning this in the past.

The administration opposes the elimination of the social security disability offset because such action would treat one group of workers receiving industrial disease compensation differently from all other workers under social security disability who are receiving industrial or workmen's compensation benefits. In addition, the extension of the obligations of the Federal Government for an additional 2 years is objected to by the administration.

General debate will show that this has nothing to do with resolving those claims that have been filed and are unresolved at this point, but merely will extend as a full-time obligation of the Federal Government such claims as may be filed within the next 2 years rather than putting the burden on the States and the coal mine operators, as was contemplated in the original passage of the act.

Mr. Speaker, I have received a letter today from Robert M. Ball, Commissioner of Social Security, in which he again expresses the opposition of the Social Security Administration, backed by HEW, which I will place in the Record.

The letter follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Washington, D.C., November 8, 1971.

HON. JOHN N. ERLÉNBERG,
House of Representatives,
Washington, D.C.

DEAR MR. ERLÉNBERG: You have asked for the comments of the Social Security Administration on certain statements that have been made concerning H.R. 9212 and the administration of the black lung benefit program.

The point has been made that a miner whose social security disability benefits are reduced because of simultaneous entitlement to black lung benefits may get less than he would otherwise receive in social security benefits alone. There were a few cases where the rounding of the figures in the computation process resulted in a reduction of few cents in total income. This has been corrected so that, as a result of eligibility to black lung benefits, no one gets less in combined benefits than he previously received.

Actually, this provision for reducing social security benefits when the combined benefits exceed 80 percent of the individual's usual earnings has resulted in a reduction in social security benefits in less than 5 percent of the cases where black lung benefits are paid. Moreover, H.R. 1, which passed the House of Representatives some time ago and is now pending before the Senate Finance Committee, contains a provision that would liberalize this rule so that the combined benefits could be somewhat higher than they are under present law. This liberalization would apply also to the black lung cases.

There is considerable doubt whether it is desirable to have an offset apply to all other social security disability beneficiaries who receive workmen's compensation payments from a State or Federal program, but not have it apply to social security disability beneficiaries who receive payments under the black lung program, particularly since H.R. 9212 does not continue this exemption when the payment of claims for black lung becomes the responsibility of the States and the mine operators.

You have also asked for the Social Security Administration's reaction to the provision of H.R. 9212 which prohibits the denial of black lung benefits solely on the basis of a negative x-ray. Dr. DuVal has written you a letter on this point which reflects the position being followed by the Social Security Administration. It is quite clear that the overwhelming consensus of expert medical opinion is that there is no medically-acceptable means other than x-ray (except lung biopsy in very unusual cases) for diagnosing coal worker's pneumoconiosis in the living miner.

If the agency is prohibited by H.R. 9212 from denying claims on the basis of a negative x-ray, there would be no sound medical way to tell which miners have breathing trouble due to black lung and which have similar trouble arising from some other lung condition. Numbers of people in every part of the country have breathing trouble due to emphysema, chronic bronchitis, or other respiratory disorders not peculiar to coal miners.

To pay black lung benefits on the basis of such non-occupational diseases would be altogether inconsistent with the expressed purpose of the law. At least of equal importance, it would be inequitable to provide the special payments to miners on the basis of non-occupational kinds of impairment—payments over and above social security disability benefits—when no such additional payments would be available to the great many nonminers suffering from similar problems.

Paying the black lung benefits on this non-occupational disease basis would give benefits to about 35,000 additional claimants.

The estimated first-year cost is \$182 million, and the total over the next 6 years could run to more than \$800 million.

Let me repeat again that the Administration fully supports those provisions of H.R. 9212 which would extend benefits of the program to 2,000 orphaned children, the so-called double orphans.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security.

Mr. DENT. Mr. Speaker, the following statement answers quite adequately the arguments of the gentleman from Illinois:

THE CHILDREN'S HOSPITAL
MEDICAL CENTER,
Boston, Mass., September 24, 1971.

Representative JOHN H. DENT,
House Office Building,
Washington, D.C.

DEAR SIR: I have recently seen a copy of HR9213 and of Report No. 92-460 concerning proposed amendments to the Federal Coal Mine Health and Safety Act of 1969.

The extension of benefits to "double orphans" of fathers who died with pneumoconiosis can only be applauded. The extension of the period during which federal benefits will be given also deserves support.

I write with particular reference to the medical criteria for determining the presence of pneumoconiosis. As the enclosed article indicates, this issue has been of some concern to me and to a number of other doctors.

As testimony led your committee to conclude, the use of rigid x-ray criteria to determine pulmonary disability in coal miners cannot be supported medically, and has prevented large numbers of disabled miners from receiving benefits to which Congress felt they were entitled by virtue of decades of hard work in the mines.

Accordingly, Section 4 of HR9212, barring the denial of benefits solely on the basis of a chest roentgenogram, deserves full support, and the Committee deserves credit for bringing this important reform before the whole Congress.

There is a further problem with the administration of the 1969 law, however, which HR9212, as reported out by the Committee, will not rectify.

Many miners and former miners have disabling pulmonary impairment which cannot properly be called "coal-dust pneumoconiosis." They are presently being denied benefits under the same thrifty but narrow interpretation of the law which gave rise to the x-ray requirement. These hundreds and thousands of men are too short of breath to get about, let alone work, but they will still be turned down for federal benefits, even if HR9212 is enacted, unless Congress spells out that it intends this legislation to benefit all miners with work-related pulmonary impairment, not just those with the more spectacular "black-lung" pneumoconiosis. This is not just a medical word game, nor is it as complicated as it seems at first.

Many physicians who have cared for and studied coal miners have found them susceptible to a variety of lung conditions which a single term like "pneumoconiosis" does not encompass. Some of these have been recognized for decades, like silicosis; others, like difficulty in moving oxygen from the lungs to the bloodstream, have only been described more recently. They are not so uniquely related to coal-mining as is the characteristic "black-lung," proverbially (and often literally) full of coal dust, but they occur in coal miners in proportion to the years they spend underground, and so are a work-related condition. Their causes, too, involve other factors besides coal dust, like silica dust from sand, and harmful gases from cable and motor fires; these affect the miners' lungs in ways still to be precisely defined. Medical science still has many unanswered questions in this area.

One former miner, who grew short of

breath just standing and talking and who has been denied black lung benefits, expressed his own bewilderment in terms many doctors would agree with, when he told me, "I don't know where it came from, but I know what I've got."

The point is simply that many such breathless men are presently incapacitated by pulmonary insufficiency which is just as disabling and just as related to their exposure underground as is the specific entity coal-dust pneumoconiosis, but they will still be excluded from benefits under HR9212 unless Congress instructs those administering the law to include them.

I prepared the enclosed review of this topic as background for a group of doctors who traveled to Beckley, West Virginia, two weeks ago to examine such men. The group released the enclosed statement. The names of the members of the group are attached. Rather than try to establish a list of specific diseases for which miners should be compensated, the group avoided that morass and concluded that benefits should reflect how much a man is impaired, not what diagnosis we can fit him into. Otherwise, he (and his family) would be paying for the incompleteness of our knowledge. What we do know now, without further study, is that many men are too short of breath to work after decades in the mines; medical advice hardly seems necessary to decide that they deserve benefits.

The Black Lung program, we feel, will remain both medically unjustified and cruel and arbitrary to the nation's miners until it makes benefits go to men according to how limited their lungs are, and not according to the presence of that one of the several kinds of pulmonary impairment which miners acquire underground which we decide is the "right" one.

Yours truly,

GORDON HARPER, M.D.

Mr. PERKINS. Mr. Speaker, debate on H.R. 9212, the black lung benefits bill amending the Federal Coal Mine Health and Safety Act of 1969, provides for the payment of benefits to so-called double orphans—the orphans of a miner who has died of pneumoconiosis, whose spouse has pre-deceased him or has died after establishing her entitlement to benefits. When both the miner and his spouse have died, dependent surviving children are not presently entitled to benefits. This is in spite of the fact that the act permits augmented benefits to the miner or his widow for the support of such dependent children.

Section 2 of the act provides that the black lung benefits program shall not be considered a workmen's compensation law or plan for purposes "of the disability insurance provisions of the Social Security Act."

If there is anything that was established in the legislative history of the Coal Mine Health and Safety Act, it was that we did not intend the black lung benefits program to be a workmen's compensation program.

Section 3 of the bill extends for 2 years the existing program for payment of black lung benefits. Under the act, the program responsibility is to be shifted from the Federal Government to the States and mine operators in 1973. No State at this point has modified their workmen's compensation law to provide adequate coverage for pneumoconiosis. Several have bills pending in their legislature but it is evident that the vast majority will not have time to legislate on this problem.

Section 4 of the bill prohibits the use of chest X-rays as the sole basis for denial of claims under the act. This is apparently necessary to clarify the congressional intent with respect to the determination of total disability due to pneumoconiosis. This act was passed and expressly intended by the Congress to be liberally and generously interpreted. The administration has not so interpreted it, and it is necessary for the Congress again to act.

To show you the extent of the default of the Social Security Administration, I am inserting in my remarks a copy of a letter from Dr. Roy Neal Calhoun of Hopkinsville, Ky., which he directed to FRANK A. STUBBLEFIELD, our colleague. It shows the utterly heartless and unconscionable extremes to which the administration has gone to deny benefits to black lung sufferers. I am inserting also in the RECORD an article by Dr. Donald L. Rasmussen, the director of the Pulmonary Laboratory of the Beckley Appalachian Regional Hospital in West Virginia entitled "Breathlessness of Appalachian Coal Miners." My colleagues will be able to learn about black lung, about its rehabilitating character, and about the difficulty of diagnosis which motivated the Congress to leave flexibility to those who were to interpret the law and administer it in the hope that they could use that flexibility to the benefit of the black lung sufferer.

The letter follows:

OCTOBER 9, 1971.

HON. FRANK A. STUBBLEFIELD,
House of Representatives,
Washington, D.C.

DEAR FRANK ALBERT: I called you yesterday about Wesley Fox of Mortons Gap, Kentucky. We discussed the fact that I recently prepared his application, which in essence is a first-appeal application, for "Black Lung" benefits. Mr. Fox's Social Security number is [REDACTED]. In my opinion, Mr. Fox certainly has chronic lung disease that was caused by his occupation as a coal miner for 51 years. Recently, every application that we have sent to the Social Security Administration for Black Lung Benefits has been turned down. I believe that I can explain to you why this is true, and this is certainly not fair, and if this procedure is going to continue, I think that Congress should repeal the Coal Miners Health and Safety Act that was passed in 1969.

Mr. Fox is 73 years old. He worked underground in the coal mines for 51 years, and at the present time, he is practically dead with chronic lung disease. By chronic lung disease, I mean asthma, emphysema, pulmonary fibrosis, atelectasis, bronchiectasis, and pneumoconiosis. The Social Security Administration, however, refuses to grant these people their pneumoconiosis benefits unless they have drastic reduction of their pulmonary function and typical findings of pneumoconiosis on the chest x-ray. This is perfectly ridiculous and insulting to anyone who has seen and worked with these patients.

Your not being a doctor, let me explain some of the terms that we are using. *Pneumoconiosis* means scarring of the lungs because impurities which could not be excreted or coughed out while the applicant was working in the coal mines, and scar tissue was laid down by the body around this foreign particle. The lung further goes on to try to compensate for this injury, and it tries to compensate by enlargement of the chest. Instead of improving itself, it damages the pulmonary system by forming *emphysema*, which in lay terms means that the small cavities of the lung that you breathe with have been replaced by scar tissue and large cavities which cannot exchange oxygen well.

The patient will get air into these cavities, and it does not get out quickly, and a small surface is exposed to the air which he inhales. Consequently, the patient cannot obtain enough oxygen in order to continue doing work other than very light work.

Charles Howell of Dawson Springs, Kentucky, whose Social Security number is [REDACTED]. A, was turned down twice for his Black Lung Benefits while he was alive. He died on my service here at Jennie Stuart Hospital recently, and at autopsy, the patient was found to have pneumoconiosis.

Finis Johnson of St. Charles, Kentucky, had been turned down twice by the Social Security Administration for Black Lung Benefits. By doing an open lung biopsy, it was found that the patient had pneumoconiosis, and then the Social Security Administration grudgingly gave him his benefits. His Social Security number is [REDACTED].

Now we are being faced with a large number of applicants who have worked "at the face of the coal," who have been cutters and pinners, and worked in the mines years before there was any control of the dust particles. Only common sense dictates that these patients have breathed in particles of sand, limestone rock, carbon, which is the main element of coal, and this has produced silicosis, pneumoconiosis with its scarring, decreased ability to exchange air, and of course, making the patient "a sitting duck" for recurrent lung infections.

These people, to describe them more fully, have a barrel-shaped chest, which is nature's way of trying to increase their breathing capacity. They have widened ribs; whereas, a man like you can expand his chest approximately three inches with inspiration, these poor individuals do well to go anywhere from 1½" to ½". Therefore, they literally are "gasping for breath." They are forever developing pneumonia, attacks of asthma. They develop heart disease as a result of the increased resistance, where the heart has to pump blood through the lungs, and they develop *bronchiectasis*, which is a complete change and distortion of the bronchi in the lungs, which fills with mucous, pus, and other materials that are infected and cause the individual to be a "pulmonary cripple."

The Social Security Administration refuses to accept the clinical impression of the patient's family physician; they refuse to accept anything except drastic reduction of pulmonary functions and pneumoconiosis on the chest X-ray, or autopsy findings, or biopsy findings. This prevents thousands of people from obtaining their benefits which are justly due them. I have several patients who have such poor pulmonary functions that they cannot undergo open lung biopsy because they would die with pneumonia from such a minor procedure. The people in the Social Security Administration know this, and consequently they feel safe in rejecting these individuals, knowing that their physician will not jeopardize their lives in order to obtain their benefits. Therefore, we, the practicing physicians, and the patients are forced to wait until he dies and get an autopsy.

It is my opinion and the opinion of numerous other physicians that the "Black Lung Law" of the Social Security Administration should be repealed unless Congress takes a new look at it and changes some of the methods of its administration and allow the benefits that are due the patient to reach the patient who qualifies for the benefits.

At the present time, it is only keeping a horde of bureaucrats on the payroll, and only a few individuals are receiving any benefits. Of course, the people who are administering this program can furnish you all kinds of statistics showing how many people they have processed and how many people who have gained benefits after processing, and how they are so short of help that they cannot possibly process these applicants' benefits any faster.

Your being an old Western Kentucky boy, remember the saying in our area: "Figures don't lie, but liars do figure."

In summary, I believe Congress should intervene in the Black Lung situation. Applicants have scarred lungs, decreased breathing capacity, foreign bodies infiltrated into their lungs that precipitated this decreased breathing capacity, but this cannot be proven until the patient dies because of the rigid standards the Social Security Administration has placed upon the applicant and the medical profession. If this cannot be changed or modified, the law should be abolished, because no one except those who have open lung biopsies, autopsies at death, and only a very few who happen to be lucky enough to show pneumoconiosis on their chest X-rays and marked decreased pulmonary function studies, can obtain these benefits.

It would be only reasonable and appropriate to evaluate the history and physical of the individual who is applying; to evaluate the pulmonary function studies, or breathing studies, which gives the figures on what percent of normal a patient can still breathe, and the chest x-ray interpretation with comments from the physician should be instituted in place of the rigid standards that are now enforced.

Mr. Fox, who I have mentioned previously, has chronic lung disease, only one kidney, and it has a stone and cyst on it, diverticulosis of the colon, arteriosclerotic heart disease, and he is grossly underweight and extremely frail. An open-lung biopsy, in my opinion, would cause this patient to develop pneumonia and die. If it is necessary to die in order to obtain Black Lung benefits, the tax payers should be relieved of this unreasonable burden.

I am asking you to intervene with the Social Security Administration for Mr. Fox. I will be in contact with you about others. The present program and the rejection of the applicants is not in keeping with the purpose of the act passed by Congress in 1969, and something has to be done.

Your consideration of this is highly appreciated, and I hope that you will talk to your friends in Congress who will activate some type of movement that will bring sense and stability out of chaos.

We look forward to seeing you the next time you are at home and Congress is in recess. We appreciate all that you have done for us in the past.

Sincerely and gratefully yours,
NEAL CALHOUN, M.D.

[From Appalachia Medicine, September, 1969]

BREATHLESSNESS IN SOUTHERN APPALACHIAN COAL MINERS

(By Donald L. Rasmussen, M.D.)

Most authorities on occupational respiratory diseases believe disabling pulmonary impairment among bituminous coal workers is limited to cases of complicated pneumoconiosis ("Progressive Massive Fibrosis or PMF") or to those miners who develop chronic, non-specific, obstructive, bronchopulmonary disease. In either case, significant obstructive ventilatory insufficiency is felt to be a major factor leading to disabling symptoms. The simple nodular forms of coal workers pneumoconiosis are thought to be responsible for dyspnea only rarely. Simple pneumoconiosis is considered significant only as a precursor to PMF, by many. Our experience in performing physiologic studies in 4,087 bituminous miners from southern West Virginia and adjacent areas of Virginia and Kentucky, leads us to differ in some respects with these conclusions.

BACKGROUND

Since our observations began in 1962 and 1963, we have regularly encountered miners who complained of effort dyspnea of varying degrees, whose roentgenograms revealed only

minimal abnormalities and whose ventilatory capacities were normal. In the majority of such cases, no evidence for non-pulmonary causes of dyspnea could be found. It seemed unlikely that anxiety or other functional causes could be responsible for the symptoms in the majority. For these reasons, we endeavored to evaluate more thoroughly additional parameters of respiratory function. In addition to the routine pulmonary function testing (ventilatory capacity) and lung volume determinations, we have investigated the mixing of inspired gas, the mechanical properties of the lung, alveolar gas exchange, blood gases, diffusion and the response to exercise. The complete studies have been performed on all patients referred for evaluation, regardless of roentgen findings, severity of complaints, ventilatory capacity or reasons for referral.

SUBJECTS

The more than 4,000 miners evaluated in this laboratory were referred mainly from southern West Virginia, eastern Kentucky and southwestern Virginia. Approximately 10 per cent denied effort dyspnea. Some of these were referred because of the incidental finding of pneumoconiosis on a chest roentgenogram alarmed the patient or his physician. A few subjects sought medical evidence of good health in an effort to obtain re-employment in the mines, since this had been denied them because of X-ray abnormalities. Other asymptomatic men were curious about the status of their lungs. Many men with minimal effort dyspnea were referred for the same reasons.

More than one-half were referred in connection with claims for disability or compensation benefits.

Slightly more than 60% were currently employed in the mining industry. Almost all were ambulatory out-patients.

One outstanding characteristic of the entire group was the high level of cooperation shown.

The subjects studied are not a representative sample of miners in this region. They have, however, provided us with the opportunity to observe a wide range of symptomatology of all degrees of severity.

OBSERVATIONS

Roentgenographic evidence of definite pneumoconiosis was present in four-fifths of the subjects. Abnormally increased linear markings ("nonspecific fibrosis") were noted in most of the remaining cases. Complicated pneumoconiosis (PMF) was noted in fewer than 10%.

Ventilatory insufficiency was detected in fewer than 45% of the total patients studied. In no more than one-fourth of these could the ventilatory abnormalities be classified as severe. It should be noted, however, that many physicians and agencies refrained from patients with obvious severe obstructive disease.

We have consistently observed a lack of correlation between ventilatory function and x-ray categories of pneumoconiosis.

While abnormalities of gas exchange, on the average, are slightly greater in men with advanced x-ray categories, severe gas exchange impairment may occur in the presence of only minimal roentgen abnormalities.

Among those men who denied effort dyspnea, impaired oxygen transfer, slight hypoxia and reduced diffusing capacities were noted in nearly one-half. Ventilatory function and response to moderate to moderately heavy exercise were usually normal, however. We consider these findings evidence of preclinical pulmonary insufficiency. Serial studies have yet been too few for conclusions, but we suggest that evidence of impaired oxygen transfer may be the earliest detectable physiologic abnormality in our miners.

In those patients who complain of moderate to severe dyspnea in the presence of normal ventilatory function, impaired oxygen

transfer and increased dead space ventilation are almost always more marked than in the asymptomatic group. Inappropriately increased ventilatory response to exercise is almost invariably noted as well. There is a poor correlation between oxygen tension values per se and dyspnea or exercise intolerance. The hyperventilation is often sufficient to maintain oxygen tension at only minimally to moderately reduced levels. Alveolar-arterial oxygen tension gradients are significantly abnormal, however. The degree of hyperventilation is variable, and no doubt affected by conditions other than pulmonary disease. Apprehension, lack of familiarity with exercise apparatus, poor physical conditioning, and possibly musculoskeletal abnormalities may contribute to the increased ventilatory response. Efforts to reduce or eliminate some of these extraneous factors often result in a considerable reduction in ventilation in our subjects. This is invariably followed by a decline in arterial oxygen tension, not infrequently to very low levels.

Somewhat greater impairment in oxygen transfer is observed in those subjects with impaired ventilatory capacity. There is, however, a poor correlation between the degree of impairment in oxygen transfer and ventilatory dysfunction.

Significant physiologic abnormality can be demonstrated in the majority of our miners who complain of effort dyspnea. Tests of ventilatory capacity alone fail to detect abnormalities in many of our subjects. The poor correlation between functional impairment and x-ray category leads us to conclude, that while the roentgenogram is an essential part of the evaluation of each case, it is of little value in determining the degree of incapacity. It is of interest, however, that the roentgenogram is abnormal in almost all of our impaired subjects. In those subjects who are severely disabled, but whose roentgenograms fail to reveal diffuse abnormalities, obstructive bronchopulmonary disease is usually present.

We regard the respiratory diseases of coal miners as falling into two major categories. One is characterized predominantly by obstructive airway disease, indistinguishable from the chronic nonspecific obstructive respiratory disease which affects many men and women in all areas. At the opposite end of the spectrum are those patients without ventilatory insufficiency, but who exhibit impaired oxygen transfer, increased dead space ventilation and inappropriately increased ventilation with exercise. Encountered between these major groups are cases showing varying degrees of ventilatory disturbances plus impairment in gas exchange. Most often increased dead space ventilation and impaired oxygen transfer are out of proportion to the degree of ventilatory impairment.

In serial studies of a limited number of cases, we have noted the appearance of mild obstructive ventilatory impairment in cases originally presenting with disturbances in gas exchange only. We have no information to indicate the ultimate course of these patients, however.

DISCUSSION

Our data does not allow us to predict the incidence of respiratory impairment in coal miners in this region, nor does it allow us to predict the relative predominance of primary gas exchange versus ventilatory impairment. Judging by the constant flow of cases with significant symptoms, the incidence of respiratory impairment in general must be very high.

The question of etiology cannot be answered from our data. However, the average age and years of employment among our impaired subjects are about five years lower among face workers in mechanized mining operations than all other workers. In addition, those miners who smoke show greater impairment than nonsmokers. This distinction is very clear with regard to impairment

of oxygen transfer even in those subjects with normal ventilatory functions. There can be no doubt that cigarette smoking is very deleterious to men who engage in coal mining.

That our observations do not support some of the generally held concepts regarding pulmonary impairment among coal workers is obvious from the above. Others have also taken exception to these conclusions, pointing out that neither roentgen findings nor tests of ventilatory capacity alone are adequate for assessment of disability among coal workers. Impairment in oxygen transfer and impaired diffusion have been reported by a number of European observers among patients with only simple forms of pneumoconiosis of coal workers.

This single definitive study, from which most authorities derive the presently held concepts, is that of Gilson and Hugh-Jones. This monograph is a classic in terms of the physiologic investigations performed. There is a grave and readily recognized error in sample selection, however, which throws serious doubt as to the validity of the conclusion of these authors regarding the relationship between X-ray abnormality and impaired function. The cases selected for study were obtained from two entirely different populations. Those subjects with no pneumoconiosis and those with simple pneumoconiosis were drawn from the largely non-symptomatic miners activity working. Their subjects with complicated pneumoconiosis (PMF), on the other hand, were selected from men attending a clinic and from men hospitalized because of respiratory symptoms. It is not surprising that their cases of PMF resembled patients with chronic bronchitis. Their failure to encounter significantly impaired men from the active working force may have been the result of selective removal of symptomatic men from the mining industry.

It is recognized that many miners with simple pneumoconiosis may continue working for years before symptoms occur or abnormalities of function can be detected. The time of earliest x-ray appearance of diffuse abnormality is unknown in our miners. In our very limited experience with miners whose x-ray were diagnostic of pneumoconiosis 15 to 25 years earlier, we have not been impressed with a marked change in x-ray corresponding to the onset or progression of symptoms.

Efforts to reduce dust levels in European coal mines contrasted sharply with the situation in coal mines of Southern Appalachia. We believe this factor, along with the failure to examine our miners at intervals, can largely account for any difference in functional capacities between European and American miners.

There is no reason to conclude that coal miners are less subject to nonspecific obstructive respiratory diseases than are other segments of the population. Whether occupational exposure in the mines causes or aggravates these conditions is unsettled. It is not unreasonable to presume that both are true. It must be concluded, however, that other mechanisms are operational in the causation of impairment in gas exchange.

We have previously suggested that the periarterial pigment mantles around the smallest muscular arteries of our miners may be responsible for the impaired function which we observe. Further evidence for this concept has recently been reported by Naeve, Laqueur and Wells. They have demonstrated significant pathologic changes in small muscular arteries in cases of uncomplicated, simple, coal workers pneumoconiosis. The lesions are localized to the segments surrounded by pigment mantles. These lesions are believed capable of causing the physiologic disturbances in our miners. The physiologic findings in our breathless miners are very similar to those reported by Nadel and others in dyspneic patients with pulmonary vascular lesions.

SUMMARY

Studies of more than 4,000 bituminous coal miners in the laboratory lead us to conclude that disabling pulmonary insufficiency is common among bituminous coal miners. Chronic nonspecific obstructive bronchopulmonary disease, similar to that seen in the general population, is encountered frequently. Breathlessness is also often associated with abnormalities of oxygen transfer, increased dead space ventilation, and inappropriately increased ventilation with exercise, in the absence of reduced ventilatory capacity. We believe the latter disturbances may be the result of primary vascular damage.

There is a poor correlation between roentgen categories of pneumoconiosis and functional loss. Disabling impairment is a frequent finding in miners with only minimal x-ray abnormalities. Roentgenographic abnormalities may exist for many years in working miners before symptoms or abnormal function tests are manifest. Impaired oxygen transfer may be demonstrated in some miners, prior to the onset of symptoms.

Definite abnormalities of function can usually be detected in dyspneic miners providing appropriate methods of study are employed.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks at this point in the RECORD.

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

There was no objection.

THE PRINCETON CONFERENCE ON THE FEDERAL BUREAU OF INVESTIGATION

The SPEAKER pro tempore (Mr. KEE). Under a previous order of the House, the gentleman from New Jersey (Mr. HUNT) is recognized for 60 minutes.

GENERAL LEAVE

Mr. HUNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous matter on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUNT. Mr. Speaker, the much publicized conference on the role of the Federal Bureau of Investigation in American life, announced last spring during the height of the spleen-venting charges against the FBI, drew some 50 plus radical lawyers, journalists, scholars and former Justice Department staff members to the Princeton University campus on October 29 and 30.

Cosponsored by the New York-based Committee for Public Justice and Princeton's Woodrow Wilson School of Public and International Affairs, the 2-day anti-FBI conference was billed as a "nonpartisan, scholarly effort to understand the structure of the FBI and its powers and role in American society."

Among the organizers who represented the committee for public justice, it was indicated that the committee was formed about a year ago as an organization of private citizens concerned that the Nation "had entered a period of political repression," and was reported that the conference was held at Princeton University "in an atmosphere removed from the pressure of politics." Despite the oft-repeated use of the words "scholarly," "serious," and "objective," it was evident from the character of the participants and the nature of their presentation that the FBI was to be dismembered and discredited as an effective and efficient law enforcement agency. In the fact of this obvious bias, there was no choice but for FBI Director J. Edgar Hoover to decline the invitation for an FBI representative to "strongly defend the Bureau and its role." In the words of the Director:

We are declining in view of our serious doubt that any worthwhile purpose could be served by an FBI representative attending an inquiry casting him in the role of defendant before even the first fact is brought out, and condemned by the "judges" before trial begins.

The three conference chairmen presiding over the conference sessions were Dr. W. Duane Lockard, chairman of Princeton's Department of Politics, and two members of the Executive Council of the Committee for Public Justice, Dean Burke Marshall, deputy dean of the Yale University Law School, and Prof. Norman Dorsen, professor of law at the New York University Law School. All of these men are characterized by their leftist politics. For example, showing his predilection for new left "scholarship," Professor Lockard had his two daughters go to Cuba with the admittedly pro-Communist, radical venceremos brigade. He was the "guy with the idea" for the conference. Burke Marshall, on the other hand, was a liberal pawn of the Kennedy administration and Norman Dorsen is the general counsel for the "anything goes" American Civil Liberties Union.

The credentials of these men, which do nothing to inspire confidence as to their objective abilities, are overshadowed, however, by the actual participants who prepared papers for presentation to the conference who were rewarded by the handsome sum of \$1,000 each.

Among them was Frank Donner, a New York lawyer, who professed to be a professional in the use of informers. Donner has defended numerous Communist party functionaries tried for violations of the Smith Act of 1940 and, in 1956, he invoked the fifth amendment against self-incrimination 33 times when questioned regarding his past Communist affiliations or whether he knew certain people as Communists.

Robert Sherrill was reported in the press as having given "a semi-hysterical account of J. Edgar Hoover" in his presentation on "the Selling of the FBI." Among the list of Sherrill's credentials is his position as the Washington editor of the Nation and original editor of Mayday, a magazine self described as "dedicated to revolutionary journalism" and described by the New York Times as "a

four-page weekly tabloid oriented toward muckraking and radical politics." Sherrill also distinguished himself as the author of unflattering biographies of President Johnson—"the accidental President"—and Vice President Humphrey—"the drug store liberal".

The credibility of Fred Cook, who prepared a paper on the FBI and organized crime might be judged in light of Cook's past as a reporter for the New York World-Telegram and Sun when he was discharged for fabricating a newsworthy with respect to the alleged corruption of a New York City official.

Vern Countryman, now a professor of law at Harvard University, has a past which reflects upon his ability to be objective and detached from a political approach to the issues. A past member of the National Lawyers Guild, cited by the former House Un-American Activities Committee and the Senate Internal Security Subcommittee as a Communist front. Countryman once urged clemency for Ethel and Julius Rosenberg, convicted and executed Soviet spies. He has also been an official of the national committee to abolish the House Un-American Activities Committee, now known as the House Internal Security Committee, and has been active in behalf of the Angela Davis legal defense fund.

The FBI as a Political Police was prepared by none other than "Izzy" Stone, also publisher of his own independent and radical newsletter. Stone has frequently criticized moves to curb subversive activities in the United States and has been active in movements to abolish the former House Committee on Un-American Activities.

Among the so-called "Insiders", former FBI agent, William Turner prepared a paper on An Insider's View of the FBI. Turner, still bitter about his dismissal from the FBI on the grounds that he lacked the truthfulness, accuracy, and responsibility required of an FBI agent, can hardly be looked to as a fountain of truth. He might have been vindicated had the courts ordered his reinstatement, but after a long legal battle, the U.S. Supreme Court refused to hear his case after his dismissal had been affirmed by the Court of Appeals for the District of Columbia.

I could go on and on citing the credentials of the conference participants, but as reflected by this sampling, it would only serve to fortify my view that the conference could scarcely approach this sensitive subject, controversial as it is, with the scholarly, serious, or objective nonpartisan interest claimed by its organizers. In fact, of the 55 participants, only two were admitted to be in defense of the FBI. In short, there was no balance; the conference was a flop in terms of putting the powers and role of the FBI in American life in perspective. I would caution, however, that the record being built by these subscribers to the radical politics of the new left is devious; it is designed to undermine public confidence in the finest law enforcement agency in this country, and it can be counted on to be used time and time again by radical sympathizers in the hope that the repetition of the fiction will eventually come to

be recognized as the truth. In essence, it is the purpose of this special order today to put this conference in its proper perspective so that the rantings and ravings of the committee for public justice that can be expected to continue will not be the only basis upon which our citizens can make their own independent judgment.

Mr. Speaker, there is yet another aspect of this conference that is deserving of mention: namely, student reaction. Undergraduates for a Stable America—U.S.A.—is an organization of responsible Princeton University undergraduates dedicated to protecting and maintaining an atmosphere of academic freedom and academic balance at Princeton. Viewing the FBI conference as a "biased condemnation of the bureau under the guise of nonpartisan, objective scholarship," the U.S.A. group expressed its deep concern that "Princeton is doing an injustice to its prestigious name and the scholarly pursuit of truth by co-sponsoring such a biased convocation."

As if to add insult to injury, the conference was apparently well financed and at least partially subsidized by the taxpayers in the form of income tax deductions. From the October 30 issue of the Washington Post, I quote verbatim:

Authors of the 13 individual papers that form the basis for the conference were paid \$1,000 each. They are also included among the 55 participants who were paid travel and living expenses for the meeting.

One organizer said:

The total budget for the conference is \$30,000, two-thirds of which was donated by an anonymous New York couple. He said their \$20,000 donation was tax deductible because it went to Princeton but was earmarked for conference expenses. The balance of the funding came from two \$5,000 grants by the Field and New World foundations, New York-based groups which usually fund liberal study groups.

Mr. Speaker, while ostensibly a scholarly effort to study the powers and role of the FBI in American society, it is evident from the nature of the materials presented that their authors intended to castigate the FBI and its Director. Perhaps the real purpose served by the conference, however, was to alert people to the increasingly sophisticated nature of divisive elements within our society which purport to speak for the general public. The voice of such dissident, radical groups has been heard, to be sure, but it would be a mistake to let it be the only one.

Mr. DEVINE. Mr. Speaker, I want to express to my colleague from New Jersey my appreciation for his having taken this special order to discuss the Princeton conference on the FBI.

I am deeply concerned about this conference because of the irresponsible attacks on the FBI and its Director, J. Edgar Hoover, which occurred there. I am even more concerned, however, because this conference represented an attack, not merely on the FBI as it presently exists and operates, but, more fundamentally, an attack on the right of a nation to have a surveillance organization of this type at all.

As Frank G. Carrington, executive director of Americans for Effective Law

Enforcement and one of the two observers present who were FBI defenders, put it, the conference was—

an attack on the country's right to have intelligence on subversives . . . We felt that a country has a right and a duty to protect its citizens from people who want to tear down the fabric of society.

I agree with Mr. Carrington as regards both the thrust of this conference and his observation on why we cannot permit such a concept to gain general currency.

A thread of opposition to FBI surveillance of dissident groups ran through the dissertations of the generally left-wing, FBI-hating participants. All were clearly politically motivated. Witness the following examples: Prof. Thomas I. Emerson of Yale Law School was quoted as saying the FBI's "political warfare against dissident groups raises the specter of a police state."

Prof. Frank Donner, also of Yale Law School, reportedly said that political informers used by the FBI are "intended as a restraint on free expression, as a curb on movements for change."

He continued:

It can hardly be denied that the self-censorship which it (surveillance by informers) stimulates is far more damaging than many expressed statutory or administrative restraints.

Former FBI Agent Robert Wall charged that:

Anyone who would say something against the Vietnam war had to be watched and watched closely. The chilling effect was very real.

Yet such criticism was plainly politically motivated. Most of the participants would not have agreed that this sort of surveillance carried the same onus when directed against such elements as the Ku Klux Klan.

Indeed, John Doar, former Assistant Attorney General for Civil Rights during the Kennedy administration, was described as expressing the strong feeling that the use of informants was necessary in protecting civil rights workers and combating organized crime.

Perhaps he was aware that it was FBI informants who enable the FBI to capture the bombers of the Birmingham church where several small children were killed and informers who led law enforcement officials to the murderers of civil rights workers in Mississippi.

The long history of FBI monitoring of the Klan and its individual members, in their private lives as well as in their organization activities, has never led to public outcries of repression, or police state, or the chilling effects of surveillance.

But in the eyes of the participants in this conference, when the same methods are applied against radicals of the left—the S.D.S., Weathermen, Black Panthers and the like—whose violent acts and divisive activities threaten our peace and liberty, and play into the hands of our external Communist enemies, they suddenly become evil, repressive, and chilling.

What these people seek is not an impartial agency devoted to ferreting out crime and subversion, evenhandedly,

wherever it exists, but an agency with political blind spots which will fight organized crime, protect civil rights workers, and ignore the protestors and demonstrators of the left while ruthlessly repressing the Ku Klux Klan, the Minute Men, or anyone else who gets in the way of their kind of progress.

The irony of this position is that, while the right is accused of a warped love of country, the destructiveness of the radical left grows out of a warped hatred for America and her institutions. Thus, if they do wreak havoc in the country and help to create conditions that enemies—particularly those of a Communist bent—may exploit, still the right would never overtly encourage a foreign enemy and, indeed, can be expected to consistently oppose our foreign enemies.

The radical left, on the other hand not only wreaks havoc within the country, but since the advent of the Communist conspiracy, often deliberately co-operates with foreign subversive elements.

Anyone not predisposed to a radical political position knows that a free society has an inherent right to protect itself against those enemies, whether foreign or domestic, who seek by violent or illegal means to change or destroy that society.

Professor Donner provides an example of the way in which participants ingeniously tried to cloud the real issue when he suggested that:

Thoughtful Americans must begin to ask themselves whether 'national security . . . really requires that we corrupt and bribe our youths, blacks, professors, students and others to betray friends and associates; whether there is no other way to defend ourselves . . . than to institutionalize the surveillance of non-violent protest activity.

Such a statement requires us to accept the undocumented assertion that FBI informers are bribed and corrupted individuals or that the betrayals to which he refers are worse than the betrayals of our society in which the betrayed are themselves engaged. It further requires acceptance of an implied premise—that nonviolent protest activity bears no relationship to violent protest and that the two forms can be successfully and universally distinguished in advance. Such a premise is obviously false.

Perhaps the most frightening assertion of the concept that the country has no right to an FBI came from Harvard Prof. Vern Countryman who argued that the FBI "should be confined to the enforcing of criminal statutes" and abandon its work of compiling intelligence dossiers that deal with political organizations. Asked by Mr. Carrington if he would rather have people killed in a bombing than have a bureau informant in a political group, Countryman reportedly answered:

There are worse things than having some persons killed—for example having a whole society intimidated.

"Talk about people who don't value human life," commented Carrington of Professor Countryman's reply. And I agree. When a university professor can subordinate human life to a constitutional abstraction which is premised on the false idea that our whole society is

intimidated, we are in real danger. He is, in my opinion, walking evidence of the need for the work the FBI is doing.

Mr. WAGGONER. Mr. Speaker, the FBI as an organization and its Director were the objects of biased scrutiny by the self-appointed citizen participants at the recent Princeton Conference. It is safe to say, however, that the great majority of Americans do not share the paranoid concerns of these leftwing vigilantes. To the contrary, our society is the more secure from erosion from within because of the efficiency and effectiveness with which the FBI has carried out its responsibilities mandated by the Congress and supervised by the U.S. Attorney General. Even the U.S. Supreme Court under Chief Justice Warren, during the period of the Court's liberal extension of the protections accorded individual liberties, recognized the exemplary record compiled by the FBI in its law enforcement activities. Speaking for the majority in the now famous case of *Miranda* against Arizona, 1966, the Chief Justice reflected upon the role of the FBI and the safeguards its agents were required to observe to protect the rights of criminal suspects.

Mr. Speaker, I include at this point in the RECORD the pertinent excerpt from *Miranda* decision:

MIRANDA AGAINST ARIZONA

Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement while advising any suspect or arrested person, at the outset of an interview, that he is not required to make a statement, that any statement may be used against him in court, that the individual may obtain the services of an attorney of his own choice and, more recently, that he has a right to free counsel if he is unable to pay.⁵⁴ A letter received from the Solicitor General in response to a question from the Bench makes it clear that the present pattern of warnings and respect for the rights of the individual followed as a practice by the FBI is consistent with the procedure which we delineate today. It states:

"At the oral argument of the above cause, Mr. Justice Fortas asked whether I could provide certain information as to the practices followed by the Federal Bureau of Investigation. I have directed these questions to the

attention of the Director of the Federal Bureau of Investigation and am submitting herewith a statement of the questions and of the answers which we have received.

"(1) When an individual is interviewed by agents of the Bureau, what warning is given to him?

"The standard warning long given by Special Agents of the FBI to both suspects and persons under arrest is that the person has a right to say nothing and a right to counsel, and that any statement he does make may be used against him in court. Examples of this warning are to be found in the *Westover* case at 342 F. 2d 684 (1965), and *Jackson v. U.S.*, 337 F. 2d 136 (1964), cert. den. 380 U.S. 935.

"After passage of the Criminal Justice Act of 1964, which provides free counsel for Federal defendants unable to pay, we added to our instructions to Special Agents the requirement that any person who is under arrest for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, must also be advised of his right to free counsel if he is unable to pay, and the fact that such counsel will be assigned by the Judge. At the same time, we broadened the right to counsel warning to read counsel of his own choice, or anyone else with whom he might wish to speak.

"(2) When is the warning given?

"The FBI warning is given to a suspect at the very outset of the interview, as shown in the *Westover* case, cited above. The warning may be given to a person arrested as soon as practicable after the arrest, as shown in the *Jackson* case, also cited above, and in *U.S. v. Konigsberg*, 336 F. 2d 844 (1964), cert. den. 379 U.S. 933, but in any event it must precede the interview with the person for a confession or admission of his own guilt.

"(3) What is the Bureau's practice in the event that (a) the individual requests counsel and (b) counsel appears?

"When the person who has been warned of his right to counsel decides that he wishes to consult with counsel before making a statement, the interview is terminated at that point, *Shultz v. U.S.*, 351 F.2d 287 (1965). It may be continued, however, as to all matters other than the person's own guilt or innocence. If he is indecisive in his request for counsel, there may be some question on whether he did or did not waive counsel. Situations of this kind must necessarily be left to the judgment of the interviewing Agent. For example, in *Hiram v. U.S.*, 354 F.2d 4 (1965), the Agent's conclusion that the person arrested had waived his right to counsel was upheld by the courts.

"A person being interviewed and desiring to consult counsel by telephone must be permitted to do so, as shown in *Caldwell v. U.S.*, 351 F.2d 459 (1965). When counsel appears in person, he is permitted to confer with his client in private.

"(4) What is the Bureau's practice if the individual requests counsel, but cannot afford to retain an attorney?

"If any person being interviewed after warning of counsel decides that he wishes to consult with counsel before proceeding further the interview is terminated, as shown above. FBI Agents do not pass judgment on the ability of the person to pay for counsel. They do, however, advise those who have been arrested for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, of a right to free counsel if they are unable to pay, and the availability of such counsel from the Judge."

The practice of the FBI can readily be emulated by state and local enforcement agencies. The argument that the FBI deals with different crimes than are dealt with by state authorities does not mitigate the significance of the FBI experience.

Mr. HOGAN. Mr. Speaker, when the Committee for Public Justice gathered in Princeton, N.J., 2 weeks ago they did

so amid the public utterances that their only purpose was to review objectively through "a scholarly effort * * * the structure of the FBI and its powers and role in American society." This assertion of scholarship and objectivity was made several times.

About the only way one could consider this "investigation" reasonable scholarship and objectivity is by believing what the committee said and ignoring what it did. I should like to address myself to one of the papers presented, that given of Prof. Thomas Emerson of the Harvard Law School. Having been an FBI agent myself and knowing first-hand how zealous the FBI is in protecting the rights of citizens, I was particularly interested in this paper, the title of which was, "The Federal Bureau of Investigation and the Bill of Rights." To say that the title is misleading is an understatement. It is misleading because, hidden in the cloak of scholarship and academic inquiry is an exercise in illogic and a rather straightforward "hatchet job." Professor Emerson poses the question: To what degree has the FBI affected the openness of society, particularly its system for the free exchange of ideas?

The professor announced that his evidence consists of two items—the famous Judith Coplon spy trial of 1949 and the records stolen from the Media, Pa., office of the FBI. Now, one should pause right here. Do you mean the professor is announcing that he is going to undertake a rather complex investigation of the FBI and its relationship to our society on the basis of those two items? That, Mr. Speaker is what the professor did, and did admittedly.

But that should not come as much of a surprise because in reading and analyzing the Emerson paper, one quickly comes to the conclusion that evidence plays very little role in the academic method of Professor Emerson. His style is assertion, his criteria for truth or falsity is his own beliefs. What it comes down to is that Professor Emerson is using his academic title to give his unsupported opinions undeserved credibility. All that can be said is that it is not scholarship—no matter how many times the Committee for Public Justice calls it scholarship.

The thesis of Professor Emerson is more intriguing than the lack of academic method. The professor sees the FBI as primarily a political organ, shaped by the rule and ideology of the Director, J. Edgar Hoover. He contends that the FBI has been shaped by the Director's view of the world and his ability to scare everybody to death. By and large this ideology—Hoover's—Emerson claims, "has consisted of a primitive anti-Communism, a messianic dedication to the 'American way of life', a hard-nosed view of law and order, and similar features." He continues—

The concept of "loyalty" and "subversive activities," as developed by the Bureau, carry it very far in the direction of viewing all militant or radical dissent as a threat to the national security.

The professor uses the proposition as proof to support the following conclusion—

⁵⁴ In 1952, J. Edgar Hoover, Director of the Federal Bureau of Investigation, stated:

"Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual. To turn back the criminal, yet, by so doing, destroying the dignity of the individual, would be a hollow victory.

"We can have the Constitution, the best laws in the land, and the most honest reviews by courts—but unless the law enforcement profession is steeped in the democratic tradition, maintains the highest in ethics, and makes its work a career of honor, civil liberties will continually—and without end—be violated. . . . The best protection of civil liberties is an alert, intelligent and honest law enforcement agency. There can be no alternative.

" . . . Special Agents are taught that any suspect or arrested person, at the outset of an interview, must be advised that he is not required to make a statement and that any statement given can be used against him in court. Moreover, the individual must be informed that, if he desires, he may obtain the services of an attorney of his own choice."

Hoover, Civil Liberties and Law Enforcement: The Role of the FBI, 37 Iowa L. Rev. 175, 177-182 (1952).

The FBI conceives of itself as an instrument to prevent social change in America.

It should be noted how the professor has taken a proposition regarding radicals and militants to come up with a totally different conclusion regarding the objectives of the FBI. Absolutely no evidence was offered.

After concluding that Alice-in-Wonderland journey through the world of logic, the professor turns his attention to the role the FBI plays in collecting data. Emerson charges, in indignant terms, that the FBI has been busy collecting data "that could conceivably be relevant to national security." Also, that the Bureau is a "general guardian of the national security." If I understand the professor correctly he is somewhat upset that: first, the FBI does what he says it does and second, does it for the stated reason. The professor is apparently quite confused.

What, pray tell, is wrong with the FBI's collecting data which could be helpful to protecting the national security? That happens to be one of the FBI's responsibilities.

The Emerson charge makes sense only if the individual doing the charging does not accept any idea of need for national security precautions. This, Mr. Speaker, is the key to understanding Professor Emerson. Any activity which is premised on the notion that society, through its government, can organize to frustrate and stop those subversive to its continued existence is, in Emerson's view not appropriate.

Approximately halfway through the 53-page paper, Professor Emerson introduces the Bill of Rights into the discussion, although it will be remembered that the title of his paper indicated that this was going to be the main topic. Regarding "constitutional limits on political surveillance," Emerson begins with the statement:

There can be little doubt that the operations of the Federal Bureau of Investigation, in their present form, infringe upon rights guaranteed by the first amendment.

The only supportive statement to justify this claim is: "The details could be spelled out at length." However, Emerson does not bother with such details. Apparently, the world is supposed to accept his word for it because he is a Harvard law professor.

This is again the recurring problem. In drawing the picture of the FBI as a monster, Emerson has done the job with the use of unsupported charges and unevincenced assertions. This I might add is typical of charges leveled against the FBI.

Mr. Speaker, it is all rather sad that some in our midst find it necessary to try to build within the consciousness of America fear of an institution which was created in their interests and whose record has been unblemished. Men like Professor Emerson should be repudiated because their "scholarship" is not scholarship at all, it really is pretense.

Mr. Speaker, one of the things that amazes me in these tirades against the FBI is that for the FBI to have done all the terrible things attributed to it, it would have been necessary to have had

the concurrence and collusion of numerous Presidents and Attorneys General of both parties, and the thousands of employees who work for the FBI. To think that all of these Americans would stand by and silently witness the things these carping critics claim the FBI has done, is absurd. Unsubstantiated charges ought to be dismissed outright even when the purveyor of the hogwash is a college professor.

Mr. COLMER. Mr. Speaker, recently the Federal Bureau of Investigation has been under attack, generally from those optimists in our society who are conveniently blind to the need of the Nation for protection from domestic foes. Behind their rose-tinted lenses, every face seems friendly, every intention innocent. They are sure that if we only opened our hearts the world would love us in return. Unfortunately they ignore some hard facts. One of those facts is that there is a real need for the job the FBI is doing.

The critics of our intelligence and investigative offices berate those offices for creating wrong impressions and hard feelings. Yet what do these critics themselves do? They frame their criticisms in insulting language. Their complaints are aimed at the emotions of their audience. They indulge royally in the same faults they condemn.

Mr. Robert Sherrill is an example of this. This former editor of Nation magazine read a paper at a recent Committee for Public Justice meeting in Princeton, N.J. This was supposed to be an intelligent, thoughtful critique of the FBI. But it devoted itself entirely to personal attacks on J. Edgar Hoover and Efram Zimbalist, Jr., the star of the television series, "The FBI."

Not only does he insult those two men; Mr. Sherrill insulted generations of Americans who, in the 1930's and 1940's were thrilled by the exploits of the national investigative agency and admired it for its role in defending the country. Really, Sherrill says they were bored by the depression and then scared by the war. During the 1930's, life was dull and their sympathies were really with the courageous gangsters who dared express their individuality. In the 1940's we were anxious, and willing to believe anything, so we transferred our frustration to imaginary foes. "And then came the 1950's" writes Mr. Sherrill. "Some of us let down our guard—we were willing to tolerate the dangerous radicals in our midst, excusing their perfidious ideologies in the name of Freedom of Speech. Not J. Edgar Hoover." Not the American people, either, Mr. Sherrill, though you might like to think so. Most people know that, just because a country has managed to survive 20 years of subversion does not mean it will survive another 20, or even another 10.

Mr. Sherrill charges that it is only the personality of J. Edgar Hoover that keeps the television series "The FBI" on the air. I disagree. The American television audience are the ones who keep the shows on the air. A show would not make money without a base of popular support. And if the show becomes financially unsuccessful, it goes off the air. Maybe it is no

masterpiece of art. But it is a good TV show. It is exciting and it is interesting. And the good guys usually win, and that is nice for a change especially when you watch it to relax and enjoy yourself.

So these are the substance of Mr. Sherrill's criticisms—personal insult, disparagement of the Nation's citizen, invalid complaints. Arguments like this do not show up any glaring faults of the Bureau—they merely betray the author's own illogical, sentimental, poorly thought-out liberal prejudices.

Fortunately, Mr. Speaker, I believe, as I am sure most of my colleagues believe, that Mr. Sherrill is not representative. He does not speak for the people of our great country. He speaks as a frustrated quasi-intellectual who needs something to complain about. The American people do have things to complain about, real things, like the economic difficulties and the decline of morality and the popularization of negative values in our society. We worry about things like this because only we can solve problems like this. But we worry too, because we have to worry, about foreign enemies and their domestic sympathizers and agitators. We have seen them fomenting internal dissension and disruption, creating hatred and bitterness. We know that such things exist and that something must be done about them if order is to be preserved.

Unlike Mr. Sherrill, who is so comfortably insulated in his intellectual fog the American people see reality. They know, as most of us here know, that absolutes are unrealistic. And, unlike overeducated, discontented liberals, they are willing to settle for what is better than nothing.

A little more sense of reality borrowed from our constituents might fit nicely in this Chamber, gentlemen. Yes, perfection is nice. But until the end of the world and the return to Eden, we are not going to have it. As long as America is America we are going to be hounded by people and nations who hate us and who will do everything they can to bring us down. We might as well adjust ourselves to that reality. We do not need to be obsessed by it; we need to recognize its existence and act accordingly. We can recognize, too, that perfection should not be ignored. We should work toward the balancing of all elements in the spirit of compromise between reality and perfection for which this Government is justly famous. And in the process of adjusting, let us be sure we protect our Nation's interest and existence.

Mr. Speaker, in reply to the reckless unjust criticism of Mr. J. Edgar Hoover, permit me to say in conclusion that I just happen to be one of those ordinary commonplace Americans who is grateful to the FBI and the years of dedicated, unselfish devotion and contribution of Mr. Hoover for perpetuating this Republic.

Mr. DICKINSON. Mr. Speaker, the last weekend in October was the occasion of a gathering at Princeton University of what was billed as a "scholarly effort to understand the structure of the FBI and its powers and role in American society." Such a scheme is certainly in accord with academic freedom as we now understand it, but a number of questions

immediately come to mind: How scholarly, indeed, was the meeting? Was it really unbiased?

Supposedly, the conference was sponsored by the Committee for Public Justice—a group whose leaders include such prominent, convinced leftists as Robert Silvers, formerly a national councilman of the National Conference for New Politics; Norman Dorson, general counsel of the American Civil Liberties Union, and Ramsey Clark—all of whose sympathies are notoriously hostile to the Federal Bureau of Investigation.

This meeting, ostensibly, was called to clear up some issues about the FBI. And perhaps it did. The left orthodoxy has now spoken; the line of approach will undergo only slight modifications from here on. The conference says it was going to provide an opportunity for congressional evaluation of the Bureau—but there is an annual evaluation of the Bureau by Congress, when appropriations are considered.

But an examination of the leaders of the conference, and of the participants makes quite clear that the purpose of the conference was nothing so objective or scholarly as pretended. As Alice Widener, the publisher of U.S.A. magazine has said:

Obviously it is a move by a leftist coalition among Democrats to try to stick the Nixon administration with an unfounded charge of using the FBI to create "political repression" in our Nation.

Political repression after all, is getting to be quite a rallying cry these days, among those revolutionaries whose persecution complexes find satisfaction in the efforts of decent society to maintain itself.

The rest of Alice Widener's article is worth reading, and, in my estimation, quite valuable. I would ask unanimous consent that it be inserted in the RECORD at this time.

PROFESSOR WITH A STICKY IDEA
(By Alice Widener)

NEW YORK CITY.—It isn't at all surprising that Professor W. Duane Lockard, Chairman, Department of Politics, Princeton University, told the press, "I was the guy with the idea" for the upcoming Conference on the FBI to be sponsored jointly at Princeton, October 29-30, by the Woodrow Wilson School and the ultra-liberal Committee for Public Justice.

Both of Prof. Lockard's daughters, Leslie Katherine and Janet Frances went to Cuba with the pro-Communist, radical New Leftist Venceremos Brigade; Leslie in December 1969, and Janet from March to May, 1971. Of course it may be that Prof. Lockard disapproves of his daughters' radical activities. But his sanction of the so-called "scholars" and "experts" invited to submit papers on the FBI shows his definite predilection for New Left "scholarship."

Among the papers scheduled to be presented at the Princeton kangaroo court hearing on the FBI are "Political Uses of the FBI" by longtime radical Leftist I. F. Stone; "Informers" by Frank Donner, notoriously pro-Communist New York lawyer who has taken the Fifth Amendment about his Communist Party activities again and again during Congressional investigations; "Selling of the FBI" by Robert Sherrill, writer for the radical Nation magazine and an editor of "Mayday," which described itself as dedicated to revolutionary guerrilla journalism. Another "scholar" scheduled to present an "Insider's View" of

the FBI is William Turner. A special FBI agent for ten years, Turner was dismissed from the FBI in 1961 for "lack of truthfulness" among other charges. He sought reinstatement through the Civil Service Commission and lost; he took his case through the U.S. courts all the way to the Supreme Court and lost.

That gives you an idea, dear readers, of the kind of objective political scholarship concerning the FBI that will be offered at Princeton this month.

The co-sponsor of the Conference on the FBI is the Committee for Public Justice formed in November 1970 by prominent ultra-liberal and radical Democrats alleging that our nation has entered "a period of political repression" under the Nixon Administration. On April 28, 1971, the Washington, D.C. Evening Star reported that spokesmen for the Committee for Public Justice held a press conference to announce that the "private group" would meet at Princeton to conduct "a scholarly serious study of the FBI." They chose the university as a meeting place, they said, because the conference would be held "in an atmosphere removed from the pressures of politics."

But politics, in my opinion, is exactly what the conference is all about—ultra-liberal and Democratic New Left politics mixed with pro-Communist politics.

Two of the leading spokesmen for the Committee for Public Justice are Burke Marshall and Roger Wilkins, both former Kennedy Administration aides. On the Committee's executive council are radical Leftists such as Lillian Hellman, playwright; Robert B. Silvers, formerly on the national council of the notorious and discredited National Conference for New Politics in 1967; Norman Dorson, general counsel of the "anything goes" American Civil Liberties Union. The politically ambitious left-leaning Democrat former U.S. Attorney General Ramsey Clark is on the Committee's executive council. The Committee's membership list is star-studded with radicals such as Leonard Bernstein, musician who raised funds for the Black Panthers; G. Van Woodward, a Socialist Scholar; Ronnie Dugger and Martin Peretz, both former members of the executive board of the Communist-collaborating National Conference for New Politics in 1967.

What really is the underlying motive for the Conference on the FBI at Princeton this month?

Obviously it is a move by a Leftist coalition among Democrats to try to stick the Nixon Administration with an unfounded charge of using the FBI to create "political repression" in our nation. In my judgment, the phony charge won't stick. Neither regular Democrats nor the vast majority of Americans will go along with it. They know the FBI never has and does not now play party politics. We also know the FBI is justly world famous for its efficiency, integrity and decency.

Prof. Lockard of Princeton will soon find out he has a sticky idea that won't stick.

Mr. PETTIS. Mr. Speaker, during this curious conference on the FBI, which my colleagues have been discussing a colloquy took place which, I believe, is indicative of the absolutist antilaw-enforcement views which permeated the affair.

On the morning of the second day of the conference, Prof. Vern Countryman of the Harvard Law School, an official of the National Committee To Abolish the House Un-American Activities Committee and a member of the National Lawyers' Guild, presented a paper dealing with the "History of the FBI." This was, however, Vern Countryman's eye-view of the history of the FBI, somewhat

less than objective, virulently critical of the Bureau and of Mr. Hoover, and condemnatory of the intelligence gathering activities of the Bureau. Professor Countryman may consider himself quite familiar with the intelligence gathering of the FBI through his activities in the Angela Davis Legal Defense Fund.

At the conclusion of Professor Countryman's paper, Mr. Frank Carrington, the executive director of Americans for Effective Law Enforcement, Inc., who was one of the very few people present at the conference who spoke in favor of the FBI and of the law-enforcement position, pointed out to Mr. Countryman that the recent bombing of school buses had been solved by the FBI because they had infiltrated the Klan with an undercover agent.

The following conversation then took place:

COUNTRYMAN. Well, my judgment would be that if the only way to detect that bombing is to have the FBI infiltrating political organizations, I would rather the bombing go undetected.

CARRINGTON. No matter whether somebody was killed?

COUNTRYMAN. Yes. Yes, there are worse things than having people killed. When you have got the entire population intimidated, that may be worse. We put some limits on law-enforcement in the interests of preserving a free and open society or at least we try to, and every time we do that—things like the privilege against self-incrimination things like the Fourth Amendment—every time we do that, that involves a judgment that even though some crimes and some crimes involving the loss of life will go undetected, it is better in the long run to have a society where there is some protection from police surveillance.

CARRINGTON. I'm not really sure that the family of Robert Fasnacht, who was blown up at Wisconsin, or the families of the kids that were killed in the Birmingham church bombing would agree with that.

COUNTRYMAN. I'm sure that the families of the victims would not agree in any of the instances that I've mentioned but I don't believe that most of us would say that for that reason we should repeal the fourth and fifth amendments.

Mr. Speaker, I am amazed at the position taken by a professor at one of this Nation's leading law schools that the value of human life is so insignificant that it must be subordinated to his notions of constitutional abstractions. That is a heartless position, yet no one at the Committee for Social Justice Conference except Mr. Carrington made a real challenge of Professor Countryman on this point. I believe that this absolutist view typifies a great deal of the anti-FBI and antilaw-enforcement bias of the conference. It certainly destroys, in my opinion, what little credibility the conference had.

**THE INCIPIENT CONFERENCE ON
THE FBI AT PRINCETON**

The SPEAKER pro tempore (Mr. KEE). Under a previous order of the House the gentleman from South Carolina (Mr. SPENCE) is recognized for 60 minutes.

Mr. SPENCE. Mr. Speaker, on October 28 I placed in the RECORD a column by William F. Buckley, Jr., reporting on the incipient conference on the FBI to be held at Princeton, which was billed as

an "inquiry into the role of the Bureau in American life." Mr. Buckley vividly described the background of various members of the executive council of the so-called Committee for Public Justice, principal sponsor of the conference.

One look at that executive council and the list of participants lined up for the conference convinced me it was designed and intended as a further effort to undermine the credibility and effectiveness of the FBI. The vast majority of them were clearly longtime, vocal FBI foes, extreme liberals, or former agents and informers who left the Bureau under some sort of cloud; people like Ramsey Clark, Lillian Hellman, Fred Cook, I. F. Stone, Shirley MacLaine, Arthur Schlesinger, Jr., Jules Feiffer, Frank Donner.

On the basis of eyewitness reports and the taped transcript of the proceedings, I am convinced, too, that charges and insinuations of the most irresponsible sort were made against the FBI and its Director in the course of the conference.

Naturally, therefore, I was puzzled by the press coverage of the event when it actually occurred. The general press reaction might best be summarized in the words of columnist Joseph Kraft:

Nobody can say with confidence what emerged from the conference in the end. But plainly the FBI was discussed in a normal way—not as some outlandish fiend.

That, of course, is not an accurate description of much that was said at the conference. The transcript and the remarks of many of my colleagues who have preceded me make this clear. Still, it is a fairly accurate description of the remarks on which most of the press chose to concentrate.

Indeed, if the newspaper reports of what happened at Princeton really represented the tone and content of the meeting, it might almost be considered a corroboration of the excellence of the Bureau and its performance.

Listen to some of the press accounts of the conference:

From Jeremiah O'Leary of the Washington Evening Star—"... John Eliff, of the Brandeis University faculty suggested the main problem with the FBI is that it had gone 50 years without a public accounting...."

"If fault is to be found, it would not be sought in the bureau and in its director but in... attorneys general, presidents and Congresses who have given power and responsibility to the FBI but who have failed to give it guidance, direction and control."...

"He said one of FBI Director J. Edgar Hoover's greatest achievements has been establishment of an objective politically neutral system for processing intelligence data."

One need not agree with this liberal professor to admit that this is a relatively mild criticism.

Or again from O'Leary, regarding the paper by Victor Navasky, an FBI foe and Robert Kennedy apologist, and Nat Lewin, on FBI electronic surveillance:

They said the FBI in many areas has been commendably ahead of the rest of the nation's law enforcement establishment in respecting the rights of American citizens.

And

Their joint presentation suggested it is not Hoover or the FBI the nation has to worry about but the system by which the government decides who is to be tapped or bugged.

Would not you think avowed critics could do better than that?

Or we find this from Alex Michelini in the New York Daily News writing of Vincent Broderick, former New York City Police Commissioner who criticized the statements of several self-styled former FBI informants who appeared as panelists:

Broderick... condemned the statements of the onetime informers. "It seriously impairs the credibility and validity of the conference," Broderick declared. "I have no way of knowing whether the charges are true or false."

One of the informers, David Sannes, had charged without substantiation that he was ordered by an FBI agent to murder a member of a radical group he had infiltrated. No wonder Broderick felt they impaired the credibility of the conference.

And again from Michelini, writing in the New York Sunday News of Broderick's criticizing the FBI for, of all things, not doing enough:

Broderick chided the FBI for refusing at times to cooperate with local police. "You got to drag them in kicking and screaming," said Broderick, who added that one of the reasons for the resistance was the limitations of the bureau's law enforcement powers.

To what purpose does one criticize in on breath and destroy the basis for the criticism in the next?

From Joseph Kraft in the Washington Post, we had this:

Anybody interested in the cooling national temperature should examine the conference on the FBI, which took place here in Princeton last weekend. For what shaped up as an exercise in radical chic attack turned out to have a story line a good deal less predictable than the Efram Zimbalist show.

At one point, what had started as a congress of militant oppositionism was warned by John Doar (former Assistant Attorney General for civil rights in the Kennedy Administration) not to attack the FBI simply because "we feel more comfortable criticizing bureaucracy than criticizing ourselves."

In short, the press dwelt on the statements of the most moderate spokesmen at the conference and those statements quoted were, as often as not, constructively critical if not downright laudatory of the FBI.

Even where radical criticism was quoted it was frequently placed in a context which made it clear that it was ludicrous or blatantly political. For example, from Charles Krause writing in the Washington Post:

The participants in the conference questioned whether all surveillance should be ended or only that concerned with political dissent. There was a strong feeling, expressed by John Doar... that the use of informants was necessary in protecting civil rights workers and combating organized crime.

The implication is that surveillance becomes justified if used against organizations like the Ku Klux Klan or the American Nazi Party but not if used against those on the radical left like the SDS or the Black Panthers—a blatantly political point of view.

Robert M. Smith, writing in the New York Times, quoted Prof. Thomas I. Emerson of Yale Law School:

He (Emerson) suggested that the bureau be enjoined from actions like photographing peaceful demonstration in "compiling political dossiers on people not charged with a crime or reasonably suspected of a violation of the law."

But Smith went on to quote the following exchange between Richard Wright, one of the two defenders of the FBI present at the conference, and Professor Emerson:

Richard Wright, the associate executive director of Americans for Effective Law Enforcement, said he thought "the FBI has a basic duty to make sure the radicals don't get away with intimidating the rest of us" and asked if surveillance of some political groups was not justified if they were involved in violence.

Professor Emerson conceded that this was "the key question" and said it would be "a major step forward if we could draw that line" between general intelligence-gathering and legitimate surveillance.

Here we have an admission that the critics really had no answers to the hard questions they found it so easy to raise.

Another particularly noticeable factor was the mass media's failure to give any coverage to the student reaction to the conference. When a handful of students disagrees with the "establishment," the media is quick to seek them out and present their case to the people.

In this case, a group of Princeton students, styling themselves Undergraduates for a Stable America—USA—mounted a campuswide campaign using the university radio station and the Daily Princetonian to call attention to the inherent bias of the conference sponsors and participants.

They said that—

Princeton is doing an injustice to its prestigious name and the scholarly pursuit of truth by co-sponsoring such a biased convocation.

Much work and research went into the effort to present facts as to the nature of the conference. Yet the press gave no indication that one iota of student opposition to the conference existed.

It would be an easy matter to continue with quotes in this vein. But the point is made. With critics like these, who needs friends? When you stack the deck and cannot provide a basically sympathetic press any more to report than did these critics, it seems clear that the FBI must be doing something right.

Unfortunately, this is a dangerous conclusion. Perhaps to the credit of the press, it did not dignify many of the wild and irresponsible things said at the conference by giving them wide publication. Most reporters concentrated on the normal criticism rather than the outlandish.

But the danger is that this organization and its participants will achieve credibility in the eyes of the public by virtue of the very fact that the extreme and incredible statements were not reported.

Prior to the conference Stephen Gilbers, director of the committee for Public Justice characterized his group as serving as an "early warning system" for what its members thought was political repression in America. And Doubleday Co. of New York plans to produce a book from the conference, based on the

individual papers and panel discussions presented there.

Clearly, we have not heard the last of this "potshooting" from the left. But we are in danger of its future activities and pronouncements being received with undue attention, simply because of the things that were not reported about the conference proceedings.

That is why I am glad to join with my colleague from New Jersey in providing time today to explore behind the facade of this kangaroo court on public justice.

TAX BREAK FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, today I am introducing a bill to give senior citizens of limited income a Federal income tax credit to offset State and local taxes they pay on their home property.

Those whose annual income is under \$6,500 would be eligible, whether they own their own house or not. If they rent, the portion of rent which covers taxes will be computed. If their Federal income tax is \$300 or less, they will be eligible for a payment from the U.S. Treasury instead of a tax credit.

The maximum tax credit, or payment, would be \$300.

Early this year an elderly man I have known most of my life wrote these touching words to me:

I worked hard all my life until I retired a few years ago. I've never been on relief. I've always been a taxpayer. Over the years my wife and I scrimped and saved to pay off the mortgage on our house. It's clear of debt but real estate taxes are getting so high, and our retirement income buying so much less each year, that we simply can't afford to stay in the house that has been so much a part of our lives. Can't something be done for us and others like us?

As I reflected on his letter, it struck me that this couple, and hundreds of thousands of others throughout the Nation face an agonizing decision in their twilight years. For them, the principal investment of a lifetime is their home. It is more than an investment in dollars. Its rooms and grounds hold cherished memories of marriage, children, the moments both sad and happy which make up family life.

Old age is difficult enough in familiar surroundings. It can be unbearable for people torn from these surroundings by the rising burden of real estate taxes.

The man who wrote to me must have wondered if the years of scrimping and saving to pay off the mortgage on his house were really worthwhile. Were he and his wife any better off, really, than some other couples who have been on public welfare in one form or another most of their lives?

The facts are that two-thirds of those persons over 65 own their own homes.

Yet many are being forced to sell their homes and move to small, cramped, unfamiliar quarters because they cannot afford to pay high State and local property taxes. Others must liquidate precious retirement assets to pay property taxes—assets which should be used sparingly only to provide for the necessities of old age.

ingly only to provide for the necessities of old age.

Unlike the Federal income tax, property taxes are not related to the income of the person taxed, but rather to the value of this property. That value has been achieved only through years of making mortgage payments.

In recent years, property taxes have increased phenomenally. In many areas they have doubled in the last decade, and in some places they have gone up even more. The largest single bite of the property tax dollar goes for education, which no thoughtful citizen would begrudge. Nevertheless, it is an ironic fact that senior citizens probably benefit least from improved educational facilities and doubtless are sorely tempted to vote against badly needed local school bond issues if the only result for them will be increased property taxes.

The bill which I am introducing would give each person over 65, whose annual income is under \$6,500, a Federal income tax credit of up to \$300 for State and local property taxes. Where the person does not own his home, but is renting, the bill provides a tax credit equal to 25 percent of the annual rent paid, up to \$300. If a person's income is so low that no income taxes are due the Federal Government, my bill provides for a payment from the U.S. Treasury equal to the amount of property taxes paid, up to \$300.

Until now, Federal tax relief for property taxes paid to State and local governments has been largely ineffective. There is, of course, a Federal tax deduction for such taxes available to anyone who itemizes his deductions, regardless of his age.

Most senior citizens, however, do not itemize their deductions and therefore lose any benefit from that provision of the law. There is no similar provision for those older Americans who rent their residence, although they certainly pay property taxes each month as a part of their rent.

There are more than 1 million citizens over 65 years of age in Illinois. Most of them have worked hard for their entire lives. For many, their most satisfying investment of time and money has been their home.

It is a cynical government taxing policy which forces them to abandon the house of their dreams just as they reach the age of retirement—the age when they will spend the most hours of the day in their home.

I urge the Congress to grant older Americans the tax break contained in this bill. I hope hearings will be scheduled at an early date and that this bill will be passed by the 91st Congress.

Text of bill follows:

H.R. 11640

A bill to allow a credit against Federal income tax or payment from the United States Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 40 as 41, and by insert-

ing after section 39 the following new section:

"SEC. 40. RESIDENTIAL REAL PROPERTY TAXES OR EQUIVALENT RENT PAID BY INDIVIDUALS WHO HAVE ATTAINED AGE 65

"(a) GENERAL RULE.—In the case of an individual who has attained the age of 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter the amount of real property taxes paid by him during the taxable year which were imposed by a State or political subdivision thereof on property owned and used by him as his principal residence, or the amount of rent constituting such taxes, as defined in subsection (c) (6). To the extent that the tax imposed by this chapter is less than such real property taxes, said individual shall be allowed a payment from the United States Treasury equal to the difference between the amount of the tax credit allowed and the amount of such real property taxes paid.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The total tax credit and payment from the Treasury under subsection (a) for any taxable year shall not exceed \$300 (\$150, in the case of a married individual filing a separate return).

"(2) ADJUSTED GROSS INCOME OVER \$6,500.—The credit otherwise allowable under subsection (a) for any taxable year (determined with the application of paragraph (1)) shall be reduced by an amount equal to the amount by which the taxpayer's adjusted gross income for the taxable year exceeds \$6,500 (\$3,250, in the case of a married individual filing a separate return).

"(3) JOINT OWNERSHIP.—In the case of property owned and used by two or more individuals (other than a husband and wife) as their principal residence, the limitations, provided by paragraphs (1) and (2) shall, under regulations prescribed by the Secretary or his delegate, be applied collectively to such individuals.

"(4) APPLICATION WITH OTHER CREDITS.—The credit under subsection (a) for any taxable year shall not exceed the tax imposed by this chapter reduced by the credits allowable under sections 33, 35, 37, and 38 for the taxable year.

"(c) SPECIAL RULES.—

"(1) HUSBAND AND WIFE.—In the case of a husband and wife who file a single return jointly under section 6013, the age requirement contained in subsection (a) shall, with respect to property owned jointly and used by them as their principal residence, be treated as satisfied if either spouse has attained the age of 65 before the close of the taxable year.

"(2) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which is used by the taxpayer as his principal residence, there shall be taken into account, for purposes of subsection (a), so much of the real property taxes paid by him on such property as is determined, under regulations prescribed by the Secretary or his delegate, to be attributable to the portion of such property so used by him. For purposes of this paragraph, in the case of a principal residence located on a farm, so much of the land comprising such farm as does not exceed 40 acres shall be treated as a part of such residence.

"(3) COOPERATIVE HOUSING.—For purposes of subsection (a), an individual who is a tenant-stockholder in a cooperative housing corporation (as defined in section 216(b))—

"(A) shall be treated as owning the house or apartment which he is entitled to occupy by reason of his ownership of stock in such corporation, and

"(B) shall be treated as having paid real property taxes during the taxable year equal to the portion of the deduction allowable to him under section 216(a) which represents such taxes paid or accrued by such corporation.

"(4) CHANGE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer changes his principal residence, subsection (a) shall apply only to that portion of the real property taxes or rent paid by him with respect to each such principal residence as is properly allocable to the period during which it is used by him as his principal residence.

"(5) SALE OR PURCHASE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer sells or purchases property used by him as his principal residence, subsection (a) shall apply only to the portion of the real property taxes with respect to such property as is treated as imposed on him under section 164(d), and, for purposes of subsection (a), the taxpayer shall be treated as having paid such taxes as are treated as paid by him under such section.

"(6) RENT CONSTITUTING PROPERTY TAXES.—The term 'rent constituting property taxes' means an amount equal to 25 percent of the rent paid during a taxable year by a taxpayer for the right to occupy his dwelling during that year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as a part of the rental agreement.

"(d) ADJUSTMENT FOR REFUNDS.—

"(1) IN GENERAL.—The amount of real property taxes paid by an individual during any taxable year shall be reduced by the amount of any refund of such taxes, whether or not received during the taxable year.

"(2) INTEREST.—In the case of an underpayment of the tax imposed by this chapter for a taxable year resulting from the application of paragraph (1), no interest shall be assessed or collected on such underpayment if the amount thereof is paid within 60 days after the taxpayer receives the refund of real property taxes which caused such underpayment.

"(e) DEDUCTION NOT AFFECTED.—The credit allowed by subsection (a) shall not affect the deduction under section 164 for State and local real property taxes."

(b) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following: "Sec. 40. Residential real property taxes or equivalent rent paid by individuals who have attained age 65."

"Sec. 41. Overpayments of Tax"

(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

REPRESENTATIVE MIZELL PROPOSES RURAL ECONOMIC DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from North Carolina (Mr. MIZELL) is recognized for 30 minutes.

Mr. MIZELL. Mr. Speaker, I rise at this time to introduce what I consider to be the most important and most comprehensive legislation I have sponsored during my tenure as a Member of this House.

The legislation to which I refer is the Rural Economic Development Act, a bill that holds the promise of revitalizing the whole of rural America, promoting the cooperation of Federal, State, and local governments, and enhancing the quality of life for all Americans.

The measure I am introducing today is the product of months of careful consideration and study of the problems and potentials facing rural America today, and of additional months of research to determine the best methods of solving those problems and realizing those potentials.

I first announced my intention of introducing this legislation in a speech I delivered in North Carolina last February. Since that time, I have consulted with State and local government officials, regional development specialists, various officials within the administration, several learned and distinguished colleagues in the Congress, and with others outside the sphere of government whose cooperation has helped immeasurably in the preparation of this legislation.

It is significant that this spirit of cooperation which was so essential in drafting this legislation is also the single most important component in the execution of this legislation's stated purposes.

Those purposes are as follows:

To create a partnership between the United States and the several States for the development of rural America's resources and capacities in transportation, industrial growth, education, housing, health, environmental protection, and planning;

To establish a Rural Development Commission, employing the principle of that partnership, to be composed of one Federal member, to be designated as the Federal Cochairman, appointed by the President by and with the advice and consent of the Senate, and one member from each of the several States. The State member shall be the Governor of that State, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the commission shall elect a cochairman from among their members;

To develop, on a continuing basis, comprehensive and coordinated plans and programs for rural development, and establish priorities thereunder;

To conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of rural America, and in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster rural economic development and growth;

To review and study, in cooperation with the agency involved, Federal, State, and local public and private rural economic development programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in rural America;

To encourage the formation of local rural development districts;

To encourage private investment in industrial, commercial, and recreational projects;

To serve as a focal point and coordinating unit for rural programs;

To provide a forum for consideration of problems of rural America and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences; and, above all,

That the efforts herein undertaken shall be, to the fullest and most conscious extent possible, made in the pursuance of attaining more balanced population growth and economic growth throughout the Nation, and encouraging full cooperation in these efforts between urban and rural governments, as well as be-

tween the Federal Government, the several States and their local government subsidiaries.

I believe these stated purposes offer a general outline of ways in which we can reach a quite specific goal—the restoration of rural America as a region of vitality, opportunity, and progress.

The portrait of much of rural America today presents a strikingly different picture. It is a portrait painted in desolation and despair and lack of opportunity. Too often, Government has tried to cover that portrait with a piecemeal quilt of Federal assistance, but there are gaping holes in this approach, and the shameful plight of much of rural America shows through as a national disgrace.

There is a serious shortage of jobs and housing and industry in rural America, and in general, the level of education and health in rural America is far below the national plane.

The Nation has come to realize the inseparability of the problems of the cities and the plight of many rural citizens. We cannot afford to have prosperity in much of the land while large numbers of Americans go without the sound shelter, good schools and medical care, and job opportunities that a rising national income can provide.

The ultimate costs of such neglect far outweigh the investments in housing, education, health, manpower training and other needs essential to decent life and to both urban and rural development.

It has been estimated that there is a 10-to-1 ratio between the cost of remedial and welfare programs required to help rural-oriented citizens live in large cities, and the cost of developing rural areas to the point that young people do not have to migrate to the cities to find jobs and new lives.

We know that millions of people now live in despair in the burned-out hearts of America's cities, because fate and this Nation's lack of vision—not their own choice—have separated them from the rural setting that was their heritage and would gladly have been their future, had opportunity presented itself.

The legislation I am proposing would help to strike a healthy balance between urban and rural growth, while providing the services and facilities that rural America so badly needs.

The specific areas of concern I have identified in this legislation are mentioned, not merely as fields in which progress is desired, but as components of a definite and organized plan for rural development.

The first of these components is the improvement of rural transportation systems. No development program can succeed until we open isolated areas to trade routes. This is the first enticement for industries to locate in underdeveloped areas, and because this is true, road construction should be one of the highest priorities in any development program.

Until the transportation problem in rural America is at least partially cured, there can be little hope of achieving full social and economic development in the region. The new roads will get products to markets, people to jobs, children to schools, and families to hospitals.

That first step in renovating rural America is closely followed by a second: industrial development. Bringing industry into an area should be a top priority in the rural development scheme, since it has been proven time and time again that a new industry can serve as a revitalizing force for communities that have become little more than ghost towns.

New industry in a rural area can provide the job opportunities that young people are seeking, the opportunities that have been too hard to find in rural America. I believe, and I think my colleagues would agree, that despite all the promises of adventure leaving home can hold, most of our young people would much rather live among their families and friends than migrate to a cold, unfriendly city in search of a career.

Industrial development of all kinds is essential to the expansion of the rural economy, and it is a very important second step because it can provide a basis for every other element in a rural development program.

The third step is education, or more specifically, vocational education. Mastering a skill is perhaps the most under-rated route there is to earning a sizable income. As American industry becomes more technical and specialized, the need for skilled labor will continue to grow, and skilled laborers will continue to make good money.

Vocational education, for young and older citizens alike, is an excellent means of learning a valuable trade. In fact, it is probably the best kind of manpower training there is. The cost is relatively low, but the dividends can be very high.

The fourth step in my rural development plan is housing. Once the roads are built, the industries have located and the people are trained, the steady exodus of our young people from their homes to some distant "promised land" will begin to reverse itself, and we will have to have places for them to stay.

A growing rural population necessitates concern for the last three components of my rural development plan—adequate health facilities, environmental protection and intelligent land use planning.

A healthy population is essential to rural development for obvious reasons. To insure the good health of the rural population, Federal, State and local Governments must work together to provide the facilities and manpower needed to maintain a high level of health care, from home health services to the most specialized surgical needs.

Environmental protection is just as important as any other element in this rural development plan. Today, the Nation must look to rural America to see even a remnant of the glories that nature showered on our land. We are proud that so many of these glories abound in our region, and that pride will make the citizens of rural areas the jealous guardians of what remains of nature's beauty.

The growth of industry in rural America does not have to mean that the region will suffer the same fate that pollution has brought upon our urban neighbors.

Federal laws now in effect severely limit the amount of pollution an industry can inflict upon a community. These laws were not on the books during America's first industrial revolution, and we are now paying the awful price of environmental neglect.

But we have the laws now, and more importantly, we in rural America have time. Time to plan, time to build adequate water and sewage treatment plants, time to make an area grow up the way we want it to, rather than having the outcome forced upon us.

Those of you who are familiar with the Congress' economic development efforts of the past will recognize in my program a great similarity with the Appalachian Regional Commission, both in structure and in purpose.

But the Rural Development Commission I am proposing would sponsor a much broader program than the one the Appalachian Commission has so successfully pursued.

I have taken the proven ability of the regional approach to get things done, and applied the same principles to this more comprehensive legislation.

One of the most important elements of that approach, and one that has met with great success under the Appalachian program, is the provision of supplemental assistance funds that would help local governments participate to a far greater extent in the Federal grant-in-aid programs than their fiscal capabilities currently permit.

In order to enable the States and local rural communities, including rural development districts, to take maximum advantage of all the Federal grant-in-aid programs for which they are eligible, the Rural Development Commission would be authorized to make grants of funds to be used as supplemental matching shares required under the categorical aid concept.

As I mentioned earlier, this practice has proven highly successful under the Appalachian Commission, and I am confident it could reap even greater rewards for rural Americans under the Rural Development Commission.

This is true in part because of the broader scope and greater funding level I am proposing, but more important, it is because, unlike the Appalachian Commission, the RDC would be free to appropriate all its funds under this supplemental grant program, if that were the desire of the State and local officials involved.

It is important to stress the role that State and local governments and planning agencies will play in the program I am proposing.

All projects will be initiated at the local level, where the need and the means of meeting that need can best be identified. These projects will be submitted to the State, which must give its approval through the Governor before projects are included in an overall State rural development plan. The purpose of this plan is to establish priority ratings for the various projects, and provide coordination and general direction for rural development efforts within that State.

Development plans will then be sub-

mitted to the commission at large, and only here does the Federal Government enter the picture. The commission, with the Federal and State representatives I mentioned earlier, will be responsible for final approval of projects, making sure that the nature of the project is within the spirit of this act and promotes general rural development.

Projects will not be strictly limited to "rural" areas, as those areas are defined in the bill. Assistance can be provided to small communities which serve more rural areas, or even to standard metropolitan statistical areas if a rural development district finds such assistance appropriate and necessary.

Projects of this nature could include airport improvements, expansion of a hospital serving rural patients, et cetera. But the principle thrust of the program will be to revitalize and enhance the quality of life in rural areas, not in the cities.

The Rural Development Commission, while working toward the same goals as the Appalachian Commission and other economic development and rural programs, would neither replace nor incorporate nor abolish any of them. It would be a completely new Government entity, utilizing completely new funds.

I have often said that the last thing the Federal Government needs is another bureaucratic agency. But, as I have noted, this is not a bureaucratic agency in the traditional sense, since it relies so heavily on local initiative and State cooperation and since its professional staff could be held to an absolute minimum.

But it is important that we in the Federal Government establish a new structure solely dedicated to solving rural problems on a comprehensive basis.

Completely new funds will be required, obviously because no other funds will be channeled into this program through incorporation, but more importantly, to provide the financial base that will insure significant and meaningful improvement in rural life.

The funding level I have initially proposed for authorization to the RDC is \$1 billion. Estimates of how much the job of fully developing rural America will eventually cost have been, and will remain, subjects for extended speculation and matters of opinion.

I have chosen the \$1 billion figure because I feel it represents an adequate base for beginning this massive effort and will provide for a significant improvement in the financial situations of State and local governments throughout rural America.

As most of my colleagues know, I have not been one who favors great expenditure of the public funds. I have exercised such careful scrutiny over such expenditures, in fact, that last year I was awarded a "Watchdog of the Treasury" award from a reputable national organization.

So it is not lightly or extravagantly that I propose such a relatively high funding level. My proposal stems from a profound sense of what is needed in rural America, and from the knowledge of the record of the Appalachian Regional Commission, which has proven that funds allocated under this type of pro-

gram can be wisely and effectively and efficiently spent.

I am estimating that this program will take a minimum of 5 years to succeed, and I am asking for an initial 5-year authorization.

I introduce this legislation today in the sincere and fervent hope that it will be considered as soon as possible in the appropriate committee, that the committee's deliberation will be thorough but swift, and that the legislation may be brought to the floor and enacted before the 92d Congress adjourns.

I call for the support of my colleagues from both sides of the aisle, and I look forward to working with them toward the final enactment of this vital legislation.

The text of the bill follows:

H.R. 11678

A bill to create a partnership between the United States and the several States for the development of rural America's transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Economic Development Act of 1971".

SEC. 2. (a) There is established the Rural Development Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of one Federal member (hereinafter referred to as the "Federal Cochairman") appointed by the President by and with the advice and consent of the Senate, and one member from each of the several States. The Federal Cochairman shall be one of the two Cochairmen of the Commission. Each State member may be the Governor, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the Commission shall elect a Cochairman from among their number.

(b) Except as provided in section 5, decisions by the Commission shall require the affirmative vote of the Federal Cochairman and of a majority of the State members (exclusive of members representing States delinquent under section 5). In matters coming before the Commission, the Federal Cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

(c) The Federal Cochairman shall be compensated by the Federal Government at level II of the Federal Executive Salary Schedule of section 5313 of title 5, United States Code, and he may appoint such staff and at such salaries as will enable him effectively to carry out his responsibilities under this Act. Each State member shall be compensated by the State which he represents at the rate established by the law of such State.

SEC. 3. In carrying out the purposes of this Act, the Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, and local planning for rural America;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of rural America, and, in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster rural economic development and growth;

(3) review and study, in cooperation with the agency involved, Federal, State, and local public and private rural economic development programs and, where appropri-

ate, recommend modifications or additions which will increase their effectiveness in rural America;

(4) encourage the formation of rural development districts;

(5) encourage private investment in industrial, commercial, and recreational projects;

(6) serve as a focal point and coordinating unit for rural programs;

(7) provide a forum for consideration of problems of rural America and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences; and

(8) encourage more balanced population and economic growth throughout the Nation, and encourage full cooperation between urban and rural governmental authorities, and between the Federal, State, and local governments.

SEC. 4. The Commission may, from time to time, make recommendations to the President and to the State Governors and appropriate local officials with respect to the expenditure of funds by Federal, State, and local departments and agencies in rural America in the fields of housing, environmental protection, education, health, transportation, industrial development, and planning.

SEC. 5. (a) For the period ending on June 30 of the second full Federal fiscal year following the date of enactment of this Act, the administrative expenses of the Commission shall be paid by the Federal Government. Thereafter, such expenses shall be paid equally by the Federal Government and the States. The share to be paid by each State shall be determined by the Commission. The Federal Cochairman shall not participate or vote in such determination. No assistance authorized by this Act shall be furnished to any State or to any political subdivision or any resident of any State, nor shall the State member of the Commission participate or vote in any determination by the Commission while such State is delinquent in payment of its share of such expenses.

(b) Not to exceed 2.5 percent of the funds authorized in section 18 of this Act shall be available to carry out this section.

SEC. 6. To carry out its duties under this Act, the Commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions.

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Commission to carry out its functions, except that such compensation of any individual on the staff shall not exceed the minimum scheduled rate for grade GS-18 of section 5332 of title 5, United States Code. No member, alternate, officer, or employee of the Commission, other than the Federal Cochairman of the Commission, his staff, and Federal employees detailed to the Commission under paragraph (3) shall be deemed a Federal employee for any purpose.

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with a Commission such personnel within his administrative jurisdiction as the Commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retire-

ment or employee benefit system, or otherwise provide for such coverage of its personnel. The Civil Service Commission of the United States is authorized to contract with the Commission for continued coverage of Commission employees, who at date of Commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government.

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(8) take such other actions and incur such other expenses as may be necessary or appropriate.

SEC. 7. In order to obtain information needed to carry out its duties, the Commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a Cochairman of the Commission, or any member of the Commission designated by the Commission for the purpose, being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized to the extent not otherwise prohibited by law) to furnish to the Commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection, and for the purpose of audit and examination by the Comptroller General or his duly authorized representatives.

SEC. 8. (a) Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of the Commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the

Commission may expect from such State member, alternate, officer, or employee.

(c) No State member or alternate shall receive any salary, or any contribution to or supplementation of salary for his services on the Commission from any source other than his State. No person detailed to serve the Commission under authority of paragraph (4) of section 6 shall receive any salary or any contribution to or supplementation of salary for his services on the Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Commission. Any person who shall violate the provisions of this subsection shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(d) Notwithstanding any other subsection of this section, the Federal Chairman of the Commission, his staff, and any Federal officers or employees detailed to duty with it pursuant to paragraph (3) of section 6 shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of title 18, United States Code.

(e) The Commission may, in its discretion, declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209, title 18, United States Code.

Sec. 9. In order to enable the States, and rural people and local rural communities, including local rural development districts, to take maximum advantage of all the Federal grant-in-aid programs for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, whether or not such programs are authorized on, before, or after the date of the enactment of this Act, the Commission may make grants, within the allocations to each State under section 18 of this Act, of funds appropriated to carry out this Act to the States and local rural communities, including rural development districts, to be used as such required matching share. Funds granted under this section shall be considered eligible to be such matching share by the department, agency, or other instrumentality of the Federal Government administering the Federal grant-in-aid program involved.

Sec. 10. No State and no political subdivision of any State shall be eligible to receive assistance under this Act unless the aggregate expenditures of State funds, exclusive of Federal funds, for the benefit of the area within the State eligible for such assistance are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act. In computing the average level of expenditure for its last two fiscal years, a State's past expenditure for participation in the National System of Interstate and Defense Highways shall not be included. The Commission may substitute a lesser requirement when it finds that a substantial population decrease in the portion of a State eligible for assistance under this Act would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which is eligible for assistance under this Act.

Sec. 11. Nothing contained in this Act shall be interpreted as requiring any State to engage in or accept any program under this Act without its consent.

Sec. 12. (a) In developing recommendations on the programs and projects to be given assistance under this Act and in establishing within those recommendations a priority ranking of the requests for assistance presented to the Commission, the Com-

mission shall follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall rural economic development including its location in an area determined by the State to have a significant potential for growth;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds; and

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project.

(b) No financial assistance shall be authorized under this Act to be used (1) in relocating any establishment or establishments from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).

Sec. 13. For the purposes of this Act, a "rural development district" shall be an entity composed of counties or similar political subdivisions each one of which has either a population density of less than one hundred persons per square mile or is not included in a standard metropolitan statistical area as defined in section 17(d) of this Act. Each such rural development district shall be certified to the Commission either by the Governor of the State in which such entity is located, or by the State officer designated by the appropriate State law to make such certification, as having a charter or authority that includes the economic development of counties within such rural development district. No entity shall be certified as a rural development district for the purposes of this Act unless it is one of the following:

(1) a nonprofit incorporated body organized or chartered under the law of the State in which it is located;

(2) a nonprofit agency or instrumentality of a State or local government; or

(3) a nonprofit association or combination of such bodies, agencies, and instrumentalities.

Sec. 14. An application for a grant or for any other assistance for a program or project under this Act shall be made only by a rural development district, or a political subdivision which is not within a rural development district but which, in the judgment of the State member, is of a distinctly rural, and not suburban, character. Each such application shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate such application for approval. Only applications for programs and projects which are approved by a State member as meeting the requirements for assistance under the Act shall be approved for assistance by a Commission.

Sec. 15. Not later than six months after the close of each fiscal year, the Commission shall prescribe and submit to the Governor of each State and to the President, for transmittal to the Congress, a report on the ac-

tivities carried out under this Act during such year.

Sec. 16. (a) The Commission is authorized to make grants to entities within a State which is eligible under section 14 of this Act to make applications for grants or other assistance under this Act, up to the amount allocated to such State under section 18 of this Act, in order to fund projects which are—

(1) consistent with the rural economic development plans of that State and of the rural development district, if any, by which application for such grants was made; and

(2) aimed at rural problems in one or more of the following areas: transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity.

No more than 5 percent of each State's allocation shall be used for projects originating from entities other than rural development districts within such State.

(b) The Commission may make grants to any rural development district, out of any portion of that rural development district's State's allocation under section 18 of this Act, for administrative expenses of such rural development district which arise from its responsibilities and activities under this Act, but in no event shall the total of such grants to the rural development districts of any one State during any one fiscal year exceed 2.5 percent of such State's allocation for that year.

(c) It shall be the responsibility of the Commission to see that all projects funded under the provisions of this Act are for the benefit of rural, as distinguished from urban and suburban, areas, whether or not such projects are geographically centered in such rural areas.

Sec. 17. (a) The amounts provided from appropriations for the purposes of this Act for any fiscal year shall be allocated by the Commission among the States in accordance with their entitlement as determined by subsections (b) and (c) of this section.

(b) One per centum of the amount required to be allocated under subsection (a) shall be divided among the States in equal proportion.

(c) Each State shall be entitled to a portion of the remainder of the amount required to be allocated under subsection (a), which portion shall be determined as follows:

(1) each State shall be entitled to receive an amount equal to 50 per centum of such remainder multiplied by a fraction the numerator of which is the rural population of such State at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the rural populations of all States at the same point in time;

(2) each State shall be entitled to receive an amount equal to 25 per centum of such remainder multiplied by a fraction the numerator of which is the average of per capita incomes of all the States at the most recent point in time for which appropriate statistics are available less the rural per capita income of such State at the same point in time, such difference to be multiplied by the rural population of such State at the same point in time, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population; except that, if the rural per capita income of a State is greater than the average of per capita incomes of all States, the differences above shall be considered zero; and

(3) each State shall be entitled to receive an amount equal to 25 per centum of such remainder multiplied by a fraction the numerator of which is the percentage change in population of all the States less the percentage change in rural population of such State, such difference to be multiplied by the rural population of such State during

the most recent and appropriate time period of which statistics are available, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population; except that, if the percentage rate of change of rural population of a State during such period is greater than the percentage rate of change of the populations of all States during the same period, the differences stated above shall be considered zero.

(d) For the purposes of this section—

(1) the term "rural population" means the total resident population, as defined and used by the United States Bureau of the Census, of any county or similar political subdivision which either has a population density of less than one hundred persons per square mile or is not included within a standard metropolitan statistical area;

(2) the term "rural per capita income" means the average personal income of the rural population of a State;

(3) the term "fiscal year" means the fiscal year of the Government of the United States;

(4) the term "standard metropolitan statistical area" is used as that term is used and defined by the Office of Management and Budget; and

(5) the term "personal income" is used as that term is used and defined by the Office of Business Economics of the Department of Commerce.

(e) All computations and determinations by the Commission under this section shall be final and conclusive.

Sec. 18. For the first fiscal year after the date of the enactment of this Act there is authorized to be appropriated the sum of \$1,000,000,000. There are thereafter authorized to be appropriated such sums as shall be necessary to carry out the purposes of this Act.

Sec. 19. This Act shall cease to be in effect five years after the date of its enactment.

State-by-State authorization under Rural Economic Development Act

Alabama	\$33,419,929
Alaska	2,192,549
Arizona	8,528,740
Arkansas	25,000,185
California	30,283,456
Colorado	9,382,084
Connecticut	3,767,582
Delaware	1,514,765
Florida	22,896,579
Georgia	35,236,998
Hawaii	1,990,610
Idaho	8,554,920
Illinois	31,569,873
Indiana	23,041,922
Iowa	30,288,187
Kansas	21,382,635
Kentucky	36,624,075
Louisiana	24,021,254
Maine	11,785,087
Maryland	5,098,871
Massachusetts	5,988,871
Michigan	22,310,688
Minnesota	31,254,947
Mississippi	36,544,886
Missouri	30,179,788
Montana	9,507,250
Nebraska	14,054,372
Nevada	3,445,122
New Hampshire	5,037,984
New Jersey	14,221,395
New Mexico	11,972,382
New York	26,415,060
North Carolina	49,988,535
North Dakota	10,866,343
Ohio	32,966,077
Oklahoma	23,988,725
Oregon	10,579,170
Pennsylvania	40,026,216
Rhode Island	1,331,160
South Carolina	27,818,662
South Dakota	10,521,808
Tennessee	31,186,531

Texas	53,998,917
Utah	4,595,083
Vermont	4,045,254
Virginia	29,056,535
Washington	10,733,609
West Virginia	26,896,299
Wisconsin	23,966,160
Wyoming	4,907,841

**RESOLUTION CALLING FOR THE
EXPULSION OF BYELORUSSIA
AND THE UKRAINE FROM THE
UNITED NATIONS**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker, the Congress and the people of America have been deeply distressed by the expulsion of Nationalist China from the United Nations. Official and popular support for the United Nations has fallen in the wake of the ouster of Taiwan.

This world body has not been subjected to widespread public scrutiny in many years, but now the eyes of the entire world are focused on it. The eyes of most Americans look in anger and disillusionment at the U.N.'s failure to recognize the reality of two Chinas. As a body that supposedly represents all the nations on earth, the U.N. has shown itself to be a petty group of self-serving diplomats more interested in self-aggrandizement than in world peace and harmony. Americans are shocked and dismayed.

The United States has been the primary backer of the U.N. since its inception, paying at the present time 31.52 percent of the regular U.N. budget. Still, despite our heavy contribution, the U.N. is virtually in a state of financial collapse. This is because a lot of members either do not pay their dues at all or are far behind in their annual assessments—the Soviet bloc nations owe \$118 million. Then, too, two-thirds of the votes in the General Assembly belong to countries together paying only 4½ percent of the regular U.N. budget which, to me, is a gross inequity.

Various ways to ease this imbalance have been proposed: Weighted voting, coalitions on particular issues, establishment of nonvoting associate status for members who do not pay much, a new Assembly rule that the total vote from which majorities are made include abstentions—this rule would have saved Taiwan—and so on.

All in all, I believe that the responsible course now is to try to change the high feelings generated by the China vote into support for rational voting procedures and reform of the finances of the U.N.

The legislation I am introducing today involves correcting an inequity in the voting strength of the U.S.S.R. that has existed since the United Nations was established in 1945. This legislation is a sense of Congress resolution that would urge the President, acting through our Ambassador to the U.N., to "take such steps as may be necessary to bring before the General Assembly the question of the legitimacy of the Byelorussian S.S.R.,

and the Ukrainian S.S.R. membership in the United Nations, and seek their expulsion."

Byelorussia and the Ukraine are two of the 16 republics that make up the U.S.S.R. They relate to the U.S.S.R. roughly in the same way that Florida and California relate to the United States. If carried to its logical conclusion Russia would have 16 votes under this system—as they originally sought—and the United States would have 48—as President Roosevelt jokingly pointed out during the early discussion of the subject.

In October 1945, at the time of the founding of the United Nations, the U.S.S.R. was accorded three votes and the United States was accorded only one. Byelorussian S.S.R. and the Ukrainian S.S.R. came in with a "separate and equal" vote with the U.S.S.R.'s.

Byelorussia is the westernmost portion of the U.S.S.R. and is bounded on the west by Poland. It is 200 miles west of Moscow. South of Byelorussia is the Ukraine. It is bounded on the west by Czechoslovakia, Hungary, Rumania and on the south by the Black Sea. On a map of the U.S.S.R., they take up a small but populous segment of the European portion of Russia.

The Ukraine and Byelorussia were conquered by the Tsars over five centuries ago. The only chance the people of the Ukraine and Byelorussia ever had for independence came prior to the Bolshevik revolution, when it appeared for a brief period that a democratic form of government might succeed. These hopes were shattered when the Red Army took complete command of former Tsarist Russia.

Lenin, on taking office, prepared a constitution which purportedly gave supreme power to a legislature, but in truth gave all real power over the provinces, including the Ukraine and Byelorussia, to the Central Politburo located in the Soviet capital. The provinces adopted the Russian Constitution as their own, and by 1920 were completely absorbed as part of the Union of Soviet Socialist Republics. The Ukraine suffered the most during those years, as Bolshevik leaders sensing the strong nationalist feeling for independence, crushed Ukraine with great brutality.

The Soviet Union claims to have formed a true federation, but once again, it is a matter of Communist semantics. According to western definitions, a federation is where local governments run local affairs, while the central government makes treaties with other countries and provides for national defense and exercises power over matters that affect the country as a whole. But, according to the Soviet view a federation is a dictatorship of the proletariat run by the Communist Party from Moscow.

Despite this obvious fact, the Soviets persuaded our war-weary political leaders in 1944 and 1945 it was recognized that the Ukraine and Byelorussia were separate states, perhaps in the same sense as India and several other members of the British Commonwealth were states, then, and as such, deserved a separate vote in the United Nations.

Twenty-six years have passed since then. All of the British Commonwealth nations have gained independence, and become full-fledged members of the United Nations in their own right. The Ukraine and Byelorussia, on the contrary, have become more and more an integral part of the U.S.S.R. They have never been allowed to carry on their own sovereign foreign relations, nor have they any semblance of a nation-state which is the criteria for acceptance into the U.N. for all other members. Yet, they are still allowed to vote as independent countries. This is wrong, especially in view of the recent U.N. exhibit on the China issue wherein Byelorussia and the Ukraine voted for the expulsion of Nationalist China. Any body of nations that expels from its membership an independent nation like Nationalist China, which has defended its borders from intruders for more than 25 years, and at the same time countenances the retention of Byelorussia and the Ukraine as full-fledged members with an equal vote is practicing the most gross form of hypocrisy. Now is the time to start making the U.N. a truly representative body. This is one instance where reform is necessary.

Since Byelorussia and the Ukraine, like Nationalist China, were charter members of the U.N., they too can be expelled by the same method as was used to eliminate the Nationalist Chinese. To this end I have written the Secretary of State, Mr. William P. Rogers, asking that he initiate action to implement the expulsion of Byelorussia and the Ukraine from the U.N.

I am glad to see that 53 of my colleagues in the House have cosponsored this resolution. We need another 165 to give it a meaningful voice, and I would appreciate the cooperation of our Members on this. Surely, their constituents are both aware of this inequality in voting representation in the United Nations, and are seeking some recourse. I believe this resolution may offer that.

If the U.N. is to be a meaningful and useful body of world states, it must have integrity. It must deal justly with all the nations of the world. There must be no repetition of the Nationalist China outrage, and we must begin working now to insure this.

I include herewith the resolution and my letter to Secretary of State William P. Rogers, together with a list of my colleagues who have cosponsored my resolution:

RESOLUTION

Whereas the Charter of the United Nations specifies that the Organization shall be composed of "states"; and

Whereas the Byelorussian S.S.R. and the Ukrainian S.S.R. are not "states" incorporating sovereignty and independence, the criteria for all other nation-states in the United Nations; and

Whereas the above noted "Republics" have not established, nor maintained separate, sovereign diplomatic relations with any other sovereign state since 1920: Now, therefore; be it

Resolved, That it is the sense of the House of Representatives that the President, acting through the United States delegation to the United Nations, should take such steps as may be necessary to bring before the General

Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations and seek their expulsion.

COSPONSORS OF U.N. RESOLUTION TO ELIMINATE BYELORUSSIAN S.S.R. AND UKRAINIAN S.S.R.

Watkins M. Abbott (Va.), Mark Andrews (N. Dak.), Bill Archer (Tex.), Tom Beville (Ala.), Ben B. Blackburn (Ga.), Jack Brinkley (Ga.), John Buchanan (Ala.), Del Clawson (Calif.), James M. Collins (Tex.), R. Lawrence Coughlin (Pa.).

Philip M. Crane (Ill.), Edward J. Derwinski (Ill.), John D. Dingell (Mich.), John Dowdy (Tex.), Thaddeus J. Dulski (N.Y.), O. C. Fisher (Tex.), Walter Flowers (Ala.), John J. Flynt (Ga.), Don Fuqua (Fla.), George A. Gooding (Pa.).

Edith Green (Oreg.), Charles H. Griffin (Miss.), James A. Haley (Fla.), Craig Hosmer (Calif.), Edward Hutchinson (Mich.), Jack F. Kemp (N.Y.), Carleton King (N.Y.), Dan Kuykendall (Tenn.), Earl F. Landgrebe (Ind.), Clarence D. Long (Md.).

Dawson Mathis (Ga.), Robert H. Michel (Ill.), Joseph G. Minish (N.J.), Wilmer Mizell (N.C.), Bertram Podell (N.Y.), Robert Price (Tex.), William J. Randall (Mo.), John R. Rarick (La.), Fernand St Germain (R.I.), John P. Saylor (Pa.).

William J. Scherle (Iowa), John G. Schmitz (Calif.), Robert L. F. Sikes (Fla.), M. G. (Gene) Snyder (Ky.), Robert H. Steele (Conn.), Robert O. Tiernan (R.I.), Victor Veysey (Calif.), William G. Whitehurst (Va.), Lawrence G. Williams (Pa.), Larry Winn, Jr. (Kans.), Gus Yatron (Pa.), C. W. (Bill) Young (Fla.), Roger H. Zion (Ind.).

HOUSE OF REPRESENTATIVES,

Washington, D.C., October 27, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I share your public statement of concern by the expulsion of the Republic of China from the United Nations and demand that efforts be exerted to correct some of the gross inequities which exist today in the United Nations Membership.

1. The United States initiate a move to immediately expel Byelorussia and the Ukraine, integral entities of the Soviet Union, each of which has held General Assembly votes for these past many years.

2. Review and possibly expel member nations guilty of repeated violations of the United Nations Charter, including lack of dues payments to the organization, and

3. Reduce the American contribution to the World Body in line with the populations of other nations such as Red China, Russia and India.

I think the people of the United States were willing to accept the admission of Red China to the United Nations, but not at the price of expelling the Taiwan Government.

I feel strongly that the gross inequities of this Body, such as allowing participating members to fall behind on their payments and arbitrarily imposing economic sanctions—such as the restrictions on the purchase of Rhodesian goods—should be examined and brought to light immediately.

I feel that the cost of maintaining the United Nations should not be borne exclusively by American taxpayers, especially since the United Nations has, in my opinion, failed in its original purpose as a Body to preserve peace. It has descended to the role of a debating society of international representatives who espouse the virtues of world communism.

With best wishes.

Sincerely,

J. HERBERT BURKE,
Member of Congress.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. America produces more coal—including lignite—than the Soviet Union, almost one-third more iron ore, almost twice the aluminum ore, almost three times the copper, two-thirds more lead, two times the zinc, and almost five times the petroleum.

AGENCY FOR INTERNATIONAL DEVELOPMENT FISCAL YEAR 1971 EXPENDITURES BY CITY AND STATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SHRIVER) is recognized for 5 minutes.

Mr. SHRIVER. Mr. Speaker, tomorrow, the House will consider House Joint Resolution 946, the continuing appropriations for fiscal year 1972. Included in this resolution are funds for the Agency for International Development.

For the interest of all Members, I request permission to insert into the Record at this point several tables which show AID's expenditures during fiscal 1971 for commodities and technical contracts. The tables follow:

AID-financed commodities—fiscal year 1971 dollar value by state of production

Alabama	\$16,305,583
Alaska	3,524,513
Arizona	343,778
Arkansas	4,954,181
California	80,508,640
Colorado	3,766,199
Connecticut	10,985,821
Delaware	11,588,213
District of Columbia	581,404
Florida	6,963,013
Georgia	10,257,543
Hawaii	92,750
Idaho	56,824
Illinois	73,541,642
Indiana	13,760,298
Iowa	4,902,240
Kansas	724,410
Kentucky	5,306,139
Louisiana	22,260,826
Maine	203,679
Maryland	20,572,073
Massachusetts	12,054,228
Michigan	50,791,742
Minnesota	6,278,615
Mississippi	6,723,432
Missouri	7,715,066
Nebraska	1,558,041
Nevada	211,067
New Hampshire	726,671
New Jersey	51,733,490
New Mexico	639,566
New York	178,829,271
North Carolina	9,688,882
North Dakota	1,454
Ohio	46,644,037
Oklahoma	3,524,695
Oregon	6,493,725
Pennsylvania	77,081,159
Rhode Island	2,245,999
South Carolina	8,761,659
South Dakota	91,359
Tennessee	8,350,951

AID-financing commodities—fiscal year 1971
dollar value by state of production—Con.

Texas	\$54,930,416
Utah	463,148
Vermont	844,396
Virginia	10,162,141
Washington	32,072,205
West Virginia	5,817,772
Wisconsin	24,763,247
Wyoming	32,040

Total 900,580,243

Ten cities receiving highest dollar value for orders of AID-financed commodities—fiscal year 1971

1. New York, N.Y.	\$144,810,186
2. Detroit, Mich.	33,457,232
3. Peoria, Ill.	24,560,815
4. Houston, Tex.	23,596,083
5. Tacoma, Wash.	18,784,586
6. Chicago, Ill.	16,289,847
7. Sparrows Point, Md.	12,875,916
8. Stockton, Calif.	11,691,187
9. Milwaukee, Wis.	11,531,249
10. Pittsburgh, Pa.	9,599,716

Technical service contracts

(In effect as of December 31, 1970)

Total value: \$679,282,565.
Total value in U.S.: \$642,038,186.
Total foreign: \$37,244,379.

Top 20 states in value of contracts:

New York	\$190,009,364
District of Columbia	123,457,255
Massachusetts	50,589,568
California	49,965,733
Illinois	28,865,769

Technical service contracts—Continued

Washington	\$21,214,558
Ohio	18,199,534
North Carolina	17,340,451
Texas	15,291,605
Michigan	14,421,422
Wyoming	11,341,990
Colorado	10,485,230
Wisconsin	9,782,822
Kansas	8,352,018
Indiana	7,549,020
Pennsylvania	6,524,551
Maryland	5,000,365
Hawaii	4,494,416
West Virginia	4,108,827
Utah	3,807,921

AID technical service contracts

Top 15 Cities in value of contracts:

New York, N.Y.	\$183,146,086
Washington, D.C.	126,833,966
Newton, Mass.	22,072,037
Seattle, Wash.	21,029,218
Los Angeles, Calif.	19,185,175
College Station, Tex.	12,198,686
Chicago, Ill.	11,693,682
Columbus, Ohio	10,772,417
Raleigh, N.C.	9,723,512
Urbana, Ill.	9,376,859
Boston, Mass.	8,233,128
Manhattan, Kans.	8,154,476
San Francisco, Calif.	8,077,280
Fort Collins, Colo.	7,613,884
Chapel Hill, N.C.	7,037,704

AID technical service contracts

Top 20 Institutions in value of contracts:

Air America, Inc.	\$83,324,200
American University of Beirut	61,176,819
Columbia University	24,575,326
African-American Institute	23,888,613
Education Development Center	22,072,037
MWK International, Ltd., Gibbs & Hill, Inc., Fischbach & Moore	20,847,198
Continental Air Services, Inc.	16,247,000
Texas A&M	12,198,686
The Population Council, Inc.	10,946,655
North Carolina State University	9,706,512
University of Illinois	9,376,899

Kansas State University	\$8,154,476
International Executive Corps	8,132,622
Colorado State University	7,613,844
American Institute for Free Labor Development	7,593,606
The Asian Foundation	7,218,440
Battelle Memorial Institute	7,039,281
University of North Carolina	7,037,704
American ORT Federation	6,299,666
The Pathfinder Fund	6,174,500

PLOT AGAINST THE CHILDREN

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New York (Mrs. ABZUG) is recognized for 10 minutes.

Mrs. ABZUG. Mr. Speaker, the movement for federally subsidized high quality comprehensive child care programs that would make it possible for welfare mothers and low- and middle-income women to hold jobs is in serious jeopardy.

Existing as well as hoped for programs are threatened by moves by the Nixon administration and New York Governor Rockefeller to restrict child care services to the very poor and to make welfare mothers a source of cheap, forced labor.

Instead of recognizing that child care facilities are a necessity for working mothers, of whom there are now more than 12 million in our Nation, the Nixon-Rockefeller moves would place the welfare stigma on child care programs, segregate them, and undermine standards.

Several recent developments make this objective clear.

The Nixon administration is threatening to veto the child development bill, now in a Senate-House conference, unless it limits aid to families with less than an annual income of \$4,300 and gives priority to welfare mothers.

The Senate-approved bill would provide free child care for families with less than \$6,900 annual income, the Bureau of Labor Statistics figure for a minimum adequate standard of living for an urban family. The figure varies in different parts of the country. This was the same standard proposed in the Abzug-Chisholm child care bill and in the bill voted out by the House Education and Labor Committee, but pared down by the House to \$4,300.

The House-Senate conferees have agreed on a compromise figure of \$5,250—or 75 percent of the BLS minimum figure—only to be informed by Health, Education, and Welfare Secretary Elliot Richardson that this will produce a veto from the White House.

Left out in the cold by this approach will be millions of working women who are neither very poor nor very rich.

About 6 million children of preschool age have working mothers, yet there are only about 700,000 day care slots available in child care centers with Government funding. As a result, in our Nation, which prides itself on being the most advanced in the world, millions of children are "latch key" children with no adult supervision or are victims of haphazard arrangements under which they are left with friends, neighbors or relatives. Only a small number of working women can afford expensive private

day care centers or the luxury of hiring a maid or housekeeper. Many have no choice but to scrimp on food, clothing or other necessities to pay for child care.

Does it make sense for the Nixon administration to attack welfare mothers as loafers, as the President has repeatedly done, and at the same time deny child care facilities to women who earn very modest salaries—and that is what most women earn—or insist that they will have to pay fees for such services.

The administration's "for welfare mothers only" child care approach is also evident in the House-approved welfare bill under which a welfare mother could get day care for her children only by taking a job, but only a very low paying job.

The same trend is evident in New York where Governor Rockefeller's department of social services has eliminated the State's 10-percent quota of child care places for families earning above \$7,500 and raised child care fees for families who are not on welfare or who do not meet the very low income eligibility standards of Medicaid. Again, the irony of this approach is that it penalizes women who are working and makes it so costly for them to hold jobs that they may decide their only alternative is to join the welfare rolls.

Governor Rockefeller's latest assault on child care is his proposed public service work opportunity project, which appears to have been approved by HEW. Under this plan, welfare mothers would be forced to work at government jobs to qualify for welfare benefits; their children would be sent to child-care centers. Since existing centers are already filled to capacity, presumably their children would either displace children from non-welfare families or would get priority over children of working mothers on waiting lists. Welfare mothers who cannot leave their homes to work would be required to care in their own homes for children of employed welfare mothers.

The Citizens Committee for Children of New York, Inc., has aptly described this plan as "a plot against the children." Its implications are truly horrifying. In an analysis of this Rockefeller plan, Prof. Elizabeth Wickenden, an authority on welfare programs, warns that there are no provisions for the quality of child care that would be available in these welfare mother homes. She points out:

The "Public Service Work Opportunity Project" says nothing about home licensing, selection of "provider" mothers, or about supportive services. Do we really intend to allow (require) any woman who does not wish to go out to work, no matter what her background and circumstances, to look after another's children? Do we really intend to offer AFDC (Aid for Dependent Children) mothers who go to work to leave their children with unknown, unsupervised "care-takers"?

Who would decide whether a 40-year-old AFDC mother (now defined as employable) who lives with three children, ages 6 to 10, in a rat-infested, firetrap hovel on a fourth floor walkup with shared toilet facilities, should be required to provide home care?

For any mother hit by these new rules it can only add insult to injury to be told that they are instituted because "our welfare system must become a symbol of hope rather than a reservoir of despair."

Governor Rockefeller's public service work opportunity project has already been denounced by welfare groups and organized labor as a forced labor scheme. Instead of providing people on welfare with the dignity of paying jobs, the State would turn them into indentured servants and require them to "earn" their welfare benefits by working at jobs that compete with workers who have been hired under normal procedures. This is unsatisfactory from every point of view.

Those people on welfare who are able to work are entitled to jobs that pay wages and provide other benefits. They should not be used to compete with or replace workers, most of whom are covered by union contracts.

The Rockefeller scheme is a threat to the security of government workers. It exploits and humiliates people on welfare. If they can work, they should be given an opportunity to work under the same conditions of employment that other working people enjoy. If they cannot work, they should receive help that allows them to retain their dignity as human beings.

The Nixon-Rockefeller moves to transform child care facilities into an adjunct of the despised welfare system must be defeated. In New York City and around the country a broad coalition of women's groups, child care, welfare, community, and political organizations has been developing broad support for the forward-looking concepts of the Senate-approved child development bill.

I have been pleased to work closely with these groups, and I hope that the Congress as a whole will recognize that the time has arrived for this Nation to have a comprehensive child care program open to all families that require such care. This is a necessity for the millions of women who are wage earners. It is a necessity for single-parent families, whether they are men or women. It is a necessity for the many women who want to return to school or to work. I hope, too, that the Senate-House conferees will agree on the proposed \$2 billion authorization for child care, which would provide high-quality care for about 2 million children. That is, in fact, a minimal figure. We should do more. We must not do less.

PERSONAL ANNOUNCEMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on Wednesday, November 3, 1971, I was absent from the floor from 12 noon until 2 p.m. while filming an interview by NBC television to be shown in my district relative to legislation pending before the Congress.

Two rollcall votes were taken during that time, both related to the bill, H.R. 2, to establish a Uniformed Services University of the Health Sciences—or, what has been called a "West Point for doctors."

I support this plan and would have voted yea on final passage of the bill on

roll No. 343, which passed with a vote of yeas 351, nays 31.

On roll No. 342, an amendment which proposed to strike out the requirement that the university be established within 25 miles of the District of Columbia, I would have voted yea. I feel that this would be an opportunity to encourage the decentralization of Federal facilities to assist in providing employment and development in an area where it is needed more. That proposed amendment was not agreed to by a vote of ayes 148, and nays 215.

ISRAEL'S REQUEST FOR PHANTOM JETS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 10 minutes.

Mr. ST GERMAIN. Mr. Speaker, I am concerned about the steady erosion of U.S. Mideast policy in recent months. Once again, the administration is putting pressures on the wrong party in the Arab-Israel conflict.

Early this year, after the Jarring mission reached a deadend because of Egypt's insistence on prior Israeli commitment to total withdrawal, the Nixon administration undertook an initiative to bring about an interim Suez Canal agreement. Now, although the obvious advantage—indeed, the *raison d'être*—of an interim rather than an overall settlement is that it would provide a means of defusing the tension without requiring the parties to agree on the final extent of Israeli withdrawal, the Suez talks themselves are deadlocked primarily on the same sticking point as the Jarring talks: Egypt refuses to accept partial withdrawal unless it is in the context of a timetable for total withdrawal. And the Egyptians further demand that their military forces be permitted to cross the reopened canal to replace departing Israeli troops in the Sinai.

While all the demands and the threats to go to war if they are not met come from Egypt, all the concessions have come from Israel. The very fact that Israel is willing to go along with an interim settlement is a concession of major proportions, a retreat from her long-held and perfectly understandable position of no withdrawal without peace. Israel has agreed to give up a major defense line in return for Egyptian good will or, more precisely, for American expectations of Egyptian good will. It is the Soviet Union and Egypt, not the United States or Israel, which stand to gain militarily and economically from the reopening of the Suez Canal. Yet the insatiable Soviet-Egyptian combine is trying to turn what is in effect a something-for-nothing Israeli offer into an everything-for-nothing proposition.

For some inexplicable reason the Nixon administration ignores the Israeli concessions and heeds only the Egyptian demands. The administration now insists that Israel settle for a limited cease-fire, that Israel agree to a "compromise" on Egypt's demand for a troop crossing; and that the interim agreement, which was originally presented as a separate

one, entail Israeli commitments on specific points of a final settlement, including complete withdrawal from Sinai.

It is sadly ironic that the United States has placed itself at loggerheads with Israel over how far Israel must go to get Egypt and the Soviet Union to agree to a settlement which is to their advantage in the first place. And it is appalling that the administration's ill-advised pressure campaign extends to depriving Israel of the Phantom jets she so urgently needs in face of the threat posed by the Soviet fortification of Egypt with men, missiles, and planes.

By withholding planes from Israel in order to wrest further concessions from her the administration is penalizing her for the significant concessions she has already made, increasing the risks she has already agreed to take, and encouraging the Egyptians in their resistance to making any concessions at all.

The Russians and Egyptians are no doubt as emboldened by the U.S. hesitation to provide Israel with the Phantoms as they are amused by the frantic U.S. diplomatic efforts to open the canal for them. For their part, they solidified their military alliance with a treaty in June. And last month, when Egyptian President Anwar Sadat visited Moscow, the Soviets publicly promised to take "measures aimed at further strengthening the military might of Egypt."

Many Members of Congress, including myself, deeply concerned by this state of affairs, have cosponsored resolutions expressing alarm at the ever-increasing Soviet military involvement in Egypt and urging the administration to reply affirmatively "without further delay" to Israel's request for Phantom jets. The resolutions also note the fact that it is the official policy of the United States, as often stated by President Nixon himself, that the balance of power between Israel and the Arab States must be maintained if war is to be deterred. It is imperative that the President take immediate action consistent with this policy.

PANAMA CANAL: "GENERAL TORRIJOS DEMANDS OPPORTUNIST'S SHAKEDOWN"

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. HALL. Mr. Speaker, on October 11, 1971, following a major campaign of propaganda against the United States there was a massive demonstration of Panamanians in the 5th of May Plaza, in Panama City close to the boundary of the United States owned Canal Zone territory. Brig. Gen. Omar Torrijos, commander of the National Guard of Panama, was the principal speaker. He proved himself a provocative demagogue threatening to invade the Canal Zone at the head of 6,000 rifles as the means of establishing Panamanian sovereignty over the zone in the event of failure of the current treaty negotiations.

Fortunately, our authorities, warned of the danger of violence, were fully prepared to meet whatever situation that

might have arisen, and the demonstration took place without incident.

As all who have studied the Isthmus situation know, Panama is a small weak and unstable country. Its independence depends solely upon the United States remaining in the Canal Zone, which has often served as a haven of refuge for Panamanian leaders seeking to escape assassination. During a revolt against General Torrijos when he visited Mexico, his wife did flee to the Canal Zone for safety, but he never mentioned this fact. Should he be overthrown, he would no doubt be among the first to flee there for protection despite the fact that he has been endeavoring to terminate U.S. sovereignty over the zone.

While the main news media of the United States has not been reporting developments on the Isthmus in an objective manner, small papers in various parts of the Nation are doing so; and, I shall quote a column from a Florida paper, the Sun-Sentinel, that foresees the dangers at Panama in a realistic manner.

Mr. Speaker, I would stress that under no circumstances should Canal Zone sovereignty be surrendered to Panama, or any other nation or agency. Certainly, the time has come for this body to adopt, without further delay, the pending Panama Canal sovereignty resolutions.

The indicated column follows:

[From the (Pompano Beach, Fla.) Sun-Sentinel, Oct. 13, 1971]

GEN. TORRIJOS' DEMANDS OPPORTUNIST'S SHAKEDOWN

(By Budd W. Boyer)

The Republic of Panama, through its strongman dictator Gen. Omar Torrijos, is the latest in what is getting to be a tiresome line of two-bit agitators trying to tweak the nose of Uncle Sam.

In the standard fashion of those who rule by abolition of individual rights, General Torrijos waved the banner of freedom at the United States in demanding that it prove its status as a "true leader of freedom," by handing complete control of the Canal Zone over to him and his junta.

Since 1964, the United States has been actively negotiating with Panama on the matter of a new treaty to replace one made in 1903 and revised to Panama's advantage in 1955.

Just for the record, it might be well to review the general aspects of how Panama came into being as a republic, and the basis for the treaty on which the United States controls the disputed Canal Zone.

Panama was part of the revolt against Spanish domination made by Central America in 1821. The little country joined with Colombia, and then spent the next 82 years trying to extricate itself from this union. In 1903, it finally succeeded with backing by the United States.

Rights to the 10-mile-wide Canal Zone were granted to the United States for a payment of \$10 million and an annual fee that was set at the time at \$250,000. This was increased to \$430,000 in 1933 to more than \$1.9 million when the treaty was revised in 1955.

Territorially speaking, Panama has 29,208 square miles. Most of this area is unoccupied. The population is about 1.5 million, of which more than one-fourth is centered in the two cities of Colon and Panama City. The Canal Zone accounts for only 500 square miles of the country.

The economy of Panama is directly responsive to American markets with bananas (58 per cent), refined petroleum (19 per cent) and shrimps (10 per cent) the leading ex-

ports. The United States received 79 per cent of the exports and the Canal Zone five per cent according to the most recently available figures.

It seems clear that General Torrijos has one thing uppermost in mind in his demand that control of the Canal and the Canal Zone be handed over to the government of Panama, which not so incidentally is in fact himself, and that is the financial power it represents.

The junta long since suspended legislative power guaranteed in the Constitution of Panama, and is setting machinery in motion for drafting a new constitution that will decide the "type of government to rule the country."

Just for openers, the muscleman of Panama has directed implementation of a new labor code in January that will set up a labor court for rural areas, collective bargaining and compulsory union dues to be deducted by employers. Guess who will control the union treasury?

During his diatribe of threat and bluster, General Torrijos talked of sending the country's National Guard, some 6,000 members who are trained, equipped and financed by the United States, to seize the Canal Zone if talks now under way fail. But since even he must realize the ludicrous nature of such a threat, he slipped an obvious pitch to the doves of Washington into the speech. This came when he referred to "... mercenaries who want to convert this into a Vietnam."

General Torrijos is no more than a common hood in the American vernacular, and he should be treated in the same way a second-rate shakedown artist would be handled in this country. We saw what happened when another of his ilk gained control of the Suez Canal, and our representatives had better take a hard fast look at what this blackmailer is attempting.

Until or unless we get another canal, the one through Panama is of substantial importance to our security and to the economic well-being of ourselves and other nations of the world. Under no circumstances should it be entrusted to the whims of a military opportunist, who has extended his blackmail to the point of trying to use the two-China issue in the United Nations as a bargaining point. As with Cuba, the odds are good that the next major flag to fly over the Panama Canal if we give it up, will be the one bearing the hammer and sickle.

THE FARMERS HOME ADMINISTRATION'S VALUABLE SERVICE IN RURAL AREAS

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, no State could be more concerned with the problems of rural communities than our State of Idaho. Some 70 percent of our land area is in farms, ranches, and forests, and all but 10 of the towns and cities qualify as rural within terms of the National Housing Act.

According to the forecasts of many economists and sociologists of the past decade—those who have predicted that the family farm and rural town are doomed to disappear in the United States—most of Idaho should be sinking back into its primeval state of emptiness and wilderness.

But on the contrary, Idaho is gaining in people, in industry, and in the development of its agriculture.

The explanation lies primarily in the energy and resourcefulness of our peo-

ple—their will to preserve their way of life in the smaller town and open country.

However, they need, and they have found, important new sources of support for community enterprise in some agencies of Government, and especially in programs of the Farmers Home Administration.

This credit agency of the Department of Agriculture has the right kind of organization for effective service to rural people, that is, a system of local offices in the rural counties of every State. It has been given the responsibility to deliver financial resources into rural areas for a wide variety of development purposes. These programs emphasize opportunity for the family-size farm and ranch to prosper, for better rural housing, and for modernization of community water and waste disposal systems.

Farmers home services totaled more than \$47 million in the State, of which \$30 million was realized in our Second Congressional District, during the fiscal year 1971 just past. Nearly 1,000 farms in our district found \$13 million of essential credit available through Farmers home. More than 1,000 new homes, representing \$15 million of housing credit, have been produced for rural families of low- and moderate-income since July of last year. A score of projects for community and farm water and sewer systems and similar improvements also were funded last year in our district.

The value of the rural FHA has been demonstrated many times over in the rural counties of Idaho. One example is found in the recent history of Teton County. This is one of the smallest and most rural counties of eastern Idaho. It lies in a high, picturesque valley bordered on the east by Wyoming and the Teton Mountains, and on the other sides by gentler mountains.

In the mid-1960's, Teton County's agriculture, the economic mainstay of the area, was fading because of a short growing season, lack of variety in cash crops, and inadequate irrigation. Other water problems and lack of waste disposal facilities plagued the area and held back community development. Young people were deserting the county. Its towns were in the downhill slide.

Action against the multitude of problems began with the local people's decision that they would first deal with farm irrigation. Enlisting advice and financial support from the Department of Agriculture, they set about to equip underirrigated farms with gravity-flow sprinkler systems which would prevent loss of water from evaporation and percolation, fulfill the need for water for most crops, and be adequate even in the drier years.

Eight such systems have been installed, serving more than 100 farms in Teton County, and several others are planned. Costs that must be borne by the local people are financed through long-term loans from the Farmers Home Administration to associations of farm families who benefit. The loans are repaid from proceeds of water service.

In Teton's newly irrigated areas, farmers who would have been forced off the land have more than doubled their pro-

duction with little change in equipment and labor. They are now prosperous enough to stay in Teton County and contribute to the rising economy of their home communities. Even the maintenance of irrigation systems is a new source of employment.

Irrigation water supply will be increased by improvement of Trail Creek watershed through a \$3 million project of the small watershed program overseen by the U.S. Soil Conservation Service. Here again, Farmers Home provides a vital ingredient—loans totaling \$967,800 since 1969 to meet local costs of completing this project by 1972.

While agriculture has always been the main economic support of Teton County, recreation also is on the rise as a major resource. A fine natural site for a winter sports resort in Targhee National Forest, 12 miles from the county seat town of Driggs, has been developed by a nonprofit association of Teton County citizens after it was passed over for years by outside private developers. After 2 years of operation this popular Grand Targhee Sports Center has stimulated new motels, new businesses and new employment. This new central attraction for tourist trade in Teton County was made possible by Farmers Home loans to the community association.

The sum total of progress in Teton County is reflected both in statistics and the upswing of activity and living standards evident in its towns and farmlands.

Driggs has a modern sewer system financed through Farmers Home and has built a new hospital and an enlarged and improved county airport. Victor is developing water and sewer systems through the FHA community facilities program. Some three dozen new homes have been financed through Farmers Home rural housing credit. Teton has improved its city park. Two fine campgrounds for tourists and sportsmen have been built on the Teton River. Farmers Home has helped potato farmers of the county establish a new cooperative center for marketing their seed potatoes.

In statistics, sales tax revenues were up 34 percent from 1969 to 1970. Land values are up 50 percent since 1966. Local bank deposits rose \$1.5 million over a 2-year period. Employment is up, outmigration checked, the tax base greater, living standards improved.

Teton County still has problems to solve and higher goals to attain, but its climate has changed from stagnation and decline to healthy, progressive growth.

We have seen how often the name of Farmers Home recurs in this record of progress in Teton County. This testifies to the unique effectiveness of the Farmers Home Administration as an instrument of rural progress, and the able leadership provided by my good friend, its national Administrator, James V. Smith, and our State director for Idaho, Donald L. Winder.

PERSONAL EXPLANATION

(Mr. CARNEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. CARNEY. Mr. Speaker, last

Thursday and Friday, November 4 and 5, I was absent from the House on official business for the Veterans' Affairs Committee, of which I am a member. Had I been here, I would have voted for final passage of H.R. 7248, the Higher Education Act of 1971.

PERSONAL ANNOUNCEMENT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on Thursday, November 4, at 6 p.m., I had to leave the floor to go to New York where I was scheduled to meet with constituents at a town hall meeting on crime I was sponsoring. I, therefore, was absent when some of the amendments were offered to H.R. 7248, the Higher Education Act. I supported H.R. 7248 and had I been present, I would have voted "yea" on final passage.

HESSEN SOCIAL DEMOCRATIC PARTY IN WEST GERMANY CALLS FOR A REPUDIATION OF THE DEFENSE PARTNERSHIP WITH THE UNITED STATES

(Mr. WAGGONER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONER. Mr. Speaker, it has come to my attention this week that the Social Democrats in West Germany are taking the next logical step in the implementation of the Brandt government's policy in Eastern Europe. A news report of the recent meeting of the Hessen Social Democratic Party in West Germany announced the Hessen party's demand for the adoption by the Social Democratic Party at the national party meeting to be held later this month, of a resolution which, in effect, calls for a complete repudiation of the defense partnership with the United States.

Specifically, the suggested resolution demands the following:

First. Reduction in defense expenditures of the Federal Government in Germany.

Second. Complete cessation of offset payments to the United States for the stationing of U.S. troops in West Germany.

Third. Utilization of the funds obtained by these reductions for cultural and other developments in West Germany.

Surley, the Hessen party must realize the disastrous effects such a position, if taken, would have on the security of Europe at a time when the Soviet Union is engaged in a massive arms buildup. I shudder to think what could happen if such a policy were adopted. However, aside from the dangers inherent in pursuing such a policy of appeasement, I personally resent the unprecedented vituperation and slander leveled against the United States by the Hessen party. At its meeting, the Hessen party stated that—

The United States keeps its troops in the

Federal Republic of Germany not for the defense of the population but and only for the defense of its own interest as a world power.

And that "the United States supports fascists regimes in Greece, Spain, and Portugal" and thus "helps the suppression of Greek and Spanish nations as well as the exploitation of the third world." Of course, none of these statements or the inferences made in them could be further from the truth, and the Hessen party should know as much.

The Hessen party is convinced that "only by the decisive reduction in armament expenditures can the new German peace policy become credible."

In continuation of their "peace policies," they have also demanded the creation of a commission for a strategy of disarmament. This commission would prepare plans for the 1973 political campaign and for the strategic forces of West Germany with the view toward reducing the armaments and the size of the German Armed Forces. These plans of the Social Democrats appear to coincide with Brandt's Ostpolitik. Unfortunately, they also appear aimed at reducing American influences in Western Europe and potentially enhancing the Soviet position there.

I hope that Chancellor Brandt will renounce the irresponsible statements made by members of his own party and reassure the West in a clear-cut statement that he wants to prevent the further disintegration of Western defense policies in the center of Europe. Such a statement by Brandt would go a long way in advancing the cause of real peace in the world.

H.R. 9212 BLACK LUNG BENEFITS

(Mr. KEE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KEE. Mr. Speaker, when H.R. 9212, was brought up under suspension of the rules on October 18, 1971, I rose on the floor of the House and strongly urged my colleagues to support it. When the roll was called, I voted for its passage. The vote was 227 ayes and 124 nays. Under the parliamentary rules a two-thirds majority was required, therefore, the bill failed of passage by seven votes.

Once again it will be before the House for consideration. This time the Rules Committee has recommended an open rule with 1 hour of debate. Once again I strongly urge my colleagues to support this badly needed legislation.

In my remarks on October 18, 1971, I stated as the Representatives from the largest coal producing congressional district in the United States I had felt for some time that some of the provisions of the Federal Coal Mine Health and Safety Act of 1969 needed clarification to make it more equitable. In my judgment, H.R. 9212 does correct some of the inequities that we have found in this act.

I supported enthusiastically the Federal Coal Mine Health and Safety Act of 1969, which is now Public Law 91-173. I had long been an advocate of legislation to give the disabled miner relief from the rigors of his hazardous employment and it was for this reason that

I introduced H.R. 9850, the very first bill introduced in the Congress for those suffering from black lung, and their families.

We have since learned that the black lung disease benefit program as established by title IV, does not always give the coal miners with this disease the benefits to which they are entitled. In some instances it is found that this injustice is caused by placing too much emphasis on X-rays. It seems to me that to deny claims for black lung benefits solely on an X-ray examination was never intended by the Congress, and it is a most unfortunate situation insofar as justice is concerned to the coal miners in this country.

At the time I testified during the hearings on this legislation in May 1971, I stated that in my own State of West Virginia, there were claims filed amounting to 58,300. According to the latest black lung statistics that figure has now risen to 59,234. About 32,981 of these claims were made in my district. Claims paid for the entire State of West Virginia are 24,491. The claims paid in my district amount to 14,501.

On the other hand, the statistics show that there were 15,513 denials. I have no way of knowing whether or not all of these denials would be approved, but I do state that under this new legislation which prohibits the use of chest X-rays as the sole basis for denial of claims, I am reasonably sure that quite a few of them would.

Likewise, a third of the black lung benefit claims which have been turned down to date have been disallowed, because the miner was not totally disabled. In fact, what the Federal Government is saying to these miners is that they do not qualify because they are not totally dead. I have contended from the very beginning that the requirements for determining "total disability" should be made more realistic. It seems to me that any miner who is rendered incapable of performing his usual mining job should be considered "disabled" under the Federal black lung compensation provision. I feel that this bill recognizes this phase.

I am also pleased that under this legislation the Federal Coal Mine Health and Safety Act will be amended to extend black lung benefits to orphans whose fathers died of pneumoconiosis; that the existing black lung program shall not be considered a workmen's compensation law or plan for purposes of the disability insurance provisions of the Social Security Act; and, that the existing program for payment of black lung benefits will be extended for 2 years.

With these thoughts in mind, and on behalf of the deserving coal miners, I strongly endorse the passage of this bill, which will rectify some of the inequities that have arisen over the past 2 years.

I am glad to have had a part in developing this legislation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. GOODLING (at the request of Mr. GERALD R. FORD) from 6 p.m. today

through November 17 on account of official business.

Mr. BARRETT (at the request of Mr. GREEN of Pennsylvania) for Tuesday, November 9, and Wednesday, November 10, on account of illness.

Mr. LINK for November 9 to November 20 on account of official business as a member of House Agriculture Committee.

Mr. PATMAN (at the request of Mr. O'NEILL) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McCOLLISTER) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY for 5 minutes today.

Mr. MIZELL for 30 minutes today.

Mr. BURKE of Florida for 20 minutes today.

Mr. MILLER of Ohio for 5 minutes today.

Mr. SHRIVER for 5 minutes today.

(The following Members (at the request of Mr. ANNUNZIO) and to revise and extend their remarks and include extraneous matter:)

Mrs. ABZUG for 10 minutes today.

Mr. GONZALEZ for 10 minutes today.

Mr. DANIELSON for 5 minutes today.

Mr. ST GERMAIN for 10 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. McCOLLISTER) and to include extraneous matter:)

Mr. FREY.

Mr. SPRINGER.

Mr. RHODES in five instances.

Mr. MCCLORY.

Mr. FINDLEY.

Mr. BRAY in three instances.

Mr. SEBELIUS in two instances.

Mr. MCKINNEY.

Mr. REID of New York.

Mr. ZWACH in two instances.

Mr. WYMAN in two instances.

Mr. HOSMER.

Mr. COLLIER in three instances.

Mr. BROYHILL of Virginia.

Mr. BROOMFIELD.

Mr. VEYSEY.

Mr. CRANE in five instances.

Mr. SCHERLE in 10 instances.

Mr. KEITH.

(The following Members (at the request of Mr. ANNUNZIO) and to include extraneous matter:)

Mr. BEGICH in five instances.

Mr. LINK.

Mr. SLACK in two instances.

Mr. EILBERG in three instances.

Mr. WOLFF in two instances.

Mr. HAGAN in three instances.

Mr. ROGERS in five instances.

Mr. RARICK in three instances.

Mr. BRASCO.

Mr. SCHEUER in two instances.

Mr. CARNEY.

Mr. RANGEL.

Mr. ABOUREZK in five instances.

Mr. UDALL in six instances.

Mrs. GRIFFITHS in two instances.

Mr. MILLER of California in five instances.

Mr. JOHNSON of California in two instances.

Mr. RYAN in three instances.

Mr. RONCALIO in six instances.

Mr. JACOBS.

Mr. BINGHAM in four instances.

Mr. MURPHY of Illinois in two instances.

Mr. ROE in two instances.

Mr. EDWARDS of California.

Mr. BURTON.

Mr. FOUNTAIN.

Mr. HELSTOSKI.

Mr. WAGGONER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 986. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2559. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes.

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

ADJOURNMENT

Mr. ANNUNZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 10, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS,
ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1274. A letter from the General Sales Manager, Export Marketing Service, Department of Agriculture, transmitting a report of agreements signed providing for foreign currencies during September and October 1971, pursuant to Public Law 85-128; to the Committee on Agriculture.

1275. A letter from the Assistant Secretary of the Interior, transmitting 11 projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, under section 200(a) of the Water Resources Research Act of 1964, pursuant to section 200(b) of the act; to the Committee on Interior and Insular Affairs.

1276. A letter from the President, National Railroad Passenger Corp., transmitting an audit of the financial statements of the Corporation as of June 30, 1971, pursuant to section 805 of the Rail Passenger Service Act of 1970; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ABBITT: Committee on House Administration. House Resolution 507. Resolution dismissing the election contest in the 38th Congressional District of the State of California (Rept. No. 92-626). Ordered to be printed.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 950. A bill to designate a Veterans' Administration hospital in Bedford, Mass. as the Edith Nourse Rogers Memorial Veterans' Hospital; with amendments (Rept. No. 92-627). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 9096. A bill to amend chapter 19 of title 38 of the United States Code, to extend coverage under servicemen's group life insurance to cadets and midshipmen at the service academies of the Armed Forces; with amendments (Rept. No. 92-628). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 9097. A bill to define the terms "widow", "widower", "child", and "parent" for servicemen's group life insurance purposes (Rept. No. 92-629). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11220. A bill to designate the Veterans' Administration hospital in San Antonio, Tex., as the Audie L. Murphy Memorial Veterans' Hospital; with amendments (Rept. No. 92-630). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11334. A bill to amend title 38 of the United States Code to provide that dividends may be used to purchase additional paid-up national service life insurance; with amendments (Rept. No. 92-631). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11335. A bill to amend section 704 of title 38, United States Code, to permit the conversion or exchange of na-

tional service life insurance policies to insurance on a modified life plan with reduction at age 70 (Rept. No. 92-632). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 489. A bill to approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian-owned lands under the Modoc Point unit of the Klamath Indian irrigation project, Oregon (Rept. No. 92-633). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2185. A bill to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians (Rept. No. 92-634). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3337. A bill to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes; with amendments (Rept. No. 92-635). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5068. A bill to authorize grants for the Navajo Community College, and for other purposes; with amendments (Rept. No. 92-636). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6291. A bill to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets No. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes; with amendments (Rept. No. 92-637). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7701. A bill to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico; with an amendment (Rept. No. 92-638). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7742. A bill to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332-A, and for other purposes; with amendments (Rept. No. 92-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8381. A bill to authorize the purchase, sale, and exchange of certain lands on the Kalispel Indian Reservation, and for other purposes; with amendments (Rept. No. 92-640). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10352. A bill to provide for the disposition of judgment funds on deposit to the credit of the pueblo of Laguna in Indian Claims Commission, docket No. 227, and for other purposes; with amendments (Rept. No. 92-641). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 696. Resolution providing for consideration of the conference report on H.R. 8687 (Rept. No. 92-642). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 697. Resolution providing for the consideration of H.R. 11589. A bill to authorize the foreign sale of certain passenger vessels (Rept. No. 92-643). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 698. Resolution providing for the consideration of H.R. 11341. (Rept. No. 92-644). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 699. Resolution providing for the consideration of S. 18. An act to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty (Rept. No. 92-645). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. S. 389. An act for the relief of Stephen Lance Pender, Patricia Jenifer Pender, and Denese Gene Pender (Rept. No. 92-646). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. S. 559. An act for the relief of Albina Lucio Z. Manlucu (Rept. No. 92-647). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. S. 629. An act for the relief of Chen-Pai Miao (Rept. No. 92-648). Referred to the Committee of the Whole House.

Mr. McKEVITT: Committee on the Judiciary. H.R. 2792. A bill for the relief of Juanita SAVEDIA VARELA; with amendments (Rept. No. 92-649). Referred to the Committee of the Whole House.

Mr. SEIBERLING: Committee on the Judiciary. H.R. 3093. A bill for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garzoa Serna, Gonzalo Garzoa Serna, and James Garzoa Serna (Rept. No. 92-650). Referred to the Committee of the Whole House.

Mr. DENNIS: Committee on the Judiciary. H.R. 4319. A bill for the relief of Josephine Dumpt; with amendments (Rept. No. 92-651). Referred to the Committee of the Whole House.

Mr. MAYNE: Committee on the Judiciary. H.R. 5179. A bill for the relief of Soo Yong Kwak; with an amendment (Rept. No. 92-652). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6506. A bill for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber; with amendments (Rept. No. 92-653). Referred to the Committee of the Whole House.

Mr. DENNIS: Committee on the Judiciary. H.R. 6912. A bill for the relief of William Lucas (also known as Vasilios Loukatis) (Rept. No. 92-654). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. H.R. 7316. A bill for the relief of Mrs. Norma McLeish; with an amendment (Rept. No. 92-655). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT:

H.R. 11633. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

By Mrs. ABZUG:

H.R. 11634. A bill to amend the Economic Stabilization Act of 1970 to permit the maintenance of wages and salaries at levels

contracted for prior to August 15, 1971; to the Committee on Banking and Currency.

H.R. 11635. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BADILLO:

H.R. 11636. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BEGICH:

H.R. 11637. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. PEY-SER, Mr. ADDABBO, Mr. BRASCO, Mr. MURPHY of New York, Mr. RODINO, Mr. DENT, Mr. VIGORITO, Mr. MAZZOLI, Mr. MOLLOHAN, Mr. BURTON, Mr. ROSENTHAL, Mr. HATHAWAY, Mr. YATRON, Mr. NEDZI, Mr. SARBANES, Mr. HELSTOSKI, Mr. WOLFF, Mr. PEPPER, Mr. RYAN, Mr. PRICE of Illinois, Mr. HORTON, Mr. MIKVA, Mr. FRASER, and Mr. HANSEN of Idaho):

H.R. 11638. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of a man of science, Enrico Fermi; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. PEY-SER, Mr. SCHEUER, Mr. DINGELL, Mr. KEMP, Mrs. ABZUG, Mr. CLARK, Mr. RHODES, Mr. BADILLO, Mr. FORSYTHE, Mr. MCCORMACK, Mr. MURPHY of Illinois, Mr. PIKE, Mr. BIESTER, Mr. MATSUNAGA, Mr. ASPIN, Mr. DONOHUE, Mr. TERRY, Mr. ANDERSON of Illinois, Mr. ANNUNZIO, Mr. HARRINGTON, Mrs. GRASSO, and Mrs. HICKS of Massachusetts):

H.R. 11639. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of a man of science, Enrico Fermi; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H.R. 11640. A bill to allow a credit against Federal income tax or payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 11641. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

By Mr. HELSTOSKI:

H.R. 11642. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. MATHIS of Georgia:

H.R. 11643. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale, lease, and transfer of Flue-cured tobacco acreage-poundage marketing quotas between farms in the same State; to the Committee on Agriculture.

By Mr. MOLLOHAN:

H.R. 11644. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 11645. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. REID of New York:

H.R. 11646. A bill to ban the usage of diethylstilbestrol (DES) as a growth promoter; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBERTS:

H.R. 11647. A bill to modify the project at Lavon Reservoir, Tex.; to the Committee on Public Works.

By Mr. ROSENTHAL:

H.R. 11648. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RYAN:

H.R. 11649. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STRATTON:

H.R. 11650. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (for himself, Mr. BARING, Mr. CARNEY, Mr. DANIELSON, Mr. DORN, Mr. DULSKI, Mr. EDWARDS of California, Mrs. GRASSO, Mr. HALEY, Mr. HAMMER-SCHMIDT, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. HILLIS, Mr. MONTGOMERY, Mr. PUCINSKI, Mr. ROBERTS, Mr. SATERFIELD, Mr. SAYLOR, Mr. SCOTT, Mr. TEAGUE of California, Mr. WINN, Mr. WOLFF, Mr. WYLIE, and Mr. ZWACH):

H.R. 11651. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 11652. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Florida (for himself, Mr. GIBBONS, and Mr. HALEY):

H.R. 11653. A bill for the relief of certain cities, counties, and government agencies of the State of Florida to compensate them for costs in connection with a "red tide" occurrence; to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself, Mr. LINK, Mr. DENHOLM, Mr. KASTENMEIER, Mr. MIKVA, Mr. OBEY, Mr. ANDREWS of North Dakota, Mr. BUR-LISON of Missouri, Mr. BURTON, Mr. HELSTOSKI, and Mr. O'KONSKI):

H.R. 11654. A bill to amend section 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 11655. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BRAY:

H.R. 11656. A bill to amend the Internal Revenue Code of 1954 to encourage higher

education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 11657. A bill to provide incentives for establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 11658. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 11659. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 11660. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11661. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11662. A bill to increase the contribution of Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. FORSYTHE (for himself, Mrs. ABZUG, Mr. ADDABBO, Mr. DELLUMS, Mr. DENT, Mr. ESCH, Mr. GARMATZ, Mrs. GREEN of Oregon, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mrs. HICKS of Massachusetts, Mr. HUNGATE, Mr. MAYNE, Mr. ROUSH, Mr. STOKES, Mr. WILLIAMS, Mr. YATRON, and Mr. DENHOLM):

H.R. 11663. A bill to amend the Self-Employment Contributions Act of 1954 to provide that an election to be exempt from coverage under the old-age, survivors, and disability insurance program, made by a minister, a member of a religious order, or a Christian Science practitioner, may be revoked at any time; to the Committee on Ways and Means.

By Mr. HATHAWAY (for himself and Mr. STEIGER of Wisconsin):

H.R. 11664. A bill to amend the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

By Mr. HEBERT (for himself and Mr. ARENDS) (by request):

H.R. 11665. A bill to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status; to the Committee on Armed Services.

By Mr. MATSUNAGA:

H.R. 11666. A bill to extend the Consolidated Farmers Home Administration Act of 1961, as amended, to American Samoa; to the Committee on Agriculture.

H.R. 11667. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. NIX (for himself, Mr. BARRETT, Mr. BYRNE of Pennsylvania, Mr. EILBERG, and Mr. GREEN of Pennsylvania):

H.R. 11668. A bill to amend the Postal Reorganization Act of 1970, title 39, United

States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PEPPER:

H.R. 11669. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 11670. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 11671. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11672. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. ROONEY of Pennsylvania:

H.R. 11673. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 11674. A bill to restore and maintain a healthy transportation system, to provide financial assistance, to improve competitive equity among surface transportation modes, to improve the process of Government regulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 11675. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON:

H.R. 11676. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11677. A bill to provide death benefits to survivors of certain public safety and law-

enforcement personnel, and public officials concerned with the administration of criminal justice and corrections, and for other purposes; to the Committee on Ways and Means.

By Mr. MIZELL:

H.R. 11678. A bill to create a partnership between the United States and the several States for the development of rural America's transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity; to the Committee on Agriculture.

By Mr. FINDLEY:

H.J. Res. 954. Joint resolution authorizing the President to proclaim the second full week in October each year as "National Legal Secretaries' Court Observance Week"; to the Committee on the Judiciary.

By Mr. WYMAN:

H.J. Res. 955. Joint resolution proposing an amendment to the Constitution of the United States with respect to participation in silent prayer or meditation in public schools; to the Committee on the Judiciary.

By Mr. BURKE of Florida (for himself,

Mr. ABBETT, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. BEVILL, Mr. BLACKBURN, Mr. BRINKLEY, Mr. BUCHANAN, Mr. DEL CLAWSON, Mr. COLLINS of Texas, Mr. COUGHLIN, Mr. CRANE, Mr. DERWINSKI, Mr. DINGELL, Mr. DOWDY, Mr. DULSKI, Mr. FISHER, Mr. FLOWERS, Mr. FLYNT, Mr. FUQUA, Mr. GOODLING, Mrs. GREEN of Oregon, Mr. GRIFFIN, Mr. HALEY, and Mr. HOSMER):

H. Con. Res. 449. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. BURKE of Florida (for himself,

Mr. HUTCHINSON, Mr. KEMP, Mr. KING, Mr. KUYKENDALL, Mr. LANDGREBE, Mr. LONG, of Maryland, Mr. MATHIS of Georgia, Mr. MICHEL, Mr. MINISH, Mr. MIZELL, Mr. PODELL, Mr. PRICE of Texas, Mr. RANDALL, Mr. RARICK, Mr. ST GERMAIN, Mr. SAYLOR, Mr. SCHERLE, Mr. SCHMITZ, Mr. SIKES, Mr. SNYDER, Mr. STEELE, Mr. TIERNAN, Mr. VEYSEY, and Mr. WHITEHURST):

H. Con. Res. 450. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. BURKE of Florida (for himself, Mr. WILLIAMS, Mr. WINN, Mr. YATRON, Mr. YOUNG of Florida, and Mr. ZION):

H. Con. Res. 451. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself, Mr.

ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BLACKBURN, Mr. BRASCO, Mr. BRINKLEY, Mr. BURKE of Florida, Mrs. CHISOLM, Mr. CLAY, Mr. COLLIER, Mr. COLLINS of Illinois, Mr. DENHOLM, Mr. DERWINSKI, Mr. DIGGS, Mr. EILBERG, Mr. FORSYTHE, Mr. GUDE, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. HORTON, Mr. HOSMER, and Mr. KUYKENDALL):

H. Con. Res. 452. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin and its exportation to the United States; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. LEG-

GETT, Mr. MATSUNAGA, Mr. METCALFE, Mr. MINISH, Mr. PUCINSKI, Mr. ROSENTHAL, Mr. ROY, Mr. SCHWENGEL, Mr. STOKES, Mr. WAGGONER, and Mr. YATRON):

H. Con. Res. 453. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin and its exportation to the United States; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia (by request):

H.R. 11679. A bill for the relief of Robert Harris; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 11680. A bill for the relief of Samuel E. Weinberg; to the Committee on the Judiciary.

SENATE—Tuesday, November 9, 1971

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

O God, our Father, Thou searcher of men's hearts, guide of the Nation's destiny, help us to draw near to Thee in sincerity and truth. Strengthen us moment by moment that we may live above the common levels of life in that higher realm of righteousness which exalts a nation. When the way is hard and the decision difficult, may we, with patience and in prayer, perceive what is Thy will and do it. When the day is long and

wearisome, the hours tense and tiring, keep the minds and spirits of Thy servants here alert and strong. Guard us against all flippancy and irreverence in the sacred things of life. Hear the imperfect prayers which our lips frame and those deeper unuttered prayers of our hearts and answer them, not according to our wills, but in accord with Thy higher will and purpose for all mankind. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 8, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 420 and 421, in that order.

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